



American Arbitration Association® Administrative Review Council

Review Standards

This document outlines the Review Standards utilized by the AAA®'s Administrative Review Council (ARC) in making certain administrative decisions arising in the AAA's large, complex domestic caseload. The ARC resolves the following administrative issues: objections to arbitrators, locale determinations, and whether the filing requirements contained in the AAA Rules have been met. In conjunction with the ARC Guidelines and these ARC Review Standards, the ARC reviews and resolves issues in a time and cost effective manner after careful consideration of the parties' contentions, while upholding the arbitration process' integrity and the parties' confidence in that process, as well as ensuring greater continuity in administrative decision-making for AAA cases.

- For all party submissions referenced below, parties should limit each submission to no more than ten pages, excluding attachments. As to the attachments, parties should avoid duplication of exhibits. Including attachments, no party's submission may exceed 25 pages. Replies or sur-replies are generally not allowed and should not be submitted without the prior approval of the AAA. For those few instances when the AAA has approved a reply or sur-reply, then the page limit for each party's total submission may not exceed 20 pages, excluding attachments.

Arbitrator Objection and Response Review Standards

The AAA Rules allow any party to object to an appointed arbitrator (see, for example, Commercial Arbitration Rule R-18, Construction Industry Arbitration Rule R-20, Employment Arbitration Rule 16). This guide will assist parties in understanding the process to be used in making an arbitrator objection and the standards pursuant to which ARC will review and decide the objection.

Grounds for Disqualification

The AAA Rules require that any arbitrator shall be impartial and independent and shall perform his or her duties with diligence and in good faith. Under the AAA's various rules, an arbitrator may be subject to disqualification for:

1. Partiality or lack of independence
2. Inability or refusal to perform his or her duties with diligence and in good faith, and
3. Any grounds for disqualification provided by applicable law.

Upon a party's objection to the continued service of an arbitrator, or on its own initiative, the AAA shall determine whether the arbitrator should be disqualified under the grounds set out in the Rules, and shall inform the parties of its decision. The ARC's decision shall be conclusive.



Standard for Disqualification

Partiality or Lack of Independence

As part of its consideration, the ARC utilizes a four-part test in determining whether an arbitrator disclosure rises to the level of removing an arbitrator from a case. The four-part test is whether the conflict is:

- Direct
- Continuing
- Substantial
- Recent

Weighing these factors together serves as a guide as to whether the conflict is disqualifying. Ultimately, the ARC's administrative determination is based upon whether the disclosure creates, to a reasonable person, the appearance that an award would not be fairly rendered.

Inability or Refusal to Perform His or Her Duties With Diligence and in Good Faith

The ARC's administrative determination is based upon whether the circumstances create, to a reasonable person, the appearance that the arbitrator is unable or has refused to perform his or her duties with diligence and in good faith.

Method for Disqualification

- Objections must be made in writing and should be submitted to the AAA case manager and copied to all parties to the arbitration. The arbitrator should not be copied on any objection or submission relating to an objection. Challenges must meet the page limitations as set forth in these Review Standards.
- Any opposing party will be given the opportunity to respond to the objection. The AAA will set a deadline for the response either when AAA sends the parties the arbitrator's Notice of Appointment or supplemental disclosure or when the objection is received.

Best Practice Tips

Objections must be raised at the first available opportunity. Failure to raise a challenge immediately may result in the waiver of a party's right to object to the arbitrator. (See, for example, Commercial Arbitration Rule R-41, Construction Industry Arbitration Rule R-42, Employment Arbitration Rule 36.)

Any party may make an objection to an arbitrator at any time in the arbitration, up to the issuance of the Award or other terminating order, subject to the timeliness and potential waiver of the challenge.



While a party may file multiple objections to an arbitrator, additional objections will not be accepted unless based on new grounds. The ARC's decision on whether to remove or reaffirm an arbitrator is conclusive.

If a party raises a potential conflict not previously disclosed by the arbitrator, before considering the objection, the AAA will ask the arbitrator to make a supplemental disclosure to the parties regarding the new potential conflict. Once the arbitrator submits a supplemental disclosure, the AAA will then provide the parties with the opportunity to file an objection and response.

Pursuant to the AAA Rules, party-appointed arbitrators are considered neutral unless the parties have specifically agreed in writing that these arbitrators should be non-neutral. Absent this agreement, party-appointed arbitrators are subject to the same disclosure and challenge standards contained in the Rules.

Filing Requirement Determinations

Pursuant to the ARC Guidelines, the appropriate AAA site executive has the discretion whether to request that the ARC decide if the filing requirements contained in the AAA Rules have been met in a particular case. Any issue not submitted to the ARC will be decided by the appropriate AAA Vice President with case management responsibility for that case. The AAA's Rules provide information regarding the filing requirements necessary for the AAA to administer a case (see, for example, Commercial Arbitration Rules R-1, 2, 4 and 5, Construction Industry Arbitration Rules R-1, 2, 4 and 5, Employment Arbitration Rules 1, 3 and 4). Should a party challenge whether a Claimant has met the AAA's filing requirements, this guide will assist the parties in understanding the process to be followed and the standards ARC will use to make this determination.

Standard for Review

The ARC will review the case file and the parties' contentions when making an administrative determination as to whether the Claimant has met the filing requirements contained in the AAA Rules by filing a demand for arbitration accompanied by an arbitration clause or submission agreement providing for administration by the AAA under its Rules or by naming the AAA as the dispute resolution provider. The AAA's review in this regard is administrative and related to the filing requirements contained in the AAA's rules. It is not an opinion on whether the arbitration agreement, the contract, or any part of the contract is legally enforceable, nor is it a determination regarding the arbitrability of the dispute. Instead, the ARC will review disputes about whether a matter has been properly filed with the AAA.

Best Practice Tips

If the ARC determines that the Claimant has met the filing requirements, the AAA will proceed with the administration of the arbitration, absent an agreement of the parties or a court order staying the matter.



In cases proceeding under the Commercial Arbitration Rules, parties should note Commercial Arbitration Rule R-5(c), which vests the arbitrator with the authority to determine if a contract or arbitration agreement different from the one Claimant submitted controls.

Parties should note that ARC does not review disputes as to whether the Claimant complied with the AAA's filing process as set forth in the applicable rules.

The AAA Case Manager will make the filing requirement challenge and ARC decision part of the AAA's administrative case file. The parties may submit their jurisdictional or arbitrability arguments to the arbitrator for determination.

The AAA serves as a neutral administrative agency and does not generally appear or participate in judicial proceedings relating to arbitration. If a party seeks court intervention regarding the arbitrability of a dispute, the AAA should not be named as a party-defendant. The AAA's Rules provide that the AAA is not a "necessary party." The AAA will abide by any court order issued regarding the continued administration of the arbitration, and the parties are requested to keep the AAA informed as to the outcome.

Locale Determination Standards

The AAA's Rules provide a process for the determination of the locale of the evidentiary hearings where the parties disagree as to locale (see, for example, Commercial Arbitration Rule R-11, Construction Industry Arbitration Rule R-12, Employment Arbitration Rule 10). Should the parties have a dispute about the locale of the arbitration, this guide will assist the parties in understanding the process to be followed in submitting their dispute to ARC and the standards the ARC uses to make its determination.

Factors for Consideration

The ARC considers the following factors in making a locale determination:

- 1) Location of parties (note that location of the parties' counsel is generally less relevant)
- 2) Location of witnesses and documents
- 3) Location of site or place or materials
- 4) Consideration of relative cost to the parties
- 5) Place of performance of contract
- 6) Laws applicable to the contract
- 7) Place of previous court actions
- 8) Necessity of an on-site inspection of the project
- 9) Any other reasonable arguments that might affect the locale determination



Best Practice Tips

If the parties' contract specifies a hearing locale, the AAA will set the locale as that hearing location.

Commercial Arbitration Rule R-11 provides that, where the arbitration agreement is silent or ambiguous as to locale, and the parties disagree, the AAA will make an initial determination, subject to the arbitrator's power to make a final locale determination.

Under Construction Industry Arbitration Rule R-12, where the arbitration agreement is silent as to locale, and the parties disagree, the locale shall be the city nearest to the site of the project, as determined by the AAA, and the AAA's initial locale decision is subject to the power of the arbitrator to finally determine the locale within 14 calendar days after the date of the preliminary hearing. Where the arbitration agreement is ambiguous as to locale, and the parties disagree, the AAA will make an initial locale determination, subject to the arbitrator's power to make a final locale determination within 14 calendar days after the preliminary hearing.

Under Employment Arbitration Rule 10, the AAA's initial locale decision is subject to the arbitrator's power to make a final determination on the locale.



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The AAA-ICDR has offices and hearing facilities throughout the world in locations including: Atlanta, Boston, Buffalo, Charlotte, Chicago, Cleveland, Dallas, Denver, Detroit, Fresno, Houston, Johnston, Los Angeles, Miami, Minneapolis, New York City, Philadelphia, Phoenix, San Antonio, San Diego, San Francisco, Seattle, Singapore, Somerset, Voorhees, and Washington D.C.

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