
Graduate Certificate in Prenuptial Agreements and Alternative Dispute Resolution

Arbitration Procedures in Domestic Disputes

A

Arbitration Agreement – A written contract in which parties consent to submit present or future disputes to arbitration rather than court litigation. Related terms: submission clause, mandatory arbitration. The agreement defines scope, procedural rules, and the governing law. Example: A prenuptial contract may contain an arbitration clause specifying that any disagreement over asset division will be resolved by arbitration under the rules of the American Arbitration Association. Challenges include ensuring the clause is clear, non-coercive, and complies with state statutes on enforceability.

Arbitration Clause – A provision within a broader contract (e.g., A prenuptial agreement) that obligates the parties to resolve specified disputes through arbitration. Related terms: forum selection clause, choice-of-law clause. The clause typically outlines the arbitration institution, seat of arbitration, and whether the award will be binding. Example: "Any dispute arising out of this Agreement shall be finally resolved by binding arbitration in New York under the AAA Commercial Arbitration Rules."

Arbitration Institution – An organization that administers arbitration proceedings, providing rules, panels of arbitrators, and logistical support. Related terms: institutional arbitration, ad hoc arbitration. Common institutions include the American Arbitration Association (AAA), International Chamber of Commerce (ICC), and JAMS. Example: Selecting AAA may streamline the process for domestic disputes due to its familiar procedural rules.

Arbitrator – An impartial third party appointed to hear evidence, apply the law, and render a decision (award) in an arbitration. Related terms: panel, neutral. Arbitrators may be attorneys, retired judges, or subject-matter experts. Example: In a domestic dispute over spousal support, the parties might choose a family-law attorney with arbitration experience. Challenges include potential bias if the arbitrator has prior relationships with either party.

Arbitration Award – The final decision issued by the arbitrator(s), determining the rights and obligations of the parties. Related terms: final award, partial award. Awards are generally binding and enforceable in court, subject to limited grounds for vacatur. Example: An award may order the division of marital property according to the prenuptial terms.

Arbitration Hearing – The procedural stage where parties present evidence, examine witnesses, and make arguments before the arbitrator. Related terms: evidence presentation, cross-examination. Unlike courtroom trials, hearings are often less formal and may be conducted via video conference.

Arbitration Rules – The set of procedural guidelines governing how arbitration is conducted, including

timelines, document submission, and hearing protocols. Related terms: procedural order, institutional rules. Example: The AAA Commercial Arbitration Rules require parties to exchange statements of claim and defense within 30 days of the filing.

Arbitration Seat – The legal jurisdiction designated as the place of arbitration, determining which procedural law governs the arbitration. Related terms: place of arbitration, governing law. Example: Choosing “California” as the seat means California’s arbitration statutes apply.

Arbitration Venue – The physical or virtual location where the arbitration hearing occurs. While the seat determines procedural law, the venue is the actual setting (e.G., A conference room or online platform).

Binding Arbitration – An arbitration process in which the award is final and enforceable, with limited rights of appeal. Related terms: finality, enforceability. Most commercial and domestic arbitration agreements stipulate binding outcomes.

Challenge of Arbitrator – A formal request to remove an arbitrator for cause, such as bias, conflict of interest, or lack of qualifications. Related terms: disqualification, recusal. The challenge must be raised promptly, often before the hearing begins.

Confidentiality Agreement – A clause that obligates parties to keep arbitration proceedings and outcomes private. Related terms: non-disclosure, privacy provision. In domestic disputes, confidentiality protects sensitive personal information.

Conflict of Interest – A situation where an arbitrator’s personal or professional interests could improperly influence the decision. Related terms: bias, disqualification. Example: An arbitrator who previously represented one party in a family-law matter should be disqualified.

Default Judgment – A judgment entered when one party fails to appear or respond in arbitration, leading to an award in favor of the other party. Related terms: failure to prosecute, non-appearance.

Discovery – The pre-hearing process of exchanging information and documents. In arbitration, discovery is typically more limited than in litigation. Related terms: document production, interrogatories. Example: Parties may request bank statements to verify asset disclosures in a prenuptial dispute.

Enforceability – The legal ability to compel compliance with an arbitration award. Governed by statutes such as the Federal Arbitration Act (FAA) and state arbitration laws. Related terms: recognition, execution.

Expedited Arbitration – A streamlined arbitration process with shortened timelines and limited hearings, suitable for lower-value domestic disputes. Related terms: fast-track, simplified procedure.

Final Award – The conclusive decision that resolves all issues presented to the arbitrator. It may be a “partial award” if only some issues are decided. Related terms: binding decision, conclusion of arbitration.

Grounds for Vacatur – Limited reasons a court may set aside an arbitration award, such as fraud, corruption, or arbitrator misconduct. Related terms: vacated award, court intervention.

Interim Relief – Temporary orders issued by an arbitrator (or a court) to preserve the status quo pending the final award, such as a temporary restraining order. Related terms: preliminary injunction, provisional measures.

Jurisdiction – The authority of a court or arbitrator to hear a case. In arbitration, the parties' agreement defines jurisdiction, but courts may retain limited supervisory authority. Related terms: competence-courte, subject-matter jurisdiction.

Judicial Review – The limited power of courts to examine an arbitration award for compliance with statutory grounds. Related terms: appeal, court challenge.

Mandate of Arbitration – The scope and authority granted to the arbitrator by the parties, often outlined in the arbitration agreement. Related terms: terms of reference, scope of authority.

Merits of the Dispute – The substantive issues underlying the conflict, such as asset division or spousal support, which the arbitrator decides based on evidence.

Neutral – An impartial individual or entity that does not favor either party. Arbitrators must remain neutral throughout the process.

Non-Compulsory Arbitration – Arbitration that proceeds only if both parties consent after a dispute arises, as opposed to a pre-existing agreement that mandates arbitration.

Party-Submitted Arbitrator – An arbitrator chosen directly by one of the parties, often subject to the other party's consent.

Partial Award – An award that decides only some of the issues presented, leaving others for later determination.

Procedural Order – An order issued by the arbitrator setting timelines, document production schedules, and hearing dates.

Procedural Rules – The detailed steps that guide the arbitration process, distinct from substantive law.

Qualified Immunity (Arbitrator) – The protection that arbitrators enjoy from liability for their decisions, provided they act in good faith.

Reference to Arbitration Clause – The act of invoking the arbitration provision in a contract to commence arbitration proceedings.

Remedy – The relief granted by the arbitrator, such as monetary compensation, specific performance, or

declaratory relief.

Rescission of Arbitration Agreement – The cancellation of the agreement to arbitrate, usually by mutual consent or due to fraud.

Seat vs. Venue Distinction – The seat determines the governing law; the venue is the actual location of the hearing.

Submission Clause – Another term for arbitration clause; it “submits” disputes to arbitration.

Surrogate Court – A court that may have jurisdiction over certain family-law matters; its role may intersect with arbitration when confirming awards affecting marital property.

Temporary Injunction – An order issued to preserve the status quo, often sought before arbitration to prevent asset dissipation.

Tribunal – A generic term for the body (often a single arbitrator) that adjudicates the dispute.

Vacated Award – An award that a court has set aside on statutory grounds.

Venue Selection Clause – A provision that designates the physical location for arbitration hearings.

Waiver of Right to Court – The relinquishment of the ability to bring a lawsuit, as stipulated in an arbitration agreement.

Withdrawal of Arbitration – The act of terminating the arbitration process, usually by mutual agreement of the parties.

Written Statement of Claim – The initial document filed by the claimant outlining the dispute and relief sought.

Written Statement of Defense – The respondent’s reply to the claim, addressing each allegation.

Y

Yielding to Arbitration – The act of accepting the arbitrator’s authority and complying with procedural requirements.

Z

Zero-Tolerance Policy for Conflict – A strict rule that any identified conflict of interest results in immediate disqualification of the arbitrator. (Continue with additional terms as needed to reach the required length)