

# How to Qualify an Expert Witness

Teacher Traffic Safety Academy 2022



## How to Qualify an Expert Lesson Plan

**Learning Objective:** Students will...

1. Explore the concept and need of expert witnesses for use in a mock trial
2. Analyze the benefit of expert witnesses
3. Apply their understanding of effective questions to qualify a witness as an expert for either party in the case

**TEKS:**

§130.332: Principles of Law, Public Safety, Corrections, and Security: 3B, 8B-C, 10A-D

§130.336: Law Enforcement I: 6D-E, 8D

§130.337: Law Enforcement II: 2A, 4A-F,

§130.338: Criminal Investigation: 8B & 8H, 17A & C

§130.340: Court Systems and Practices: 2C-I, 3A-D, 4A-C, 5B-C & E-G, 6A-G

**Materials Needed:** How to Qualify an Expert for Mock Trial worksheet, How to Qualify an Expert Google Slide Show Presentation, access to the internet

**Vocabulary:** examine a witness, expert, lay the foundation, opposing counsel, qualify a witness, witness

**Estimated Time:**

40-50 minutes

**Engaging Focus:**

Hold a discussion regarding what qualifies a person as an expert, and why they are important.


Consider these questions to help guide discussion:

- What is an expert?
- How do you know if someone is an expert?
- Why are experts important?
- If someone is qualified as an expert, does that make that person an expert on all things?

Distribute copies of the How to Qualify an Expert for Mock Trial worksheet and encourage students to write their ideas on their own paper.

**Teaching Strategy:**

1. Show video, "What is an Expert," from US Law Essentials: <https://www.youtube.com/watch?v=Wl92bHtrOvA> (2:25 min.)
2. Have students complete the "Let's Take a Look" section on their How to Qualify an Expert for Mock Trial worksheet.

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- a. Share that a lay person cannot testify to their opinion. Only an expert can.
  - b. Explain that an expert witness is a person who is permitted to testify at a trial because of special knowledge or proficiency in a particular field that is relevant to the case.
  - c. The purpose of an expert is to bring clarity to complex information so the trier of fact can best understand needed subject matter to make an informed decision. A trier of fact can only consider the evidence admitted and not research information on their own.
3. Share a video clip from, “The League” on FX to show a poor example of an expert witness: <https://www.youtube.com/watch?v=swu3NqyxACY> (1:28 min.)
    - a. After viewing, have students discuss the problem with that witness.
    - b. Point out the need for credibility of a witness for the trier of fact in deciding a case.
  4. Then have students complete the “Questions to Inquire About Their Area of Expertise” on their worksheet.
    - a. Students could work collectively or individually; whatever works best for your classroom.
    - b. Discuss questions considered if time permits.
  5. Read through and discuss the “Who Decides if a Witness is an Expert,” and the “Why Does it Matter?” section.
  6. Walk through the “What are the Steps to Qualify a Witness as an Expert?” as a class.
  7. Show the video clip, “How to Qualify an Expert” from the Charleston School of Law Trial Advocacy Board to show what qualifying an expert looks like in action: <https://www.youtube.com/watch?v=AZ1cyFy7hJQ> (2:55 min)
  8. Show the video clip, “How to Disqualify an Expert” from the Charleston School of Law Trial Advocacy Board to show what disqualifying an expert looks like in action: <https://www.youtube.com/watch?v=2ZikLQjkgDs> (1:11 min.)
  9. Read through the “Ideas for Questions to ask to Qualify a Witness as an Expert” to gather ideas of what to ask a witness to qualify them as an expert.
  10. Complete the “You’re Hired!” activity. Use the website <https://www.jurispro.com/category/traff-highway-safety-s-45/TX> to assist students with creating questions for an expert.

**Optional:** Have students practice the steps for qualifying an expert in the area of car crashes in front of the class. Encourage students to examine the witness as well so the judge (you or maybe the class as a whole) can make a proper decision on whether or not the witness qualifies as an expert.

**Extension:**

After students hold a strong understanding of the importance and use of experts, have them apply that understanding to their own mock trial. Consider what questions would work best for the case you are using in class.



# How to Qualify an Expert Witness Slide Presentation

\*Disclaimer: the information found in this material is intended for mock trial use in the classroom only.

## How to Qualify an Expert

DRSR - TTSA Lesson Plan Presentation  
July 12-14, 2022

○ × Cory Cummings & Debbie Keen

## Expert Testimony for a Mock Trial



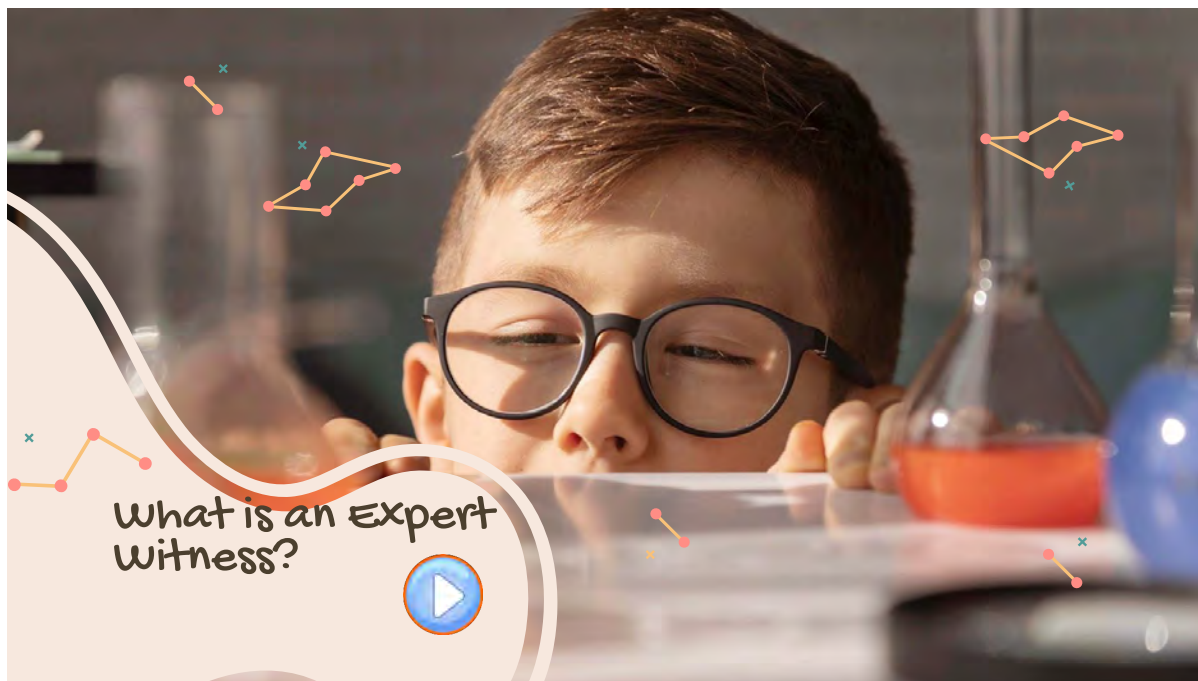
What Is an Expert?



Why Do They Matter?



How Do You Qualify Them for Mock Trial?





## What it shouldn't look like...



What was wrong with that?

## Why do expert witnesses matter?



Qualifying a witness as an expert frees them from several hearsay, opinion, and/or speculation objections during a court proceeding.

Expert witnesses help the trier of fact understand the evidence or determine a fact in issue.





# What would you Ask an Expert?

On your worksheet, consider what questions you might ask the individuals to prove to the court they are experts in their field...



The illustration shows a red and black microscope on the left, and two test tubes on the right. One test tube is blue and the other is yellow. There are also some small red dots and blue 'x' marks scattered around the equipment.

# Consider it in action...

Who Decides if a witness is an expert?

Why Does it matter?

What are the steps to qualify a witness as an expert?









# How to Qualify an Expert Witness Student Notes Worksheet

## How to Qualify an Expert Witness for Mock Trial



### What is an Expert Witness?

In your own words, how would you define the word "Expert?"

Why are they important?

### Let's Take a Look...

Take a look at the experts listed below. See if you can guess which case would make the best fit for the expert to help your case. Feel free to use your favorite online search engine to assist as needed:

#### EXPERT

- A. Professional LARPer
- B. Penguinologist
- C. Botanist
- D. Zamboni Driver

#### A Case About...

\_\_\_\_\_ ... potential impact of poisonous plants.

\_\_\_\_\_ ... an individual involved in a game where participants physically portray their characters.

\_\_\_\_\_ ... an injury happening on the ice rink during a hockey game.

\_\_\_\_\_ ... how climate change is impacting ice caps and animal habitats in Antarctica.

Consider questions you might want to ask someone in these fields of expertise:

EXPERT	Questions to inquire about their area of expertise
Chocolatier	<ul style="list-style-type: none"> <li>•</li> <li>•</li> <li>•</li> </ul>
Cat Behaviorist	<ul style="list-style-type: none"> <li>•</li> <li>•</li> <li>•</li> </ul>
Cheesemonger	<ul style="list-style-type: none"> <li>•</li> <li>•</li> <li>•</li> </ul>
Hematologist	<ul style="list-style-type: none"> <li>•</li> <li>•</li> <li>•</li> </ul>

### Who Decides if a Witness Is an Expert?

For a witness to be considered by the court as an expert, they have to go through a process where attorneys of both sides question the witness about their qualifications and area of expertise. Once that process concludes, the judge will rule on whether that person will be allowed to testify as an expert.

### Why Does It Matter?

Qualifying a witness as an expert frees them from several objections (hearsay, opinion, and/or speculation). For example, asking a grandmother how fast is too fast to drive down the street in their neighborhood would inspire a different response than that from a crash scene investigator with extensive experience in assessing car crashes caused by speeding.

### What are the Steps to Qualify a Witness as an Expert?

1. Lay the foundation for the court on the witness' area of expertise.
2. Make a request to the judge to "qualify the witness as an expert in the area of (state the area of expertise you are wanting from the court)."
3. Opposing counsel can examine the witness in an attempt to disprove the witness' area of expertise, or discredit their claims.
4. Judge rules on whether the witness will be allowed to testify as an expert (freeing them from many hearsay or opinion/speculation objections).
5. Lastly, if allowed to testify, ask the witness questions about the case.

## Ideas for Questions to Ask to Qualify a Witness as an Expert

To get the court to qualify your witness as an expert, lay the proper foundation to prove the witness holds specific knowledge, experience, or expertise on the topic in question. Ask these questions at the start of a witness' testimony, followed by a request to the judge to allow them to testify as an expert in a specific field.

Here are some potential questions to use. Not all need to be asked. Pick those that work best for your witness and case.

### Questions about your area of **employment**:

Where do you work? What is your title there? How long have you been at that job? What are some of your duties at that place of employment? Do you have a resume? (admit resume into evidence). Please list your previous places of employment, including each position. Please state the duties you had at each of your previous positions.

### Questions about your **education**:

Where did you attend school? What degrees do you possess? Have you received any honors or awards? Are you a member of any professional associations?

### Questions about your **professionalism**:

Have you given any lectures? What specific training do you have in the area of your specialty? Do you have any publications or research? What licenses do you possess? How long have you had those licenses? Do you have any board certifications? If so, how long have you had those certifications? What type of scientific or technical studies have you conducted? Has your work been peer reviewed?

### Questions about your **preparation** to testify today:

Did you prepare a report in this case? Can you please explain the materials that you reviewed in creating your report? After you completed your report did you arrive at a conclusion? Please describe the specific facts and data that you relied on in coming to your conclusion. Please describe the scientific or technical principles or methods that you used in coming to your conclusion. Please describe the way that you relied on those principles or methods. Do you believe that your testimony will be helpful in assisting the judge or jury understand the facts of this case?

Lastly, request the Judge **allow the witness to testify as an expert** in the field desired:

*Your honor, at this time I request the witness be allowed to testify as an expert in the field of (state specific field of expertise).*



## You're Hired!!

*Sue, Grabbit, and Runne* have hired you as their newest member of their prestigious law firm. Your first assignment is to find an expert witness to testify in their latest lawsuit involving a car crash.

**Background on the case:** A student drove around a bend in the road and crashed into a family of four driving in the opposite direction. The attorney for the student needs an expert to testify that the student was not at fault for the crash. What type of expert could help with this case?

Use the *Jurispro Website* posted below to find a crash expert to help the student's case. Consider questions to both qualify them as an expert as well as ones opposing counsel might ask in an attempt to discredit them.

<https://www.jurispro.com/category/traffic-highway-safety-s-45/TX>

<b>Witness Name:</b>	
<b>Title:</b>	
<b>Qualifications:</b>	
<b>Questions to prove they are an expert</b>	
<b>Questions to discredit them in their area of expertise</b>	





# How to Qualify an Expert Witness Student Notes Worksheet KEY

## How to Qualify an Expert Witness for Mock Trial (KEY)



### What is an Expert Witness?

In your own words, how would you define the word "Expert?"

Answers may vary, but might include statements such as: someone who has knowledge, skill, experience, training, or education related to a particular field.

Why are they important?

Answers may vary, but might include statements such as: they help make sense of complex information; can persuade and educate the fact finder; helps the trier of fact to understand information or to determine a fact issue.

### Let's Take a Look...

Take a look at the experts listed below. See if you can guess which case would make the best fit for the expert to help your case. Feel free to use your favorite online search engine to assist as needed:

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#### A Case About...

C. ... potential impact of poisonous plants.

A. ...an individual involved in a game where participants physically portray their characters.

D. ... an injury happening on the ice rink during a hockey game.

B. ... how climate change is impacting ice caps and animal habitats in Antarctica.

Consider questions you might want to ask someone in these fields of expertise:

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### Why Does It Matter?

Qualifying a witness as an expert frees them from several objections (hearsay, opinion, and/or speculation). For example, asking a grandmother how fast is too fast to drive down the street in their neighborhood would inspire a different response than that from a crash scene investigator with extensive experience in assessing car crashes caused by speeding.

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Witness Name:	
Title:	
Qualifications:	
Questions to prove they are an expert	Answers in the table will vary depending on the witness chosen and area of expertise the student intends to highlight.
Questions to discredit them in their area of expertise	