

**LANCASTER BAR ASSOCIATION
ALTERNATIVE DISPUTE RESOLUTION PROGRAM**

GUIDELINES

I. GENERAL RULES

A. PURPOSE

As a service to its members and to the public, the Lancaster Bar Association, through its Alternative Dispute Resolution Program Committee, will administer an Alternative Dispute Resolution Program (LBA-ADR Program) available to individuals, corporations, insurance carriers and all other entities who seek the expeditious resolution of disputes which are, or could be pending as civil actions in the Lancaster County Court of Common Pleas. This includes all civil actions, except for cases involving divorce, equitable distribution, custody, child or spousal support, alimony, alimony pendente lite, or paternity.

B. DEFINITIONS

1. Mediation

Mediation is typically a settlement discussion. Negotiations are assisted by a neutral, impartial third party (“mediator”) who promotes or facilitates an understanding among the parties of their common interest in reconciling or settling the matter. The mediator does not make any decision for the parties, except by special agreement

All persons necessary to make a final decision should be present at the mediation, including an insurance company representative when appropriate.

2. Arbitration

Arbitration is a process by which a neutral, impartial third party (“arbitrator”) hears the evidence and arguments presented by the parties and makes a decision to resolve the dispute. The parties agree by contract to be bound by the decision of the arbitrator.

3. No Attorney/Client Relationship

Although the person assigned as mediator or arbitrator may be a member of the Lancaster Bar Association and a practicing attorney, no attorney/client privilege attaches to the communication between the parties and the mediator/arbitrator. **THE MEDIATOR OR ARBITRATOR WILL NOT BE SERVING AS AN ATTORNEY OR ADVOCATE FOR ANY PARTY.**

C. APPOINTMENT OF COMMITTEE

The President of the Lancaster Bar Association shall appoint a chairperson and members of the Alternative Dispute Resolution Program Committee, the members of which shall be active members in good standing of the Lancaster Bar Association.

D. RESPONSIBILITY OF THE ADR PROGRAM COMMITTEE

It shall be the duty of the Alternative Dispute Resolution Program Committee to develop, approve, and from time to time amend the procedures for administering the LBA-ADR Program, to select the approved list of mediators/arbitrators which is to be made available through the LBA-ADR Program, and to oversee administration of the LBA-ADR Program. The Executive Director of the Bar Association shall appoint one or more employees to assist the Committee in performing the functions necessary to administer the LBA-ADR Program, and in maintaining the approved list of mediators and arbitrators.

II. PROCEDURE

A. REQUEST FOR ADR

The parties seeking to submit a dispute to ADR need to complete a Request For ADR form and submit it to the Lancaster Bar Association. The Request for ADR must represent that all parties to the action view ADR as a potential aid to the resolution of their dispute.

B. MEDIATION/ARBITRATION AGREEMENT

The parties must also complete and sign either a Mediation Agreement or an Arbitration Agreement, using the forms prepared for that purpose by the LBA. The Agreement must be submitted to the LBA at the same time and with the Request for ADR.

Of the Seven Hundred Fifty Dollars (\$750.00), One Hundred and Fifty Dollars (\$150.00) represents an administrative fee for the Bar Association, and Six Hundred Dollars (\$600.00) represents prepayment of the mediator/arbitrator fee for up to three (3) hours of time for preparation and attendance at the first ADR conference. The initial conference shall consist of up to two (2) hours in duration, payable in advance. All mediator/arbitrator time in excess of three(3) combined hours of preparation and initial conference time shall be billed at the rate of Two Hundred Dollars (\$200.00) per hour.

C. FEES

1. Pay Fee with Filing

A single fee of \$750.00 must be paid to the Lancaster Bar Association when the completed Request for ADR and Agreement are submitted to the LBA, to be split evenly by the parties (or as otherwise agreed by the parties). \$150.00 of the total is an administrative fee for the Bar Association. The remaining \$600.00 represents prepayment of three (3) hours of the mediator's/arbitrator's time for preparation and attendance at the first ADR conference.

2. Refunds / Additional Fees

The initial \$150 administrative fee paid to the Bar Association is not refundable. The \$600 initial mediator/arbitrator fee is only refundable up until the point in time that a mediator or arbitrator has been appointed. After the appointment of the mediator or arbitrator, the \$600 fee is not refundable. The \$600 covers three (3) hours of the mediator's/arbitrator's time for the initial review and preparation for the conference, and the initial conference (the initial conference itself not to exceed 2 hours). In the event that the initial review and preparation and the initial conference exceeds three (3) hours, the parties agree to bear equally (or as otherwise agreed by the parties) an hourly fee for the mediator/arbitrator in the amount of \$200.00 per hour.

3. Expenses

Any expenses of the mediation/arbitration process incurred by the mediator or arbitrator, such as travel outside of Lancaster County, long distance telephone calls and/or photocopies, shall likewise be borne equally by the parties.

D. SELECTION OR APPOINTMENT OF MEDIATOR/ARBITRATOR

1. Agreed-Upon Selection

The parties will have 20 days from the date they submit the completed Request for ADR to review the list of approved mediators/arbitrators and select a person acceptable to all parties. In the event that the parties agree, that name should be supplied immediately to the Lancaster Bar Association.

2. No Agreement for Selection

In the event that there is no agreement on the mediator/arbitrator within 20 days, the Lancaster Bar Association Executive Director or his/her designee will provide the parties with written notice of 3 possible choices, whose selection will be based on a rolling, random assignment from the Lancaster Bar Association list. Each side may strike one name. The remaining person, or the first one selected by the LBA if more than one remain, shall be assigned as the mediator or arbitrator.

E. SCHEDULING THE ADR CONFERENCE

After the Bar Association has been notified of the selection of a mutually-agreeable mediator or arbitrator, or after the Bar Association has appointed a person in the instance where there has been no agreement, it will then be the responsibility of the mediator/arbitrator to schedule the date, time, and place of the conference, and to notify the parties and the Bar Association of the schedule. All conferences will be held in Lancaster County, unless there is special agreement otherwise.

III. APPROVED LIST OF MEDIATORS / ARBITRATORS

A. APPOINTMENT

The LBA-ADR Program Committee shall be responsible for periodically appointing qualified mediators/arbitrators to the LBA-ADR Program's approved list, which is to be made available for circulation by the Bar Association. The number of mediators/arbitrators on the approved list and the frequency of new appointments shall be at the discretion of the LBA-ADR Committee, and shall be based on usage and demands. Periodic retraining of the approved mediators/arbitrators may be required from time to time as a criterion for continued listing as an approved mediator/arbitrator.

B. PRACTICE REQUIREMENT

1. Mediator or Arbitrator

Any active member of the Lancaster Bar Association who has been in practice at least eight (8) years shall be eligible for consideration for an appointment as either a mediator or an arbitrator on the LBA-ADR Program's approved list.

2. Mediator

Any person who has completed 40 hours of mediation training provided by an approved mediation training organization and has 40 hours of mediation experience also shall be eligible for consideration for an appointment as a mediator on the LBA-ADR Program's approved list, whether or not they are an active member of the Lancaster Bar Association.

C. MANDATED TRAINING

1. Requirement

Any person meeting the above practice requirement may apply to the LBA-ADR Program Committee to be part of the next class of mediators and arbitrators to participate in the LBA-ADR Program's mandated training. The mandated training, required by the LBA-ADR Program, shall consist of a minimum of sixteen (16) hours of training by a certified instructor, approved by the LBA-ADR Program Committee. The mandated training shall be a prerequisite for becoming a mediator or arbitrator on the approved listing to be maintained by the LBA-ADR Program Committee. The frequency of the mandated training shall be at the discretion of the LBA-ADR Program Committee, and shall be based on the demand for services existing from time to time.

2. Waivers

Waiver of the training requirement may be requested under unusual circumstances, subject to the following standards.

(a) The applicant for the waiver will have the burden of proving to the LBA-ADR Committee that the applicant received training substantially similar to that offered by the LBA, within a reasonable time before requesting the waiver.

(b) The decision as to whether to grant a waiver will be made by the LBA-ADR Committee, with no right to appeal that decision.

(c) If a waiver is allowed, the applicant nevertheless will be required to receive training regarding the protocol to be followed as a mediator or arbitrator in the LBA-ADR Program.