

# THE NEUTRAL CORNER

## VOLUME 3, 2025

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### Mission Statement

FINRA Dispute Resolution Service (DRS) publishes *The Neutral Corner* to provide arbitrators and mediators with current updates on important rules and procedures within securities dispute resolution. DRS' dedicated neutrals better serve parties and other participants in the DRS forum by taking advantage of this valuable learning tool.

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## A Refresher on Virtual Hearings

Virtual hearings, first introduced as a pandemic-era solution during remote operations, have become a standard feature in the arbitration landscape. While the fundamental principles of arbitration remain unchanged, the virtual environment presents unique challenges and opportunities for arbitrators. This article explores best practices for FINRA arbitrators conducting hearings via Zoom.

### The New Normal of Virtual Proceedings

The virtual hearing room may look different, but your role as an arbitrator remains the same. FINRA Dispute Resolution Services (DRS) emphasizes that arbitrators should maintain the same level of professionalism, attentiveness and procedural fairness that parties expect in traditional hearings.

However, the virtual format requires additional considerations. On Zoom, everything is magnified—your expressions, your engagement level and even your background become a part of how parties perceive the proceedings.

### Creating Your Virtual Hearing Space

The first step to a successful virtual hearing begins with your physical environment. Your hearing space should project the same level of professionalism as a DRS hearing room.

DRS recommends a neutral background free from distractions. Personal items that suggest political affiliations, controversial viewpoints or casual environments (e.g., dishes piled on a counter, an open closet) should be cleared. A simple bookshelf or a plain wall works best for many arbitrators. Zoom's background blur feature can also help minimize distractions while maintaining privacy.

Lighting deserves special attention—poor lighting can make it difficult for parties to see your facial expressions, potentially undermining confidence in the proceedings. Position your primary light source in front of you rather than behind and consider investing in an inexpensive ring light if necessary.

### ***Appropriate Hearing Locations***

Arbitrators should always participate from a quiet, private and stationary location. Under no circumstances should arbitrators attempt to participate in hearings while in a moving vehicle, whether as a driver or passenger. Participating from a car creates numerous problems:

- ▶ safety concerns if you are driving;
- ▶ unstable internet connections;
- ▶ unprofessional appearance;
- ▶ distracting background movements;
- ▶ poor audio quality with road noise; and
- ▶ potential confidentiality breaches in public spaces.

If an emergency requires travel during a scheduled hearing, contact your case administrator immediately to discuss appropriate accommodations rather than attempting to join from a vehicle.

### **Technical Preparation: More Than Just Logging In**

Technical difficulties during hearings do not just cause delays—they can undermine the perceived legitimacy of the proceedings. DRS offers “trial runs” for arbitrators to assess their setup before hearings, an opportunity that can help prevent disruptions during actual proceedings. Keep in mind, however, that arbitrators do not have to go it alone. DRS staff attend virtual hearings and prehearings and will be available to provide technical support.

Your technical checklist should include:

- ▶ updated Zoom software (check for updates the day before);
- ▶ reliable internet connection (consider a wired connection for stability);
- ▶ functioning camera and microphone (test both before the hearing);
- ▶ sufficient battery power or direct connection to power; and
- ▶ a backup plan (such as a mobile hotspot) if technical issues arise.

### ***Proper Identification in the Virtual Hearing Room***

When joining a Zoom hearing, it is essential to properly identify yourself to all participants. The easiest way to do this is by renaming your Zoom display name:

- ▶ Right-click on your video thumbnail in the Zoom interface.
- ▶ Select “Rename” from the menu.
- ▶ Enter your full name and role (e.g., “Jane Doe - Chairperson”).

Your name will appear in the bottom left corner of your video thumbnail. This step is crucial because your default display name is typically associated with your Zoom account and may not include your full name and role in the arbitration. Changing your display name immediately upon joining provides clarity for all participants and the DRS host.

To keep track of all participants, especially in hearings with many attendees, the chairperson should ask everyone to rename themselves on their video thumbnails with their full names and roles (e.g., “John Doe – Respondent’s Counsel”). This practice helps arbitrators identify who is speaking and their relationship to the case.

### ***Managing Multiple Monitors***

Using dual monitors can enhance your ability to manage proceedings—one screen for viewing participants and another for documents. If you use this setup, inform parties at the beginning of the hearing that you may occasionally look away from the camera while reviewing materials. Reassure participants

that despite not maintaining constant eye contact with the camera, you remain fully engaged with the presentations and testimony.

## **Professional Presence in the Virtual Space**

In traditional hearings, your professional demeanor is conveyed through your attire, posture and engagement. These elements remain crucial in virtual hearings but require deliberate attention.

### ***The Virtual Dress Code***

DRS' guidance is straightforward: if you would not wear it to an in-person hearing, do not wear it to a virtual one. This applies to your entire outfit—not just what is visible on camera. Dressing professionally puts you in the right mindset and signals to parties that this proceeding carries the same weight as one conducted in person.

### ***Body Language and Engagement***

Your on-camera presence significantly impacts parties' perception of the proceedings. When communicating virtually, maintaining eye contact (by looking at your camera, not just your screen) and demonstrating active listening through appropriate nodding and facial expressions may help establish trust.

Arbitrators should be conscious of their facial reactions. A momentary look of confusion that might go unnoticed in a large hearing room becomes the center of attention on Zoom.

Multitasking—checking emails, looking at your phone or managing other matters—is immediately apparent to participants and suggests disinterest in the proceedings. Reserve these activities for designated breaks.

Additionally, avoid eating during the hearing, as this can be very distracting to participants. Instead, adhere to an established break schedule to provide appropriate opportunities for refreshments.

## **Audio Management**

Be vigilant about muting your microphone when not speaking to minimize background noises that can disrupt the hearing. Common disruptions include construction work, lawnmowers, barking dogs or other household sounds. Remember to unmute before speaking.

Also, be sure to mute other devices (cell phones, tablets) to prevent notification sounds from disrupting the proceedings.

## **Managing the Virtual Hearing Process**

For chairpersons, effectively managing a virtual hearing requires additional procedural considerations.

### ***Setting Clear Expectations***

Begin each hearing with clear guidelines about virtual protocols for:

- ▶ managing documents and exhibits;
- ▶ raising objections;
- ▶ establishing break schedules and protocols; and
- ▶ maintaining civility during the arbitration proceeding.

Establishing these ground rules upfront prevents confusion and interruptions later and helps maintain the flow of the proceedings.

### ***Document and Exhibit Management***

Managing documents presents unique challenges in virtual hearings. A standardized approach to exhibit references is essential. For example, consider asking counsel to state the exhibit number, wait for all participants to locate it and then specify the page number before asking questions. This methodical approach ensures everyone is on the same page.

## ***Managing Objections in the Virtual Environment***

Handling objections effectively is crucial to maintaining the integrity of virtual hearings. At the beginning of the hearing, the chairperson should establish clear protocols for raising and addressing objections. For example:

Guidelines for Parties Making Objections:

- ▶ Direct objections to the panel, not to opposing counsel.
- ▶ State the basis for objections clearly and concisely.
- ▶ Avoid interrupting testimony when possible.
- ▶ Use visual cues (such as raising a hand) to signal an objection, which helps account for audio delays in the virtual environment.

Guidelines for Arbitrators Ruling on Objections:

- ▶ The chairperson should manage the objection process.
- ▶ Consider whether panel discussion is needed before ruling.
- ▶ Focus on relevance of the information and fairness to all parties when evaluating objections.
- ▶ If applicable, consider prior rulings in the same case and apply the reasons behind those rulings consistently.

When necessary, use the Zoom breakout room feature to discuss objections privately with the other panelists before issuing a ruling. This maintains the professionalism of the proceedings while ensuring thoughtful consideration of objections. As a reminder, DRS staff are available to provide technical assistance during all virtual hearings and prehearing conferences.

## ***Scheduling Appropriate Breaks***

Virtual hearings can be particularly fatiguing for all participants due to the increased concentration required to engage through a screen. DRS recommends scheduling breaks approximately every hour and a half, with a one-hour lunch break during full-day hearings.

As chairperson, clearly communicate when breaks will occur and exactly when participants should return. Use the breakout room feature in Zoom for panel deliberations during breaks, ensuring these discussions remain private from other participants.

If participants need additional breaks for refreshments, technical issues or other reasons, accommodate these requests when reasonable to ensure everyone can fully participate in the proceedings.

## ***Maintaining Civility***

The casual nature of video calls in everyday life can sometimes bleed into virtual hearings. Arbitrators are responsible for actively maintaining the formality appropriate to arbitration proceedings.

Techniques for maintaining civility include:

- ▶ using the chairperson's authority to mute participants when necessary;
- ▶ explicitly recognizing speakers to prevent talking over one another;
- ▶ providing clear time warnings before breaks and reconvening; and
- ▶ addressing inappropriate behavior immediately rather than letting it continue.

## ***Conclusion: Embracing the Virtual Future***

Virtual hearings have moved beyond being a temporary solution to become an established part of DRS' toolkit. Arbitrators who become experts in this environment provide an invaluable service to the parties in the forum.

By creating an appropriate physical environment, ensuring technical readiness, maintaining professional presence and effectively managing proceedings, arbitrators can ensure that virtual hearings uphold the standards of fairness and professionalism that define FINRA's dispute resolution forum.

Different venue, same responsibilities. The arbitrator's job is still to provide a fair, efficient process for resolving disputes—the platform is just a tool to get there.

### **FINRA Resources for Virtual Hearings**

[Virtual Prehearing Conferences and Hearings](#)

[Arbitrator Training Videos for Virtual Hearings](#)

[Neutral Workshops](#)

## DRS and FINRA News

### Arbitration Case Filings and Trends

FINRA received 1,664 [arbitration claims](#) from January through August 2025, reflecting a two percent decrease from the same period in 2024. Of the 1,664 claims, 1,056 claims were customer initiated, and 608 claims were intra industry. Customer-initiated claims fell by seven percent, while intra-industry claims experienced a seven percent increase compared to the same period in 2024.

### Rule Approvals

#### ***Approved Rule Change to Amend the Codes of Arbitration Procedure to Make Clarifying, Technical and Procedural Changes to the Arbitrator List Selection Process***

On August 20, 2025, the Securities and Exchange Commission (SEC) issued an order approving the proposed rule change to amend the Codes of Arbitration Procedure to make changes to certain provisions relating to arbitrator list selection. FINRA will announce the effective date of the revised rules in a Regulatory Notice.

Please see [SR-FINRA-2024-022](#) for more information.

#### ***Approved Rule Change to Amend the Codes of Arbitration Procedure to Accelerate the Processing of Arbitration Proceedings for Parties Who Qualify Based on Their Age or Health Condition***

On August 21, 2025, the SEC issued an order approving the proposed rule change to amend the Codes of Arbitration Procedure to add new FINRA Rules 12808 and 13808 (Accelerated Processing) to accelerate the processing of arbitration proceedings for parties who qualify based on their age or health condition. FINRA will announce the effective date of the revised rules in a Regulatory Notice.

Please see [SR-FINRA-2024-021](#) for more information.

### Enhancements to the Voluntary Short List Option

The voluntary [Short List Option](#) allows parties to stipulate to a “short list” of potential arbitrators to find a replacement arbitrator, rather than accept a previously ranked arbitrator or an extended list appointment. Effective July 7, 2025, DRS expanded the Short List Option to allow parties to stipulate to the following:

- ▶ Receive a short list of five arbitrators if a hearing is scheduled in less than 10 calendar days and the parties agreed to postpone the upcoming hearings.
- ▶ Receive a short list of three arbitrators if a hearing is scheduled between 10 and 20 calendar days.
- ▶ Receive a short list of five arbitrators if a hearing is scheduled in more than 20 calendar days.
- ▶ Receive a short list of five arbitrators if the hearings have concluded, but the award has not been issued.
- ▶ Receive a new list with the standard number of arbitrators for the applicable replacement arbitrator list type if there are no scheduled hearing dates.

In cases with scheduled hearing dates, DRS will prescreen arbitrators for their availability. If a hearing is postponed, parties may incur postponement fees pursuant to FINRA Rules [12601](#) and [13601](#) of the Codes of Arbitration Procedure.

Replacement arbitrators are expected to be fully prepared and up to speed when the hearing resumes. This includes reading all pleadings and submissions from the parties and listening to the recordings or reviewing the transcripts of the hearings that have already occurred. Please maintain a record of the time you spent reviewing the recordings and transcripts and submit the number of hours to the case administrator to ensure proper compensation for this additional work. You should not, however, include time spent reviewing pleadings and other submissions from the parties as this is expected of all arbitrators as part of their service without additional compensation.



## Updates to the Initial Prehearing Conference (IPHC) Scripts

DRS updated the IPHC Scripts and IPHC Order to add a new section titled “Official Record of the Evidentiary Hearing.” This section explains that DRS records evidentiary hearings at no expense to the parties and that parties may make a stenographic record of the hearing at their own expense. It also reminds the panel to ask if any party plans to make a stenographic record and, if so, whether any party requests that the stenographic record be the official record. If the panel determines before the hearing (*e.g.*, during the IPHC) that the stenographic record will be the official record, DRS will not record the hearing. Please see FINRA Rules [12606](#) and [13606](#) of the Codes of Arbitration Procedure for more information about recording the proceedings.

The updated scripts are available on the [Forms and Hearing Scripts](#) page of the DRS website.

## Updates to the Hearing Procedure Scripts

DRS updated the Hearing Procedure Scripts to provide additional information for virtual and hybrid hearings, particularly when witnesses appear virtually. The updated scripts are available on the [Forms and Hearing Scripts](#) page of the DRS website.

## Updates to the Virtual Prehearing Conferences and Hearings Page

DRS updated the [Virtual Prehearing Conferences and Hearings](#) page of the DRS website to provide tips on conducting an effective virtual hearing. Among other things, the guidance reminds participants to:

- ▶ use a well-lit and quiet location;
- ▶ use a neutral background free of clutter or other distracting items;
- ▶ avoid multitasking; and
- ▶ always look professional.

## Important Reminder: Meeting Your Arbitration Commitments

To ensure that hearings run efficiently, please remember:

- ▶ If the parties have agreed on hearing dates, only accept the case if you can participate in the hearing on the selected dates.
- ▶ Once appointed, please maintain your scheduled hearing commitments.
- ▶ Use the DR Portal to help manage your calendar and avoid conflicts.
- ▶ Non-emergency conflicts (including double bookings) are not grounds for withdrawal.
- ▶ If truly unavoidable circumstances arise, for example, medical reasons, family emergency or a scheduling conflict, please notify DRS promptly. If a reason for the conflict is not provided, staff may ask you to provide a general reason for the unavailability.

Late arbitrator recusals create scheduling difficulties for parties and cause delays. Repeated late recusals may also result in removal from the roster. Your reliability ensures the smooth operation of the arbitration process.

## National Financial Capability Study

The FINRA Investor Education Foundation released the sixth wave of the [National Financial Capability Study](#), which provides insights about the financial lives of U.S. adults. Following a period of sustained improvements, the latest findings reveal an overall pattern of decline in U.S. adults’ ability to make ends meet and save for emergencies. While the comprehensive study shows no signs of overall declines in income, the findings show that increased costs have put more households under strain than in previous waves of the study.

Please visit the [FINRA Investor Education Foundation](#) (FINRA Foundation) website for more information. Be sure to tune into FINRA’s podcast, [FINRA Unscripted](#), where FINRA Foundation’s President Gerri Walsh, Research Director Gary Mottola and Senior Researcher Olivia Valdes discuss the study’s findings and implications.

## Introducing DRS' Virtual Agent

DRS is pleased to introduce our new virtual agent, available 24/7 to provide immediate support for your DR Portal and online filing needs. Look for the "Chat With Us" button on the right-hand side of any [DRS webpage](#). The tool is programmed to provide instant answers to common questions about using the DR Portal or filing a claim. Each session begins with a list of topics to choose from, e.g., document inquiry, access to case(s), profile update, login issues. If your question requires human support, simply use the "Schedule a Call" feature to arrange a convenient time to speak directly with a DRS staff member.

## Register for the DR Portal Today

DRS strongly encourages arbitrators and mediators to register for the [DR Portal](#). It allows neutrals to:

- ▶ file case documents, including the electronic Oath of Arbitrator and Arbitrator Disclosure Checklist, the IPHC Scheduling Order, general orders, dismissal and postponement orders, the Award Information Sheet and the Arbitrator Experience Survey;
- ▶ access information about assigned cases, including case documents, upcoming hearings and arbitrator payment information;
- ▶ schedule hearings;
- ▶ update profile information;
- ▶ view and print the Arbitrator Disclosure Report (ADR);
- ▶ update the last affirmation date on the ADR;
- ▶ submit expense reports;
- ▶ review list selection statistics to see how often their name has appeared on arbitrator ranking lists sent to parties and how often they have been ranked or struck on those lists; and
- ▶ review their historical cases, regardless of how the case closed.

DR Portal registration is reflected on the ADRs that parties review when selecting arbitrators and mediators.

## DR Portal: Did You Know?

DRS recently updated the DR Portal with the following enhancements:

- ▶ Added an option to the Award Information Sheet for Question 33b. When a request for expungement of customer dispute information is being denied, the panel can now select "the panel did not reach a unanimous decision, as required by Rules 12805 and 13805 (for cases filed on or after October 16, 2023)."
- ▶ Added a new section regarding the recording of evidentiary hearings to the IPHC Order, including two new questions (Questions 29 and 30) with dynamically displayed sub-questions.
- ▶ For questions about logging into the DR Portal, please contact the FINRA Support Center at (301) 590-6500. If you have other questions about using the DR Portal, please contact the DR Portal Help Desk at [drportalhelp@finra.org](mailto:drportalhelp@finra.org) or (800) 700-7065.

## Mediation Update

### Mediation Case Filings and Trends

From January through August 2025, parties initiated 343 mediation cases. This is approximately the same number of cases from the corresponding period in 2024. FINRA closed 336 cases during this time. Approximately 82 percent of these cases concluded with successful settlements.

### October is Mediation Settlement Month

DRS' Mediation Department is offering its annual reduced fee program during [Mediation Settlement Month](#). The program encourages parties to experience the benefits of mediation and raises visibility for participating mediators.

To participate in this program, parties must enter into a mediation agreement by October 31, 2025, and conduct the mediation by December 31, 2025.

Participating mediators have agreed to offer their services at the following reduced rates, to be assessed equally between the parties unless otherwise agreed upon:

Amount in Controversy	Flat Fee	Mediation Hours
\$.01–\$25,000	\$250	6
\$25,000.01–\$100,000	\$500	8
Over \$100,000 and Unspecified	\$1,000	10

Here are some additional guidelines for participating in Mediation Settlement Month:

- ▶ Parties can mediate by telephone, Zoom or in person.
- ▶ Mediation hours are inclusive of two hours of mediator study time.
- ▶ Any time beyond the mediation hours listed above is billed at the mediator’s regular hourly rate. Mediators must advise parties before they exceed the included hours and move into regular hourly billing.
- ▶ FINRA’s [Mediation Filing Fees](#) are reduced by 50 percent for all cases, and FINRA will not collect an administrative fee from the mediator’s payment.
- ▶ Once parties have agreed to participate, DRS will send a randomized list of participating mediators to the parties and schedule the mediation session.

We look forward to another successful Mediation Settlement Month. Please contact DRS’ [Mediation Department](#) with any questions.

## Mediator Disclosure Updates

Mediators can update their profile at any time through the [DR Portal](#). Keeping mediator disclosure reports up to date—including the number of cases, case success rates and the types of cases mediated—helps parties during the selection process. References who can attest to a mediator’s skills and mediation style also help parties choose the most appropriate mediator for their case. Remember to include a cancellation policy if applicable.

## Become a FINRA Mediator

Do you have experience working as a mediator? Consider joining DRS’ mediator roster. Please email the [Mediation Department](#) for more information.

## Questions and Answers

### Late Recusals

#### **Q: What are some factors I should consider before accepting a case?**

**A:** If the parties have agreed to hearing dates, accept the case only if you are certain you can participate on the selected dates. Review your calendar thoroughly to ensure you have no conflicts with the scheduled hearing dates. Consider any potential conflicts of interest that might later require your recusal.

#### **Q: How can I manage my arbitration commitments effectively?**

**A:** Use the DR Portal to help manage your calendar and avoid scheduling conflicts. Block off hearing dates in your personal calendar immediately upon acceptance. Regularly review your upcoming commitments to identify any potential issues well in advance.



**Q: What if I encounter a scheduling conflict after accepting a case?**

**A:** Non-emergency conflicts (including double bookings) are not grounds for withdrawal. Once appointed, you are expected to maintain your scheduled hearing commitments. If truly unavoidable circumstances arise (e.g., medical reasons, family emergency or a scheduling conflict), notify DRS promptly.

Late recusals create significant scheduling difficulties for parties and other arbitrators and can cause unnecessary delays in case resolution. Repeated late recusals may also result in removal from the arbitrator roster.

DRS strives to provide an efficient arbitration process for all participants, and your reliability as an arbitrator is fundamental to maintaining the integrity and effectiveness of FINRA's dispute resolution system.

parties that identify the basis for awarding attorneys' fees. You must not conduct independent legal research as this is outside your role as an arbitrator.

If the panel determines that a party has a right to recovery, that party must prove the amount to the satisfaction of the panel. The panel may permit testimony or evidence (e.g., testimony on the reasonableness of rates and hours, billing records) to be submitted during the case-in-chief or in post-hearing written submissions.

In your award, clearly articulate the specific legal basis for awarding attorneys' fees.

## **Attorneys' Fees**

**Q: What factors should I consider when a party requests attorneys' fees?**

**A:** When a party requests attorneys' fees, the panel should first determine whether there is a legal basis for awarding such fees, for example:

- ▶ the parties' contract includes a clause that provides for attorneys' fees, as long as that clause does not violate FINRA rules or any other applicable law;
- ▶ the governing law provides for attorneys' fees when all of the parties request or agree to such fees;
- ▶ the fees are required or permitted as part of a statutory claim; or
- ▶ as otherwise provided by law, FINRA rules or as determined by the panel to be appropriate.

If a party requests the recovery of attorneys' fees and you have questions regarding the panel's authority to award such fees, you should request briefs from the

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## Arbitrator Disclosure Reminder

As a reminder, arbitrators should review their Arbitrator Disclosure Reports (ADRs) regularly to ensure all information is accurate and current. Arbitrators may not be aware, but DRS continually sends their ADRs to parties during the arbitrator selection process. Providing parties with the most current and complete information helps them make informed decisions when selecting their panel. Complete disclosures also minimize arbitrator challenges and delays to the case. Arbitrators should log in to the [DR Portal](#) to update their ADRs.

### Last Affirmation Dates on ADRs

Each ADR displays the last affirmation date at the top of the document. This date indicates when the arbitrator last affirmed the accuracy and completeness of their disclosures. Parties may consider this date when making decisions about ranking and striking arbitrators.

Arbitrators can refresh the affirmation date by submitting an update form through the DR Portal or by submitting an Oath when assigned to a case. Even if there are no changes, arbitrators can update the affirmation date through the DR Portal.

If you need to register for the DR Portal or reactivate a dormant account, please send an email to the [Department of Neutral Management](#) to request an invitation. Please include “request portal invitation” in the subject line.

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