



Alternative Dispute Resolution Basics FAQs

What is ADR?

ADR is the commonly used acronym for the umbrella term “alternative dispute resolution.” ADR encompasses various out-of-court conflict management and dispute resolution processes such as arbitration, mediation, fact-finding, partnering, dispute resolution boards, and other related dispute resolution processes.

What is arbitration?

Arbitration is the submission of a dispute to one or more impartial persons for a final and binding decision. Through contractual provisions or other agreement, the parties may control the range of issues to be resolved, the scope of relief to be awarded, and many procedural aspects of the process. The arbitrator’s decision, or award, is made in writing and is enforceable in court under state and federal statutes, most notably, the Federal Arbitration Act (FAA).

What is mediation?

Mediation is a voluntary process in which parties to a dispute work together with a neutral facilitator – the mediator – who helps them reach a settlement. The mediator does not decide the case. Mediation is a dispute resolution process that is generally considered to be confidential. Mediation is offered as an option to parties who file an arbitration. The results of mediation are binding if and when parties enter into a settlement contract.

How is arbitration different than litigation?

1) In arbitration, parties mutually select a neutral decision maker from a list of individuals with expertise in the area in dispute. 2) Arbitration is less formal than litigation and the evidentiary process is limited. 3) Arbitration is private and the parties can agree to make the process confidential.

What are the benefits of arbitration?

The arbitration process generally offers parties cost-effectiveness due to its relative speed. It is a party-driven process—parties can predetermine the qualifications and experience of an arbitrator within the contract, and once a dispute has arisen they also choose a mutually acceptable arbitrator. Arbitrators are carefully chosen for their knowledge and experience—they are attorneys and non-attorneys from many professions—and all AAA arbitrators receive extensive training. Arbitrations may be completed in a matter of months, resulting in lowered attorney fees and other expenses though the reduced emphasis on evidentiary processes such as discovery. Since many courts are faced with significant backlogs, a typical court case might take years to close. Given arbitration’s more collaborative and less antagonistic nature as compared to litigation, business relationships can also be preserved.



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Who are the arbitrators?

The AAA maintains a panel of approximately 8,000 qualified, trained arbitrators and mediators who have at least ten years of professional experience. They are independent contractors and are not AAA employees. Their conduct is guided by various codes, such as the Code of Ethics for Arbitrators in Commercial Disputes and the Model Standards of Conduct for Mediators. The majority of AAA neutrals are attorneys. The panel also includes retired judges and other industry professionals such as engineers and accountants.

What steps are involved in a standard arbitration proceeding?

1. Arbitration is a creature of contract. In most cases, arbitration is initiated after a dispute has arisen between two parties who had included an arbitration clause in a business contract. The process is guided by time-tested AAA rules and procedures. The initiating party, or claimant, files a Demand for Arbitration with the appropriate AAA case management center. The respondent is given the opportunity to file a counterclaim. For existing disputes with no arbitration clause, parties may file a submission agreement with the AAA.
2. Based on the terms of the clause, an AAA case manager is designated and provides the parties with a list of qualified arbitrators relevant to the type of dispute and the parties' geographic locale.
3. Parties mutually select an arbitrator or arbitrators to hear and decide the case by striking and numbering names from the list until the arbitrator is selected. An acceptable hearing date and location is also selected.
4. The arbitrator(s) hears evidence from both parties, and yields a final and binding decision. The decision is rendered, in most cases, 30 days from the date of closing the hearing, or, if oral hearings have been waived, from the date of the AAA's transmittal of the final statements and proofs to the arbitrator.

In limited circumstances a "documents-only" arbitration is convened, in these cases no hearing is held. The arbitrator reviews the evidence and arguments in document form and renders a final and binding decision.

What if a party disagrees with the arbitrator's decision?

Arbitration awards are binding and are vacated only under limited circumstances, as outlined in state and federal arbitration laws.

What cases are appropriate for arbitration?

Nearly all civil cases are good candidates for arbitration.

How much does arbitration cost?

AAA administration fees for non-consumer, commercial cases are determined on a sliding scale based on the size of the claim or counterclaim and include a case filing fee and a case service fee. Administrative fees do not include arbitrator's compensation.



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In consumer cases, AAA fees for individuals in cases between a business and an individual are \$125 for claims at \$10,000 and below, and \$375 for claims below \$75,000.

In employment cases, AAA fees for disputes arising out of employer-promulgated plans before a single arbitrator are capped at \$150 for the employee, unless the plan provides that the employee pay less. The fee for the employer is \$900, unless the plan provides that the employer pay more. In cases before three or more arbitrators, AAA fees are capped in the amount of \$150 for the employee, unless the plan provides that the employee pay less. The fee for the employer is \$1,775, unless the plan provides that the employer pay more.

What are the benefits of mediation?

Parties are directly engaged in the negotiation of the settlement. The mediator, as a neutral third party, can view the dispute objectively and can assist the parties in exploring alternatives that they might not have considered on their own. A mediation can be scheduled at any time during an arbitration or litigation. Parties generally save money through reduced legal costs and less staff time. Mediators are carefully chosen for their knowledge and experience—they are attorneys and non-attorneys from many professions—and all AAA mediators receive extensive training. Parties enhance the likelihood of continuing their business relationship, and creative solutions or accommodations to special needs of the parties can become a part of the settlement. Generally, information disclosed at a mediation may not be divulged as evidence in any arbitral, judicial or other proceeding.

What steps are involved in a standard mediation proceeding?

1. Any party or parties to a dispute may initiate mediation by filing with the AAA a submission to mediation or a written request for mediation pursuant to these procedures. Where there is no submission to mediation or contract providing for mediation, a party may request the AAA to invite another party to join in a submission to mediation. Upon receipt of such a request, the AAA will contact the other parties involved in the dispute and attempt to obtain a submission to mediation.
2. Upon receipt of a request for mediation, the AAA will appoint a qualified mediator to serve. Normally, a single mediator will be appointed unless the parties agree otherwise or the AAA determines otherwise. If the agreement of the parties names a mediator or specifies a method of appointing a mediator, that designation or method shall be followed.
3. At least ten days prior to the first scheduled mediation session, each party shall provide the mediator with a brief memorandum setting forth its position with regard to the issues that need to be resolved. The mediator does not have the authority to impose a settlement on the parties but will attempt to help them reach a satisfactory resolution of their dispute. The mediator is authorized to conduct joint and separate meetings with the parties and to make oral and written recommendations for settlement.



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How much does mediation cost?

There is no fee for filing a mediation. The parties are responsible for compensating the mediator at his or her published hourly rate. All expenses are generally borne equally by the parties. The parties may adjust this arrangement by agreement.