



Alternative Dispute Resolution (ADR) - Overview and Guidelines

PURPOSE OF THE PROGRAM

The Lancaster Bar Association (LBA) is administering a Mediation and Arbitration Program as a service to the members of the LBA and to the public to provide an efficient and less adversarial means of resolving disputes than litigation. The program is available for civil disputes, except matters that are not appropriate for mediation or arbitration under applicable law. Criminal matters are not eligible.

Alternative dispute resolution (ADR) refers to methods used to resolve legal disputes without going to court. These processes are typically faster, less formal, less expensive, and less stressful than traditional litigation.

DEFINITIONS

- **MEDIATION AND THE MEDIATOR'S ROLE**

Mediation is a voluntary and confidential process in which a neutral third party (the "Mediator") assists parties in resolving a dispute through communication, negotiation, and compromise. The Mediator facilitates discussion, helps the parties identify issues and interests, and encourages mutually acceptable solutions.

The Mediator does not decide the outcome of the dispute and does not act as a judge, attorney, or advocate for either party. Resolution of the dispute rests solely with the parties, and any agreement reached through mediation is voluntary.

Parties are encouraged, but not required, to be represented by legal counsel. The Mediator cannot provide legal advice to any party. Although a Mediator may be a licensed attorney and a member of the LBA, no attorney-client relationship or privilege is created between the Mediator and any party.

All individuals necessary to resolve the matter should attend the mediation session, including insurance representatives when appropriate.

Neither the Mediator nor the LBA shall be liable for any act or omission related to the mediation process or administration of the program.

Mediation communications are strictly confidential, except as otherwise required by law or agreed by the parties.

- **ARBITRATOR AND ARBITRATOR’S ROLE**

Arbitration is a more formal alternative dispute resolution process in which a neutral third party (the “Arbitrator”) hears evidence and arguments presented by the parties and issues a decision to resolve the dispute. Arbitration is generally faster and less formal than traditional litigation.

The Arbitrator may review documents, hear testimony, establish procedural ground rules, and issue a final and binding decision. Unlike mediation, the Arbitrator determines the outcome of the dispute rather than facilitating a negotiated agreement between the parties.

Although arbitration is private, it is not strictly confidential because an arbitration award or decision may be filed with a court.

The Arbitrator does not represent or advocate for any party. Although an Arbitrator may be a licensed attorney and a member of the LBA, no attorney-client relationship or privilege is created between the Arbitrator and any party.

Neither the Arbitrator nor the LBA shall be liable for any act or omission related to the arbitration process or administration of the program.

DIFFERENCES BETWEEN MEDIATION AND ARBITRATION

Mediation and arbitration are both forms of alternative dispute resolution, but they differ in several important respects.

Mediation is an informal and collaborative process in which the parties work toward a voluntary resolution with the assistance of a neutral mediator. The mediator does not impose a decision, and the parties retain full control over the outcome.

Arbitration is more formal and resembles a simplified trial. The arbitrator reviews evidence and arguments presented by the parties and issues a decision that is final and binding.

Both processes offer significant advantages, and the most appropriate option depends on the nature of the dispute and the goals of the parties. Under the LBA’s program, parties may choose either mediation or arbitration based on their specific needs.

FEES

Initial Filing Fee

The filing fee of \$1,150, payable to the LBA, includes:

- \$950 for up to three (3) hours of mediation/arbitration services; and
- \$200 as a non-refundable administrative fee payable to the LBA.

Unless otherwise agreed by the parties, the filing fee shall be divided equally between them.

Refunds/Additional Fees

The initial \$950 mediator/arbitrator fee is refundable only until a mediator or arbitrator has been appointed. Once a mediator or arbitrator is appointed, the \$950 fee becomes non-refundable.

The initial fee includes up to three (3) hours for review, preparation, and the initial mediation or arbitration session. If additional time is required, the parties agree to pay the mediator's or arbitrator's hourly rate, divided equally unless otherwise agreed by the parties and the mediator/arbitrator. The applicable hourly rate shall be provided to the parties before the first session.

The mediator or arbitrator may also charge for time spent preparing for additional sessions, reviewing materials, or for reasonable expenses incurred in connection with the mediation or arbitration.

Any party may withdraw from mediation at any time.

Expenses

Any expenses of the mediation/arbitration process incurred by the mediator or arbitrator, such as travel outside of Lancaster County if required, and/or photocopies, shall likewise be borne equally by the parties. The Mediator/Arbitrator shall disclose any such fees or anticipated expenses prior to the start of the process.

HOW TO INITIATE A CASE

Step 1 – Determine the Appropriate Process

The parties must first decide whether they wish to proceed through:

- Mediation; or
- Arbitration.

Step 2 – Complete the Required Forms

Submit the following to the LBA:

For Mediation:

- Request for Mediation Form; and
- Signed Mediation Agreement.

For Arbitration:

- Request for Arbitration Form; and
- Signed Arbitration Agreement.

Step 3 – Pay the Filing Fee

A filing fee of \$1,150, payable to the LBA, must accompany the submission. Unless otherwise agreed by the parties, the fee will be divided equally.

Step 4 – Select a Mediator or Arbitrator

After receiving the completed forms and fee, the LBA will provide the parties with a list of approved panelists.

The parties will select a mediator or arbitrator in accordance with the Selection of Mediator/Arbitrator section below.

Step 5 – Schedule the Session

The LBA will assist with scheduling and conference room arrangements. An additional facility fee of \$175 - \$675 per day, depending on room requirements, shall be paid to the LBA before the first session.

SELECTION OF MEDIATOR/ARBITRATOR

After the parties submit the required forms and filing fee, the LBA will provide the parties with a roster of approved mediators and arbitrators.

The parties shall have twenty (20) days from the date of submission to mutually select a mediator or arbitrator from the approved panel list. Once selected, the parties shall promptly notify the LBA of their choice.

If the parties are unable to agree upon a mediator or arbitrator within twenty (20) days, the LBA shall appoint one from the approved panel using a rotating and randomized assignment process.

After appointment, the mediator or arbitrator will coordinate scheduling with the parties, usually by a preliminary conference call. During that conference, the mediator/arbitrator will typically:

- Explain the mediation or arbitration process;
- Establish procedural ground rules;
- Identify necessary participants;
- Determine what information or documents should be exchanged before the session;
- Set deadlines for mediation statements or pre-hearing submissions; and
- Schedule the date and time of the session.

CONFLICTS OF INTEREST AND IMPARTIALITY

Mediators and arbitrators must remain impartial throughout the mediation or arbitration process.

Before accepting an appointment, and throughout the proceeding, a mediator or arbitrator shall promptly disclose to the parties and the LBA any actual or potential conflict of interest or any circumstance that could reasonably call the individual's impartiality into question.

If a mediator or arbitrator determines that a conflict of interest exists that would prevent the fair and impartial administration of the proceeding, the mediator or arbitrator shall decline the appointment or withdraw from the matter.

Following disclosure, the parties may agree in writing to waive a disclosed conflict and proceed with the selected mediator or arbitrator, provided the mediator or arbitrator believes they can remain impartial. If the mediator or arbitrator declines the appointment or withdraws, the LBA shall appoint a replacement in accordance with these Guidelines.

Professional Conduct

Mediators and arbitrators shall conduct all proceedings fairly, impartially, and with professionalism. They shall avoid the appearance of impropriety, maintain the confidentiality of information as required by these Guidelines, and perform their duties in accordance with applicable law and generally accepted ethical standards governing alternative dispute resolution.

PANEL ELIGIBILITY REQUIREMENTS

Attorney Panelists

To serve on an LBA mediation or arbitration panel, an applicant must:

1. Be licensed to practice law;
2. Be in good standing with the LBA;
3. Have at least ten (10) years of legal practice experience;
4. Maintain professional liability insurance covering ADR services; and
5. Meet all applicable training requirements.

TRAINING REQUIREMENTS

Mediators and arbitrators must comply with all training and continuing education requirements established by the LBA ADR Program.

Basic Training

Applicants who meet the panel eligibility requirements may apply to participate in an LBA-approved basic mediation training program. Completion of at least forty (40) hours of approved training is required before appointment to an LBA panel, including instruction in:

- Communication skills;
- Negotiation techniques;
- Conflict resolution;
- The mediation process;
- Ethics and neutrality; and
- Role-playing exercises.

Any person meeting the above practice requirement may apply to the ADR Program Committee to be part of the next class of mediators and arbitrators to participate in the ADR Program's mandated training. The mandated training, required by the ADR Program, shall consist of a minimum of forty (40) hours of training by a certified instructor, approved by the LBA. Basic mediation training shall be a prerequisite for becoming a mediator or arbitrator on the approved listing to be maintained by the ADR Program Committee. A list of approved training programs is available on the LBA's website.

Additional Arbitrator Qualifications

Arbitrators should demonstrate knowledge and experience relating to:

- Hearing procedures;

- Rules of evidence;
- Arbitration procedures;
- Drafting written decisions; and
- Managing difficult parties and proceedings.

Prior experience serving on court arbitration panels is preferred.

Core Competencies

All mediators and arbitrators should demonstrate:

- Neutrality and impartiality;
- Professionalism;
- Cultural competence and sensitivity; and
- Respect for the ADR process.

Applicants should demonstrate prior mediation or arbitration experience acceptable to the ADR Committee.

Family Law Panelists

Panelists handling family law matters must complete additional training in family law mediation, including:

- At least twenty (20) additional hours of divorce/custody mediation training; and
- At least five (5) hours of domestic violence training.

This training shall be in addition to the required forty (40) hours of basic mediation training.

Panel Applications and Fees

Applications shall be submitted to the Lancaster Bar Association in a form approved by the LBA. Additional information and approved training programs are available on the LBA website.

The LBA reserves the right to interview applicants, request proof of training or CLE compliance, and determine eligibility for panel placement. Decisions regarding panel placement are final.

A non-refundable application fee of \$150 is required for each panel application and annual renewal. Applicants may select up to three (3) practice panels. Additional panels may be selected for an additional fee of \$10 per panel.

Panel Maintenance and Removal

The LBA shall maintain and periodically update its mediator and arbitrator panel lists.

Panelists who fail to maintain required training, insurance, certifications, or fees may be removed from the panel. Reinstatement shall require submission of a new application and proof of compliance with all program requirements. The decision of the ADR Committee shall be final.

Training Waivers

An applicant may request a waiver of the training requirements under exceptional circumstances. The applicant bears the burden of demonstrating that prior training or experience is substantially equivalent to the LBA's requirements. Waiver requests shall be reviewed by the ADR Committee in accordance with the ADR Committee's internal procedures. The Committee's decision shall be final and non-appealable. Any applicant receiving a waiver must still complete any LBA-specific orientation or procedural training required for participation in the ADR program.

ANNUAL RENEWAL REQUIREMENTS

All mediators and arbitrators must annually:

- Provide proof of current professional liability insurance covering ADR services;
- Certify compliance with all program requirements;
- Identify the practice areas in which they seek referrals; and
- Pay all required renewal fees.

In addition, panelists must complete at least four (4) hours of continuing education related to mediation or arbitration annually, including at least one (1) hour through an LBA-approved program. One (1) hour of ethics training is required during each twelve-month reporting period.

LBA RESPONSIBILITIES

The LBA Director of Programs and/or Executive Director shall develop, approve, and periodically amend the procedures for administering the ADR Program, to select the approved list of mediators and arbitrators which is to be made available through the ADR Program, and to oversee administration of the ADR Program. The LBA Director of Programs and/or Executive Director shall perform the functions necessary to administer the ADR Program and maintain the approved lists of mediators and arbitrators.

Adopted 9/17/2026.

