

UNIVERSITY OF TORONTO FACULTY OF LAW
SPORTS & ENTERTAINMENT LAW SOCIETY



2018 HOCKEY ARBITRATION
COMPETITION OF CANADA

OFFICIAL RULES

Director: Erich Schultze
Assistant Directors: Christine Windsor & Spencer Paveck

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Key Dates:

- **October 2018 (date TBD)** – Brief Submission Deadline
- **November 11, 2018** – Day 1 of Competition (at University of Toronto)
- **November 12, 2018** – Day 2 of Competition (at PrimeTime Sports Management Conference and Trade Show)

ARTICLE 1: Administration

The University of Toronto's Hockey Arbitration Competition of Canada (“**HACC**”) operates as an independent competition and is administered by its Director, Erich Schultze, and its Assistant Directors, Christine Windsor and Spencer Paveck (“**The Directors**”).

ARTICLE 2: Overview of the Competition

HACC is a unique event where aspiring lawyers and sports fans are given the opportunity to advance their written and oral advocacy skills within the specialized context of mock National Hockey League (“**NHL**”) salary arbitration proceedings.

The event concludes with entry to the PrimeTime Sports Management Conference, where the Finals will be held. After the competition, participants are free to stay and enjoy the Conference's marquee panel of keynote speakers.

ARTICLE 3: Required Reading

HACC highly recommends that all participants read Article 12 of the 2013 Collective Bargaining Agreement (the “**CBA**”) between the NHL and the National Hockey League Players' Association (“**NHLPA**”).

The current CBA can be downloaded from the NHLPA website:

<https://www.nhlpa.com/the-pa/cba>.

HACC has also provided an overview of NHL salary arbitration to equip competitors with a stronger understanding of the context of the competition and to give greater clarity regarding the expected content of their submissions. This guide can be found in ARTICLE 15.

ARTICLE 4: Team Eligibility

1. The 2018 HACC will consist of thirty-two (32) teams.

2. Each team entering the competition must register via email to steering@thehacc.ca
3. Each team will consist of two (2) law students attending the same law school. Only individuals pursuing a Juris Doctor, LLM or a joint JD/MBA degree during the competition's semester are eligible to participate. Only upper year students may participate.
4. After the brief-filing deadline (See Article 6), team members may not be substituted except for good cause. HACC, in its sole discretion shall determine what constitutes good cause.
5. Each team must report the names of all faculty members or coaches who wish to attend the competition.
6. During the competition, anyone affiliated with a team, including but not limited to team members, coaches, and other faculty members, may not directly or indirectly divulge their law school's identity to the judges until after the scores have been recorded and the results have been announced. Any violation of this rule may result in a penalty, up to and including disqualification.

<i>ARTICLE 5: Competition Structure</i>
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1. HACC will randomly divide the pool of thirty-two (32) teams into two (2) conferences of sixteen (16) teams. Then, HACC will randomly divide each conference into two (2) divisions of eight (8) teams. The following table illustrates the pool division:

EASTERN CONFERENCE		WESTERN CONFERENCE	
Atlantic	Metropolitan	Pacific	Central
1	9	17	25
2	10	18	26
3	11	19	27
4	12	20	28
5	13	21	29
6	14	22	30
7	15	23	31
8	16	24	32

2. Teams will be placed in a random order within their division, and will compete against corresponding teams in the other division within their conference.
3. HACC will create three (3) different salary arbitration cases, with every team in each division receiving the same cases. Each player used in the tournament was scheduled for arbitration during the summer of 2018, but settled with their Club prior to the hearing. The Average Annual Value (“AAV”) of the player’s contract will be used as their salary.
4. Teams will be assigned to one side of each case: Player Side or Club Side.
 - a. Player Side’s task is to argue that the player is worth at least one dollar **greater than** the AAV using permissible criteria.
 - b. Club Side’s task is to argue that the player is worth at least one dollar **less than** the AAV using permissible criteria.

Teams must submit their specific salary request to help frame their argument. All NHL clubs and players submit a salary figure representing their valuation of the player at the arbitration hearing, even though the Arbitrator is not required to select either of the two figures. Providing a specific salary request will assist Arbitrators in understanding the arguments and comparable players, and better reflects a true salary arbitration proceeding.

5. For each case, teams will submit (1) a written brief and (2) prepare for oral submissions (direct and rebuttal). See Articles 6 and 7 for more detailed instructions on writing briefs and delivering oral submissions.

Day 1 (Morning/Afternoon) – Round Robin (3 Preliminary Rounds)

1. Each team will have three (3) different hearings on Day 1 of the competition (Sunday, November 11). HACC will assign each team to a specific side for each of their three hearings (i.e. Test Case 1 – Player Side; Test Case 2 – Club Side; Test Case 3 – Player Side).
2. At the end of the Round Robin, the top two (2) seeds in each Division – based on record and cumulative Total Arb Score differential – will advance to the quarter finals.

Day 1 (Afternoon) – Quarter Finals

1. The #1 seed from each division will argue against the #2 seed in the other Division within the same Conference. The teams will re-argue one of the three cases, as determined by HACC.
2. The 4 winning teams will advance to the Semi-Finals, to be held on Day 2 (**Monday, November 12** at Primetime Sports Conference). (NOTE: teams should be aware that depending on scheduling, they may have to alternate sides during the playoff rounds, and argue for a position that they did not write their original briefs on).

Day 2 (Morning/Afternoon) – Semi-Finals & Finals (at Primetime Sports Conference)

1. Semi-Finals: the winning team from each Quarter Final matchup will argue against the other winning team from the same Conference. The teams will re-argue one of the three cases, as determined by HACC.
2. Finals: the winning team from each Conference will advance to the finals, and argue against the winning team from the other Conference.

<i>ARTICLE 6: Briefs and Submission Procedures</i>

1. Article 12.9(g)(ii)-(iii) of the NHL CBA governs the scope of permissible information in an arbitration hearing. The competition will adhere to the rules regarding permissible information.
2. Sources of Information
 - a. Player or team statistics must come from NHL.com.
 - b. Salaries must come from capfriendly.com
 - c. Information that is only available through a “pay-site” or other membership-restricted means is inadmissible.
 - d. Advanced Statistics: Teams should keep in mind that arguments surrounding advanced statistics, though becoming more prevalent, have not been widely accepted during arbitration proceedings. Teams must note that their arbitrator may have to be educated on what the particular stat (ie: Corsi, Fenwick etc.) means, which may negatively impact the teams’ argument and advocacy time.

3. **Briefs shall not exceed eight (8) pages**, exclusive of cover page and optional table of contents, but inclusive of any charts, tables, lists, other appendices, and footnotes.
4. The font of the brief's body must be **12-point Times New Roman** and the font of the brief's footnotes must be 10-point Times New Roman. The use of any other type of font will be grounds for a penalty.
5. Briefs must be double-spaced, except footnotes, argument headings, and extended quotations.
6. Formal citation style is not required; however, all citations should allow HACC to quickly and easily verify the accuracy of the information.
7. Briefs require the following page layout: paper size of 8 ½ x 11" and 1-inch margins all around.
8. Briefs must include a cover page:
 - a. **Red** font for submissions representing the Player Side
 - b. **Blue** font for submissions representing the Club Side
 - c. The cover page should only include the team's number, the case, and the side represented. Do not include any identifying information other than your team number anywhere on the submission.
9. **EXHIBITS:** Teams must include exhibits, charts, and/or tables in their briefs. In addition, teams must provide a printout of all exhibits/charts/tables that they wish to use in their oral argument, even if they are already included in their brief. A copy of the exhibits/charts/tables must be provided to the arbitrator(s) and the opposing team before the hearing begins.
10. **Submitting Briefs**
 - a. Each team must submit one (1) electronic copy of each brief to:
steering@thehacc.ca
 - i. Electronic copies must arrive via e-mail at above-noted email address by
11:59 p.m EST. on Friday, October TBD, 2018.
 - b. The electronic copy of the brief must be sent as a PDF file.
 - i. Each PDF file should be titled: *Team X – Case X – Side X*

- c. Teams should send **one email with all three briefs attached**. The email attachment must contain only the electronic copies of the three (3) briefs, and be free of any other files.
 - i. The subject line of the email should be: *HACC Briefs – Team X*
 - ii. HACC will verify receipt of team briefs once they have been received.
- d. A team may not revise or amend its brief after submission, even if the deadline for submission has not yet passed. Failure to comply with any of the above submission requirements will result in a penalty.

<i>ARTICLE 7: Oral Arguments</i>

- 1. Article 12.9(g)(ii)-(iii) of the NHL CBA governs the scope of permissible information that a team may use during oral arguments.
- 2. Teams should refrain from introducing evidence that is not included in their brief. The judges take time to read and study each brief and may look negatively on evidence that is introduced if it is not included in the brief.
- 3. Oral arguments may only reference information available prior to the player's signing during the summer of 2018.
 - a. Thus, a team may introduce any information including comparative hockey salaries, that was published or made known on or before the date that the player's salary was decided during the summer of 2018, even if the information was not included in its brief or the opposition's brief.
 - b. Any information, including comparative hockey salaries, published or made known after that date is inadmissible.
- 4. If a team violates section 7.2 or 7.3, then the opposing team should object to the arbitrator. The arbitrator may impose penalties at his/her discretion.
- 5. Each hearing will last 36 minutes, with each team being allotted 18 minutes. At the beginning of their opening remarks, they may allocate any amount of this time for a rebuttal by requesting this from the judge. A model hearing would run as follows:
 - a. *Player Side Opening Remarks – 12 minutes*

- b. *Club Side Opening Remark – 12 minutes*
 - c. *Player Side Rebuttal – 6 minutes*
 - d. *Club Side Rebuttal – 6 minutes*
- 6. Competitors may only address the other side's arguments during their rebuttal, and not during their opening statements.
- 7. Team members may divide the time allotment between themselves as they wish; however, team members are encouraged to divide time equally and are judged on equal division of time.
- 8. The aforementioned time constraints are inclusive of any questions posed by the arbitrators.
- 9. A team may ask for additional time to respond to a question asked prior to the expiration of its time allotment. The arbitrator, at his/her discretion, may grant such a request.
- 10. **SPECTATORS:**
 - i. HACC Competitors and Coaches may not sit in on or view any HACC round(s) that they, or their team, are not a party to, unless they have completed all of their own HACC rounds and have been eliminated from the competition.
 - ii. Non-parties to the competition (including members of the public and friends or relatives of competitors) may sit in on and view any of the playoff rounds of the competition. These individuals may not relay any information witnessed in a round to any HACC competitor or coach. HACC reserves the right the penalize teams for information received from any non-party to the competition. Any requests to spectate non-playoff rounds will be determined at the sole discretion of the HACC Directors.

ARTICLE 8: Scoring

- 1. There are three different components to the competition's scoring: **Written Presentation** (e.g., quality of written submissions), **Oral Presentation** (e.g., quality of oral arguments the day of the competition) and **Argument Strength** (e.g., persuasiveness of comparable players and appropriate use of statistics to validate your position). The scoring breakdown is as follows:

- a. **Written Presentation Score** /25
- b. **Oral Presentation Score** /25
- c. **Argument Strength Score** /50

TOTAL ARB SCORE /100

- 2. All scoring will be done by the arbitrators. Arbitrators will receive team briefs and provide a Written Presentation Score (out of 25) in advance of the competition.
- 3. The grading for the Oral Presentation and Argument Strength Scores will be done during the hearings. Each team will receive a Total Arb Score out of 100.
 - a. NOTE: Teams may ask to review their score sheets at the competition's reception table once HACC is finished recording them.
- 4. The team with the most Total Arb Points will be declared the winning team after each hearing. Ties are not allowed for any hearing; there will always be a winner and a loser. Margin of Victory (Team 1 Total Arb Points – Team 2 Total Arb Points) will be recorded.
- 5. Seeding within each Division will be determined at the end of the Round Robin based on:
 - (1) Overall W-L Record
 - (2) If tied, the team with the highest cumulative Margin of Victory wins

<i>ARTICLE 9: Faculty Assistance/Coaching</i>
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- 1. A team can receive limited faculty assistance. Team members may discuss the mechanics of salary arbitration with faculty members or coaches. However, team members should not ask faculty members or coaches to review or edit their briefs.
- 2. Only team members may conduct research.
- 3. After the brief is filed, team members may receive faculty/coach assistance in the preparation of their oral arguments.
- 4. One coach per team may sit in on the arbitration hearing but must sit in a place that does not interfere with the hearing. The Coach may not speak or otherwise interrupt or disturb

the hearing in any way. A breach of this rule may result in a penalty at the arbitrator's discretion.

ARTICLE 10: Penalties

1. HACC, in its sole discretion, will assess penalties for violation of these rules. Uniform penalties will be assessed for each type of violation.
2. Teams that fail to submit electronic copies of their briefs by the deadline will receive an initial five-point penalty against their brief score, with an additional 2-point penalty for every subsequent 24-hour period that their brief is late.
3. Teams that fail to submit electronic copies of their briefs altogether (i.e. any or all of the briefs are not submitted at all) will be allowed to participate in oral arguments but will be ineligible to advance past the preliminary rounds.

ARTICLE 11: Deviations from NHL CBA

The competition will follow the NHL CBA's salary arbitration rules and procedures only to the extent noted in these rules.

ARTICLE 12: Dress Code and Competitor Requirements

All competitors are required to wear professional attire. The event social will take place after Day 1 of the competition at the Westin Harbour Castle Hotel and Conference Centre in coordination with the PrimeTime Sports Management Conference and Trade Show. While attendance at Day 2 (Semi-Finals and Finals) is optional, competitors are encouraged to attend both days of the competition, regardless of their finish. Day 2 represents our media coverage day in order for us to showcase this event nationally.

ARTICLE 13: Competition Website

HACC will post electronic copies of the following materials on the competition's website:

1. The three (3) salary arbitration cases for each team
2. The Oral Argument Points Rubric

3. Any additional relevant information

The website's URL will be sent to all participants via email.

ARTICLE 14: Rule Interpretation

HACC, in its sole discretion, shall interpret these rules. HACC may create additional rules and standards to address situations not presently covered or contemplated by these rules. All decisions are final. Any request for information or rule interpretation should be sent to the Directors via email at steering@thehacc.ca

ARTICLE 15: Guide to NHL / HACC Salary Arbitration

Salary Arbitration Overview

NHL salary arbitration is a tool available to some players (certain Restricted Free Agents – “RFAs”) to settle their contract disputes with NHL clubs. The player (represented by the NHLPA) and club (represented by outside counsel) each propose a salary for the coming season, and argue their cases at an arbitration hearing. Based on these submissions, the arbitrator sets the player's salary. Unlike the final-offer arbitration system used in Major League Baseball, NHL salary arbitrators may award the player any salary they believe is fair.

Salary arbitration can provide leverage to RFAs in situations where they otherwise would have little bargaining power. The deadline for players to request salary arbitration is July 5, and the cases are heard in late July and early August. Players and teams often continue to negotiate up until the day of the hearing, as both sides generally prefer to avoid the often-contentious arbitration process. Most players must have four years of NHL experience before they are eligible for salary arbitration; however, the term is reduced for those who signed their first NHL contract after the age of 20. See the chart below for qualifications.

<i>First Player Contract: Signing Age</i>	<i>Minimum Experience Required</i>
18-20	4 years pro experience
21	3 years pro experience
22-23	2 years pro experience
24+	1 year pro experience

NHL clubs may ask for salary arbitration, but a player can only be taken to arbitration once in his career, and can never receive less than 85 percent of his previous year's salary. In contrast, there are no restrictions on the number of times a player can ask for arbitration, or the size of the salary awarded by the arbitrator. A decision must be made within 48 hours of the hearing. When the decision is announced, the team has the right to "walk away" from the award. If a club exercises this right, the player can declare himself an unrestricted free agent ("UFA").

Writing a Persuasive Salary Arbitration Brief

While the briefs for the real salary arbitration proceedings are roughly forty (40) pages, HACC briefs are only eight (8) pages, inclusive of exhibits. This constraint means teams should be careful not to spend too much time and space on the less important parts of their brief (i.e. Introduction, Conclusion). The important elements of a salary arbitration brief include:

- **Table of Contents**
- **Introduction**
- **Overview of Player's Career/ Narrative**
- ***Argument: Salary Request and Comparable Players***
 - Salary Request
 - Selection of Comparable Players
 - Comparison of Player to Comparable Players
- **Conclusion**
- **Exhibits**

Many teams mistakenly devote too much time and space to the less important sections of the brief. Competitors should note that the **most important part of the argument tends to be:**

- HOW the team selected their comparable players (i.e., the methodology employed);
- The QUALITY of comparable players selected (i.e., whether they represent appropriate players for comparison);
- The PERSUASIVENESS of the one-on-one analytical evaluations comparing the players to each other.

Teams should attempt to use some sort of **objective criteria** to select their comparable players, and make this selection process clear for the arbitrator. In general, the more alike the players are

in terms of age, NHL experience, playing style, and statistical performance, the more persuasive the comparable player will be.

Teams should evaluate the player marketplace consisting of **only** those comparable players who were in similar contractual situations when they signed their current deal. The use of a comparable player who signed his deal **without salary arbitration rights** is considered far less persuasive than comparing to a player who signed his deal with arbitration rights. This is because players with salary arbitration rights have greater leverage, and thus face a slightly different marketplace than those who lack salary arbitration rights. Contracts that are signed more recently are significantly more persuasive because they more closely approximate the current marketplace. Additionally, since the players and teams are negotiating salaries for the 2018-19 season, competitors should **focus on the 2017-18 salaries** of the comparable players' current contracts. Use of older contracts (e.g., a 3-year deal ending with the 2015-16 season) is considered less persuasive, as is the use of long-term (i.e. at least 4-5 year) contracts which include a player's UFA years. Teams should be prepared to justify their methodology and decision-making in selecting comparable players and their relevant contracts for comparison.