



ARBITRATOR CHALLENGE PROTOCOL

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This Protocol applies to objections and challenges to the appointment or continued service of arbitrators, exercised under any of the CPR Rules (the “Rules”).

Under this Protocol, “days” are business days in New York unless otherwise specified. The “CPR Challenge Officer” is the CPR Dispute Resolution Services LLC (“CPR”) professional to whom the CPR President assigns the responsibility of administering challenges and objections. The “Challenge Review Board” is that group of CPR Panelists, not fewer than 12, who have accepted appointments to serve on a pro bono basis, as provided in this Protocol. The “Challenge Review Committee” is that group of three members of the Challenge Review Board who, upon request by the CPR Challenge Officer, have agreed to decide challenges and objections with respect to a particular arbitration proceeding.

1. OBJECTIONS PRIOR TO ARBITRATOR APPOINTMENT

a. Grounds. As provided in the applicable Rules, a party may object to the appointment of any arbitrator candidate on grounds of lack of independence or impartiality. If CPR is required to make a determination on the objection for purposes of determining the appointment, the below procedures will apply.

b. Written Notice. As provided in the applicable Rules, a party may object to the appointment of an arbitrator candidate only by a notice in writing to CPR and given no later than the time period specified in the Rules. The notice shall state the reasons for the objection with specificity. If CPR is required to make a determination on the objection for purposes of determining the appointment, the CPR Challenge Officer may request a more formal written document from the objecting party.

c. Objections. Where CPR is required to make a determination on the objection for purposes of determining the appointment, the CPR Challenge Officer shall share the objection with the non-objecting party(ies) and advise the parties in writing that any non-objecting party may comment in writing within 10 days after receipt of such objection notice, or such other time frame that CPR deems appropriate. The comments shall be sent to the CPR Challenge Officer. The CPR Challenge Officer shall send all comments provided by the non-objecting party to all parties.

d. Requested Additional Information. The CPR Challenge Officer or a Challenge Review Committee may request additional information from the parties and arbitrator candidates, which will be shared with all parties.

2. CHALLENGE AFTER ARBITRATOR APPOINTMENT

a. Grounds. As provided in the applicable Rules, any arbitrator may be challenged if circumstances exist or arise that give rise to justifiable doubt regarding that arbitrator’s independence or impartiality. A party may challenge an arbitrator whom it has appointed only for reasons of which the party becomes aware after the appointment.

b. Written Notice. As provided in the applicable Rules, a party may challenge an arbitrator only by a notice in writing to CPR (Attention: CPR Challenge Officer) given no later than the time period specified in the Rules. The notice shall state the reasons for the challenge with specificity.

c. Challenges under CPR's Selection Processes. In the event of a challenge of an arbitrator selected as set forth in the applicable Rules, unless the Rules provide otherwise, copies of the challenge notice shall be sent only to the other parties and CPR (Attention: CPR Challenge Officer). The CPR Challenge Officer will redact the notice to preserve the integrity of the selection process before providing copies to Tribunal members. The CPR Challenge Officer shall advise the parties and the Tribunal in writing that any member of the Tribunal and any non-challenging party may comment in writing within 10 days after receipt of such CPR advising notice, or such other time frame that CPR deems appropriate. All comments shall be sent to the CPR Challenge Officer. The CPR Challenge Officer shall send the comments provided by a non-challenging party to the other parties (and shall send redacted copies to all the Tribunal members), and all comments by any member of the Tribunal to all parties and all the Tribunal members. All submissions to CPR under this section shall be provided to CPR in Microsoft Word format.

d. Requested Additional Information. The CPR Challenge Officer or a Challenge Review Committee may request additional information from the parties and Tribunal members.

3. OBJECTION AND CHALLENGE DECISION PROCEDURE

a. Voluntary or Unanimously Requested Withdrawal. A challenged arbitrator may withdraw voluntarily or at the request of all parties, which action shall not imply acceptance of the validity of the challenge.

b. CPR Challenge Officer. Absent a voluntary or unanimously requested withdrawal, the CPR Challenge Officer will refer the challenge or objection, where CPR is required to make a determination on the objection for purposes of determining the appointment, to the Challenge Review Committee.

c. Convening of Challenge Review Committee. Where the CPR Challenge Officer refers a challenge or objection to a Challenge Review Committee, the CPR Challenge Officer shall convene the Committee by designating two members and one chair. In requesting members of the Challenge Review Board to serve on a particular Challenge Review Committee, the CPR Challenge Officer shall disclose the identity of the parties to the dispute, their counsel, and the members of the Tribunal, so that the prospective Committee members may decline appointment in the event of conflicts.

d. Challenge Review Committee Decision Process. The CPR Challenge Officer shall provide a copy of the challenge or objection file to each Committee member as soon as possible after the expiration of the comment period. The Committee may meet in person, by telephone conference or videoconference, as the chair may decide. A decision shall require the affirmative vote of at least two members of the Committee and shall be communicated forthwith by the chair to the CPR Challenge Officer.

e. Decision. Every decision regarding a challenge or objection shall be made as expeditiously as possible. The decision shall be limited to either granting or overruling the challenge or objection without stating any reasons. Challenge and objection decisions shall be deemed to be of an administrative nature, final and non-reviewable.

4. ARBITRATOR'S FAILURE TO ACT

In the event that CPR is requested by either party under the applicable Rules to decide whether an arbitrator has failed to act or is prevented from performing the functions of an arbitrator, the CPR Challenge Officer will refer the matter to a Challenge Review Committee, following the procedure set forth in sections 1-3 above.

5. REPLACEMENT PROCEDURE

In the event of a successful challenge, a substitute arbitrator shall be selected in accordance with the applicable Rules.

6. CONFIDENTIALITY

CPR, the CPR Challenge Officer, the Challenge Review Committee, and any person who participates in an objection or challenge procedure will keep all information on the objection, the challenge, and the underlying arbitration (including its existence) as strictly confidential.

7. FEES

See <https://drs.cpradr.org/services/pricing-fees> for appropriate fees.