

THE AAA[®] CHECKLIST

TO DRAFTING ALTERNATIVE DISPUTE RESOLUTION CLAUSES FOR INDIVIDUALLY NEGOTIATED CONTRACTS



CHECKLIST FOR DRAFTING EMPLOYMENT CLAUSES

When drafting, adopting or recommending a dispute resolution clause in an individually negotiated employment contract, parties or their attorneys should give thought to some of the important elements outlined below. The purpose of our Guide is not to urge use of the provisions cited, but rather to suggest the range of possible options. For sample clauses, please see the full AAA Guide available on our website at www.adr.org and for assistance developing clear and effective arbitration and mediation agreements, go to clausebuilder.org.

- Should the clause cover all disputes or only certain specific types of disputes?
- Should the clause have other ADR options such as mediation?
- Should the clause specify the qualifications of the arbitrator? Does the clause include a general choice of law?
- Would the complexity of contemplated cases call for the incorporation of the AAA's Procedures for Large Commercial Disputes?
- Will there be a need for the parties to seek emergency relief that would necessitate the inclusion of the AAA's Optional Rules for Emergency Measures of Protection?
- Should the clause incorporate the AAA's Expedited Procedures as an option?
- Are the Employment Arbitration Rules and Mediation Procedures referenced?
- Should the clause have a locale provision?
- Should the clause have provisions that defines the amount and scope of discovery?
- Should the clause include time frames that deal with time limits as it relates to discovery or hearings and how much is necessary?
- To be fully effective, "entry of judgment" language in domestic cases is important.

The parties are free to customize and refine the basic arbitration procedures to meet their particular needs. If the parties agree on a procedure that conflicts with otherwise applicable AAA rules, the AAA will almost always respect the wishes of the parties. A dispute resolution clause should address the special needs of the parties. An inadequate ADR clause can produce as much delay, expense and inconvenience as a traditional lawsuit. Drafting an effective ADR agreement is the first step on the road to successful dispute resolution.

This guide is designed to provide parties and counsel with clear options for effective ways to structure an alternative dispute resolution procedure for an employment contract dispute.

A free copy of the "Resolving Employment Disputes: A Practical Guide" and/or "Drafting Dispute Resolution Clauses: A Practical Guide" is available online at adr.org.

For further information about the American Arbitration Association's[®] (AAA) Employment services, please visit our website at adr.org/employment. To speak with an AAA Representative, please call toll free at **1.888.774.6904**



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