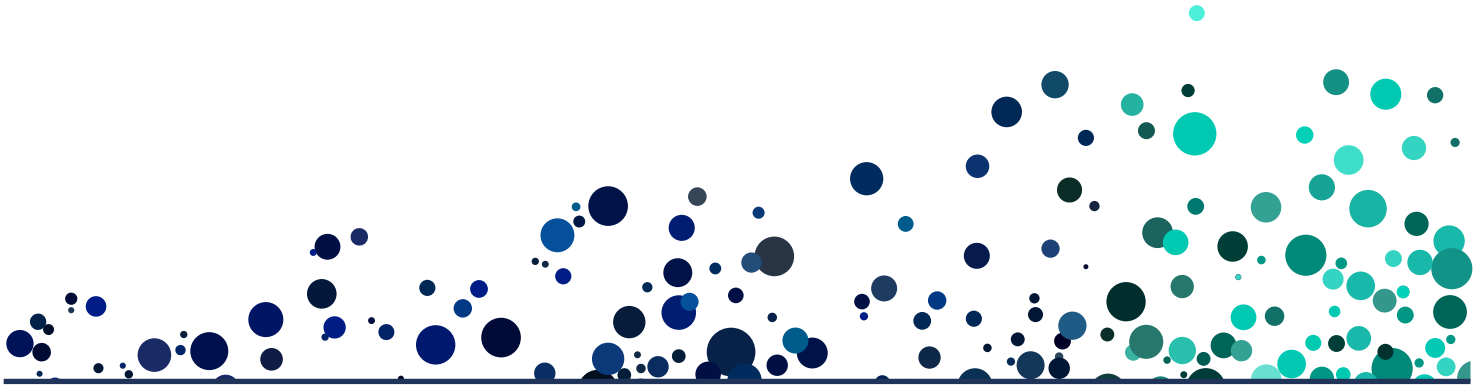
CPR
Dispute Resolution

Rules Comparison Chart

Commercial Rules

drs.cpradr.org/rules-comparison



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CPR Dispute Resolution

Rules Comparison Chart

Commercial Rules[1]

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This chart compares key provisions applied in domestic commercial arbitration by three of the major arbitral institutions: the International Institute for Conflict Prevention and Resolution (CPR), the American Arbitration Association (AAA), and JAMS. This is a simplified guide intended to provide an overview of the similarities and differences among these institutions' domestic commercial arbitration rules.

1 CPR offers rules for administering a variety of different types of disputes, as do other organizations. These other rules may differ in material respects from the commercial rules. To review CPR's Rules, please see **drs.cpradr.org/rules/arbitration** for a listing or reach out to us with any questions at **CPRNeutrals@cpradr.org.** This guide is not intended as a substitute for detailed legal advice as to the procedures and laws which govern a particular dispute. Advice should be sought when agreeing to arbitration and at any early stage of any dispute. This version is correct as of September 1, 2022.

CPR Dispute Resolution

Rules Comparison Chart Commercial Rules

TOPIC	CPR ADMINISTERED ARBITRATION RULES (2019)	AAA COMMERCIAL ARBITRATION RULES (2022)	JAMS COMPREHENSIVE ARBITRATION RULES (2021)
Confidentiality			
What matters are confidential?	Rule 20 Unless the parties agree otherwise, the parties, the arbitrators and CPR shall treat the proceedings, any related discovery and the decisions of the Tribunal, as confidential, except in connection with judicial proceedings ancillary to the arbitration, such as a judicial challenge to, or enforcement of, an award, and unless otherwise required by law or to protect a legal right of a party.	R-45 (a) Unless otherwise required by applicable law, court order, or the parties' agreement, the AAA and the arbitrator shall keep confidential all matters relating to the arbitration or the award. (b) Upon the agreement of the parties or the request of any party, the arbitrator may make orders concerning the confidentiality of the arbitration proceedings or of any other matters in connection with the arbitration and may take measures for protecting trade secrets and confidential information.	Rule 26(a) JAMS and the Arbitrator shall maintain the confidential nature of the Arbitration proceeding and the Award, including the Hearing, except as necessary in connection with a judicial challenge to or enforcement of an Award, or unless otherwise required by law or judicial decision.
Arbitrator Appointment			
What is the default number of arbitrators?	Rule 5.1.a Absent the parties' agreement on the number of arbitrators, in all cases in which the stated amount of the claim or counterclaim does not exceed $3 million, exclusive of interest or costs under Rule 19, a Tribunal shall consist of a sole arbitrator unless CPR, in its discretion, decides that three arbitrators shall be appointed due to the complexity of the case or other considerations. In all other cases, a Tribunal shall consist of three arbitrators.	L-2(a) Large, complex commercial cases shall be heard and determined by either one or three arbitrators. Absent the parties' agreement on the number of arbitrators, three arbitrators shall hear the case if a claim or counter-claim involves at least $3,000,000. If each claim and counterclaim is less than $3,000,000, then one arbitrator shall hear the case. (However, per R-17(a), the AAA may direct three arbitrators to be appointed for lower monetary amounts.)	Rule 7(a) The Arbitration shall be conducted by one neutral Arbitrator, unless all Parties agree otherwise.

TOPIC	CPR ADMINISTERED ARBITRATION RULES (2019)	AAA COMMERCIAL ARBITRATION RULES (2022)	JAMS COMPREHENSIVE ARBITRATION RULES (2021)
What is the default procedure for arbitrator appointment?	Rule 5 CPR's neutral selection procedures are party driven, and the parties select how their arbitrators will be chosen. In addition to any party-designated process, CPR provides two unique appointment processes: 1. The parties can receive a curated roster of neutrals, whereby the parties and/or CPR propose candidates who are then vetted for their rates, disclosures and availability up front. Thereafter, the parties may agree to any candidate, or rank them in order of preference, knowing that the selected neutral will be available and free of any conflicts. 2. Where parties do not choose a selection method, the default under the Administered Arbitration Rules is the GAR award winning "screened selection process" whereby the parties nominate "party appointed" candidates to CPR but CPR conducts all of the interface with the candidates so that they don't know that they were party appointed. The Chair is chosen through a list selection process, as described in #1 above, after a conference call to determine the parties' desired qualifications and timing.	R-13 The AAA default selection process is a strike and rank list, wherein the parties are provided with a shortlist of names created by AAA staff (generally 10 for a single arbitrator, 15 for a panel), based on suggested qualifications and dispute type. The parties may then agree on the neutrals, or in absence of any agreement, strike the names objected to and rank the remaining names in order of preference. The AAA may limit the number of strikes allowed. The highest ranked neutrals will be selected. The parties thereafter will have a period of time to review the disclosures and provide any objections to the appointment, for final determination by the AAA If any neutral cannot serve due to unavailability or conflict, the next name(s) from the list shall be selected. If there are no matches, the AAA may administratively appoint the neutral without issuing further lists.	Rule 15 Parties may agree on an arbitrator prior to commencing the arbitration. If the arbitrator is not available to serve, JAMS may suggest alternate arbitrators with similar experience. If an arbitrator has not been selected, the parties may do so via a list generated by JAMS consultants (min 5 names for a single arbitrator, 10 for a panel). Parties have limited strikes (2 for single arbitrator, 3 for a panel). If this process does not yield an arbitrator, JAMS may designate the arbitrator.

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Expedited Procedure			
When is expedited procedure applicable?	Expedited procedures do not apply by default. **Fast Track Administered Arbitration Rules (2020)** **Rule 1.1** Parties may opt in by including the Fast Track Administered Arbitration Rules in their arbitration agreement.	**R-1(b)** Unless the parties or the AAA determines otherwise, the Expedited Procedures shall apply in any case in which no disclosed claim or counterclaim exceeds $100,000, exclusive of interest, attorneys' fees, and arbitration fees and costs. Unless the parties agree otherwise, the Expedited Procedures will not apply in cases involving more than two parties.	**Rule 16.1** (b) Claimant or Respondent may opt into the Expedited Procedures. Claimant may opt in by indicating the election in the Demand for Arbitration, and Respondent may opt in by writing to JAMS with a copy to the Claimant served within 14 days of receipt of the Demand for Arbitration. If a Party opts into the Expedited Procedures, the other side shall indicate within 7 days of notice thereof whether it agrees to the Expedited Procedures. (c) If one Party elects the Expedited Procedures and any other Party declines to agree to the Expedited Procedures, each Party shall have a client or client representative present at the first Preliminary Conference, unless excused by the Arbitrator for good cause.

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Mediation			
Does mediation run in parallel with arbitration?	**Rule 21.2** With the consent of the parties, the Tribunal at any stage of the proceeding may request CPR to arrange for mediation. **Rule 21.3** At any point in the proceeding, CPR may also invite the parties to mediate. Any such mediation shall take place concurrently with the arbitration. **CPR Protocol for Concurrent Mediation-Arbitration (2020)** The mediation shall be conducted concurrently with the arbitration. Absent extraordinary circumstances, or the consent of all parties, the mediation shall not be a basis for delaying the issuance of an award. The Tribunal may in its discretion, however, modify the procedural timetable to accommodate the mediation.	**R-9** In all cases where a claim or counterclaim exceeds $75,000, upon the AAA's administration of the arbitration or at any time while the arbitration is pending, the parties shall mediate their dispute pursuant to the applicable provisions of the AAA's Commercial Mediation Procedures, or as otherwise agreed by the parties. Absent an agreement of the parties to the contrary, the mediation shall take place concurrently with the arbitration and shall not serve to delay the arbitration proceedings. However, any party to an arbitration may unilaterally opt out of this rule upon notification to the AAA and the other parties to the arbitration.	**Rule 28 (a)** The Parties may agree, at any stage of the Arbitration process, to submit the case to JAMS for mediation.
Time to Hearing			
When is a hearing conducted if Expedited Procedure does not apply?	**Rule 15.8.a** The dispute should in most circumstances be heard and submitted to the Tribunal for decision within six months after the initial pre-hearing conference.	**R-22** There are no time limits for the hearing to be held.	**Rule 19(a)** There are no time limits for the hearing to be held.

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When is a hearing conducted if Expedited Procedure applies?	**Fast Track Administered Arbitration Rules (2020)** The Rules do not specify the time limit for the hearing. The parties are free to specify any time period they mutually choose. But the default time limit for the overall arbitral proceeding is 90 days.	**E-7** If a hearing is to be held, the hearing shall take place within 60 days after the preliminary hearing or as otherwise agreed between the parties and the arbitrator. There is no set deadline for a preliminary hearing to be held.	**Rule 16.2** (g) & (i): The Hearing shall commence within 135 days after the Preliminary Conference, or 165 days if expert discovery is conducted. (j): The Arbitrator may alter Procedures for good cause.
Award			
Form of Award	**Rule 15.2** Written, reasoned award unless the parties agree otherwise.	**Rule R-48** Award shall be in writing. But, the arbitrator need not render a reasoned award, except upon written request before the arbitrator's appointment or unless arbitrator determines a reasoned award is appropriate.	**Rule 24(h)** The Award shall consist of a written statement signed by the Arbitrator regarding the disposition of each claim and the relief, if any, as to each claim. Unless all Parties agree otherwise, the Award shall also contain a concise written statement of the reasons for the Award.
When is an award issued if Expedited Procedure does not apply?	**Rule 15.8** a. The final award should in most circumstances be submitted by the Tribunal to CPR within two months after the close of the proceedings. b. CPR must approve any scheduling orders or extensions that would result in a final award being rendered more than 12 months after the initial pre-hearing conference. When such approval is required, CPR in its discretion may convene a call with the parties and arbitrators to discuss factors relevant to such request	**R-47** The award shall be made promptly by the arbitrator and, unless otherwise agreed by the parties or specified by law, no later than 30 calendar days from the date of closing the hearing, or, if oral hearings have been waived, from the due date set for receipt of the parties' final statements and proofs.	**Rule 24(a)** The Arbitrator shall render a Final Award or a Partial Final Award within 30 calendar days after the date of the close of the Hearing, or the receipt by the Arbitrator of all materials specified by the Parties, except (1) by the agreement of the Parties; (2) upon good cause for an extension of time to render the Award; or (3) the Arbitrator reopens the Hearing as provided in Rule 22(i).

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When is an award issued if Expedited Procedure applies?	**Fast Track Administered Arbitration Rules (2020)** **Rule 1.4** If the parties have not agreed on a period within which the award should be rendered, the arbitration shall be conducted in accordance with a procedural timetable providing for the Tribunal's delivery of an award to CPR within 90 days following the constitution of the Tribunal.	**E-9** Unless otherwise agreed by the parties, the award shall be rendered not later than 14 calendar days from the date of the closing of the hearing, or, if oral hearings have been waived, from the due date established for the receipt of the parties' final statements and proofs.	Not addressed by Rule 16.2 (Where Expedited Procedures Are Applicable).
Arbitration Costs			
How is administrative fee structured?	Sliding scale of fees based on the total amount in controversy, ranging from $4,000 to $34,000 (for claims over $500 million). There are no separate fees for counterclaims or additional parties. NOTE: CPR reserves the right to charge an additional administrative fee. The Administrative Fee is based on the delivery of the final award by the Tribunal to CPR for review within 12 months after the Rule 9.3 Pre-hearing Conference. Thereafter, CPR may charge an additional administrative fee of $2,000 for each additional 6-month period.	Filing fees vary based on the amount of your dispute and the rules the parties are proceeding under. Under the Commercial Rules, fees range from $1,725 for the smallest claims up to a cap of $84,250 (exclusive of Additional Party Fees). A separate initial filing fee and administrative fee are due for any counterclaims or cross claims, using same sliding scale. If parties request panel of 3 or more arbitrators, minimum fees are $8,250. Additional Party Fees: For cases with more than 2 separately represented parties, an additional 10% of the fee will be charged for each additional party, up to 50% unless more than 10 parties. NOTE: AAA has a Flexible Fee payment schedule, an initial filing fee and proceed fee which are due 90 days apart and both must be paid prior to commencement of the administration by the AAA. The initial fee is lower at the outset, but total fees are higher.	For two-party matters, the Filing Fee is $1,750. For matters involving three or more parties, the filing fee is $3,000. JAMS also charges a $1,750 filing fee for counterclaims. Thereafter, a Case Management Fee of 13% will be assessed against all Professional Fees, including time spent for hearings, pre- and post-hearing reading and research and award preparation.

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Disposition of a Claim			
How is early disposition treated?	**Rule 9.3.b** When holding an initial pre-hearing conference, the tribunal may discuss the possibility of early disposition. **Rule 12.6** a. A party may make a preliminary application to the Tribunal to file a motion for early disposition. c. The tribunal shall determine whether there is a reasonable likelihood that hearing the motion for early disposition may result in increased efficiency in resolving the overall dispute while not unduly delaying the rendering of a final award. e. The tribunal should in most circumstances render a decision on the motion for early disposition within 60 days of the date of the motion. **CPR Guidelines on Early Disposition of Issues in Arbitration** The Guidelines address the circumstances under which it may be appropriate for a tribunal to undertake early disposition of issue(s).	**R-34** a. The arbitrator may allow the filing of and make rulings upon a dispositive motion only if the arbitrator determines that the moving party has shown that the motion is likely to succeed and to dispose of or narrow the issues in the case. b. Consistent with the goal of achieving an efficient and economical resolution of the dispute, the arbitrator shall consider the time and cost associated with the briefing of a dispositive motion in deciding whether to allow any such motion. c. Fees, expenses, and compensation associated with a motion or an application to make a motion may be assessed as provided for in Rule R-49(c).	**Rule 18** The Arbitrator may permit any Party to file a Motion for Summary Disposition of a particular claim or issue, either by agreement of all interested Parties or at the request of one Party, provided other interested Parties have reasonable notice to respond to the request. The Request may be granted only if the Arbitrator determines that the requesting Party has shown that the proposed motion is likely to succeed and dispose of or narrow the issues in the case.

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Cybersecurity			
How is cybersecurity addressed or featured?	**Rule 9.3.f** When holding an initial pre-hearing conference, the tribunal may discuss the possibility of implementing steps to address issues of cybersecurity and to protect the security of information in the arbitration.	**P-2(a)** A suggested checklist for the Preliminary Hearing includes (vi) issues related to cybersecurity, privacy, and data protection to provide for an appropriate level of security and compliance in connection with the proceeding.	Not addressed
Discovery/Disclosure			
Do the rules address discovery?	**Rule 11** Discovery to be agreed upon or ordered by arbitrator(s) – "The Tribunal may require and facilitate such discovery as it shall determine is appropriate in the circumstances, taking into account the needs of the parties and the desirability of making discovery expeditious and cost-effective."	**Rule R-23** The arbitrator shall manage any necessary exchange of information among the parties with a view to achieving an efficient and economical resolution of the dispute, while at the same time promoting equality of treatment and safeguarding each party's opportunity to fairly present its claims and defenses.	**Rule 17(a)** The Parties shall cooperate in good faith in the voluntary and informal exchange of all non-privileged documents and other information (including electronically stored information ("ESI")) relevant to the dispute or claim immediately after commencement of the Arbitration. They shall complete an initial exchange of all relevant, non-privileged documents, including, without limitation, copies of all documents in their possession or control on which they rely in support of their positions, and names of individuals whom they may call as witnesses at the Arbitration Hearing, within twenty-one (21) calendar days after all pleadings or notice of claims have been received. The Arbitrator may modify these obligations at the Preliminary Conference.

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Do the rules address depositions?	**Rule 11** To be agreed upon by parties or ordered by arbitrator(s).	Regular rules do not provide for depositions. **Large, Complex Commercial Disputes, Rule L-3 (f)** In exceptional cases, at the discretion of the arbitrator, upon good cause shown and consistent with the expedited nature of arbitration, the arbitrator may order depositions to obtain the testimony of a person who may possess information determined by the arbitrator to be relevant and material to the outcome of the case. The arbitrator may allocate the cost of taking such a deposition.	**Rule 17(b)** Each Party may take one deposition of an opposing Party or of one individual under the control of the opposing Party. The Parties shall attempt to agree on the time, location and duration of the deposition. If the Parties do not agree, these issues shall be determined by the Arbitrator. The necessity of additional depositions shall be determined by the Arbitrator based upon the reasonable need for the requested information, the availability of other discovery options and the burdensomeness of the request on the opposing Parties and the witness.
How do arbitral institutions seek to control discovery costs?	**CPR Protocol on Disclosure of Documents & Presentation of Witnesses in Commercial Arbitration** The Protocol provides different "modes" of disclosure and presentation of witnesses, ranging from minimal to extensive, so that the parties to an agreement to arbitrate may choose, at the time of entering into their agreement or thereafter, the general way in which their arbitration proceedings will be conducted in the important areas of document disclosure and witness presentation.	AAA has published Discovery Best Practices for Construction Arbitration and Initial Discovery Protocols for Employment Arbitration Cases, but it has not yet published similar document for commercial cases.	JAMS has Recommended Arbitration Discovery Protocols for Domestic, Commercial Cases. Exhibit A to the Protocols lists 27 factors which arbitrators might properly consider when making sound subjective judgments as to the appropriate scope of discovery. Document requests should be limited to those that are directly relevant to significant issues in the case or to the case's outcome.

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Appeal[2]			
When is the appellate procedure applicable?	**Appellate Arbitration Procedure (2015)** **Rule 1.1** The parties to any binding arbitration conducted in the United States must agree in writing in order for a party to file an appeal under the CPR Arbitration Appeal Procedure.	**Optional Appellate Arbitration Rules (2013)** **A-1** Rules are applicable when, by stipulation or in their contract, the parties have provided for the appeal of an arbitration award rendered under the auspices of the AAA, or have otherwise provided for these Appellate Arbitration Rules.	**Rule 34** The Parties may agree at any time to the JAMS Optional Arbitration Appeal Procedure. All Parties must agree in writing for such procedure to be effective.
What is the standard of review?	**Appellate Arbitration Procedure (2015)** **Rule 8.2** The Tribunal may issue an Appellate Award modifying or setting aside the Original Award only on the following grounds: a. That the Original Award (i) contains material and prejudicial errors of law of such a nature that it does not rest upon any appropriate legal basis, or (ii) is based upon factual findings clearly unsupported by the record; or b. That the Original Award is subject to one or more of the grounds set forth in Section 10 of the Federal Arbitration Act for vacating an award. The Tribunal does not have the power to remand the award.	**Optional Appellate Arbitration Rules (2013)** **A-10** A party may appeal on the grounds that the Underlying Award is based upon: (1) an error of law that is material and prejudicial; or (2) determinations of fact that are clearly erroneous.	**JAMS Optional Arbitration Appeal Procedure (2003)** (d) The Appeal Panel will apply the same standard of review that the first-level appellate court in the jurisdiction would apply to an appeal from the trial court decision.

2 Appellate Rules and Procedures in arbitration do not apply automatically: parties must opt in to using any form of Appellate Rules or Procedures.

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Diversity, Equity & Inclusion			
How is DEI addressed or featured?	**CPR has signed on to the 2020 Diversity Commitment** to facilitate the selection of diverse neutrals, CPR will endeavor to include diverse neutrals on any slate of candidates we are asked to provide to the parties, to provide a slate that is made up of at least 30% diverse candidates, and when given the opportunity to make a default appointment, to appoint at least 30% diverse neutrals. **Diversity Commitment Clause (excerpt)** "The parties agree that however the arbitrators are designated or selected, at least one member of any tribunal of three arbitrators shall be a member of a diverse group, such as women, persons of color, members of the LGBTQ community, disabled persons, or as otherwise agreed to by the parties to this Agreement at any time prior to appointment of the tribunal. Where CPR is to nominate or select the arbitrators, CPR will convene the parties to discuss the selection. In the event the parties desire multiple qualifications, if CPR is unable to accommodate a qualification specified by the parties and diversity, CPR may use its discretion to nominate or appoint a diverse candidate or candidates to serve on the tribunal."	Not addressed.	Sample diversity and inclusion clause for arbitration agreements and contracts: "The parties agree that, wherever practicable, they will seek to appoint a fair representation of diverse arbitrators (considering gender, ethnicity and sexual orientation), and will request administering institutions to include a fair representation of diverse candidates on their rosters and list of potential arbitrator appointees."

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Do the rules address meaningful participation by junior lawyers?	Rule 12.5 The Tribunal may encourage lead counsel to permit more junior lawyers with significantly less arbitration experience than lead counsel to examine witnesses at the hearing and present argument. The Tribunal, in its discretion, may permit experienced counsel to provide assistance or support, where appropriate, to a lawyer with significantly less experience during the examination of witnesses or argument.	Not addressed.	Not addressed.