

International Law School Mediation Tournament Judging Instructions

PURPOSE OF THE COMPETITION. The purpose of the competition is to promote greater knowledge and interest among students in the process of mediation.

We greatly appreciate your being a Judge in the International Law School Mediation Tournament.

1. **Role.** Your role is to observe a mediation and to evaluate and grade the four teams participating in the mediation. Each team is composed of a co-mediator or an attorney and a client, although in any one round the mediators and attorney/client pairs will all be from different schools. After the mediation, you will score each team and then critique them.
2. **Preparation.** Each team received the general information for the mediation problem a week or so in advance of the competition. The attorneys and clients received the confidential information approximately 60 minutes before the mediation.
3. **Format.** There are three qualifying rounds, and a semi-final round with the four top teams in mediation and advocacy going on to the final round.
4. **Teams.** Each team is given a neutral designation so you do not know what school they attend. If you recognize any student, notify the administrator before the hearing begins. Do not ask any student where they are from.
5. **Time.** Each round includes a 105-minute mediation (with no breaks), 20 minutes of Self Evaluation, and a 15-minute critique of the students by the Judges. The students are obligated to keep track of their time, and the judges should strictly enforce the time deadlines.
6. **Procedures.** The specific competition procedures regarding the mediation are contained in the Competition Rules. If you do not have a copy, ask for one.
7. **Evaluation.** After the mediation, you may take a break and you should independently score each team by completing two Team Evaluation Forms.
8. **Critique.** Then you are to critique each team for no more than 15 minutes. .
9. **End.** After each round, hand in your evaluation forms to the competition administrator or assistant and accept our deep thanks for serving as a judge and helping students achieve a better understanding of the mediation process.

International Law School Mediation Tournament Team Evaluation Form and Instructions

After the mediation and after the students have left the room, you are to score each team using the Evaluation Forms. The Evaluation Form is primarily used to determine which teams advance to the semi-final and final rounds.

Grading and Critique

We need your independent judgment. And so, do not discuss with other judges your grading on the Evaluation Forms until both forms have been completed.

During your critique, you may discuss with the students and other judges your reasons supporting your evaluation of the teams, but do not tell them the scores you gave them.

Evaluation Form

On the Evaluation Form, the number 10 is at the high end of the performance scale, and the number 1 is at the low end of the scale. You should score compared to the expected performance of a developing mediator or attorney, rather than an experienced practitioner, with 5 or 6 being an average score. Write in your score for each of the categories listed. Do not use half points.

The Comments Section on Page 2 of the Evaluation Form provides the only written feedback the teams will receive. Please complete each category and make brief comments, positive or negative, or both. These comments will be useful during your oral critique of the teams, and you may tell the students whatever comments you have written. Be sure during your critique that your oral comments and written comments are consistent. The written comments will be given to the students at the end of the competition.

Your Evaluation Form scores should reflect the teams' performance based on the stated criteria.

There are six evaluation scales. While you can fill out the first five scales during the round or during the 5-minute period when the teams are preparing their self-analyses, Scale VI, Self Evaluation, can be filled out only after you have seen this final aspect of the session.

The evaluation form scales attempt to divide what is recognized as a dynamic and complicated process into discrete components or attributes that should be present in any approach to mediation.

These standards are also based on the premise that there is no one "correct" approach to effective mediation in all circumstances. Instead, the strategies and techniques used will

vary with the nature of the problem, the specific mix of personalities involved, and other circumstances. **Judges may evaluate the effectiveness of the mediators' choices and strategies in the context of the particular mediation, but should not substitute personal preferences as to mediation styles/approaches for those used by the students.**

Whatever approach is used, mediation effectiveness can be judged in part by its outcome. A good mediated outcome is one that:

- Is better than the best alternative to a negotiated/mediated agreement (with this party)
- Satisfies the interests of:
 - the client – very well
 - the other side – acceptably (enough for them to agree and follow through)
 - third parties – tolerably (so they won't disrupt the agreement)
- Is legitimate – no one feels "taken"
- Involves commitments that are clear, realistic, and operational
- Involves communication that is efficient and well-understood, and
- Results in an enhanced working relationship, so the parties and/or their lawyers can deal with future differences more easily.

While these criteria are helpful in evaluating a particular mediation and identifying problems connected with it, they should not be read as requiring that the parties reach agreement. In some situations, e.g., where the last offer satisfies few of the relevant criteria, the best outcome might be no agreement at all. Thus, the judging standards focus on the process, allowing a team to achieve a high rating even if no agreement was reached.

*PLEASE BE SURE TO COMPLETE ALL CATEGORIES BEFORE TURNING IN THE EVALUATION FORM.

**INTERNATIONAL LAW SCHOOL MEDIATION TOURNAMENT
MEDIATOR EVALUATION FORM**

Round _____ Judge _____

Team # _____

Mediator _____

Mediator _____

Instructions: The tournament utilizes co-mediators from different schools. The mediators are each to be scored independently based on their own performances and skill level. There are six categories, each earning 1–10 points. Please put your score (whole numbers only) on the line provided. ***Because this is an instructional tournament, your written comments on this ballot are important.***

Below Average	Average	Good	Excellent
1 2 3	4 5 6	7 8	9 10

Score

Score

1. Opening Statement of the Mediator (1-10 points) (Both mediators must make opening statements. They may make independent statements or collaborate in a single statement.) Was the mediator prepared? Did he/she (1) calm the parties, (2) explain the mediation process effectively, and (3) adequately explain his/her role in the mediation?

2. First Caucus (1-10 points) (Each mediator will conduct a first caucus with the co-mediator observing.) Did the mediator develop the strengths and weaknesses of the party's case? Did he/she determine the party's real needs and interests? Did he/she review settlement discussions, if any, and seek a new demand/offer?

3. Conference (1-10 points) (The mediators are required to conduct at least one conference session during the mediation. The required conference may be conducted during the initial group session, following the initial caucuses, or both, at the discretion of the mediators.) Did the mediators choose an appropriate time to have the parties meet in conference? Was the conference session used effectively toward reaching agreement and/or helping the parties to move forward in their relationship? Did this mediator contribute to an effective process and outcome?

4. Qualities Of A Good Mediator (1-10 points) Did the mediator establish rapport and trust with the parties? Was he/she neutral and nonjudgmental,

and did he/she maintain confidentiality? Did he/she remain patient, positive, persistent and professional at all times? Did the mediator employ techniques of active listening as well as proposing creative settlement possibilities where necessary or appropriate? Did the mediator recognize and appropriately deal with any ethical and/or cross cultural issues?

5. Cooperation Between Mediators (1-10 points) How well did this mediator cooperate with his/her co-mediator? Did they work effectively together (whether or not settlement was achieved)?

6. Self-Evaluation (1-10 points) How thoughtfully did the mediator answer these questions: A) If you had to do the mediation over again, what would you do the same or differently? B) What were your goals and strategies coming into the mediation and how did they play out during the mediation? **(Judges may ask questions during self-evaluation, to clarify points made or to clarify issues of strategy or performance, but should not offer critique at this time. Self-evaluations that are overly generic, that feel like prepared speeches, and that do not seem to reflect thoughtful analysis of this specific mediation, should be scored no higher than a 5.)**

COMMENTS:

COMMENTS:

Ties are not permitted. Please check your scores to ensure that the participants have not received the same score.

In your judgment, who was the better mediator in this round?_____

**INTERNATIONAL LAW SCHOOL MEDIATION TOURNAMENT
ADVOCATE/CLIENT EVALUATION FORM**

Round _____ Judge _____

Team # _____

Team # _____

Advocate/Client _____

Advocate/Client _____

Instructions: In each round, there is an advocate/client team representing the plaintiff and another team representing the defendant. There are six categories, each earning 1-10 points. Please place your score on the line provided for each category (whole numbers only). *Because this is an instructional tournament, your written comments on this ballot are important.*

Below Average	Average	Good	Excellent
1 2 3	4 5 6	7 8	9 10

Score

Score

1. Advocate's Opening Statement. (1-10 points) Did the advocate adequately present the facts and law of his/her client's case, as well as goals for the mediation? How organized and prepared was the advocate and how persuasive was his/her presentation?

2. First Caucus (1-10 points) Did the advocate accurately and appropriately outline both the strengths and weaknesses of his/her client's case? Did he/she appropriately develop his/her client's real needs and interests? Did he/she make a new offer or demand that took those needs and interests into account?

3. Conference (1 – 10 points) How effectively did the advocate work to establish an atmosphere of positive cooperation and collaboration without sacrificing his/her client's goals and interests? How well did the advocate demonstrate listening skills?

4. Teamwork Between Advocate and Client (1-10 points) Did the advocate and client communicate effectively with one another? Was the advocate receptive to changes in position taken by the client during the mediation? If the client was difficult, did the advocate keep him/her under control?

5. Overall Evaluation (1-10 points) In general, did the advocate effectively express and achieve the goals of his/her client throughout the mediation, and did the client effectively assist in achieving this outcome? How much did the advocate/client team contribute to the settlement and how well did they negotiate and work with the mediators? Did they suggest creative ways to resolve the dispute where necessary or appropriate? If settlement was not reached, how much of the failure is attributable to this advocate/client team? (If the advocate/client team obstructed an overall settlement, they should be scored accordingly low.) Did the advocate recognize and appropriately deal with any ethical and/or cross cultural issues?

6. Self-Evaluation (1-10 points) How thoughtfully did the advocate and client answer these questions: A) If you had to do the mediation over again, what would you do the same or differently? B) What were your goals and strategies coming into the mediation and how did they play out during the mediation? **(Judges may ask questions during self-evaluation, to clarify points made or to clarify issues of strategy or performance, but should not offer critique at this time. Self-evaluations that are overly generic, that feel like prepared speeches, and that do not seem to reflect thoughtful analysis of this specific mediation, should be scored no higher than a 5.)**

COMMENTS:

COMMENTS:

Ties are not permitted. Please check your scores to ensure that the participants have not received the same score.

In your judgment, who was the better advocate/client team in this round?_____