

THE NEUTRAL CORNER

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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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Managing Witness Testimony During FINRA Arbitration Hearings

By Makenzie Holahan, FINRA Case Administrator, East Region

Arbitrators play a critical role in managing witness testimony during FINRA arbitration hearings. Understanding the proper protocols for questioning witnesses and managing their participation helps ensure fair and efficient proceedings while maintaining the integrity of the arbitration process.

Questioning Witnesses: Timing and Approach

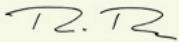
Arbitrators are permitted to ask questions of witnesses at the evidentiary hearing. However, they should refrain from asking questions before the parties complete their examination, unless they are asking clarifying questions. This allows the parties to fully develop their cases and prevents arbitrators from inadvertently signaling their views or concerns prematurely. When asking questions, arbitrators should ensure they do not appear to be taking on the role of an advocate. Their role is to clarify testimony and fill gaps in the record, not to argue a party's case.

During the hearing, arbitrators should carefully consider the types of questions that may be asked of witnesses. Q's seeking factual testimony—what the witness saw, heard or did—are generally appropriate after a party's examination has concluded as they are not merely clarifying questions. However, questions that would result in the witness providing their opinion may be improper unless the witness has been qualified to offer such opinions as an expert.

Year-End Message

As we close out 2025, we extend our deepest gratitude to our arbitrators and mediators for their exceptional service this year. Your expertise and integrity continue to be the foundation of our dispute resolution program, and we are honored to work alongside such a distinguished group of neutrals.

We wish you a joyous and healthy holiday season and look forward to our continued collaboration in 2026.



Rick Berry
Executive Vice President,
FINRA Dispute Resolution Services

Maintaining Neutrality and Impartiality

The appearance of impartiality is as important as actual impartiality in arbitration proceedings. Arbitrators should be careful to avoid body language or comments that indicate disbelief in the witness's testimony. Even subtle non-verbal cues can influence how testimony is received and may suggest bias. Examples of things to avoid include:

- ▶ grimaces;
- ▶ frowns;
- ▶ hand signals;
- ▶ eyerolling or other dismissive gestures; and
- ▶ audible sighs or sounds of disbelief.

Arbitrators should maintain a neutral, attentive demeanor regardless of their assessment of testimony. Any concerns about credibility should be reserved for panel deliberations rather than shown during witness examination.

Panel Intervention: When and How

Arbitrators should generally allow parties to conduct their examinations without interference. The panel should be mindful that the opposing party has the primary responsibility to object to improper questioning.

If the panel observes that a party is asking leading questions of their own witnesses, the panel should first allow the opposing party a reasonable opportunity to object. Only if it becomes clear that the opposing party is not going to object should the panel consider intervening. In such cases, the panel may explain to counsel that the panel would appreciate hearing the witness's testimony that is evidence and not the counsel's testimony.

Similarly, if a party is arguing with the witness they are questioning—creating an atmosphere that can be unproductive, unprofessional and intimidating—the panel should first allow the opposing party to raise an objection. If the opposing party does not raise an objection and the behavior continues, the panel may then firmly but professionally redirect counsel to proper examination techniques.

This approach respects party autonomy while preserving the panel's authority to maintain order and fairness when necessary.

Witness Attendance and Sequestration

Not all witnesses should attend all portions of the evidentiary hearing. Whether attendance is appropriate depends on the kind of testimony the witness plans to give and the risk that the witness's testimony might be influenced by hearing other witnesses.

If the witness plans to testify about the material facts of the case, the panel will typically sequester the witness until the witness gives testimony. Sequestering witnesses prevents them from tailoring their testimony based on what they hear from other witnesses and helps ensure the independence and reliability of each witness's account.

However, if the witness is an expert witness, the panel should permit the individual to attend all portions of the evidentiary hearing unless there is a persuasive reason to exclude the witness. Expert witnesses are expected to form opinions based on the evidence presented, and their presence throughout the hearing can enhance the quality of their testimony.

Attorneys Representing Non-Party Witnesses

When a non-party witness has a separate attorney, the panel is responsible for determining the extent to which the attorney may participate.¹ A non-party witness's attorney is generally present to protect the witness's legal interests and is limited to the assertion of privileges, such as attorney-client or work product. The attorney is not present to serve as an advocate in the underlying dispute.

Panels should clarify these boundaries at the outset of the witness's testimony and should not permit the attorney to make objections on relevance or other grounds typically reserved for parties to the arbitration. However, panels should allow appropriate consultation between the witness and attorney when privilege issues arise.

Witness Identification

Timely witness identification is essential for fair proceedings, as it allows opposing parties to prepare for cross-examination and conduct any necessary investigation. At least 20 days before the first scheduled hearing date, all parties must provide each other party with the names and business affiliations of all witnesses they intend to present at the hearing and must file their witness lists with the Director of DRS.

Parties may not present any witnesses not identified as noted above at the hearing, unless the panel determines that good cause exists for the failure to identify the witness. Good cause includes the need to call witnesses for rebuttal or impeachment purposes based on developments during the hearing. Lists of witnesses in defense of a claim are not considered rebuttal or impeachment information and, therefore, must be exchanged by the parties.

If the panel determines that good cause exists for failing to identify the witness and allows the witness to testify at the evidentiary hearing, the panel should take appropriate measures to mitigate any prejudice to the affected party. For example, the panel may provide the opportunity to recall witnesses or grant a continuance to allow the affected party to prepare. The goal is to balance the interest in hearing relevant testimony with the fundamental fairness requirement that parties have adequate notice and opportunity to respond.

Conclusion

Effective witness management is central to fair and efficient FINRA arbitration hearings. Arbitrators should balance their role in clarifying testimony and managing proceedings with maintaining impartiality and allowing parties to present their cases. By asking questions at appropriate times and maintaining neutrality, arbitrators ensure that testimony is properly developed. These practices serve the fundamental goal of FINRA arbitration: providing a fair, efficient forum for dispute resolution.

¹ Participation by non-party customers and authorized representatives of state securities regulators in expungement hearings held pursuant to FINRA Rule 13805, is governed by FINRA Rule 13805(c).

DRS and FINRA News

DRS Regional Office Reorganization

Effective December 8, 2025, DRS consolidated from four regions to three: East (New York), Central (Chicago) and West (Los Angeles). This streamlined structure better aligns resources and improves operational efficiency. Boca Raton remains a hearing location, and Boca Raton DRS staff continue to be available for onsite hearings.

What to expect:

- ▶ You can continue to expect the same high level of service you've experienced from DRS.
- ▶ All 69 DRS hearing locations will remain available.
- ▶ Some locations have been reassigned to a different region.
- ▶ Some cases have been reassigned to different staff members.
- ▶ Your hearings and case timelines will proceed as scheduled.

For more information, please review the updated [Hearing Locations and Contacts](#) page.

Arbitration Case Filings and Trends

FINRA received 2,403 [arbitration claims](#) from January through November 2025, reflecting a four percent increase from the same period in 2024. Of the 2,403 claims filed, 1,512 claims were customer initiated, and 891 claims were intra industry. Customer-initiated claims went up by one percent, while intra-industry claims experienced an eight percent increase compared to the same period in 2024.

Rule Approvals

FINRA Adopts Amendments to the Codes of Arbitration Procedure to Make Clarifying, Technical and Procedural Changes to the Arbitrator List Selection Process

FINRA amended the Codes of Arbitration Procedure (Codes) to better balance the process for generating the list of public arbitrators sent to the parties in certain customer and industry disputes that have

a three-arbitrator panel. In addition, FINRA made ministerial Code changes to codify certain current practices; establish new timeframes for certain actions; and align provisions of the Codes related to expungement of customer dispute information. The amendments become effective January 26, 2026.

Please see [Regulatory Notice 25-16](#) for more information.

FINRA Adopts Amendments to the Codes to Accelerate the Processing of Arbitration Proceedings for Qualified Parties

FINRA amended the Codes to accelerate the processing of arbitration proceedings for parties who qualify based on their age or health condition. The amendments shorten case processing deadlines for eligible parties and provide guidance to arbitrators regarding how quickly they should endeavor to complete an arbitration proceeding. The amendments become effective March 30, 2026.

Please see [Regulatory Notice 25-18](#) for more information.

Maine Hearing Location Updated

Effective January 1, 2026, all cases filed in Maine will be heard in Portland rather than Augusta. This change reflects our commitment to providing convenient and accessible venues for all participants involved in the arbitration process.

Portland offers several advantages as a hearing location. The city provides greater accessibility for parties and counsel traveling from various locations, enhanced venue options, and improved amenities and services for hearing participants.

For those serving in Maine, the hearing location has been updated to Portland. No further action on your part is required.

New Video: What to Expect During the Discovery Process

DRS has expanded its “What to Expect” video series to include “[What to Expect During the Discovery Process](#).” This video provides a comprehensive overview of the [discovery process](#), including key FINRA rules and practical guidance from the [Discovery Guide](#). Featuring DRS staff from regional offices nationwide, this resource helps all participants better understand what to expect during discovery. Watch the video now on [FINRA's Arbitration Process](#) web page to learn how to navigate this critical phase more effectively.

ADTRAV Reduces Upfront Costs for Travel to Arbitration Hearings

After receiving authorization to book travel for an arbitration hearing, arbitrators should use FINRA's travel desk, [ADTRAV](#), to make travel arrangements easier and more convenient.

Key Benefits:

- ▶ Direct billing—FINRA pays directly, so there are no upfront costs to you.
- ▶ Policy compliance—All bookings automatically meet FINRA travel requirements.
- ▶ Keep your rewards—Earn airline and hotel points by providing membership numbers.
- ▶ Expert support—Agents are available for routine travel inquiries and bookings 8 a.m. - 8 p.m. ET, plus emergency assistance 24/7.
- ▶ Full service—ADTRAV books airfare, rail tickets and hotel accommodations.

Using ADTRAV saves time, eliminates reimbursement paperwork and ensures compliance with travel policies.

Connect With Us: 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 web page](#). 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 Initial Prehearing Conference 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:

- ▶ A new checkbox has been added at the beginning of the Oath of Arbitrator (Oath) requiring arbitrators to affirm that they will refrain from conducting any independent or outside research on the case, including parties to the case.
- ▶ The Criminal Disclosures question on the Oath has been clarified to instruct arbitrators that if a case has been expunged and has already been disclosed to DRS, arbitrators can answer the question “no.”

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 or (800) 700-7065.

American Bar Association (ABA) 2026 Dispute Resolution Practice Development Institute (Virtual): February 12 – 13, 2026

This [premier event](#) is designed to empower attendees to grow and strengthen their alternative dispute resolution (ADR) practice. Expert presenters will explore the critical drivers of success and share actionable tools to help practitioners effectively navigate the ADR business landscape and achieve meaningful results in today's competitive market.

As a partnering organization, FINRA encourages arbitrators and mediators to take advantage of this valuable program. Use discount code **PARTNER26** to receive the ABA member rate.

Mediation Update

Mediation Case Filings and Trends

From January through November 2025, parties initiated 445 mediation cases, a decrease of one percent from the same period in 2024. FINRA closed 445 cases during this time. Approximately 83 percent of these cases concluded with successful settlements.

FINRA's New Mediation Director

We are pleased to announce that effective January 5, 2026, Laura McNamire will serve as the Director of Mediation. Laura will continue in her role as Senior Director of the West Region while taking on these new responsibilities. Please join us in congratulating Laura on this expanded role.

FINRA Mediation Settlement Month

DRS' Mediation Department offered its annual reduced fee program during [Mediation Settlement Month](#) in October. As a reminder, all participants under this program should complete their mediations by December 31, 2025. Thank you to the participants who contributed to another successful Mediation Settlement Month program.

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

Simplified Arbitrations

Q: I was appointed to my first simplified arbitration, where the customer did not request a hearing, under FINRA Rule 12800—an arbitration involving a claim of \$50,000 or less, exclusive of interest and expenses. I have reviewed the pleadings and other materials submitted by the parties, but I still have questions. Can I request additional information before deciding the case?

A: Yes, arbitrators may ask the parties for additional information before deciding the case. Arbitrators can issue an order directing the parties to provide additional information. The order should include a deadline to submit the additional information.

Q: How much time does an arbitrator have to render a decision?

A: FINRA encourages arbitrators to make every effort to render awards as soon as possible after the record is closed.

Q: Are there special forms I need to complete at the end of a simplified arbitration?

A: When the arbitrator is ready to make a decision, they must complete the Award Information Sheet on the [DR Portal](#). Staff will draft the award based on the arbitrator's findings and send it to the arbitrator for review and signature before serving the award to the parties.

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 email the [Department of Neutral Management](#) to request an invitation. Please include "request portal invitation" in the subject line.

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