



**2024 Youth in Government  
JUDICIAL HANDBOOK**

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## MAKEUP OF THE COURT

The Colorado Supreme Court is composed of seven justices who serve ten-year terms. The Chief Justice is selected from the membership of the body and serves at the pleasure of a majority of the justices. The Chief Justice also serves as the executive head of the Colorado Judicial System and is the ex-officio chair of the Supreme Court Nominating Commissions. The Chief Justice appoints the Chief Judge of the Court of Appeals and the Chief Judge of each of the state's judicial districts and is vested with the authority to assign judges (active or retired) to perform judicial duties.



## ROLES IN THE JUDICIAL BRANCH

The **CHIEF JUSTICE** is the head of the state courts and must be very familiar with the cases being heard. A Chief Justice should become familiar with court procedures. The Chief Justice Presides over the hearing Judicial Review cases and manages the work of the court. The Chief Justice will decide which Judicial Review cases will be heard by the court.

**JUSTICES**, as well, should be informed and conversant on procedures of the judicial system in Colorado. As part of the whole Supreme Court, Justices will hear appeals court cases on the first day of the General Assembly and make a decision based on the attorney's arguments. Justices will work together to write the opinion of the court.

The **ATTORNEY GENERAL** can represent the state of Colorado in legal matters. In addition, the attorney general is also the main point of contact between the executive branch and the judicial branch. The attorney general can make recommendations to the Governor regarding legal issues. For the purpose of Colorado YIG the Attorney General will work with the Assistant Attorney General to assign attorneys to Judicial Review cases.

**ASSISTANT ATTORNEY GENERAL** will be assigned to support the Attorney General. The Attorney General will assign an attorney as a point of contact for both the House and Senate in order to organize Judicial Review cases. The Assistant Attorney General will need to check in with committees and other Attorneys throughout the day and collect any requests for Judicial Review.

**ATTORNEYS** will prepare an Oral Argument and information sheet for the Appellate case they are assigned. Working in teams of two, attorneys will argue an appellate case for the PETITIONER - APPELLANT or the RESPONDENT - APPELLEE.

After the appellate case attorneys will work with legislators and lobbyists to submit Judicial Review cases to the Supreme Court.

## WHAT IS THE APPELLATE COURT AND HOW DOES IT WORK?

I. The appellate competition involves the presentation of a case to an appellate court. The appellate case is not a trial case. This section will familiarize you with the basic appeals process.

II. What is an appeal?

Following a trial, the losing party can challenge the result in a higher court. This is done by presenting specific challenges to the rulings of the trial court (example: the exclusion of evidence) or to the manner in which the lower court interpreted the law in reaching their result (ex: did the trial court follow the law). These challenges are supported by precedent, decisions of other courts in similar cases.



III. In the federal system, a case usually will go from the Federal District Court to a Circuit Court of Appeals and then to the United States Supreme Court.

IV. In an appeal, parties are initially required to file “briefs” setting forth their arguments and authorities. After the briefs are filed, the parties then present “oral arguments” to the appellate court detailing the reasons why their respective clients should prevail. The justices of the appellate court may interrupt the attorneys at any point (after the 2 minute grace period) and ask questions about their arguments.

V. After the oral arguments, the appellate court will issue its decision, usually accompanied by a written opinion setting forth its analysis on the issues. If a particular justice disagrees with the holding of the Court, he or she may file a “dissenting” opinion.

**VI. For the purposes of the Colorado YIG Judicial Competition each Attorney team will provide Justices a ONE PAGE summary of their oral argument (brief)**

VII. The decision of the appellate court is then written in the form of an opinion that is sent to the attorneys and is sometimes published for use as precedent in later cases.

### TEAM COMPOSITION

**I. Attorneys will need to register with their team assignments following the October 11<sup>th</sup> registration deadline registration deadline. Teams will consist of 2 delegates.**

II. The two members will argue the case during oral argument. Both attorneys must argue, with each attorney speaking for at least five minutes. Each attorney may speak only one time during each round. For instance, if Attorney One speaks for the first five minutes of the round and then sits down to allow Attorney Two to speak, Attorney Two must complete the round

III. a. **BAILIFF** - Will keep time for the oral arguments.

b. The bailiff will hold up signs after the first 2 minutes, and when 5 mins, 1 min and 30 seconds remain.

IV. Each side will be given 20 minutes to present their argument.

a. Each team will submit to the bailiff or Chief Justice how the team will split their time. A suggested time split is below.

V. Each side (Petitioner and Respondent) has two student attorneys, and the attorneys may divide this time between themselves however they see fit.

VI. Additionally, the Petitioner has the right to reserve up to 5 minutes for rebuttal, which is deducted from their 20 minutes total. It is the Petitioner's duty to announce this before the oral argument begins.

VII. The Bailiff will have time cards to signal the attorneys how much time is left for their argument. The Bailiff will signal when time is up. It is up to the discretion of the Chief or Associate justice to allow an attorney to finish their thought or sentence if time elapses.

## APPELLATE CASE GUIDELINES

I. For the purposes of this year's appellate case, one cases will be presented to the Supreme Court. The Justices will hear cases during session of the first day of the General Assembly. The Petitioner team presents its arguments first, and is then followed by Respondent's arguments. The Petitioner will then have the opportunity to provide a brief rebuttal.

II. Each team has a total of twenty minutes to present their argument. This time can be divided in any manner chosen by the team, except that (1) each attorney of the team must present at least 5 minutes of the argument, and (2) except for rebuttal, each attorney may go to the podium only one time; in other words, one attorney of a team cannot give 2 minutes of the argument, sit down and let his or her partner speak for 5 minutes, and then return to the podium to conclude the argument [excluding rebuttal]. A suggested time division of the arguments is as follows:

i. Petitioner Attorney #1 - 9 min; Petitioner Attorney #2 – 8 min

ii. Respondent Attorney #1 – 10 min; Respondent Attorney #2– 10 min

iii. Petitioner Rebuttal – 3 minutes



III. During the course of the oral arguments, the justices may interrupt and ask questions about the argument. Attorneys should answer the justice's questions, and then return to the argument. Justices may not ask questions during the first 2 minutes of any attorney's argument. Justices also may not ask questions during the last minute of an attorney's argument. This allows an attorney to clearly state the purpose of their argument before being interrupted. 6

IV. Attorneys cannot communicate with their partners while presenting their oral arguments. Once an attorney goes to the podium, he/she must remain there until the conclusion of the argument. Attorneys may take notes, cases or a summary to the podium.

V. Attorneys should not point or look at opponents during oral argument. Oral arguments must be directed at the Court. Attorneys should refrain from making any personal remarks about or attacks upon opposing counsel.

VI. When a justice begins asking a question, attorneys should stop speaking immediately. (It is considered disrespectful for the attorney to attempt to talk over the justice.)

VII. If an attorney runs out of time while arguing, he/she should stop immediately, and request permission from the Court to conclude the sentence. If the Court grants permission to conclude, the attorney must promptly conclude.

## BRIEF GUIDELINES

Typically, attorneys write briefs in order to prepare for their oral argument. This helps Justices plan their questions and understand arguments.

For the purpose of Youth in Government, Each attorney team should prepare a one-page written outline of their oral argument.

1. **Identify the ISSUE(S).** The Issue should be a fact-specific statement that poses a question in a light most favorable for your position. "Fact-specific" means that you state relevant facts from the case with a question of law. The way you phrase the question suggests a yes-or-no answer. The issue is your opportunity to phrase the question how it benefits you the most.

For example:

Does a county school board, exercising its religious beliefs, violate the First Amendment where it requires its elementary school students to recite a scripted prayer every morning?

2. **State (a) relevant RULE(S).** The Rule is a proposed statement of the law that you are arguing applies to the case's facts. With the rule, you are setting up an answer to the issue, with a favorable result to your case, of course.

For example:

The Constitution prohibits the government, even local school boards, from making laws establishing religion. As state agents, public schools are prohibited from compelling particular religious activity during school hours. Citation.

3. **ANALYSIS.** Your analysis should be concise and should explain why the rules in other cases should apply to your case, OR why your case is so different that the rules should not apply.

When you do quote or paraphrase from another case, cite it.

Examples of an analysis: In *Sunshine County v. Adirof*, (citation), the court said x and did y.

Similarly, this case involves a public school where students are made to participate in a religious exercise.

- or -

In *Sunshine Cty. v. Adirof*, (citation), the court said x and did y. Unlike *Adirof*, there is no evidence of compulsion here.

4. **CONCLUSION.** In your conclusion, briefly unite once again the case facts and legal rules. In doing so, you will have argued why the court should rule in your favor. To enhance your argument, you might want to weave in policy considerations. Let the court know what impact you envision the outcome having on society.

## RESOURCES

Searchable database of legal decisions

<http://scholar.google.com>

Colorado Legal References

<http://statelaws.findlaw.com/colorado-law.html>

Supreme Court Decisions, 1937-present, from Findlaw

<http://www.findlaw.com/casecode/supreme.html>

Supreme Court Decisions, 1990-present, from Cornell University

<http://supct.law.cornell.edu/supct/>

Colorado Supreme Court Oral Arguments

[https://www.courts.state.co.us/Courts/Supreme\\_Court/Oral\\_Arguments/Index.cfm 8](https://www.courts.state.co.us/Courts/Supreme_Court/Oral_Arguments/Index.cfm 8)

## ATTORNEY ORAL ARGUMENTS

I. Oral Arguments consist of attorneys making arguments of their position in the case to the appellate court. During oral arguments, the attorneys will be interrupted and asked questions by the appellate justices. These questions will help the appellate justices make a decision of how to rule in the case. The attorneys structure their oral arguments using only the legal precedents to support their case. In some cases, both sides of a case may cite the same case to support their opposing arguments. Most cases include a dissent, or include legal theory that could be used to support two different arguments if a skilled appeals attorney is able to argue why the case at hand is different from the one decided in a previous case.

II. Your score during the oral arguments will be used to determine rankings. Sample scoring sheets are available in the delegate manual. Please review these scoring sheets to determine the various categories on which you will be scored.

III. Oral arguments, however, should consist of the following key items:

a. Introduction

(“Thank You Chief Justice and may it please the Court”)

b. State who you are and what you’re going to be talking about.

(My name is \_\_\_\_\_ and I with my co-council \_\_\_\_\_ represent the (Petitioner or Respondent)).

c. Basis of the case

Use this time to give an outline of what your argument will be. Try to make it as clear as possible to the justices what issues you will be addressing.

d. What your side believes and why they are right

Begin going into detail about why your side is correct. Use case law and be ready to answer the justice’s questions.

e. Conclusion

Have something prepared to say when your time is almost up. Make sure to tell the court what you want them to do. (Because of \_\_\_\_\_ we believe this court should rule \_\_\_\_\_)

IV. Focus on case precedent. Justices are going to base their decision on the legal precedents above all else!

V. Expect the bulk of the oral argument to be devoted to Justices questions. Use your 2 minutes of un-interrupted time wisely.



## FORMAT OF AN ORAL ARGUMENT

I. Attorneys enter the courtroom and set up at the counsel tables. There will be someone at the bench keeping time. Each attorney will need to give the timekeeper and score keeper the following information.

a. Their name

b. Whether they are Petitioner or Respondent

c. Which speaker they will be (Petitioner #1 or #2 or Respondent #1 or #2)

d. How much time they will need for their presentation

II. Bailiff will announce the entry of the justices. The timekeeper may also be the Bailiff. The Bailiff will say: "All persons having business before the Honorable, the United States Supreme Court, are admonished to draw near and give their attention, for the Court is now sitting."

III. The Justices will come in and sit down and the Bailiff will state: "Please be seated."

IV. The first case on the calendar, that of \_\_\_\_\_.

V. The Chief Justice will ask: "Is the Petitioner ready?"

VI. The Petitioners will stand. One team member (typically the first to speak) looks directly at the Chief Justice and answers: "Petitioner is ready, your honor." (Petitioners then sit down)

VII. The Chief Justice will ask: "Is the Respondent ready?"

VIII. The Respondents will stand. One team member looks directly at the Chief Justice and answers: "Respondent is ready, Your Honor." (Respondents then sit down).

IX. The Chief Justice will instruct the Petitioners that they may proceed

X. The Petitioner first speaker will approach the podium and begin. As soon as the Petitioner #1 finishes, Petitioner #2 will approach and begin their argument

XI. Once both Petitioners have made their argument, the first Respondent will approach the podium and begin. As soon as the Respondent #1 finishes, Respondent #2 will approach and begin their argument.

XII. Once both Respondents complete their argument, the Petitioner (one speaker only) will approach the podium and make their rebuttal.

XIII. Upon the completion of the Petitioners rebuttal (the respondent does not get a rebuttal) the Chief Justice will announce that the justices will retire and make their decision.

XIV. As the justices rise to leave, the Bailiff will ask everyone in the courtroom to please rise. Once the justices leave, everyone can sit down.

## **JUSTICES Roles and Responsibilities**

I. When you are serving as a justice, you will sit with 6 other student justices. There will also be a Chief Justice who will manage the court room.

II. Youth justices are expected to be knowledgeable of the case, including the facts, the issues, and the relevant case law. The justices are also expected to be fair and impartial to the parties and fulfill their duties as a justice in a dignified, professional manner.

III. Questions: After the first 2 minutes of an attorney's argument, Justices may interrupt to ask questions. A well-prepared justice has a series of questions that relate to the issues in the case, many of which can be asked to guide the attorney. Questions should also be based on the argument the Attorneys make and can also include questions on case law.

IV. The justices are expected and required to be fair and impartial.

V. While they may personally believe that one side's position has more merit, it is improper to make statements that give the appearance that justice is clearly supportive of one side over the other.

VI. It is within the Chief Justice or Associate Justice's sole discretion to provide an attorney with an extra 30- 60 seconds to complete a thought or to answer a question from the bench if they run out of time.

## **QUALITIES OF A STRONG JUSTICE INCLUDE:**

I. Respect towards presenting attorneys

- • The Delegate Justice should listen politely and respectfully to the attorney
- • The Delegate Justice should ask questions in a respectful manner.

II. Knowledge of Case Law

- The Delegate Justice should be familiar with case law and be able to incorporate it into their questions

III. Respect toward Justices

- The Delegate Justice should share questioning time with his or her fellow justices, including deferring to the presiding justice.
- The Delegate Justice should allow attorneys to fully answer the previous justice's question before asking another.

IV. Fairness of questions

- The Delegate Justice should not ask three or more questions in a row (This technique is called "drilling" and is not allowed).

- Additionally, the Delegate Justice should not drill in combination with other justices.
- The Delegate Justice should ask questions intended to further the argument of the attorney.
- The Delegate Justice should not treat questioning as if they are arguing for the opposing side. • The Delegate Justice should not ask a question during the introduction of an attorney's oral arguments.

#### V. Quality of questions

- The Delegate Justice should ask thought-provoking questions.
- The Delegate Justice should ask questions that require further explanation than "yes" or "no".

You will be expected to interact with attorneys in a way that allows them to make their own argument, not just respond to your questions Some ideas on which questions can be based:

- Case law: Ex: In the case of Tinker v. Des Moines, the Supreme Court ruled in favor of student expression. How does this precedent apply to this case?
- Statutes: Ex: Section 901.151, Florida Statutes, addresses the stop-and-frisk police tactic. How does this change the analysis of Terry v. Ohio in Colorado?
- Constitutional amendments: Ex: How does this action not violate the 14th amendment?
- Points from the opposing side: Ex: How do you respond to the Petitioner's argument that this case does not involve a 4th Amendment search at all?

## **JUDICIAL REVIEW SUBMISSION PROCESS**

Judicial Review is the doctrine under which legislative and/or executive actions are subject to review, and possible invalidation, by the judiciary. A specific court with judicial review power may annul the acts of the state when it finds them incompatible with a higher authority, such as the terms of a written constitution. Judicial review is an example of check and balance in a modern governmental system where the judiciary checks the other branches of government.

Prior to pre-legislative conference, youth attorneys and other delegates are encouraged to look over legislation in the bill book to find bills that can be used for judicial review (bill's do not have to be passed in the chambers to be subject to Judicial Review. After a delegate finds a bill they believe is un-constitutional, they should fill out the "Judicial Review Writ of Certiorari."

A bill that is suitable for judicial review should have a question of constitutionality. The bill can either conflict with the Colorado Constitution or the United State Constitution. For example, a bill that restricts a group's ability to protest could be looked at under judicial review because the groups 1st amendment right to speech or assembly might be violated if the bill becomes law.

The Judicial Review assignments will be random. Not all bills submitted will be heard. You will be asked to partner with another attorney different from their attorney team for the appellate case.

### **JUDICIAL REVIEW STEPS**

1. Read through 2024 Colorado Youth in Government bill book
2. Identify bill(s) that may be un-constitutional
3. Submit Judicial Review Writ of Certiorari Form to the Attorney General
4. 2024 Chief Justice and Associate Justices will review submissions and grant certiorari for bills that may be un-constitutional.
5. Judicial Review assignments will be announced on the second day of General Assembly
6. Attorneys will formally argue their Judicial Review Case at Judicial Conference.
7. Representatives, Senators and Lobbyists who wish to submit a Judicial Review Writ of Certiorari will need to consult an Attorney to sign their form.

# JUDICIAL REVIEW WRIT OF CERTIORARI

Attorney: \_\_\_\_\_ Delegation: \_\_\_\_\_

Chamber/Bill #: \_\_\_\_\_ Author: \_\_\_\_\_

Bill Title: \_\_\_\_\_

Constitutional Issues (Why should this be reviewed? What is possibly un-constitutional?):

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Appellant(Petitioner) Argument (Give a few sentences of how the appellant would argue this case):

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Appellee (Respondent) Argument (Give a few sentences of how the appellee would argue this case):

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## GLOSSARY OF TERMS

### Appeal

A request made after a trial by a party that has lost on one or more issues that a higher court review the decision to determine if it was correct. To make such a request is "to appeal" or "to take an appeal." One who appeals is called the "appellant;" the other party is the "appellee."

### Appellant

The party who appeals a district court's decision, usually seeking reversal of that decision.

### Appellate

About appeals; an appellate court has the power to review the judgment of a lower court (trial court) or tribunal. For example, the U.S. circuit courts of appeals review the decisions of the U.S. district courts.

### Appellee

The party who opposes an appellant's appeal, and who seeks to persuade the appeals court to affirm the district court's decision.

### Brief

A written statement submitted in a trial or appellate proceeding that explains one side's legal and factual arguments.

### Case law

The law as established in previous court decisions. A synonym for legal precedent. Akin to common law, which springs from tradition and judicial decisions.

### Counsel

Legal advice; a term also used to refer to the lawyers in a case.

### Hearsay

Evidence presented by a witness who did not see or hear the incident in question but heard about it from someone else. With some exceptions, hearsay generally is not admissible as evidence at trial

### Judgment

The official decision of a court finally resolving the dispute between the parties to the lawsuit.

### Jurisprudence

The study of law and the structure of the legal system

### Moot

Not subject to a court ruling because the controversy has not actually arisen, or has ended

Motion A request by a litigant to a judge for a decision on an issue relating to the case.

### Opinion

A judge's written explanation of the decision of the court. Because a case may be heard by three or more judges in the court of appeals, the opinion in appellate decisions can take several forms. If all the judges completely agree on the result, one judge will write the opinion for all. If all the judges do not agree, the formal decision will be based upon the view of the majority, and one member of the majority will write the opinion. The judges who did not agree with the majority may write separately in dissenting or concurring opinions to present their views. A dissenting opinion disagrees with the majority opinion because of the reasoning and/or the principles of law the majority used to decide the case. A concurring opinion agrees with the decision of the majority opinion, but offers further comment or clarification or even an entirely different reason for reaching the same result. Only the majority opinion can serve as binding precedent in future cases. See also precedent.

### Oral argument

An opportunity for lawyers to summarize their position before the court and also to answer the judges' questions.

### Plaintiff

A person or business that files a formal complaint with the court.

### Precedent

A court decision in an earlier case with facts and legal issues similar to a dispute currently before a court. Judges will generally "follow precedent" - meaning that they use the principles established in earlier cases to decide new cases that have similar facts and raise similar legal issues. A judge will disregard precedent if a party can show that the earlier case was wrongly decided, or that it differed in some significant way from the current case.

### Uphold

The appellate court agrees with the lower court decision and allows it to stand. See affirmed.

### Writ

A written court order directing a person to take, or refrain from taking, a certain act.

### Writ of certiorari

An order issued by the U.S. Supreme Court directing the lower court to transmit records for a case which it will hear on appeal.

