



American Arbitration Association  
*Dispute Resolution Services Worldwide*

## Code of Ethics For Arbitrators In Commercial Disputes Summary of Recent Changes

2004 Version	1977 Version
<p>The Code of Ethics for Arbitrators in Commercial Disputes was originally prepared in 1977 by a joint committee consisting of a special committee of the American Arbitration Association and a special committee of the American Bar Association. The Code was revised in 2004 by an ABA Task Force and special committee of the AAA. Both the original 1977 Code and the 2004 Revision have been approved and recommended by both organizations.</p>	<p>The Code of Ethics for Arbitrators in Commercial Disputes was prepared in 1977 by a joint committee consisting of a special committee of the American Arbitration Association and a special committee of the American Bar Association. It has been approved and recommended by both organizations.</p>
<p>Preamble</p> <p>The use of arbitration to resolve a wide variety of disputes has grown extensively and forms a significant part of the system of justice on which our society relies for a fair determination of legal rights. Persons who act as arbitrators therefore undertake serious responsibilities to the public, as well as to the parties. Those responsibilities include important ethical obligations.</p> <p>Few cases of unethical behavior by commercial arbitrators have arisen. Nevertheless, this Code sets forth generally accepted standards of ethical conduct for the guidance of arbitrators and parties in commercial disputes, in the hope of contributing to the maintenance of high standards and continued confidence in the process of arbitration.</p> <p>This Code provides ethical guidelines for many types of arbitration but does not apply to labor arbitration, which is generally conducted under the Code of Professional Responsibility for Arbitrators of Labor-Management Disputes.</p>	<p>Preamble</p> <p>The use of commercial arbitration to resolve a wide variety of disputes has grown extensively and forms a significant part of the system of justice on which our society relies for fair determination of legal rights. Persons who act as commercial arbitrators therefore undertake serious responsibilities to the public as well as to the parties. Those responsibilities include important ethical obligations.</p> <p>Few cases of unethical behavior by commercial arbitrators have arisen. Nevertheless, the American Bar Association and the American Arbitration Association believe that it is in the public interest to set forth generally accepted standards of ethical conduct for guidance of arbitrators and parties in commercial disputes. By establishing this code, the sponsors hope to contribute to the maintenance of high standards and continued confidence in the process of arbitration.</p> <p>There are many different types of commercial arbitration. Some cases are conducted under arbitration rules established by various organizations and trade associations, while others are conducted without such rules. Although most cases are arbitrated pursuant to</p>

<p>There are many different types of commercial arbitration. Some proceedings are conducted under arbitration rules established by various organizations and trade associations, while others are conducted without such rules. Although most proceedings are arbitrated pursuant to voluntary agreement of the parties, certain types of disputes are submitted to arbitration by reason of particular laws. This Code is intended to apply to all such proceedings in which disputes or claims are submitted for decision to one or more arbitrators appointed in a manner provided by an agreement of the parties, by applicable arbitration rules, or by law. In all such cases, the persons who have the power to decide should observe fundamental standards of ethical conduct. In this Code, all such persons are called “arbitrators,” although in some types of proceeding they might be called “umpires,” “referees,” “neutrals,” or have some other title.</p> <p>Arbitrators, like judges, have the power to decide cases. However, unlike full-time judges, arbitrators are usually engaged in other occupations before, during, and after the time that they serve as arbitrators. Often, arbitrators are purposely chosen from the same trade or industry as the parties in order to bring special knowledge to the task of deciding. This Code recognizes these fundamental differences between arbitrators and judges.</p> <p>In those instances where this Code has been approved and recommended by organizations that provide, coordinate, or administer services of arbitrators, it provides ethical standards for the members of their respective panels of arbitrators. However, this Code does not form a part of the arbitration rules of any such organization unless its rules so provide.</p>	<p>voluntary agreement of the parties, certain types of dispute are submitted to arbitration by reason of particular laws. This code is intended to apply to all such proceedings in which disputes or claims are submitted for decision to one or more arbitrators appointed in a manner provided by an agreement of the parties, by applicable arbitration rules, or by law. In all such cases, the persons who have the power to decide should observe fundamental standards of ethical conduct. In this code all such persons are called “arbitrators” although, in some types of case, they might be called “umpires” or have some other title.</p> <p>Various aspects of the conduct of arbitrators, including some matters covered by this code, may be governed by agreements of the parties, by arbitration rules to which the parties have agreed, or by applicable law. This code does not take the place of or supersede such agreements, rules, or laws and does not establish new or additional grounds for judicial review of arbitration awards.</p> <p>While this code is intended to provide ethical guidelines in many types of arbitration, it does not form a part of the arbitration rules of the American Arbitration Association or of any other organization, nor is it intended to apply to mediation or conciliation. Labor arbitration is governed by the Code of Professional Responsibility for Arbitrators of Labor-Management Disputes, not by this code.</p> <p>Arbitrators, like judges, have the power to decide cases. However, unlike full-time judges, arbitrators are usually engaged in other occupations before, during, and after the time that they serve as arbitrators. Often, arbitrators are purposely chosen from the same trade or industry as the parties in order to bring special knowledge to the task of deciding. This code recognizes these fundamental differences between arbitrators and judges.</p> <p>In some types of arbitration, there are three or more arbitrators. In such cases, it is sometimes the practice for each party, acting alone, to appoint one arbitrator and for the other arbitrators to be designated by those two, by</p>
--	---

	<p>the parties, or by an independent institution or individual. The sponsors of this code believe that it is preferable for parties to agree that all arbitrators should comply with the same ethical standards. However, it is recognized that there is a long-established practice in some types of arbitration for the arbitrators who are appointed by one party, acting alone, to be governed by special ethical considerations. Those special considerations are set forth in the last section of the code, headed “Ethical Considerations Relating to Arbitrators Appointed by One Party.”</p> <p>Although this code is sponsored by the American Arbitration Association and the American Bar Association, its use is not limited to arbitrations administered by the AAA or to cases in which the arbitrators are lawyers. Rather, it is presented as a public service to provide guidance in all types of commercial arbitration.</p>
<p>Note on Neutrality</p> <p>In some types of commercial arbitration, the parties or the administering institution provide for three or more arbitrators. In some such proceedings, it is the practice for each party, acting alone, to appoint one arbitrator (a “party-appointed arbitrator”) and for one additional arbitrator to be designated by the party-appointed arbitrators, or by the parties, or by an independent institution or individual. The sponsors of this Code believe that it is preferable for all arbitrators – including any party-appointed arbitrators – to be neutral, that is, independent and impartial, and to comply with the same ethical standards. This expectation generally is essential in arbitrations where the parties, the nature of the dispute, or the enforcement of any resulting award may have international aspects. However, parties in certain domestic arbitrations in the United States may prefer that party-appointed arbitrators be non-neutral and governed by special ethical considerations. These special ethical considerations appear in Canon X of this Code.</p>	<p>Note on Neutrality</p> <p>N/A</p>

<p>This Code establishes a presumption of neutrality for all arbitrators, including party-appointed arbitrators, which applies unless the parties' agreement, the arbitration rules agreed to by the parties or applicable laws provide otherwise. This Code requires all party-appointed arbitrators, whether neutral or not, to make pre-appointment disclosures of any facts which might affect their neutrality, independence, or impartiality. This Code also requires all party-appointed arbitrators to ascertain and disclose as soon as practicable whether the parties intended for them to serve as neutral or not. If any doubt or uncertainty exists, the party-appointed arbitrators should serve as neutrals unless and until such doubt or uncertainty is resolved in accordance with Canon IX. This Code expects all arbitrators, including those serving under Canon X, to preserve the integrity and fairness of the process.</p>	
<p>Note on Construction</p> <p>Various aspects of the conduct of arbitrators, including some matters covered by this Code, may also be governed by agreements of the parties, arbitration rules to which the parties have agreed, applicable law, or other applicable ethics rules, all of which should be consulted by the arbitrators. This Code does not take the place of or supersede such laws, agreements, or arbitration rules to which the parties have agreed and should be read in conjunction with other rules of ethics. It does not establish new or additional grounds for judicial review of arbitration awards.</p> <p>All provisions of this Code should therefore be read as subject to contrary provisions of applicable law and arbitration rules. They should also be read as subject to contrary agreements of the parties. Nevertheless, this Code imposes no obligation on any arbitrator to act in a manner inconsistent with the arbitrator's fundamental duty to preserve the integrity and fairness of the arbitral process.</p>	<p>Note on Construction</p> <p>N/A</p>

<p>Canons I through VIII of this Code apply to all arbitrators. Canon IX applies to all party-appointed arbitrators, except that certain party-appointed arbitrators are exempted by Canon X from compliance with certain provisions of Canons I-IX related to impartiality and independence, as specified in Canon X.</p>	
<b>2004 Version</b>	<b>1977 Version</b>
<p><b>CANON I. AN ARBITRATOR SHOULD UPHOLD THE INTEGRITY AND FAIRNESS OF THE ARBITRATION PROCESS.</b></p> <p>A. An arbitrator has a responsibility not only to the parties but also to the process of arbitration itself, and must observe high standards of conduct so that the integrity and fairness of the process will be preserved. Accordingly, an arbitrator should recognize a responsibility to the public, to the parties whose rights will be decided, and to all other participants in the proceeding. This responsibility may include pro bono service as an arbitrator where appropriate.</p> <p>B. One should accept appointment as an arbitrator only if fully satisfied:</p> <ol style="list-style-type: none"> <li>(1) that he or she can serve impartially;</li> <li>(2) that he or she can serve independently from the parties, potential witnesses, and the other arbitrators;</li> <li>(3) that he or she is competent to serve; and</li> <li>(4) that he or she can be available to commence the arbitration in accordance with the requirements of the proceeding and thereafter to devote the time and attention to its completion that the parties are reasonably entitled to expect.</li> </ol>	<p><b>CANON I. AN ARBITRATOR SHOULD UPHOLD THE INTEGRITY AND FAIRNESS OF THE ARBITRATION PROCESS.</b></p> <p>A. Fair and just processes for resolving disputes are indispensable in our society. Commercial arbitration is an important method for deciding many types of disputes. In order for commercial arbitration to be effective, there must be broad public confidence in the integrity and fairness of the process. Therefore, an arbitrator has a responsibility not only to the parties but also to the process of arbitration itself, and must observe high standards of conduct so that the integrity and fairness of the process will be preserved. Accordingly, an arbitrator should recognize a responsibility to the public, to the parties whose rights will be decided, and to all other participants in the proceeding. The provisions of this code should be construed and applied to further these objectives.</p> <p>B. It is inconsistent with the integrity of the arbitration process for persons to solicit appointment for themselves. However, a person may indicate a general willingness to serve as an arbitrator.</p> <p>C. Persons should accept appointment as arbitrators only if they believe that they can be available to conduct the arbitration promptly.</p>

<p>A. After accepting appointment and while serving as an arbitrator, a person should avoid entering into any business, professional, or personal relationship, or acquiring any financial or personal interest, which is likely to affect impartiality or which might reasonably create the appearance of partiality. For a reasonable period of time after the decision of a case, persons who have served as arbitrators should avoid entering into any such relationship, or acquiring any such interest, in circumstances which might reasonably create the appearance that they had been influenced in the arbitration by the anticipation or expectation of the relationship or interest. Existence of any of the matters or circumstances described in this paragraph C does not render it unethical for one to serve as an arbitrator where the parties have consented to the arbitrator's appointment or continued services following full disclosure of the relevant facts in accordance with Canon II.</p> <p>B. Arbitrators should conduct themselves in a way that is fair to all parties and should not be swayed by outside pressure, public clamor, and fear of criticism or self-interest. They should avoid conduct and statements that give the appearance of partiality toward or against any party.</p> <p>C. An arbitrator's authority is derived from the agreement of the parties. An arbitrator should neither exceed that authority nor do less than is required to exercise that authority completely. Where the agreement of the parties sets forth procedures to be followed in conducting the arbitration or refers to rules to be followed, it is the obligation of the arbitrator to comply with such procedures or rules. An arbitrator has no ethical obligation to comply with any agreement, procedures or rules that are unlawful or that, in the arbitrator's judgment, would be inconsistent with this Code.</p>	<p>D. After accepting appointment and while serving as an arbitrator, a person should avoid entering into any financial, business, professional, family or social relationship, or acquiring any financial or personal interest, which is likely to affect impartiality or which might reasonably create the appearance of partiality or bias. For a reasonable period of time after the decision of a case, persons who have served as arbitrators should avoid entering into any such relationship, or acquiring any such interest, in circumstances which might reasonably create the appearance that they had been influenced in the arbitration by the anticipation or expectation of the relationship or interest.</p> <p>E. Arbitrators should conduct themselves in a way that is fair to all parties and should not be swayed by outside pressure, by public clamor, by fear of criticism or by self-interest.</p> <p>F. When an arbitrator's authority is derived from an agreement of the parties, the arbitrator should neither exceed that authority nor do less than is required to exercise that authority completely. Where the agreement of the parties sets forth procedures to be followed in conducting the arbitration or refers to rules to be followed, it is the obligation of the arbitrator to comply with such procedures or rules.</p> <p>G. An arbitrator should make all reasonable efforts to prevent delaying tactics, harassment of parties or other participants, or other abuse or disruption of the arbitration process.</p> <p>H. The ethical obligations of an arbitrator begin upon acceptance of the appointment and continue throughout all stages of the proceeding. In addition, wherever specifically set forth in this code, certain ethical obligations begin as soon as a person is requested to serve as an arbitrator and certain</p>
--	--

<p>D. An arbitrator should conduct the arbitration process so as to advance the fair and efficient resolution of the matters submitted for decision. An arbitrator should make all reasonable efforts to prevent delaying tactics, harassment of parties or other participants, or other abuse or disruption of the arbitration process.</p> <p>E. The ethical obligations of an arbitrator begin upon acceptance of the appointment and continue throughout all stages of the proceeding. In addition, as set forth in this Code, certain ethical obligations begin as soon as a person is requested to serve as an arbitrator and certain ethical obligations continue after the decision in the proceeding has been given to the parties.</p> <p>F. Once an arbitrator has accepted an appointment, the arbitrator should not withdraw or abandon the appointment unless compelled to do so by unanticipated circumstances that would render it impossible or impracticable to continue. When an arbitrator is to be compensated for his or her services, the arbitrator may withdraw if the parties fail or refuse to provide for payment of the compensation as agreed.</p> <p>G. An arbitrator who withdraws prior to the completion of the arbitration, whether upon the arbitrator's initiative or upon the request of one or more of the parties, should take reasonable steps to protect the interests of the parties in the arbitration, including return of evidentiary materials and protection of confidentiality.</p>	<p>ethical obligations continue even after the decision in the case has been given to the parties.</p>
--	--

<p>Comment to Canon I</p> <p>A prospective arbitrator is not necessarily partial or prejudiced by having acquired knowledge of the parties, the applicable law or the customs and practices of the business involved. Arbitrators may also have special experience or expertise in the areas of business, commerce, or technology which are involved in the arbitration. Arbitrators do not contravene this Canon if, by virtue of such experience or expertise, they have views on certain general issues likely to arise in the arbitration, but an arbitrator may not have prejudged any of the specific factual or legal determinations to be addressed during the arbitration.</p> <p>During an arbitration, the arbitrator may engage in discourse with the parties or their counsel, draw out arguments or contentions, comment on the law or evidence, make interim rulings, and otherwise control or direct the arbitration. These activities are integral parts of an arbitration. Paragraph D of Canon I is not intended to preclude or limit either full discussion of the issues during the course of the arbitration or the arbitrator's management of the proceeding.</p>	
<p><b>2004 Version</b></p> <p>CANON II. AN ARBITRATOR SHOULD DISCLOSE ANY INTEREST OR RELATIONSHIP LIKELY TO AFFECT IMPARTIALITY OR WHICH MIGHT CREATE AN APPEARANCE OF PARTIALITY.</p> <p>A. Persons who are requested to serve as arbitrators should, before accepting, disclose:</p> <ol style="list-style-type: none"> <li>(1) Any known direct or indirect financial or personal interest in the outcome of the arbitration;</li> <li>(2) Any known existing or past financial, business, professional or personal relationships which might reasonably affect impartiality or</li> </ol>	<p><b>1977 Version</b></p> <p>CANON II. AN ARBITRATOR SHOULD DISCLOSE ANY INTEREST OR RELATIONSHIP LIKELY TO AFFECT IMPARTIALITY OR WHICH MIGHT CREATE AN APPEARANCE OF PARTIALITY OR BIAS.</p> <p>Introductory Note</p> <p>This code reflects the prevailing principle that arbitrators should disclose the existence of interests or relationships that are likely to affect their impartiality or that might reasonably create an appearance that they are biased against one party or favorable to another. These provisions of the code are intended to be applied realistically so that the burden of detailed disclosure does not become so great that it is impractical for persons in the business world to be arbitrators, thereby</p>



<p>lack of independence in the eyes of any of the parties. For example, prospective arbitrators should disclose any such relationships which they personally have with any party or its lawyer, with any co-arbitrator, or with any individual whom they have been told will be a witness. They should also disclose any such relationships involving their families or household members or their current employers, partners, or professional or business associates that can be ascertained by reasonable efforts;</p> <p>(3) The nature and extent of any prior knowledge they may have of the dispute; and</p> <p>(4) Any other matters, relationships, or interests which they are obligated to disclose by the agreement of the parties, the rules or practices of an institution, or applicable law regulating arbitrator disclosure.</p> <p>B. Persons who are requested to accept appointment as arbitrators should make a reasonable effort to inform themselves of any interests or relationships described in paragraph A.</p> <p>C. The obligation to disclose interests or relationships described in paragraph A is a continuing duty which requires a person who accepts appointment as an arbitrator to disclose, as soon as practicable, at any stage of the arbitration, any such interests or relationships which may arise, or which are recalled or discovered.</p> <p>D. Any doubt as to whether or not disclosure is to be made should be resolved in favor of disclosure.</p>	<p>depriving parties of the services of those who might be best informed and qualified to decide particular types of cases.</p> <p>This code does not limit the freedom of parties to agree on whomever they choose as an arbitrator. When parties, with knowledge of a person's interests and relationships, nevertheless desire that individual to serve as an arbitrator, that person may properly serve.</p> <p><i>Disclosure</i></p> <p>A. Persons who are requested to serve as arbitrators should, before accepting, disclose</p> <p>(1) any direct or indirect financial or personal interest in the outcome of the arbitration;</p> <p>(2) any existing or past financial, business, professional, family, or social relationships which are likely to affect impartiality or which might reasonably create an appearance of partiality or bias. Persons requested to serve as arbitrators should disclose any such relationships which they personally have with any party or its lawyer or with any individual whom they have been told will be a witness. They should also disclose any such relationships involving members of their families or their current employers, partners, or business associates.</p> <p>A. Persons who are requested to accept appointment as arbitrators should make a reasonable effort to inform themselves of any interests or relationships described in the preceding paragraph A.</p> <p>B. The obligation to disclose interests or relationships described in the preceding paragraph A is a continuing duty which requires a person who accepts appointment as an arbitrator to disclose, at any stage of the arbitration,</p>
---	---

<p>E. Disclosure should be made to all parties unless other procedures for disclosure are provided in the agreement of the parties, applicable rules or practices of an institution, or by law. Where more than one arbitrator has been appointed, each should inform the others of all matters disclosed.</p> <p>F. When parties, with knowledge of a person's interests and relationships, nevertheless desire that person to serve as an arbitrator, that person may properly serve.</p> <p>G. If an arbitrator is requested by all parties to withdraw, the arbitrator must do so. If an arbitrator is requested to withdraw by less than all of the parties because of alleged partiality, the arbitrator should withdraw unless either of the following circumstances exists:</p> <p>(1) An agreement of the parties, or arbitration rules agreed to by the parties, or applicable law establishes procedures for determining challenges to arbitrators, in which case those procedures should be followed; or</p> <p>(2) In the absence of applicable procedures, if the arbitrator, after carefully considering the matter, determines that the reason for the challenge is not substantial, and that he or she can nevertheless act and decide the case impartially and fairly.</p> <p>H. If compliance by a prospective arbitrator with any provision of this Code would require disclosure of confidential or privileged information, the prospective arbitrator should either:</p>	<p>any such interests or relationships which may arise or which are recalled or discovered.</p> <p>C. Disclosure should be made to all parties unless other procedures for disclosure are provided in the rules or practices of an institution which is administering the arbitration. Where more than one arbitrator has been appointed, each should inform the others of the interests and relationships which have been disclosed.</p> <p>D. In the event that an arbitrator is requested by all parties to withdraw, the arbitrator should do so. In the event that an arbitrator is requested to withdraw by less than all of the parties because of alleged partiality or bias, the arbitrator should withdraw unless either of the following circumstances exists.</p> <p>(1) If an agreement of the parties, or arbitration rules agreed to by the parties, establishes procedures for determining challenges to arbitrators, then those procedures should be followed; or,</p> <p>(2) if the arbitrator, after carefully considering the matter, determines that the reason for the challenge is not substantial, and that he or she can nevertheless act and decide the case impartially and fairly, and that withdrawal would cause unfair delay or expense to another party or would be contrary to the ends of justice.</p>
--	--

<p>Secure the consent to the disclosure from the person who furnished the information or the holder of the privilege; or Withdraw.</p>	
<p><b>2004 Version</b></p>	<p><b>1977 Version</b></p>
<p>CANON III. AN ARBITRATOR SHOULD AVOID IMPROPRIETY OR THE APPEARANCE OF IMPROPRIETY IN COMMUNICATING WITH PARTIES.</p> <p>A. If an agreement of the parties or applicable arbitration rules establishes the manner or content of communications between the arbitrator and the parties, the arbitrator should follow those procedures notwithstanding any contrary provision of paragraphs B and C.</p> <p>B. An arbitrator or prospective arbitrator should not discuss a proceeding with any party in the absence of any other party, except in any of the following circumstances:</p> <p>(1) When the appointment of a prospective arbitrator is being considered, the prospective arbitrator:</p> <p>(a) may ask about the identities of the parties, counsel, or witnesses and the general nature of the case; and</p> <p>(b) may respond to inquiries from a party or its counsel designed to determine his or her suitability and availability for the appointment. In any such dialogue, the prospective arbitrator may receive information from a party or its counsel disclosing the general nature of the dispute but should not permit them to discuss the merits of the case.</p>	<p>CANON III. AN ARBITRATOR IN COMMUNICATING WITH THE PARTIES SHOULD AVOID IMPROPRIETY OR THE APPEARANCE OF IMPROPRIETY.</p> <p>A. If an agreement of the parties or applicable arbitration rules referred to in that agreement, establishes the manner or content of communications between the arbitrator and the parties, the arbitrator should follow those procedures notwithstanding any contrary provision of the following paragraphs B and C.</p> <p>B. Unless otherwise provided in applicable arbitration rules or in an agreement of the parties, arbitrators should not discuss a case with any party in the absence of each other party, except in any of the following circumstances.</p> <p>(1) Discussions may be had with a party concerning such matters as setting the time and place of hearings or making other arrangements for the conduct of the proceedings. However, the arbitrator should promptly inform each other party of the discussion and should not make any final determination concerning the matter discussed before giving each absent party an opportunity to express its views.</p> <p>(2) If a party fails to be present at a hearing after having been given due notice, the arbitrator may discuss the case with any party who is present.</p>

<p>(2) In an arbitration in which the two party-appointed arbitrators are expected to appoint the third arbitrator, each party-appointed arbitrator may consult with the party who appointed the arbitrator concerning the choice of the third arbitrator;</p> <p>(3) In an arbitration involving party-appointed arbitrators, each party-appointed arbitrator may consult with the party who appointed the arbitrator concerning arrangements for any compensation to be paid to the party-appointed arbitrator. Submission of routine written requests for payment of compensation and expenses in accordance with such arrangements and written communications pertaining solely to such requests need not be sent to the other party;</p> <p>(4) In an arbitration involving party-appointed arbitrators, each party-appointed arbitrator may consult with the party who appointed the arbitrator concerning the status of the arbitrator (i.e., neutral or non-neutral), as contemplated by paragraph C of Canon IX;</p> <p>(5) Discussions may be had with a party concerning such logistical matters as setting the time and place of hearings or making other arrangements for the conduct of the proceedings. However, the arbitrator should promptly inform each other party of the discussion and should not make any final determination concerning the matter discussed before giving each absent party an opportunity to express the party's views; or</p>	<p>(3) If all parties request or consent to it, such discussion may take place.</p> <p>C. Unless otherwise provided in applicable arbitration rules or in an agreement of the parties, whenever an arbitrator communicates in writing with one party, the arbitrator should at the same time send a copy of the communication to each other party. Whenever the arbitrator receives any written communication concerning the case from one party which has not already been sent to each other party, the arbitrator should do so.</p>
--	--

<p>(6) If a party fails to be present at a hearing after having been given due notice, or if all parties expressly consent, the arbitrator may discuss the case with any party who is present.</p> <p>C. Unless otherwise provided in this Canon, in applicable arbitration rules or in an agreement of the parties, whenever an arbitrator communicates in writing with one party, the arbitrator should at the same time send a copy of the communication to every other party, and whenever the arbitrator receives any written communication concerning the case from one party which has not already been sent to every other party, the arbitrator should send or cause it to be sent to the other parties.</p>	
<b>2004 Version</b>	<b>1977 Version</b>
<p><b>CANON IV. AN ARBITRATOR SHOULD CONDUCT THE PROCEEDINGS FAIRLY AND DILIGENTLY.</b></p> <p>A. An arbitrator should conduct the proceedings in an even-handed manner. The arbitrator should be patient and courteous to the parties, their representatives, and the witnesses and should encourage similar conduct by all participants.</p> <p>B. The arbitrator should afford to all parties the right to be heard and due notice of the time and place of any hearing. The arbitrator should allow each party a fair opportunity to present its evidence and arguments.</p> <p>C. The arbitrator should not deny any party the opportunity to be represented by counsel or by any other person chosen by the party.</p>	<p><b>CANON IV. AN ARBITRATOR SHOULD CONDUCT THE PROCEEDINGS FAIRLY AND DILIGENTLY.</b></p> <p>A. An arbitrator should conduct the proceedings in an evenhanded manner and treat all parties with equality and fairness at all stages of the proceedings.</p> <p>B. An arbitrator should perform duties diligently and conclude the case as promptly as the circumstances reasonably permit.</p> <p>C. An arbitrator should be patient and courteous to the parties, to their lawyers and to the witnesses and should encourage similar conduct by all participants in the proceedings.</p> <p>D. Unless otherwise agreed by the parties or provided in arbitration rules agreed to by the parties, an arbitrator should accord to all parties the right to appear in person and to be heard after due notice of the time and place of hearing.</p>

<p>D. If a party fails to appear after due notice, the arbitrator should proceed with the arbitration when authorized to do so, but only after receiving assurance that appropriate notice has been given to the absent party.</p> <p>E. When the arbitrator determines that more information than has been presented by the parties is required to decide the case, it is not improper for the arbitrator to ask questions, call witnesses, and request documents or other evidence, including expert testimony.</p> <p>F. Although it is not improper for an arbitrator to suggest to the parties that they discuss the possibility of settlement or the use of mediation, or other dispute resolution processes, an arbitrator should not exert pressure on any party to settle or to utilize other dispute resolution processes. An arbitrator should not be present or otherwise participate in settlement discussions or act as a mediator unless requested to do so by all parties.</p> <p>G. Co-arbitrators should afford each other full opportunity to participate in all aspects of the proceedings.</p> <p>Comment to paragraph G</p> <p>Paragraph G of Canon IV is not intended to preclude one arbitrator from acting in limited circumstances (e.g., ruling on discovery issues) where authorized by the agreement of the parties, applicable rules or law, nor does it preclude a majority of the arbitrators from proceeding with any aspect of the arbitration if an arbitrator is unable or unwilling to participate and such action is authorized by the agreement of the parties or applicable rules or law.</p>	<p>E. An arbitrator should not deny any party the opportunity to be represented by counsel.</p> <p>F. If a party fails to appear after due notice, an arbitrator should proceed with the arbitration when authorized to do so by the agreement of the parties, the rules agreed to by the parties or by law. However, an arbitrator should do so only after receiving assurance that notice has been given to the absent party.</p> <p>G. When an arbitrator determines that more information than has been presented by the parties is required to decide the case, it is not improper for the arbitrator to ask questions, call witnesses, and request documents or other evidence.</p> <p>H. It is not improper for an arbitrator to suggest to the parties that they discuss the possibility of settlement of the case. However, an arbitrator should not be present or otherwise participate in the settlement discussions unless requested to do so by all parties. An arbitrator should not exert pressure on any party to settle.</p> <p>I. Nothing in this code is intended to prevent a person from acting as a mediator or conciliator of a dispute in which he or she has been appointed as arbitrator, if requested to do so by all parties or where authorized or required to do so by applicable laws or rules.</p> <p>J. When there is more than one arbitrator, the arbitrators should afford each other the full opportunity to participate in all aspects of the proceedings.</p>
---	--

2004 Version	1977 Version
<p><b>CANON V. AN ARBITRATOR SHOULD MAKE DECISIONS IN A JUST, INDEPENDENT AND DELIBERATE MANNER.</b></p> <p>A. The arbitrator should, after careful deliberation, decide all issues submitted for determination. An arbitrator should decide no other issues.</p> <p>B. An arbitrator should decide all matters justly, exercising independent judgment, and should not permit outside pressure to affect the decision.</p> <p>C. An arbitrator should not delegate the duty to decide to any other person.</p> <p>D. In the event that all parties agree upon a settlement of issues in dispute and request the arbitrator to embody that agreement in an award, the arbitrator may do so, but is not required to do so unless satisfied with the propriety of the terms of settlement. Whenever an arbitrator embodies a settlement by the parties in an award, the arbitrator should state in the award that it is based on an agreement of the parties.</p>	<p><b>CANON V. AN ARBITRATOR SHOULD MAKE DECISIONS IN A JUST, INDEPENDENT AND DELIBERATE MANNER.</b></p> <p>A. An arbitrator should, after careful deliberation, decide all issues submitted for determination. An arbitrator should decide no other issues.</p> <p>B. An arbitrator should decide all matters justly, exercising independent judgment, and should not permit outside pressure to affect the decision.</p> <p>C. An arbitrator should not delegate the duty to decide to any other person.</p> <p>D. In the event that all parties agree upon a settlement of issues in dispute and request an arbitrator to embody that agreement in an award, an arbitrator may do so, but is not required to do so unless satisfied with the propriety of the terms of settlement. Whenever an arbitrator embodies a settlement by the parties in an award, the arbitrator should state in the award that it is based on an agreement of the parties.</p>
2004 Version	1977 Version
<p><b>CANON VI. AN ARBITRATOR SHOULD BE FAITHFUL TO THE RELATIONSHIP OF TRUST AND CONFIDENTIALITY INHERENT IN THAT OFFICE.</b></p> <p>A. An arbitrator is in a relationship of trust to the parties and should not, at any time, use confidential information acquired during the arbitration proceeding to gain personal advantage or advantage for others, or to affect adversely the interest of another.</p> <p>B. The arbitrator should keep confidential all matters relating to the arbitration proceedings and decision. An arbitrator may obtain help from an associate, a research assistant or other</p>	<p><b>CANON VI. AN ARBITRATOR SHOULD BE FAITHFUL TO THE RELATIONSHIP OF TRUST AND CONFIDENTIALITY INHERENT IN THAT OFFICE.</b></p> <p>A. An arbitrator is in a relationship of trust to the parties and should not, at any time, use confidential information acquired during the arbitration proceeding to gain personal advantage or advantage for others, or to affect adversely the interest of another.</p> <p>B. Unless otherwise agreed by the parties, or required by applicable rules or law, an arbitrator should keep confidential all matters relating to the arbitration proceedings and decision.</p>

<p>associate, a research assistant or other persons in connection with reaching his or her decision if the arbitrator informs the parties of the use of such assistance and such persons agree to be bound by the provisions of this Canon.</p> <p>C. It is not proper at any time for an arbitrator to inform anyone of any decision in advance of the time it is given to all parties. In a proceeding in which there is more than one arbitrator, it is not proper at any time for an arbitrator to inform anyone about the substance of the deliberations of the arbitrators. After an arbitration award has been made, it is not proper for an arbitrator to assist in proceedings to enforce or challenge the award.</p> <p>D. Unless the parties so request, an arbitrator should not appoint himself or herself to a separate office related to the subject matter of the dispute, such as receiver or trustee, nor should a panel of arbitrators appoint one of their number to such an office.</p>	<p>C. It is not proper at any time for an arbitrator to inform anyone of the decision in advance of the time it is given to all parties. In a case in which there is more than one arbitrator, it is not proper at any time for an arbitrator to inform anyone concerning the deliberations of the arbitrators. After an arbitration award has been made, it is not proper for an arbitrator to assist in postarbitral proceedings, except as is required by law.</p> <p>D. In many types of arbitration it is customary practice for the arbitrators to serve without pay. However, in some types of cases it is customary for arbitrators to receive compensation for their services and reimbursement for their expenses. In cases in which any such payments are to be made, all persons who are requested to serve, or who are serving as arbitrators, should be governed by the same high standards of integrity and fairness as apply to their other activities in the case. Accordingly, such persons should scrupulously avoid bargaining with parties over the amount of payments or engaging in any communications concerning payments which would create an appearance of coercion or other impropriety. In the absence of governing provisions in the agreement of the parties or in rules agreed to by the parties or in applicable law, certain practices, relating to payments are generally recognized as being preferable in order to preserve the integrity and fairness of the arbitration process. These practices include the following.</p> <p>(1) It is preferable that before the arbitrator finally accepts appointment the basis of payment be established and that all parties be informed thereof in writing.</p>
--	--



	<p>(2) In cases conducted under the rules or administration of an institution that is available to assist in making arrangements for payments, the payments should be arranged by the institution to avoid the necessity for communication by the arbitrators directly with the parties concerning the subject.</p> <p>(3) In cases where no institution is available to assist in making arrangement for payments, it is preferable that any discussions with arbitrators concerning payments should take place in the presence of all parties.</p>
<b>2004 Version</b>	<b>1977 Version</b>
<p>CANON VII. AN ARBITRATOR SHOULD ADHERE TO STANDARDS OF INTEGRITY AND FAIRNESS WHEN MAKING ARRANGEMENTS FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES.</p> <p>A. Arbitrators who are to be compensated for their services or reimbursed for their expenses shall adhere to standards of integrity and fairness in making arrangements for such payments.</p> <p>B. Certain practices relating to payments are generally recognized as tending to preserve the integrity and fairness of the arbitration process. These practices include:</p> <p>(1) Before the arbitrator finally accepts appointment, the basis of payment, including any cancellation fee, compensation in the event of withdrawal and compensation for study and preparation time, and all other charges, should be established. Except for arrangements for the compensation of party-appointed arbitrators, all parties should be informed in writing of the terms established.</p>	<p>CANON VII. ETHICAL CONSIDERATIONS RELATING TO ARBITRATORS APPOINTED BY ONE PARTY</p> <p>Introductory Note</p> <p>In some types of arbitration in which there are three arbitrators, it is customary for each party, acting alone, to appoint one arbitrator. The third arbitrator is then appointed by agreement either of the parties or of the two arbitrators, or, failing such agreement, by an independent institution or individual. In some of these types of arbitration, all three arbitrators are customarily considered to be neutral and are expected to observe the same standards of ethical conduct.</p> <p>However, there are also many types of tripartite arbitration in which it has been the practice that the two arbitrators appointed by the parties are not considered to be neutral and are expected to observe many-but not all of the same ethical standards as the neutral third arbitrator. For the purposes of this code, an arbitrator appointed by one party who is not expected to observe all of the same standards as the third arbitrator is called a “nonneutral arbitrator.” This Canon VII describes the ethical obligations that nonneutral party-appointed arbitrators should observe and those that are not applicable to them.</p>

<p>(2) In proceedings conducted under the rules or administration of an institution that is available to assist in making arrangements for payments, communication related to compensation should be made through the institution. In proceedings where no institution has been engaged by the parties to administer the arbitration, any communication with arbitrators (other than party appointed arbitrators) concerning payments should be in the presence of all parties; and</p> <p>(3) Arbitrators should not, absent extraordinary circumstances, request increases in the basis of their compensation during the course of a proceeding.</p>	<p>that are not applicable to them.</p> <p>In all arbitrations in which there are two or more party-appointed arbitrators, it is important for everyone concerned to know from the start whether the party-appointed arbitrators are expected to be neutrals or nonneutrals. In such arbitrations, the two party-appointed arbitrators should be considered nonneutrals unless both parties inform the arbitrators that all three arbitrators are to be neutral or unless the contract, the applicable arbitration rules, or any governing law requires that all three arbitrators be neutral.</p> <p>It should be noted that, in cases conducted outside the United States, the applicable law might require that all arbitrators be neutral. Accordingly, in such cases, the governing law should be considered before applying any of the following provisions relating to nonneutral party-appointed arbitrators.</p> <p><i>A. Obligations under Canon I</i></p> <p>Nonneutral party-appointed arbitrators should observe all of the obligations of Canon I to uphold the integrity and fairness of the arbitration process, subject only to the following provisions.</p> <p>(1) Nonneutral arbitrators may be predisposed toward the party who appointed them but in all other respects are obligated to act in good faith and with integrity and fairness. For example, nonneutral arbitrators should not engage in delaying tactics or harassment of any party or witness and should not knowingly make untrue or misleading statements to the other arbitrators.</p> <p>(2) The provisions of Canon I.D relating to relationships and interests are not applicable to nonneutral arbitrators.</p>
--	--

	<p>B. <i>Obligations under Canon II</i>  Nonneutral party-appointed arbitrators should disclose to all parties, and to the other arbitrators, all interests and relationships which Canon 11 requires be disclosed. Disclosure as required by Canon 11 is for the benefit not only of the party who appointed the nonneutral arbitrator, but also for the benefit of the other parties and arbitrators so that they may know of any bias which may exist or appear to exist. However, this obligation is subject to the following provisions.</p> <p>(1) Disclosure by nonneutral arbitrators should be sufficient to describe the general nature and scope of any interest or relationship, but need not include as detailed information as is expected from persons appointed as neutral arbitrators.</p> <p>(2) Nonneutral arbitrators are not obliged to withdraw if requested to do so by the party who did not appoint them, notwithstanding the provisions of Canon II.E.</p> <p>C. <i>Obligations under Canon III</i>  Nonneutral party-appointed arbitrators should observe all of the obligations of Canon III concerning communications with the parties, subject only to the following provisions.</p> <p>(1) In an arbitration in which the two party-appointed arbitrators are expected to appoint the third arbitrator, nonneutral arbitrators may consult with the party who appointed them concerning the acceptability of persons under consideration for appointment as</p>
--	--

	<p>the third arbitrator.</p> <p>(2) Nonneutral arbitrators may communicate with the party who appointed them concerning any other aspect of the case, provided they first inform the other arbitrators and the parties that they intend to do so. If such communication occurred prior to the time the person was appointed as arbitrator, or prior to the first hearing or other meeting of the parties with the arbitrators, the nonneutral arbitrator should, at the first hearing or meeting, disclose the fact that such communication has taken place. In complying with the provisions of this paragraph, it is sufficient that there be disclosure of the fact that such communication has occurred without disclosing the content of the communication. It is also sufficient to disclose at any time the intention to follow the procedure of having such communications in the future and there is no requirement thereafter that there be disclosure before each separate occasion on which such a communication occurs.</p> <p>(3) When nonneutral arbitrators communicate in writing with the party who appointed them concerning any matter as to which communication is permitted under this code, they are not required to send copies of any such written communication to any other party or arbitrator.</p> <p><i>D. Obligations under Canon IV</i>  Nonneutral party-appointed arbitrators should observe all of the obligations of Canon IV to conduct the proceedings fairly and diligently.</p>
--	---

	<p>E. <i>Obligations under Canon V</i> Nonneutral party-appointed arbitrators should observe all of the obligations of Canon V concerning making decisions, subject only to the following provision.</p> <p>(1) Nonneutral arbitrators are permitted to be predisposed toward deciding in favor of the party who appointed them.</p> <p>F. <i>Obligations under Canon VI</i> Nonneutral party-appointed arbitrators should observe all of the obligations of Canon VI to be faithful to the relationship of trust inherent in the office of arbitrator, subject only to the following provision.</p> <p>(1) Nonneutral arbitrators are not subject to the provisions of Canon VI.D. with respect to any payments by the party who appointed them.</p>
<b>2004 Version</b>	<b>1977 Version</b>
<p>CANON IX. ARBITRATORS APPOINTED BY ONE PARTY HAVE A DUTY TO DETERMINE AND DISCLOSE THEIR STATUS AND TO COMPLY WITH THIS CODE, EXCEPT AS EXEMPTED BY CANON X.</p> <p>A. In some types of arbitration in which there are three arbitrators, it is customary for each party, acting alone, to appoint one arbitrator. The third arbitrator is then appointed by agreement either of the parties or of the two arbitrators, or failing such agreement, by an independent institution or individual. In tripartite arbitrations to which this Code applies, all three arbitrators are presumed to be neutral and are expected to observe the same standards as the third</p>	<p>No Canon IX</p>

<p>arbitrator.</p> <p>B. Notwithstanding this presumption, there are certain types of tripartite arbitration in which it is expected by all parties that the two arbitrators appointed by the parties may be predisposed toward the party appointing them. Those arbitrators, referred to in this Code as “Canon X arbitrators,” are not to be held to the standards of neutrality and independence applicable to other arbitrators. Canon X describes the special ethical obligations of party-appointed arbitrators who are not expected to meet the standard of neutrality.</p> <p>C. A party-appointed arbitrator has an obligation to ascertain, as early as possible but not later than the first meeting of the arbitrators and parties, whether the parties have agreed that the party-appointed arbitrators will serve as neutrals or whether they shall be subject to Canon X, and to provide a timely report of their conclusions to the parties and other arbitrators:</p> <p>(1) Party-appointed arbitrators should review the agreement of the parties, the applicable rules and any applicable law bearing upon arbitrator neutrality. In reviewing the agreement of the parties, party-appointed arbitrators should consult any relevant express terms of the written or oral arbitration agreement. It may also be appropriate for them to inquire into agreements that have not been expressly set forth, but which may be implied from an established course of dealings of the parties or well-recognized custom and usage in their trade or profession;</p> <p>(2) Where party-appointed arbitrators conclude that the parties intended</p>	
--	--

<p>for the party-appointed arbitrators not to serve as neutrals, they should so inform the parties and the other arbitrators. The arbitrators may then act as provided in Canon X unless or until a different determination of their status is made by the parties, any administering institution or the arbitral panel; and</p> <p>(3) Until party-appointed arbitrators conclude that the party-appointed arbitrators were not intended by the parties to serve as neutrals, or if the party-appointed arbitrators are unable to form a reasonable belief of their status from the foregoing sources and no decision in this regard has yet been made by the parties, any administering institution, or the arbitral panel, they should observe all of the obligations of neutral arbitrators set forth in this Code.</p> <p>D. Party-appointed arbitrators not governed by Canon X shall observe all of the obligations of Canons I through VIII unless otherwise required by agreement of the parties, any applicable rules, or applicable law.</p>	
<b>2004 Version</b>	<b>1977 Version</b>
<p><b>CANON X. EXEMPTIONS FOR ARBITRATORS APPOINTED BY ONE PARTY WHO ARE NOT SUBJECT TO RULES OF NEUTRALITY.</b></p> <p>Canon X arbitrators are expected to observe all of the ethical obligations prescribed by this Code except those from which they are specifically excused by Canon X.</p> <p>A. Obligations under Canon I</p> <p>Canon X arbitrators should observe all of the obligations of Canon I subject only to the following provisions:</p> <p>(1) Canon X arbitrators may be predisposed toward the party who</p>	<p>No Canon X</p>

<p>appointed them but in all other respects are obligated to act in good faith and with integrity and fairness. For example, Canon X arbitrators should not engage in delaying tactics or harassment of any party or witness and should not knowingly make untrue or misleading statements to the other arbitrators; and</p> <p>(2) The provisions of subparagraphs B(1), B(2), and paragraphs C and D of Canon I, insofar as they relate to partiality, relationships, and interests are not applicable to Canon X arbitrators.</p> <p><i>B. Obligations under Canon II</i></p> <p>Canon X arbitrators should disclose to all parties, and to the other arbitrators, all interests and relationships which Canon II requires be disclosed. Disclosure as required by Canon II is for the benefit not only of the party who appointed the arbitrator, but also for the benefit of the other parties and arbitrators so that they may know of any partiality which may exist or appear to exist; and</p> <p>(2) Canon X arbitrators are not obliged to withdraw under paragraph G of Canon II if requested to do so only by the party who did not appoint them.</p> <p><i>C. Obligations under Canon III</i></p> <p>Canon X arbitrators should observe all of the obligations of Canon III subject only to the following provisions:</p> <p>(1) Like neutral party-appointed arbitrators, Canon X arbitrators may consult with the party who appointed them to the extent permitted in paragraph B of Canon III;</p> <p>(2) Canon X arbitrators shall, at the earliest practicable time, disclose to the other arbitrators and to the parties whether or not they intend to communicate with their appointing parties. If they have</p>	
--	--



<p>disclosed the intention to engage in such communications, they may thereafter communicate with their appointing parties concerning any other aspect of the case, except as provided in paragraph (3).</p> <p>(3) If such communication occurred prior to the time they were appointed as arbitrators, or prior to the first hearing or other meeting of the parties with the arbitrators, the Canon X arbitrator should, at or before the first hearing or meeting of the arbitrators with the parties, disclose the fact that such communication has taken place. In complying with the provisions of this subparagraph, it is sufficient that there be disclosure of the fact that such communication has occurred without disclosing the content of the communication. A single timely disclosure of the Canon X arbitrator's intention to participate in such communications in the future is sufficient;</p> <p>(4) Canon X arbitrators may not at any time during the arbitration:</p> <ul style="list-style-type: none"> <li>(a) disclose any deliberations by the arbitrators on any matter or issue submitted to them for decision;</li> <li>(b) communicate with the parties that appointed them concerning any matter or issue taken under consideration by the panel after the record is closed or such matter or issue has been submitted for decision; or</li> <li>(c) disclose any final decision or interim decision in advance of the time that it is disclosed to all parties.</li> </ul>	
--	--

<p>(5) Unless otherwise agreed by the arbitrators and the parties, a Canon X arbitrator may not communicate orally with the neutral arbitrator concerning any matter or issue arising or expected to arise in the arbitration in the absence of the other Canon X arbitrator. If a Canon X arbitrator communicates in writing with the neutral arbitrator, he or she shall simultaneously provide a copy of the written communication to the other Canon X arbitrator;</p> <p>(6) When Canon X arbitrators communicate orally with the parties that appointed them concerning any matter on which communication is permitted under this Code, they are not obligated to disclose the contents of such oral communications to any other party or arbitrator; and</p> <p>(7) When Canon X arbitrators communicate in writing with the party who appointed them concerning any matter on which communication is permitted under this Code, they are not required to send copies of any such written communication to any other party or arbitrator.</p> <p>D. <i>Obligations under Canon IV</i> Canon X arbitrators should observe all of the obligations of Canon IV.</p> <p>E. <i>Obligations under Canon V</i> Canon X arbitrators should observe all of the obligations of Canon V, except that they may be predisposed toward deciding in favor of the party who appointed them.</p> <p>F. <i>Obligations under Canon VI</i> Canon X arbitrators should observe all of the obligations of Canon VI.</p> <p>G. <i>Obligations Under Canon VII</i></p>	
--	--

<p>Canon X arbitrators should observe all of the obligations of Canon VII.</p> <p>H. Obligations Under Canon VIII  Canon X arbitrators should observe all of the obligations of Canon VIII.</p> <p>I. Obligations Under Canon IX  The provisions of paragraph D of Canon IX are inapplicable to Canon X arbitrators, except insofar as the obligations are also set forth in this Canon.</p>	
--	--