

Neutral Arbitrators: Special Ethical Issues and General Parameters of Conduct

1. Introduction

Neutral arbitrators play a critical role in the administration of justice within alternative dispute resolution (ADR). Their duty is to ensure fairness, impartiality, and integrity in resolving disputes outside traditional court systems. Because arbitration relies heavily on trust in the arbitrator's neutrality, ethical conduct is paramount.

This document outlines the special ethical issues faced by neutral arbitrators and establishes general parameters of conduct to guide their professional behavior.

2. Core Ethical Principles

2.1 Impartiality

Arbitrators must remain unbiased and avoid favoritism toward any party. Decisions should be based solely on the evidence and arguments presented.

2.2 Independence

Arbitrators must be free from external influence, whether financial, professional, or personal. Any relationships that may affect independence must be disclosed.

2.3 Integrity

Honesty and moral soundness are essential. Arbitrators must act in good faith and uphold the integrity of the arbitration process.

2.4 Competence

Arbitrators must possess the necessary legal knowledge, skill, and experience to handle the dispute effectively.

2.5 Confidentiality

Information obtained during arbitration must not be disclosed unless required by law or agreed upon by the parties.

3. Special Ethical Issues

3.1 Conflict of Interest

Arbitrators must disclose any actual or potential conflicts of interest prior to accepting appointment and throughout the proceedings. Failure to disclose may undermine the legitimacy of the process.

3.2 Ex Parte Communications

Arbitrators must avoid private communications with one party without the knowledge and participation of the other party, except in limited procedural circumstances agreed upon by all parties.

3.3 Bias and Appearance of Bias

Even the appearance of bias can damage credibility. Arbitrators must avoid situations that may create reasonable doubts about their neutrality.

3.4 Repeat Appointments

Frequent appointments by the same party or counsel may create perceived bias. Arbitrators must assess whether such relationships compromise their neutrality.

3.5 Fee Arrangements

Fees must be fair, transparent, and not contingent on the outcome of the case. Arbitrators should disclose fee structures in advance.

3.6 Confidentiality vs. Transparency

While confidentiality is fundamental, arbitrators must balance it against legal obligations such as disclosure requirements or enforcement proceedings.

3.7 Cultural and Legal Diversity

In international arbitration, arbitrators must be sensitive to cultural differences and varying legal traditions to ensure fairness.

3.8 Duty to Act Diligently

Delays or negligence can prejudice parties. Arbitrators must conduct proceedings efficiently and responsibly.

4. General Parameters of Conduct

4.1 Acceptance of Appointment

- Accept appointments only when qualified and available.

- Disclose any circumstances that may affect impartiality.

4.2 Conduct During Proceedings

- Treat all parties equally and respectfully.
- Ensure each party has a fair opportunity to present its case.
- Maintain order and professionalism in hearings.

4.3 Decision-Making

- Base decisions solely on evidence and applicable law.
- Provide reasoned awards unless otherwise agreed.
- Avoid undue delay in issuing decisions.

4.4 Communication

- Communicate transparently with all parties.
- Avoid informal or undisclosed interactions with any party.

4.5 Confidential Handling of Information

- Protect sensitive information obtained during proceedings.
- Do not use confidential information for personal gain.

4.6 Post-Award Conduct

- Avoid actions that may cast doubt on the integrity of the award.
- Do not exploit the arbitration outcome for personal or professional advantage.

5. Enforcement and Accountability

Arbitrators may be subject to institutional rules, professional codes, and national laws. Violations of ethical standards may result in removal, challenge, or reputational damage.

6. Conclusion

Ethical conduct is the cornerstone of effective arbitration. Neutral arbitrators must consistently uphold principles of impartiality, independence, and integrity while navigating

complex ethical challenges. Adhering to these general parameters of conduct ensures trust in the arbitration process and promotes fair dispute resolution.

7. References (Suggested)

- UNCITRAL Model Law on International Commercial Arbitration
- International Bar Association (IBA) Guidelines on Conflicts of Interest in International Arbitration
- ADR Global Code of Ethics for Arbitrators