Workshop Instructions: Closing Statement

In today’s workshop, your group will be responsible for developing the Closing Statement. At the end of the workshop we will hold a simulated hearing, and your group will deliver the closing. The following instructions should help guide your work.

➢ Start by skimming the attached “Closing Argument” excerpt from the Advocacy Guide. If you have a chance, do this even before reviewing the case materials (witness statements, interview notes, etc.).

➢ Develop your theory of the case. Skim the attached “Case Theory” excerpt from the Advocacy Guide. Use the Hearing Prep Form to assist you in considering the potential evidence favoring your client -- and the school.

➢ Draft your closing. Start with an outline if you think that would be best. Focus on your theory of the case and refer specifically to the evidence and testimony you anticipate. Respond to what you expect will be the school’s theory.

➢ Make sure to state your theory and request clearly at the beginning and end.

➢ Decide how your group will deliver the closing during the simulated hearing. (I.e., select one person to be the advocate; or, assign parts to each person.)

➢ As the simulated hearing is conducted, work together to revise the closing statement! It is crucial that you make adjustments based on the actual testimony. Sometimes your entire theory of the case might change.
X. CLOSING ARGUMENT

a. Drafting Closing Argument

1. Draft a preliminary closing argument before writing your direct/cross examinations: After you have met with your client, reviewed the suspension packet, and developed your theory of the case, you should draft your closing argument. By drafting your closing argument now, you organize your thoughts, identify the arguments you want to be able to make, and identify the facts that you must prove in order to make that argument. Your closing argument will guide your direct examinations and your cross examinations.

2. Your closing argument should be based on your theory of the case: A closing argument is your theory of the case with an expanded “facts section” - your overall version of what happened, with specific facts plugged in to prove it step-by-step. It should anticipate and respond to the school’s theory.

3. Your closing argument must be based on the evidence presented at the hearing and Chancellor’s Regulations/case law/law: Thus, you’ll want to think about what you would like to say in your closing argument and how you will prove each fact during the hearing. For example, your closing argument may state, “As Scott testified...” or “As the teacher’s witness statement demonstrates…” Each fact that you state must have been presented during the hearing through testimony or included in documents submitted as evidence at the hearing. The only other information you can use is law (e.g., Chancellor’s Regulations, case law, state law, Discipline Code).

4. Keep in mind the school’s burden: Remember that it is the school’s burden to prove by direct or circumstantial evidence the student’s involvement in the incident charged. Regulation A-443 § III.B.3(s)(10). The closing argument should address any element of the charge that the school has failed to prove. For example, if the charge is as follows: “Matt Rollin used a knife against John Smith, causing an injury,” the elements of the charge would include proof that Matt had an object, that the object was a knife, that Matt used the knife, that Matt used the knife against John, and that John was injured as a result of Matt’s use of the knife. If any elements are missing, SRP should request the dismissal of the charge.5

5. Your closing argument should include procedural violations: For example, you may want to state, “Dean Smith testified that 30 students observed the alleged fight. However, in violation of Chancellor’s Regulation A-443 §

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5 However, if what the evidence establishes differs slightly from the charge so, that the original charge provided the student with sufficient notice of the misconduct found, the charge will be sustained on the suspendable conduct found.
III.B.3(c)(1), Dean Smith obtained only 2 witness statements. These two statements contradict each other…. Had Dean Smith obtained statements from additional students, we may have had more evidence that Sara attacked Bob and Bob merely pushed Sara away to separate himself from her.”

b. Revising Closing Argument
You will likely need to revise your closing argument during the hearing depending on the evidence presented at the hearing. Again, this is because the closing argument must be based on the evidence presented at the hearing and should respond to the school’s arguments and evidence. While one SRP advocate is doing a direct examination or cross examination, the other SRP advocate should be actively listening and revising the closing argument. You should also ask for a brief recess before you give the closing argument at the hearing to make further changes.