

The Moot Court: A Dynamic Learning Activity for Legal Courses in Recreation

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Introduction

Recreation and sport legal issues classes provide an excellent opportunity to employ the case method of learning. This method provides a process of participatory learning that facilitates active and reflective learning and results in the development of critical thinking and effective problem-solving skills (Tomey, 2003). An effective way to utilize the case method approach is through moot court activities.

The moot court activity is a creative, interactive method of enhancing legal knowledge through student-teacher and student-student interaction. While engaged in this activity, students study legal concepts and defenses, create opening and closing arguments, select witnesses and develop questions for them, locate case precedent, determine the relevant standards to apply, and finally present their case in an interactive class environment. The moot court is an excellent learning activity for undergraduate and graduate legal courses, as well as for administration courses with a legal component.

Description of the Learning Activity

The following is a summary of the typical moot court activity:

- The students first are divided into small groups and provided with a legal case scenario that best fits their interests (i.e., recreational sports, natural resources, hospitality, or therapeutic recreation). The case is hypothetical but based upon one or more actual lawsuits that have already been tried in court. An example of a hypothetical case scenario follows:

Shelly Shockey is a twelve-year-old girl who loves to play soccer. She is a member of a youth soccer league where she plays games three times a week at 5:00. The league is run by the City of Playland Park and Recreation Department. Shelly's team is supervised by a volunteer coach. One day, Shelly was playing in a soccer game when a storm approached. There was visible lightning and dark clouds from a distance. Thunder was heard throughout the park. The coach did not tell the children to suspend play or seek shelter. The park does not have lightning detectors. A park employee

monitored the weather station but there was no formal plan in place to suspend or resume activities in the event of lightning storms. As Shelly ran toward the goal for a sure score, a bolt of lightning struck the girl rendering her unconscious. The coach immediately dialed 911 on the cell phone. The ambulance arrived a short time later but was unable to fully revive Shelly. She later died of complications as a result of the lightning strike. Her parents bring a lawsuit claiming negligence against the both the coach and the City of Playland.

- The groups are evenly divided with one group representing the interests of the plaintiff and the other group representing the interests of the defendant.
- Each group is provided the requirements of the assignment consisting of both written work and a moot court presentation.
- Each group must write and present their opening and closing arguments. These must be based upon the elements of their claim and applicable legal defenses.
- Both groups must provide a list of witnesses (including both fact and expert witnesses) with questions they intend to ask them during the moot court activity. They must justify their selection of each witness and the questions they will ask by applying legal principles to the factual circumstances of the scenario. As practice, prior to the actual moot court experience, the instructor and students actually perform various witness examinations. Students must explain how their line of questioning helps their case.
- Groups must provide supporting information from the “real world” to determine the applicable standard of care. This may take the form of materials from the relevant literature, the Internet, or from information obtained by interviewing practitioners and/or experts.
- Finally, each group will prepare and present their case during a moot court on their assigned class period. The students will present their opening and closing arguments, call and question their witnesses and cross examine the opposing side’s witnesses, and provide supporting documentation. At the conclusion of the moot court, the class will vote as to whom they believe prevailed in the case (this does not influence the grade). The case is then open to the entire class for discussion.

Outcomes

The outcomes from the moot court activity and the benefits to students are numerous. These include but are not limited to:

- Public speaking. Students have the opportunity to improve their public speaking

skills by orally presenting their cases to the class. Students are also encouraged to use audiovisual aids when presenting (i.e., PowerPoint, video, websites, overheads).

- Increased knowledge of legal procedure. Students learn the basics of how a courtroom is operated and the steps in a trial. For example, they learn the process of presenting a case for the plaintiff and defendant, and the types of questions they would be allowed to ask a potential witness.
- Making sound arguments. The moot court activity provides students with an enjoyable, realistic, and challenging forum for making reasoned arguments. The experience encourages critical thinking and the ability to make reasonable arguments.
- Processing information quickly. The activity helps students learn how to quickly process information when faced with unexpected facts or events. For example, when faced with unexpected answers from a witness, students are suddenly required to “think on their feet.”
- Improved decision-making skills. During the activity, students are required to make several decisions. These decisions range from determining how to question a witness to deciding the outcome of cases. This requires students to make intelligent choices about which facts are most relevant to their specific moot court experience.
- Enjoyable experience. Students enjoy the challenge of the arguments as well as the interaction with the instructor and other students in the class.

Recommendations

The moot court requires proper timing of the activity, as well as teacher preparation and instruction prior to conducting the moot court. Suggestions for timing, preparation and instruction include:

Developing the appropriate time frame for the activity. The moot court scenarios should be conducted at the end of the semester when students are well grounded in legal terminology and issues, and have an understanding of legal procedure. However, students may benefit from having their case facts earlier in the semester so they can begin working on their arguments as topics relevant to their cases are raised in class. The instructor may wish to limit the total time for each moot court scenario (i.e., one class period) as they can become lengthy and contribute to a lack of class interest. Another suggestion is to intersperse moot court scenarios with lectures.

Providing instruction on legal procedure. The basics of legal procedure (i.e., order of presenting cases) should be taught and reviewed several weeks prior to the moot court. This insures that the scenarios run more smoothly.

Preparing students for the moot court activity. Case scenarios should be given to students early in the semester. This allows students to become familiar with their cases. Students should be encouraged to prepare for their cases as topics relevant to their specific cases arise in class. Attorneys for the plaintiff and the defendant in each case must be selected. It is suggested that no more than five students be selected to serve as plaintiff or defense attorneys for a case. Additionally, students may be chosen to act as judges for each moot court scenario. The number of attorneys and judges selected depends upon class size and instructor preference, but generally five students for each would suffice. Judges not only oversee the proceedings and decide the cases, but they may also be given the authority to determine certain procedural issues (i.e., objections to witness questioning).

Grading and conducting the moot court includes both oral and written components. Suggestions for graded and non-graded items that can be included in the moot court activity follow:

Motions. Students might make a motion to the court prior to trial. The most typical is the Motion for Summary Judgment. At most, students are required to draft a summary judgment document. At least, students demonstrate their knowledge of this motion with a verbal plea before the class.

Opening statements. It is suggested that the plaintiff(s) and defendant(s) both make opening statements before the court (class) and submit these statements to the instructor in written form. The statements should include the cause of action (if plaintiff), the legal defenses (if defendant), and a persuasive argument as to why and how the facts support the cause of action or defenses.

Witnesses. The instructor may act as the only witness (this allows for greater control) or students might be selected to act as witnesses. The responses from the witnesses will shape the experience. Therefore, witnesses should be interesting and somewhat unpredictable at times. The questioning of the witnesses can be most enjoyable to all involved. Students should be allowed to object to improper questioning, however, this requires close supervision by the instructor. Instructors may require that students submit their questions prior to the moot court.

Closing statements. The students make a closing statement summarizing the facts offered in the case. This may also be submitted in writing.

Decision. The judges are asked to leave the room to make a decision on the outcome of the case. Their decision should be based upon the facts presented in light of the legal issues and rules relevant to the case. They should give sound reasons **for their decision**.

The instructor to initiate further class discussion may provide findings from the actual cases.

Conclusion

The moot court activity is an enjoyable learning experience for both the instructor and students. It is also an effective way to utilize the case method approach. At its core, legal cases are stories about people in trouble. Through critical thinking and problem solving, students figure out what went wrong and how to fix it (Herreid, 1997). As such, they also develop risk management skills to improve the safety of the programs and services they may someday manage, thereby decreasing their risk of liability.

References

Herreid, C.F. (1997, November). What is a case? Bringing science education the established teaching tool of law and medicine. *Journal of College Science Teaching*, 27, 92-94.

Tomey, A.M. (2003, January/February). Learning with cases. *The Journal of Continuing Education in Nursing*, 34(1), 34-38.