

Georgian Association of Arbitrators

Code of Ethics for Arbitrators

Preamble

This Code sets forth generally accepted standards of ethical conduct for the guidance of arbitrators, in the hope of contributing to the maintenance of high standards and continued confidence in the process of arbitration. Persons who act as arbitrators therefore undertake serious responsibilities to the parties, as well as to the other participants in the arbitration process, to the public and to the process itself. Those responsibilities include important ethical obligations.

This Code is intended to apply to all such proceedings in which disputes are submitted for final determination to one or more arbitrators of the GAA. This code also applies if incorporated by an agreement of the parties, by applicable arbitration rules, or by law. In all such cases, the arbitrators should observe standards of ethical conduct defined by this code.

This code of ethics aims to provide the standards of ethical conduct for arbitrators and sets forth the obligation of arbitrators to uphold the integrity and fairness of the arbitration process, to keep neutrality, impartiality and independence of the arbitration process, and to disclose any interests or relationships which might affect impartiality. It also defines the rules of proper communication with the parties, their councils and other participants of the process, and promotes arbitration as a cost-effective process.

PRINCIPLE I: AN ARBITRATOR SHOULD UPHOLD THE INTEGRITY AND FAIRNESS OF THE ARBITRATION PROCESS.

1. An arbitrator must observe high standards of conduct so that the integrity and fairness of the process will be preserved.
2. One should accept appointment as an arbitrator only if fully satisfied:
 - a) that he or she can serve impartially;
 - b) that he or she can serve independently from the parties, potential witnesses, and the other arbitrators;
 - c) that he or she is competent to serve; and

d) that he or she can be available to commence the arbitration in accordance with the requirements of the proceeding and thereafter to devote the time and attention to its completion.

3. After accepting appointment and while serving as an arbitrator, a person should avoid entering into any business, professional, or personal relationship, or acquiring any financial or personal interest, which is likely to affect impartiality or which might reasonably create the appearance of partiality. For a reasonable period of time after the decision of a case, persons who have served as arbitrators should avoid entering into any such relationship, or acquiring any such interest, in circumstances which might reasonably create the appearance that they had been influenced in the arbitration by the anticipation or expectation of the relationship or interest.
4. Arbitrators should conduct themselves in a way that is fair to the parties and should not be swayed by self-interest, outside pressure or any other influence.
5. When an arbitrator's authority is derived from the agreement of the parties, an arbitrator should neither exceed that authority nor do less than is required to exercise that authority completely. Where the agreement of the parties sets forth procedures to be followed in conducting the arbitration or refers to rules to be followed, it is the obligation of the arbitrator to comply with such procedures or rules. An arbitrator has no ethical obligation to comply with any agreement, procedures or rules that are unlawful or that would be inconsistent with this Code.
6. An arbitrator should make all reasonable efforts to keep all parties informed of the process and to prevent delaying tactics, harassment of parties or other participants, unequal treatment or other disruption of the arbitration process.
7. The ethical obligations of an arbitrator begin upon acceptance of the appointment and continue until the end of the proceeding. In addition, as set forth in this Code, certain ethical obligations begin as soon as a person is requested to serve as an arbitrator and certain ethical obligations continue after the decision in the proceeding has been given to the parties.
8. Once an arbitrator has accepted an appointment, the arbitrator should not withdraw or abandon the appointment unless compelled to do so by unanticipated circumstances that would render it impossible to continue. When an arbitrator is to be compensated for his or her services, the arbitrator may withdraw if the parties fail or refuse to provide for payment of the compensation as agreed.

9. An arbitrator who withdraws prior to the completion of the arbitration because of any reasons should take reasonable steps to protect the interests of the parties in the arbitration, including return of evidentiary materials and protection of confidentiality.

PRINCIPLE 2: AN ARBITRATOR SHOULD DISCLOSE ANY INTEREST OR RELATIONSHIP LIKELY TO AFFECT IMPARTIALITY OR WHICH MIGHT CREATE AN APPEARANCE OF PARTIALITY.

1. Person who is requested to serve as arbitrators should, before accepting, disclose:
 - a) any known direct or indirect financial or personal interest in the outcome of the arbitration;
 - b) any known existing or past financial, business, professional or personal relationships which might reasonably affect impartiality or lack of independence in the eyes of any of the parties. Prospective arbitrators should disclose any such relationships which they personally have with any party or its lawyer, with any co-arbitrator, or with any individual whom they have been told will be a witness. They should also disclose any such relationships involving their families or household members or their current employers, partners, or professional or business associates that can be ascertained by reasonable efforts;
 - c) the nature and extent of any prior knowledge they may have of the dispute; and
 - d) any other matters, relationships, or interests which they are obligated to disclose by the agreement of the parties, the rules of an institution, or applicable law.
2. Persons who are requested to accept appointment as arbitrators should make a reasonable effort to inform themselves of any interests or relationships described in paragraph 1.
3. If arbitrator, after the arbitration proceeding, is informed about the interests or relationships described in paragraph 1, he or she shall disclose any such interests or relationships which may arise, or which are discovered as soon as practicable.
4. Any doubt as to whether or not disclosure is to be made should be resolved in favor of disclosure.
5. Disclosure should be made to the arbitration institution (if there is any) and to all parties unless other procedures for disclosure are provided in the agreement of the

parties, applicable rules of an institution, or by law. Where more than one arbitrator has been appointed, each should inform the others of all matters disclosed.

6. Disclosures made by an arbitrator shall not be used by one of the parties as a ground for challenging the arbitration award if the parties have agreed to appoint the arbitrator even after the disclosures or the parties have not referred to this issue.

7. If an arbitrator has doubt about his/her impartiality and independence, he/she should not accept an appointment. Additionally, an arbitrator should withdraw from serving in an ongoing arbitration proceeding if he/she becomes aware of information that causes doubt about his/her impartiality and independence after the proceeding has already commenced.

8. If an arbitrator is requested by all parties to withdraw, the arbitrator must do so. If an arbitrator is requested to withdraw by less than all of the parties because of alleged partiality, the arbitrator should withdraw unless either of the following circumstances exists:

a) A agreement of the parties, or arbitration rules agreed to by the parties, or applicable law establishes procedures for determining challenges to arbitrators, in which case those procedures should be followed; or

b) In the absence of applicable procedures, if the arbitrator, after carefully considering the matter, determines that the reason for the challenge is not substantial, and that he or she can nevertheless act and decide the case impartially and fairly.

9. If compliance by a prospective arbitrator with any provision of this Code would require disclosure of confidential or privileged information, the prospective arbitrator should either:

a) Secure the consent to the disclosure from the person who furnished the information or the holder of the privilege; or

b) Withdraw.

PRINCIPLE III: AN ARBITRATOR SHOULD AVOID IMPROPRIETY OR THE APPEARANCE OF IMPROPRIETY IN COMMUNICATING WITH PARTIES.

1. If an agreement of the parties or applicable arbitration rules establishes the manner or content of communications between the arbitrator and the parties, the arbitrator should follow those procedures notwithstanding any contrary provision of paragraphs 2 and 3.

2. An arbitrator should not discuss a proceeding with any party in the absence of any other party, except in any of the following circumstances:

a) When the appointment of a prospective arbitrator is being considered, the prospective arbitrator:

- may ask about the identities of the parties, counsel, or witnesses and the general nature of the case; and

- may respond to inquiries from a party or its counsel designed to determine his or her suitability and availability for the appointment. In any such dialogue, the prospective arbitrator may receive information from a party or its counsel disclosing the general nature of the dispute but should not permit them to discuss the merits of the case.

b) Discussions may be had with a party concerning such logistical matters as setting the time and place of hearings or making other arrangements for the conduct of the proceedings. The arbitrator should promptly inform each other party of the discussion and should not make any final determination concerning the matter discussed before giving each absent party an opportunity to express the party's views; or

c) If a party fails to be present at a hearing after having been given due notice, or if all parties expressly consent in writing, the arbitrator may discuss the case with any party who is present.

3. Unless otherwise provided in applicable arbitration rules or in an agreement of the parties, whenever an arbitrator communicates in writing with one party, the arbitrator should at the same time send a copy of the communication to every other party, and whenever the arbitrator receives any written communication concerning the case from one party which has not already been sent to every other party, the arbitrator should send or cause it to be sent to the other parties.

PRINCIPLE IV: AN ARBITRATOR SHOULD CONDUCT THE PROCEEDINGS FAIRLY AND DILIGENTLY.

1. An arbitrator should conduct the proceedings in an even-handed manner. The arbitrator should be patient and courteous to the parties, their representatives, and the witnesses and should encourage similar conduct by all participants.

2. The arbitrator should afford to all parties the right to be heard and due notice of the time and place of any hearing. The arbitrator should allow each party a fair opportunity to present its evidence and arguments.

3. If a party fails to appear after due notice, the arbitrator should proceed with the arbitration when authorized to do so, but only after receiving assurance that appropriate notice has been given to the absent party.
4. Although it is not improper for an arbitrator to suggest to the parties that they discuss the possibility of settlement or the use of mediation, or other dispute resolution processes, an arbitrator should not exert pressure on any party to settle or to utilize other dispute resolution processes. An arbitrator should not be present or otherwise participate in settlement discussions or act as a mediator unless requested to do so by all parties in a written agreement after full disclosure of the risks associated with such arrangement.
5. Co-arbitrators should afford each other full opportunity to participate in all aspects of the proceedings.

PRINCIPLE V: AN ARBITRATOR SHOULD MAKE DECISIONS IN A JUST, INDEPENDENT AND DELIBERATE MANNER.

1. The arbitrator should, after careful deliberation, decide all issues submitted for determination. An arbitrator should decide no other issues.
2. An arbitrator should decide all matters exercising independent judgment, and should not permit outside pressure to affect the decision.
3. An arbitrator should not delegate the duty to decide to any other person.
4. In the event that all parties agree upon a settlement of issues in dispute and request the arbitrator to embody that agreement in an award, the arbitrator shall do so if the terms of settlement are based on an agreement of the parties and do not contradict public policy.

PRINCIPLE VI: AN ARBITRATOR SHOULD BE FAITHFUL TO THE RELATIONSHIP OF TRUST AND CONFIDENTIALITY INHERENT IN THAT OFFICE.

1. An arbitrator is in a relationship of trust to the parties and should not, at any time, use confidential information acquired during the arbitration proceeding to gain personal advantage or advantage for others, or to affect adversely the interest of another.
2. The arbitrator should keep confidential all matters relating to the arbitration proceedings and decision. An arbitrator may obtain help from an associate, a research assistant or other persons in connection with reaching his or her decision if the arbitrator

informs the parties of the use of such assistance and such persons agree to be bound by the provisions of this Principle.

3. It is not proper at any time for an arbitrator to inform anyone of any decision in advance of the time it is given to all parties. In a proceeding in which there is more than one arbitrator, it is not proper at any time for an arbitrator to inform anyone about the substance of the deliberations of the arbitrators. After an arbitration award has been made, it is not proper for an arbitrator to assist in proceedings to enforce or challenge the award.

PRINCIPLE VII: AN ARBITRATOR SHOULD PROMOTE STANDARDS OF INTEGRITY AND FAIRNESS REGARDING COMPENSATION AND EXPENCES

1. Arbitrators who are to be compensated for their services or reimbursed for their expenses shall adhere to standards of integrity and fairness in making arrangements for such payments;
2. The Arbitrators shall avoid unjustified costs and delay;
3. Certain practices relating to payments of arbitrators include:
 - a) Before the arbitrator finally accepts appointment, the basis of payment, including any cancellation fee, compensation in the event of withdrawal and compensation for study and preparation time, and all other charges, should be established;
 - b) In proceedings conducted under the rules or administration of an institution that is available to assist in making arrangements for payments, communication related to compensation should be made through the institution. In proceedings where no institution has been engaged by the parties to administer the arbitration, any communication with arbitrators concerning payments should be in the presence of all parties; and
 - c) Arbitrators should not, absent extraordinary circumstances, request increases in the basis of their compensation during the course of a proceeding.

PRINCIPLE VIII: AN ARBITRATOR MAY ENGAGE IN ADVERTISING OR PROMOTION OF ARBITRAL SERVICES WHICH IS TRUTHFUL AND ACCURATE.

1. Advertising or promotion by arbitrator must be accurate and unlikely to mislead. Any statements about the quality of the arbitrator's or institution's work or the success of the arbitrator's or institution's practice must be truthful.

2. Advertising and promotion must not imply any willingness to accept an appointment otherwise than in accordance with this Code.