

SELECTION PROCESS

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Selecting a student team for a moot court competition is neither an easy nor a clear-cut process. A high overall average grade, for example, may serve as an indicator of a student’s dedication and overall knowledge but is not a sufficient criterion to decide whether this student will do well in a moot court competition. Much more is needed than for a student to be generally intelligent and hardworking. That being said, there are no guarantees that even if one follows a certain set of guidelines that inform the selection process – like the one below – he or she will end up with the desired result and make the best possible selection. The preparation for and participation in a moot court competition are beneficial and rewarding for students, but they are also demanding and responsible endeavours that require a lot of time and effort from students. Students should be able to combine this with their regular university-related duties. In addition to this, especially since the preparation for moots usually takes many months, many unforeseeable and unpredictable things – personal or on a team level – could take place, which could affect students’ (and thus a team’s) preparation and participation. Last but not least, many ‘intangibles’ related to a student – like how well they individually handle pressure and stress that come with the preparation and competition, how they adapt to new and unpredictable situations, or how they respond to a constructive critique – cannot be (easily and accurately) assessed and known during the brief period of selection, but they play a role in the moot competition. So, one has to be aware that during the selection process one is selecting a perceived potential in students, and that potential may not come to fruition due to ‘subjective’ and/or ‘objective’ circumstances. Nevertheless, despite all the unknowns related to the selection process, it is still useful to compile a set of advices that should guide and make coaches – regardless of whether they are university professors in the field related to the competition, former competitors or someone else (like lawyers) – better informed in this process.

In this regard, there are two basic tenets, so to speak, that coaches should always keep in mind when choosing students for moot court competitions. First of all, the selection should correspond to the requirements of the particular moot court for which it is made. Different moot courts demand or emphasise the need for different skills and/or knowledge from students. Some moots, for example, consist only of oral rounds, so presentation and verbal skills figure prominently here. In some of the oral parts of the moots, students are seated, whereas in others, they are standing,

so, posture and body language, for example, while important in both, may be more noticeable in the latter. Furthermore, many of the moots are conducted in a language that is not the students' native language (like English), so excellent knowledge and (oral) command of that language would also become an important criterion. Additionally, in many moots, the speakers may have different roles to play – like representing the applicant or the respondent in the fictional dispute – and these different roles require the prioritisation of slightly different skill sets. For instance, an oralist in the respondent role might have to respond to what has been stated in the preceding minutes by the oralist from the applicant side, so he or she should be much more attentive and responsive than the applicant oralist. On the other hand, in addition to the oral part, some moots have a written part of the competition, so research and writing skills should be taken highly into consideration. In other words, the coach of the team has to know exactly what kind of skills are (most) required for the competition and should conduct the selection process accordingly.

The second basic guiding advice is that the selection process concerns not only individual students but a *team* of students, so one should be flexible in the selection process and the composition of the team. Each academic year, different students with different combinations of skill sets are interested in participating in moot courts. And even though one may know pretty well what the specific moot court requires of each student individually, that may not always come in one package. So, one has to be flexible and adjust to the available talent at hand. For example, in a moot court with a written and an oral part, an ideal candidate would have both (potential for) research and writing as well as oral abilities. Yet, it might happen that in a team of two students, one is an extremely good researcher but not a good pleader, whereas the other is a highly competent oralist but average in written submissions. In such a case, instead of both students doing the tasks of writing and speaking, it will be more prudent to maximise each student's potential and ask one student to do (most of) the research for the team while the other focuses on the oral part only. Coaches should not forget that they are not only choosing individual students but a team of students. So, they should therefore be flexible when following the selection guidelines and have the team in mind when they are doing so.

Continuous opinion exchange between team members is one of crucial factors, in order to make sure all members are taking part properly and performing tasks not as an individual but as a team member. The division of tasks between team members should be as equal as possible.

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In addition to these two general pieces of advice, it could also be pointed out to some more specific things that coaches should take into consideration when making a moot court selection. For the oral (parts of) moot court competitions, coaches have basically two strategies for selecting students, which do not exclude but complement each other, meaning

that coaches can combine them. Coaches could, firstly, make a public call for participation in the moot competition (for example, on the faculty's website) that would be open to all interested students or to all students that satisfy some relevant preconditions for participation that the coaches will determine themselves – like having undertaken and/or passed some university course(s) related to the moot competition or having a (proof of) good command of the non-native language of the competition. Interested students should then be required to prepare and make an oral presentation of a short text on the basis of which they will be evaluated for the competition. Secondly, coaches – if they are professors at the faculty that tries to assemble a team – could make the selection by inviting particular students who already are more familiar with the related courses they have taught them and who have therefore already been, in a sense, pre-evaluated for the competition. It is highly recommendable that a short oral presentation be included in this selection strategy as well.

Each strategy has some advantages and disadvantages. The most obvious advantage of the public open-call strategy is that the pool from which coaches can choose is much bigger, which increases the probability of finding better talents. It is also a fairer approach, giving each student (who meets the preconditions) an equal opportunity to apply and be selected for the competition. One disadvantage of this approach, if the call is not accompanied by the precondition of undertaking and/or passing the moot competition's related course (for example, for the Philip C. Jessup moot court competition, the course in Public International Law), is that the preparation for the moot would start one step behind and would require extra efforts and time to cover the (basics of the) course(s) that are necessary for the competition. This disadvantage should not be overemphasised, however, because depending on the available time for preparation and especially the student's willingness to learn and do extra work, it might be taken care of fairly easily. Furthermore, not taking and/or passing a related course – or passing it but with a relatively low grade – should not always be considered as a decisive criterion against selecting a certain student. This is because the student might possess a good quality of other skills required for the competition (like excellent knowledge of a non-native language and/or excellent capacity to respond intelligently to questions) or other members of the team can help and balance out that deficiency. So, it should be weighed equally with all the other skills required. A second drawback of this strategy is that the selection basically comes down to the few moments when the student gives the oral presentation, so coaches do not have as good a sense of the student's strong and weak sides as they would have for those students who they have previously taught. However, while the longer time and better familiarity with a student may in principle be an advantage for the second selection strategy, it may at the same time be this strategy's weakness since coaches might be biased towards the students that they already know and miss out on others.

Regardless of the selection strategy one chooses, as was mentioned above, a simulated oral presentation by the interested or invited student is practically mandatory. This is because it is during the oral pleading that a coach can get some sense of the students' qualities and how they would match what is required at the competition. For the purposes of the oral presentation, the interested students could be asked to present a small text of around two-three pages that the coaches assign them to prepare for the selection process (usually an old competition speech), or they could be required to present and defend – in the format of the particular moot competition – an answer to a question (also two to three pages long) that they themselves were required to research for this occasion. During a student's oral pleading, the coaches should pay attention to numerous aspects that are important and needed for the particular moot (and generally for all moot competitions), such as the student's capacity to articulate complex and precise sentences (in the non-native language of the moot), capacity to defend his/her position and to improvise (especially when he/she lacks knowledge on a certain matter), how responsive a student is to the questions he/she is being asked and what is his/her ability to grasp the gist of the problem or the question, how much one is focusing on details during his/her exposé, what is their body language, etc. However, when making an assessment of these qualities, coaches should always keep in mind that they are selecting potential and not final participants. Moreover, one oral presentation only might not give the most accurate account of the interested student. Students may have stage fright during the oral pleading or underperform out of pressure that this is their only chance to get into the moot team or simply because it was not their day. So, given these circumstances, coaches should be able to spot the potential qualities needed for the competition during the oral presentation (and be prepared to work on their development) and make the selection based on the combination of qualities displayed by the interested students and the needs of the team.

For competitions that have written parts in addition to the oral ones, the selection process should also include a part through which coaches assess students' research and writing skills. A good indication of the students' potential in this regard are the midterm or final papers that students submit at the university, especially in the courses that are related to the particular moot competition. Here, coaches should pay attention to the student's ability to give structured thought, to distinguish the important from the less important points for an argument, the clarity of the writing, the depth of the research and consulted literature, etc.

Finally, another factor that coaches may take into consideration in the selection process is a student's previous participation in other moot court competitions. These students might have an advantage over others because they have already successfully undergone one selection and preparation process and could therefore be in a better position to know what it takes to endure and be successful in the preparation and competition of the new moot. Yet, one must also be cautious here. While moot court competitions indeed have many similarities,

they also may substantially differ (and not just formally) and require a different mind-set or favour different skills. As a result, students with experience in other moot courts may sometimes struggle (especially initially) to adapt to the new moot court, or they may not work as hard as they otherwise would have but rely on their previous moot court experience and skills and end up underachieving. Additionally, there might be interested students who have not participated in other moot courts but have greater potential than those with previous experience. Thus, participation in other moot courts may be an asset, but it is not a definitive advantage over students that do not have such experience.

