



2022

**Negotiation
Competition Rules**

1 GENERAL

- 1.1 This Competition will be known as the Negotiation Competition. These rules apply only to the 2022 Competition and are subject to review by the ALSA Executive.

2 DEFINITIONS

- 2.1 'Affiliated Law School': As defined by the ALSA Constitution.
- 2.2 'ALSA': The Australian Law Students' Association.
- 2.3 'ALSA Executive': As defined by the ALSA Constitution.
- 2.4 'Appeals Board': The Sub-Committee appointed by the Competitions Officer, Competitions Coordinator and the ALSA Executive.
- 2.5 'Appeals Process': The process of appeal outlined in the ALSA Appeals Procedure By-Law Three (3).
- 2.6 'Competitions Team': The Competitions Sub-Committee appointed to administrate Conference Competitions.
- 2.7 'Competitions Officer': As defined by the ALSA Constitution.
- 2.8 'Competitions Coordinator': As defined by the ALSA Constitution.
- 2.9 'Negotiations Coordinator': The member of the Sub-Committee appointed to administrate the Competition.
- 2.10 'Competitor': A law student from an affiliated law school or non-affiliate nominated by their respective LSS/A to compete.
- 2.11 'Graduated': A student who has had their degree conferred by their respective university.
- 2.12 'Law Student': A student from an affiliated law school who has not graduated and who has not received a prior degree in law in any jurisdiction.
- 2.13 'Observers': Any person in a round who is not a competitor, judge, or who is not affiliated with ALSA. This includes but is not limited to Team advisors.
- 2.14 'Points for': The number of points scored by the Competitor in Preliminary Rounds.
- 2.15 'Points Against': The Number of points scored by the Competitor's opponents in all Preliminary Rounds.

3 PARTICIPATION, TEAM SELECTION AND COMPETITOR ELIGIBILITY

- 3.1 Each affiliated law school may nominate one (1) team comprised of two (2) people to compete.
- 3.2 Each team may nominate one (1) person to act as their Advisor. An Advisor may be:
- 3.2.1 A faculty member of an affiliated law school; or,
 - 3.2.2 A student or alumni of an affiliated law school; or,
 - 3.2.3 A legal practitioner.
- 3.3 If invited by the President and Competitions Team, non-affiliated law schools may nominate teams to compete, provided that their competitors comply with the rules contained therein.

Penalty: Failure to comply with Rule 3.3 may result in disqualification at the discretion of the Appeals process.

- 3.4 Competitors who have participated in Knockout Rounds of Negotiation in previous years are prohibited from participating again. This does not bar students who have participated in the Knockout Rounds of other ALSA Competitions from participating.

Penalty: Failure to comply with Rule 3.4 will result in disqualification at the discretion of the Appeals process.

- 3.5 Affiliated law schools are prohibited from utilising current competition problems to select their team for competition. Past Problems may be requested by the affiliated law school for the purpose of team selection. This is in accordance with Rule 5.1.

Penalty: Failure to comply with Rule 3.5 will result in disqualification at the discretion of the Appeals process.

- 3.6 Competitors must not have graduated with a law degree in any jurisdiction before the commencement of the competition.

- 3.7 Competitors may not be current members of the ALSA Executive or the 2022 Competitions Team.

Penalty: Failure to comply with Rule 3.7 may result in disqualification at the discretion of the Appeals process.

- 3.8 Competitors must not be competing in other Conference Competitions in the same year.

4 Registration

4.1 Affiliated law schools must register their competitors and advisor by the deadline set by ALSA.

Penalty: Failure to comply with Rule 4.1 may result in disqualification at the discretion of the Appeals Process.

4.2 Competitors should remain the same for the duration of the Competition.

4.2.1 The Competition is deemed to have started on the day the problem is released publicly, or the date the team is registered, whichever happens later.

4.2.2 Substitution of a competitor may be allowed under exceptional circumstances, at the discretion of the Competitions Officer, Competitions Coordinator and Appeals Board. Applications for substitution must be sent to by a representative of an Affiliated Law School to competitions@alsa.asn.au before they take place. This means a replacement team member may not assist the team until the application has been approved by ALSA.

Penalty: Failure to comply with Rule 4.2 may result in a penalty of five (5) points at the discretion of the Appeals Process.

4.3 If a team withdraws from the competition, the withdrawal must be lodged by a Representative of the affiliate law school's LSS/A. If the Competitor is on their respective LSS/A, withdrawal must be received by a different member of their LSS/A.

4.4 By registering for the Competition, all competitors and affiliated law schools:

4.4.1 Agree to be bound by the rules contained in this document, as well as the ALSA Appeals Process, the ALSA Constitution and any other document indicated by the Coordinator.

4.4.2 Consent to their image being photographed, filmed, and published by ALSA.

4.4.2.1 Competitors may request not to be photographed, filmed, or published by ALSA in writing to competitions@alsa.asn.au at least five (5) days in advance of the competition.

5 Problem Question

- 5.1 The problem questions must be specifically drafted for the 2022 Negotiation Competition and must not have been used in a previous competition, including internal competitions at affiliated law schools in the competition year for the purposes of team selection.
- 5.2 Every effort will be made by ALSA to ensure that the problem question is drafted in a manner so not to disadvantage or advantage participants from any particular Australian jurisdiction.
- 5.3 Competitors will be required to prepare a different problem for each round of competition. Preliminary Problem questions will be released to Competitors via email fourteen (14) days before the round commences.

6 Competition Structure

- 6.1 Negotiation is comprised of Preliminary Rounds (Rule 13) and Knockout Rounds (Rule 16).
- 6.2 Negotiation will be held in person using a platform as decided by the Competitions Team and ALSA Executive. Relevant in person procedures will be communicated to competitors, judges, and any affiliated law school in advance of the competition.
 - 6.2.1 If the negotiation competition is held online using a platform as decided by the Competitions Team and ALSA Executive. Relevant online procedures will be communicated to competitors, judges, and any affiliated law school in advance of the competition.
 - 6.2.2 The Competitions Team will issue each team with an identifying team number in advance of the Competition.

7 Research and Preparation

- 7.1 All research and preparation must be conducted solely by competitors. Team advisors may provide assistance to a team before the release of the problem, provided such assistance is limited to:
 - 7.1.1 General instruction on research sources and methods;
 - 7.1.2 General instruction on oral advocacy, including structure and organisation of arguments.

Penalty: Any contravention of Rule 7.1 may result in disqualification or point deduction at the discretion of the Appeals Process.

7.2 After the release of the question, competitors must prepare without assistance. Competitors are prohibited from discussing the contents of the problem question with any person other than their team member.

Penalty: Failure to comply with Rule 7.2 may result in disqualification or point deduction at the discretion of the Appeals Process.

7.3 Once the negotiation has commenced, competitors are prohibited from performing further online research and are limited only to the use of physical books and notes.

7.4 Materials issued with the problem question are intended to be used as a guide only. Teams may rely on additional case law, legislation, and commentary at their discretion.

8 The Negotiation

8.1 There will be two (2) teams in each negotiation.

8.1.1 Judges are responsible for timekeeping a round. Competitors may follow along with their own timers, but the time of the judge will be considered to be correct.

8.1.2 Competitors will be randomly allocated sides for all rounds. Every effort will be made by the Competitions Team to ensure a competitor is allocated to each side at least once in Preliminary Rounds.

8.1.3 Competitors will not compete against the same opponent twice in the Preliminary Rounds. If competitors are drawn to compete against each other again in Knockout Rounds, they will be assigned opposite sides from their previous round.

8.1.4 Every effort will be made to ensure competitors do not appear in front of a judge more than once throughout the course of the competition, however this may be permitted in Knockout rounds.

8.2 Each round should last for seventy (70) minutes.

The Negotiation should proceed as follows:

8.3 Forty (40) minutes are devoted to negotiation between the teams.

8.3.1 Teams may take one (1) break not exceeding five (5) minutes. This break cannot be split and is only available to teams during the negotiation, not self-analysis or presentation to the judges.

8.4 Twenty-five (25) minutes of self-analysis, which is split accordingly:

8.4.1 Both teams will have five (5) minutes of private analysis between each other; at the end of which, the judges will randomly select a team to discuss their self-analysis with the judges. The team who goes second will leave the Breakout room and remain in the main room of the call until they are called back in by the judges.

8.4.2 The presentation of analysis to the judges should have two parts: analysis of the negotiation (the outcome, effectiveness of their strategy and their approach) and 20-10 questions each from the judges to the competitors to address any clarifying issues the judges may have.

8.4.3 Judges may take into consideration anything said in this section for the purposes of scoring.

8.5 Five (5) minutes of group/general feedback that does not disclose the winner to each team. The opposing team must not be present during this period of feedback or self-analysis.

8.6 Teams may not provide materials to judges in any manner during the negotiation.

Penalty: Contravention of Rule 8.6 may result in a two (2) point deduction to the relevant round at the discretion of the Appeals Process.

8.7 Competitors must not be more than ten (10) minutes late to the commencement of a round, subject to exceptional circumstances.

Penalty: For the ten (10) minutes or part thereof the competitors are late after the start of a round, a five (5) point deduction may apply at the discretion of the Appeals Process. Forfeit rules may apply pursuant to Rule 11.

8.8 Competitors must not observe, or be briefed on, the proceedings of any in person or online round in which they are not competing (with the exception of the Grand Final).

Penalty: Contravention of Rule 8.13 may result in disqualification at the discretion of the Appeals Process.

8.9 Competitors must not use Chat functions to communicate with judges or opposing counsel, except where there is an issue with technology during a round.

8.10 Electronic devices may only be used to establish the audio-visual link and for timekeeping purposes during a round.

8.10.1 Rule 8.10 does not apply to electronic medical devices.

8.10.2 Electronic devices used for timekeeping should be on airplane mode.

8.10.3 Competitors are prohibited from researching submissions during a round using any electronic device. They may perform online research before a round begins.

Penalty: Contravention of Rule 8.15 may result in a five (5) point deduction at the discretion of the Appeals Process.

9 Judging and Scoring

9.1 Every effort must be undertaken by the Competitions team and Competitors to ensure Judges are not aware of the university represented in a round.

9.2 Competitors must not reveal their university at any time during the Competition.

9.2.1 If the Competition is online Competitors must be signed into an online round as follows: [IDENTITY NUMBER] [COUNSEL FOR PARTY NAME].

9.3 Competitors may not contact a judge after the competition unless explicitly invited to do so by that judge.

9.4 Where possible, Judges will have suitable legal qualifications or relevant experience.

9.5 Prior to each round, Judges will be provided with:

9.5.1 The Problem Question and Confidential Facts;

9.5.2 A Summary of Key Rules and Procedure;

9.5.3 Relevant scheduling information, including links to online rounds; and,

9.5.4 A scoresheets with Scoring Notes.

9.6 Judges must score each individual speaker out of one hundred (100) points, with a team total between one hundred (100) and two hundred (200) points.

9.6.1 Speaker scores must be between fifty (50) and one hundred (100) points, based on the Oral Submissions Criteria (Appendix 1). Errors in math will not be corrected by ALSA.

10 Timekeeping and Observers

- 10.1 Judges are responsible for timekeeping and adherence to allotted time limits (including extensions granted in accordance with Rules 8.3., 8.4 and 8.5).
- 10.2 Competitors may use an electronic timing device (eg. mobile phone on airplane mode) for timekeeping purposes during a round but any discrepancy in time will refer to the judges' record (in accordance with Rule 8.15).
- 10.3 Decisions by judges regarding time penalties are final and non-reviewable, except in cases of plain and substantial error.
- 10.4 Observers are welcome so long as not on a team that university has been kicked out. No applications from teams to have Observers attend online rounds must be received by the Negotiation Coordinator no later than sixty (60) minutes before the commencement of a round.
- 10.5 The Competitions Team may restrict Observers from rounds at their discretion.
 - 10.5.1 To minimise disruption, observers should not enter and leave a round while a competitor is speaking.
 - 10.5.2 Observers are prohibited from communicating with competitors and judges during a round.
 - 10.5.3 Observers may not turn on their video or microphone during a round, nor are they permitted to communicate via the Chat function. All Observers must be named [TEAM NUMBER] – Observer. Anonymity rules extend to Observers.

Penalty: Contravention of Rule 10.5.2 and 10.5.3 may result in disqualification of the Team associated with that Observer at the discretion of the Appeals Process.

11 Forfeits

A competitor who forfeits a round will:

- 11.1 Lose that round. They will receive a mark of zero.
- 11.2 Be prohibited from progressing to Knockout Rounds.
- 11.3 Be ineligible for Awards.
- 11.4 A competitor will be considered to have forfeited a round where they withdraw following the release of a problem question in that round.

11.4.1 Withdrawal from a round before that time will trigger a swing competitor in accordance with Rule 12.3.

11.5 A competitor who is twenty (20) minutes late to a round will forfeit that round.

12 Preliminary Rounds

12.1 The competition will include three (3) preliminary rounds.

12.2 All registered competitors will compete in three (3) preliminary rounds.

Penalty: Failure to comply with Rule 12.2 may result in disqualification or prohibition on participation in Knockout Rounds at the discretion of the Appeals Process.

12.3 In the case of an uneven number of teams registered in the Competition, ALSA will provide a swing competitor.

12.3.1 Swing competitors should not disclose that they are a swing competitor to any person in the round

12.3.2 A judge will not be informed if there is a swing competitor in the round they are judging.

12.3.3 Swing competitors are prohibited from progression to Knockout Rounds.

13 Tiebreaks

13.1 This rule applies where:

13.1.1 Due to the average points score of two (2) or more competitors, the total number of competitors that qualify to advance to Knockout Rounds is greater than the number listed in Rule 15.2, pursuant to Rule 15.1.1, without the operation of this rule; or,

13.1.2 Due to a tie in the average points score of two (2) or more teams, Rule 15.2 cannot be resolved without this rule.

13.2 Competitors will progress according to the first of the following sequentially ordered rules which apply and breaks the tie:

13.2.1 Where there are only two (2) tied competitors and those competitors have faced each other in a Preliminary Round, the winner of that Preliminary Round shall progress; then,

13.2.2 Where the tied competitors were judged by the same judge, the decision of that judge shall determine which competitor will progress; then,

13.2.3 The competitor which has won the most rounds from all previous rounds shall progress; then,

13.2.4 The team with the higher point margin shall progress; then,

13.2.4.1 Point margin shall be calculated by subtracting the competitors' aggregate 'points against' from the aggregate 'points for'.

13.2.5 By random automated selection where each competitor has the same chance of progression after the application of Rule 15.1 – 15.4.

14 Progression to Knockout Rounds

14.1 All competitors will be ranked on a single ladder, based on their total combined score to determine progression.

15 Knockout Rounds

15.1 Knockout Rounds will consist of a Quarter – Final, Semi Final and Grand Final.

15.1.1 If fewer than ten (10) teams compete in the Preliminary Rounds, the Quarter – Final will not take place.

15.1.2 Problem Questions for the Knockout Rounds will be provided via email to the relevant teams at the time of the announcement of progressing teams.

15.2 The top eight (8) teams with the highest average points score from Preliminary Rounds will progress to Quarter – Finals, pursuant to Rule 15.1.1.

15.3 The Quarter-Final draw is determined as follows:

Quarter-Final 1: 1st place v 8th place

Quarter-Final 2: 2nd place v 7th place

Quarter-Final 3: 3rd place v 6th place

Quarter-Final 4: 4th place v 5th place

15.3.1 Competitors will be allocated random sides.

15.3.2 Judges should score individually. Judges may deliberate but are not required to reach a unanimous decision.

15.3.3 The winner will be determined by simple majority, after the application of applicable penalties.

15.4 The winner of each Quarter-Final round will progress to the Semi Finals.

15.5 The Semi-Final draw is determined as follows:

Semi Final 1: QF 1 Winner v QF 4 Winner

Semi Final 2: QF 2 Winner v QF 3 Winner

15.5.1 Competitors will be allocated random sides.

15.5.2 Judges should score individually. Judges may deliberate but are not required to reach a unanimous decision.

15.5.3 The winner will be determined by simple majority, after the application of applicable penalties.

15.6 The winner of each Semi Final will progress to the Grand Final.

15.7 The Grand Final draw is determined as follows:

Grand Final: SF 1 Winner v SF 2 Winner

15.7.1 Competitors will be allocated random sides.

15.7.2 The Grand Final Judging Panel will deliberate and determine a winner.

15.7.3 Penalties will not apply to the Grand Final.

15.8 The winner of the Grand Final will be announced at a time determined by the Competitions Team, pursuant to Rule 9.9.3.

16 Conflicts of Interest

16.1 A judge may not judge a competitor with whom they have a conflict of interest.

16.2 A conflict arises where, on the balance of probabilities, the relationship between a Judge and Competitor or Team would give rise to an actual or perceived bias in favour or against the Competitor.

16.3 A conflict of interest is presumed to arise, but is not limited to, situations where the Judge and Competitor:

16.3.1 Are siblings, child and parent, aunt/uncle and niece nephew or any other family relationship;

16.3.2 Are close personal friends;

16.3.3 Are currently engaged in a sexual and / or emotional relationship; or

16.3.4 Were engaged in a sexual and / or emotional relationship in the past twenty-four (24) months.

16.4 A conflict of interest will arise where, due to previous personal or professional dealings, the relationship between the Judge and the Competitor or Team creates a serious risk that the Judge will not fairly judge the Competitor or Team.

16.5 A conflict of interest will arise between a student serving as a judge and competitors from that university.

16.6 A conflict of interest will arise where a judge has graduated from the same university as the Team.

16.6.1 This conflict should be avoided where possible, but may be allowed in Knockout Rounds, at the discretion of the Competitions Coordinator and the ALSA Executive.

17 Appeals

17.1 Where a team believes these rules have been incorrectly applied, they are entitled to lodge an appeal to the Appeals Coordinator, in accordance with the Appeals Process.

17.2 Where the Conference Convenor, Competitions Officer, Competitions Coordinator, any member of the Competitions Team, ALSA Executive or ALSA Committee believe that any of the rules contained in this document have been breached, they may bring an appeal against a team in accordance with the Appeals Process.

17.3 The Appeals Board have the discretion to penalise a team in accordance with the rules contained in this document. In determining an appropriate penalty, they should consider, *inter alia*:

17.3.1 Any mitigating circumstances which explain or justify the contravention;
and,

17.3.2 Any aggravating circumstances associated with the contravention.

17.4 If a competitor is disqualified, their team may apply to the Competitions Officer for a replacement pursuant to Rule 4.2.2.

17.5 Where a penalty is levied against a competitor, the penalty will be applied to their team's overall score for the purposes of progression.

17.6 Judges should not be notified of the application of penalties to any team, at any point of the competition.

17.6.1 If a judge becomes aware of an applicable penalty levied against a team, they will be instructed not to consider the penalty in their assessment.

17.7 The Appeals Board has full discretion as to the application of all penalties.

17.8 The Appeals Board has full discretion to disqualify or apply penalties to any team who acts in a manner contrary to the principles on which the competition is based or the interests of that competition.

18 Awards

18.1 Awards will be announced at the conclusion of the competition.

19 Australian Champion

19.1 If the Competition is won by an Australian team, that team is the Australian Champion.

19.2 If the highest-placed Australian team the runner-up, that team is the Australian Champion.

19.3 In the event the highest placed Australian team is a losing semi-finalist, that team shall be deemed the Australian champion unless both losing semi-finalists are Australian team.

19.3.1 In the event both losing semi-finalists are Australian teams and no Australian team progresses to the Grand Final, the highest ranked Australian team according to the ranking methodology in Rule 15.1 shall be deemed the Australian Champion.

19.4 In the event the highest placed Australian team is a losing quarter-finalist, the highest ranked Australian team according to the ranking methodology in Rule 15.1 shall be deemed the Australian Champion unless only two Australian teams progress to the quarter-finals.

19.5 In the event only two Australian teams progress to the quarter-finals and both those teams fail to progress to the semi-finals, the highest ranked Australian team according to the ranking methodology in Rule 15.1 shall be deemed the Australian Champion.

19.6 In the event the highest placed Australian team does not qualify for Knockout Rounds, the highest ranked Australian team according to the ranking methodology in Rule 15.1 shall be deemed the Australian Champion.

19.7 The Australian runner-up shall be the Australian team that progressed the second furthest into the elimination rounds. In the event two or more Australian team would qualify to be Australian runner-up on this basis, the team ranked highest according to Rule 16.1 will be deemed the Australian runner-up.

Should the Championship be used to select a representative Australian team to compete in an international competition:

19.8 The Australian Champion for that year will be put forward as a representative.

19.9 In the event that the Australian Champion is unable to attend the international competition the Australian runner-up may represent Australia.

19.10 In the event of the inability of the Australian runner-up to attend, ALSA, in consultation with whichever such body that has requested the team, shall nominate an Australian representative who has participated in the national competition.

In the event that the Australian Champion is unable to attend the international competition the Australian runner-up may represent Australia.

Appendix 1: Scoring Criteria

1. **OUTCOME** / **30**

Weak 15-22	Average 22-27	Strong 28-30
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To what extent did the outcome of the session serve the client's goals, regardless of the agreement reached?

2. **TEAMWORK AND COMMUNICATION** / **30**

Weak 15-22	Average 22-27	Strong 28-30
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The team is effective in working together and shared the workload throughout the negotiation. They back each other up and do not speak over one another. The team communicates their position clearly and eloquently.

3. **RELATIONSHIP BETWEEN TEAMS AND ETHICS** / **20**

Weak 10-13	Average 14-18	Strong 19-20
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The team effectively manages their relationship with their opponents. The relationship between the parties did not detract from successfully achieving the best outcome for their client. The negotiating team recognised and acted consistently with the ethical requirements of a professional relationship.

4. **EXPLORATION OF INTERESTS** / **10**

Weak 5-6	Average 7-8	Strong 9-10
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The team identifies key interests for their client in the negotiation and demonstrates sophistication in their analysis.

5. **PLANNING AND ADAPTABILITY** / **10**

Weak 5-6	Average 7-8	Strong 9-10
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The team is prepared and appeared flexible in their approach during the negotiation.

Please note the following numeric guidelines for TOTAL OVERALL SCORE:

Weak	Below Average	Average	Above Average	Excellent
50-59	60-69	70-79	80-89	90-100

Please note the following guidelines for TOTAL WIN MARGIN:

Marginal	Close	Clear	Convincing	Resounding
1-2	3-5	6-10	11-15	15+