

# Mini-Moot Courts

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One 60-minute class is recommended

## Objectives

As a result of the activities in this lesson, students will be able to:

- Role play an attorney or justice/judge involved in an appellate or Supreme Court case
- Analyze the facts and issues, construct arguments, and generate a decision of a case
- Hone independent analysis, critical thinking, and decision making skills

## An Overview of a Mini-Moot Court

A moot court is a role-play of an appeals court or Supreme Court hearing. The court is asked to rule on a lower court's decision. No witnesses are called, nor are the basic facts in a case disputed. Arguments are prepared and presented on a legal question (e.g., the constitutionality of a law or government action or the interpretation of a federal statute). Moot courts are an effective strategy for focusing student attention on underlying legal principles and concepts of justice.

Moot courts are often done with a full complement of judges and attorneys. However, there are benefits to conducting mini-moot courts consisting of three student roles in some instances. Mini-moots generally take less class time to prepare and conduct, each student in the class is fully engaged, and different decisions may be reached and considered.

The following procedures are a slight adaptation of appellate procedures. The changes make the mini-moot court an appropriate educational activity for high school students.

## Preparing to Teach

**Select a case:** Use a current case before the Supreme Court of the United States from Street Law's SCOTUS in the Classroom webpage: <https://www.streetlaw.org/programs/scotus-in-the-classroom> or choose one of hundreds of past cases available in Street Law's free resource library at <https://store.streetlaw.org/resource-library/>. If you prefer to select your own case, choose a case that raises a contested constitutional issue (or an issue of statutory interpretation). Adapt the case information to suit your class. When selecting a case you may wish to consider the following factors:

- Is the content of the case relevant to your course, to a specific outcome (e.g., civic literacy or citizenship), or worth knowing?
- Is it interesting and relevant to students?
- Are the facts of the case accessible to students?
- Is there an underlying value conflict that is important for students to examine?

- Does the case involve issues that are still argued about by reasonable people today? (Students should not be asked to defend historical stances that are not supported by reasonable people today, such as in the cases of *Dred Scott v. Sanford*, *Plessy v. Ferguson*, *Brown v. Board of Education*, or *Korematsu v. United States*.)
- Does the content learned or the skill(s) developed align with standards in your curriculum?
- Are legal resource people available to assist with the lesson?

**Copy mini-moot court lesson handouts:**

- Handout 1: Justice/Judge
- Handout 2: Petitioner
- Handout 3: Respondent
- Optional Instructor Resource 1: Grouping Cards for Mini-Moot Court (cut into individual cards reading 1A, 1B, 1C, 2A, 2B, 2C, etc.)
- Optional Instructor Resource 2: Justice, Petitioner, and Respondent Signs

**Invite judges, attorneys, or law students to assist with this class** (optional but highly recommended).

## Activities

- 1) **Read, review, and clarify the facts of the case in pairs:** Distribute the selected moot court case to the class. The materials you distribute should contain the facts, issues, and constitutional provisions and precedents—but not the decision if the case has been decided. Some teachers might want to include the arguments for each side when first conducting this activity so students can become accustomed to the process; over time you'll want students to develop all the arguments on their own. Read the facts aloud.

Review these terms with the students:

- **Petitioner:** The person/organization/company who lost in the lower court and now appeals the lower court decision to a higher court.
- **Respondent:** The person/organization/company who won in the lower court and now argues that the lower court decision was correct.

*Note: In some states, different terms may be used such as appellant and appellee.*

Next have pairs of students ask each other the following questions:

- What happened in this case?
- Who are the people/organizations/companies involved?
- How did the lower court rule on this case?
- Who is the petitioner? Who is the respondent?
- What is the legal question that has to be resolved in this case?

- 2) **Discuss the issue as a class:** The issue is identified on the case summary. Discuss it with students and check for understanding. If you choose your own case, generate the issue in the form of a question. The issue should include:

- Who was the actor(s)?
- What is the specific part of the Constitution involved?
- Who was affected by the action(s)?
- What caused the controversy?

**Here is an example of an issue question:** Did the Virginia Military Institute (*the actor*) violate the 14th Amendment's right to equal protection (*part of the Bill of Rights*) of women (*affected by the action*) by not allowing them to attend VMI (*cause of the controversy*)?

- 3) **Assign roles:** Distribute **Grouping Cards for Mini-Moot Court**. The 1s will become the justices/judges, the 2s the petitioners, and the 3s the respondents. Each group gathers in a separate part of the room, ideally with an instructor or resource person, to develop both their argument and their rebuttal (for lawyers) or their questions (for justices/judges). Use the **Justice, Petitioner, and Respondent Signs** to label the area of the room where each group will meet. If groups are larger than five students, it is suggested that the groups be subdivided. Each group moves tables and chairs into a circle. Distribute handouts 1, 2, or 3 to each group.

- 4) **Prepare for roles:**

**Petitioner/respondent attorney preparation:** Each group of students should consider:

- What does each side (party) want?
- What are the arguments in favor of and against each side?
- Which arguments are the most persuasive? Why? What counter arguments should you anticipate and how will you rebut them?
- What are the legal precedents and how do they influence this case? (A precedent is a previously decided case recognized as the authority for future cases on that issue. Using precedents allows for the development of more sophisticated arguments.)
- What might be the consequences of each possible decision? To each side? To society?
- Are there any alternatives besides what each side is demanding?

**Note:** *The parties should consider all of the facts in the summary. Teams may not argue the accuracy of the facts. Participants' arguments do not need to be rooted in legal technicalities. Any argument that is persuasive from a philosophical, theoretical, conceptual, or practical standpoint can be made. Teams should rely on principles found or implied in the United States Constitution.*

**Justice/judge preparation:** The justices/judges should meet to discuss the issue involved and any case precedents. They should prepare at least five questions for each side that they need answered in order to reach a decision. The questions should not ask about the accuracy

of the facts, but rather how the established facts, constitutional provisions, and precedents support each argument. Think about possible hypothetical problems to ask. How will the decision in this case affect other cases in the future? Discuss, or invite the resource expert to discuss, what a narrow decision and a broad decision mean.

- 5) **The mini-moot court:** After an adequate period of preparation (suggested: 30 minutes), instruct students to move to their mini-moot triads using the letters on their **Grouping Cards for Mini-Moot**. Each triad has a student from group 1 (justice/judge), a student from group 2 (petitioner), and a student from group 3 (respondent). Then the ‘As’ from each group will form one triad, the ‘Bs’ another, and so on until all triads are formed. You may also wish to pair students up and have two students from each group form a group of six. Tables and chairs should be moved again so each triad or group of six is sitting together.

Give instructions for the activity and check for understanding.

The student justice/judge runs the mini-moot. They should ask each side to present their arguments in the following order:

<b>Initial Presentation</b>	Petitioner	3 minutes
<b>Initial Presentation</b>	Respondent	3 minutes
<b>Rebuttal</b>	Petitioner	2 minutes
<b>Rebuttal</b>	Respondent	2 minutes

Each side gets three minutes for its basic argument and two minutes for rebuttal.

The justice/judge may ask questions at any time in an effort to clarify the arguments. Time continues to run as the justice/judge interrupts to ask questions.

You (the instructor) will be the official timekeeper of the proceedings.

After all arguments have been presented, the justice/judge should consider the arguments and reach a decision. They should write their decision and a brief explanation of the reason they reached that decision including specific arguments and precedents.

- 6) **Handing down decisions:** Students return to their original seats and the instructor asks each justice/judge to hand down their decisions and the reasons behind them.

If you are using a case that has already been decided by the Supreme Court or appellate court, share the Court's decision with the students after the student mini-courts have shared their decisions.

- 7) **The debrief:**
- Ask the students to evaluate the reasoning the mini-moot courts used in their decisions and compare these to the reasoning used in the actual case.

- Discuss what various decisions might mean for the petitioner, respondent, and society.
- Ask about the process. Did it seem fair? Did each side have an adequate opportunity to present its arguments?

# Handout 1: Justice/Judge

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Prepare at least five questions to ask each side (petitioner and respondent). The questions should not ask about the accuracy of the facts, but rather how the established facts, constitutional provisions, and precedents support each argument.

Call the case to order by saying, "We will hear arguments today in (case name)." After hearing arguments from both the petitioner and the respondent, decide whether you think the decision of the lower court should be upheld or overturned. Be prepared to share the reasoning behind your decision.

<b>Case name:</b>	
<b>Constitutional question(s):</b>	
<b>Questions for petitioner:</b>	
<b>Questions for respondent:</b>	

Questions for respondent (cont.):

**Notes on the petitioner's argument:**

**Notes on the respondent's argument:**

Notes on respondent's argument (cont.):

**Decision:**

**Reasons for decision (opinion):**

Consider the strengths of the arguments and how precedents should be applied. Be sure to consider the impact of your decision on other situations that may arise in the future. If there is a precedent that is directly on point (very similar to your case) and you decide NOT to follow that precedent, be prepared to explain why you are overturning an established precedent (this should only happen on rare occasions and for extremely compelling reasons).



# Handout 2: Petitioner

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Outline an argument for the petitioner using the established facts, constitutional provisions, and precedents. Predict what questions the justice/judge will ask. Take notes on the respondent's argument to help prepare your rebuttal.

In preparing your arguments, you should think about the following questions:

- Why is the decision of the lower court wrong?
- What decision do you want?
- What are the legal and policy arguments in favor of and against each side? (Anticipating the opposition can strengthen your argument.)
- Which arguments are the most persuasive? Why?
- What are the precedents and how do they influence this case?
- What might be the consequences of each possible decision?

<b>Case name:</b>	
<b>Petitioner:</b>	
<b>Constitutional question(s):</b>	
<b>Precedents that support your argument:</b>	

**Argument for petitioner:**

[Empty space for argument]

**Possible questions from justice:**

[Empty space for questions]

**Respondent argument notes:**

**Rebuttal points:**

# Handout 3: Respondent

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Outline an argument for the respondent using the established facts, constitutional provisions, and precedents. Predict what questions the justice/judge will ask. Take notes on the petitioner's argument to help prepare your rebuttal.

In preparing your arguments, you should think about the following questions:

- Why is the decision of the lower court right?
- What decision do you want?
- What are the legal and policy arguments in favor of and against each side? (Anticipating the opposition can strengthen your argument.)
- Which arguments are the most persuasive? Why?
- What are the precedents and how do they influence this case?
- What might be the consequences of each possible decision?

<b>Case name:</b>	
<b>Respondent:</b>	
<b>Constitutional question(s):</b>	
<b>Precedents that support your argument:</b>	

**Argument for respondent:**

**Possible questions from justice:**

**Petitioner argument notes:**

**Rebuttal points:**