



## Sample Questions for Judges

Thank you for volunteering your time to train the next generation of advocates. We encourage **as many questions** as you're able to ask—even if they're “simple.” Students love questions.

Questions like “could you explain that again?”, or even questions like “what was that case about?” can be just as helpful as complex questions for testing the students’ knowledge.

Please use any of the questions below to aid your questioning of the competitors.

### Petitioner 1 (Article II)

- Where in Article II does it give the President *complete* control over the executive branch?
  - If you're right that the President is supposed to have complete control, then why do we have any exceptions to that rule at all? (Think about *Humphrey's Executor* and *Morrison*, both of which are recognized exceptions to the President's removal power.)
  - Why not create a new, third exception to the President's removal power alongside *Humphrey's Executor* and *Morrison*?
- If the President is supposed to have complete control over the Executive branch, why does the Constitution say that the Senate must approve his nominations? Doesn't that make the Executive not have full control?
- Can you explain the facts of the case *Humphrey's Executor*? What was the government agency in that case and what did they do?
  - Isn't that agency similar to the Fed because they're both meant to be apolitical?
- Wouldn't a ruling in your favor allow the President to always remove literally everyone in an executive agency that is of the opposite party?
  - Wouldn't that increase politicization of the Federal Reserve, where the Fed is just rubber-stamping the President's wishes?
- Isn't a President not good at running the economy? Why should we trust him with the Federal Reserve?

### Petitioner 2 (Injunction)

- Can you explain the difference between a mandamus and an injunction?
- Isn't the purpose of an injunction to provide complete relief to the one who has been harmed? If Crosby wants his seat back, don't we need to provide his seat in order to provide complete relief?
- The purpose of injunctions is to provide flexible relief. How can you say that we are “not able” to provide reinstatement to Crosby if the very purpose of an injunction is to be flexible?



- If a President violates a law, don't you think the Courts should be able to order him to follow the laws?
  - **If they say no:** Doesn't that make the president above the laws? Doesn't that mean that the President can do whatever he wants and the Courts have to let it slide?
  - **If they mention impeachment:** So the only remedy ever is impeachment? That seems like a major penalty for sometimes small omissions by the President.
  - **If they say yes:** Didn't the President obviously violate a law here? Congress expressly forbade him from firing the Chair of the Federal Reserve without cause, and he fired without cause. That means he violated a law.

#### Respondent 1 (Article II)

- The Petitioner argued that the President is in charge of the executive branch. Do you agree or disagree?
  - **If they say they agree:** Why would we put *any* limits on his power then? We don't stop a CEO from being able to fire department heads, so why would we stop the President from being able to fire any agency chairs?
- Doesn't Article II, Section I, Clause I say that "*the executive power*" (not some of it) goes to the President? Isn't your position blatantly unconstitutional?
- Are there supposed to be more than three branches of Government? Where does the Fed Reserve fit if not under the President and the Executive Branch?
- Is there any precedent that explicitly supports protecting *the Fed*?
- *Humphrey's Executor* was dealing with a partially legislative and partially judicial agency. Are you arguing that the Fed is partially legislative and judicial? How can you argue that?
- *Morrison* was dealing with an independent investigator who was only investigating executive officials and not making any policies at all. Are you saying that the Fed is like an independent investigator who investigates executive officials?
- Isn't controlling the economy an extremely important power for the President? Why should we take that power away?
- If we take away the power from the President, is there any way we could prevent a runaway Fed that does not reflect the interests of the people?

#### Respondent 2 (Injunction)

- Can you explain the difference between an injunction and a mandamus?
  - Are you arguing for an injunction or a mandamus?
- Can you name a case where reinstatement was provided to someone wrongfully removed? If not, don't you lose this case?
- For injunction: how do you respond to the fact that we've never used an injunction to reinstate a public officer?
  - How do you respond to *Sanyer*, which states "a court of equity has no jurisdiction over the appointment and removal of public officers?"



- For mandamus: How do you define “ministerial duty”?
  - How is this a ministerial duty when the President has discretion about who to appoint?
  - How do you respond to the lower Court’s argument that if we tell the President what to do, he could totally just ignore us, which would erode our legitimacy?
  - Aren’t we harming the executive branch by forcing the President to work with someone with whom he does not wish to work?
  - We’ve never issued a mandamus to the President, right? Why not?
  - Doesn’t issuing a mandamus violate separation of powers because we are telling the President what to do?
  - Is the power of mandamus in the Constitution?