



American Arbitration Association® Initial Discovery Protocols for Employment Arbitration Cases and Fair Labor Standards Act Cases

The American Arbitration Association (AAA®) has developed two sets of initial discovery protocols to encourage early exchange of documents and targeted discovery to increase the speed and efficiency of the arbitration process.

Initial Discovery Protocols for Employment Arbitration Cases

In the fall of 2012, the American Arbitration Association brought together a working group to tailor *Initial Discovery Protocols* for employment arbitration cases. These protocols were based on a pilot project on early discovery initiated in the federal courts (*Initial Discovery Protocols for Employment Cases Alleging Adverse Action*) that were intended to “encourage parties and their counsel to exchange the most relevant information and documents early in the case, to assist in framing the issues to be resolved and to plan for more efficient and targeted discovery.”

Highlights of the AAA Initial Discovery Protocols include:

- Limitation on production to a three-year time period before the date of the matter(s) in controversy, unless otherwise specified;
- Certification of accuracy by counsel or a party;
- Organization and labeling of documents and electronically stored information;
- 30-day time limitation on responses.

Initial Discovery Protocols for Fair Labor Standards Act (FLSA) Cases

In the fall of 2018, the American Arbitration Association brought together a working group to assess whether a protocol tailored to FLSA arbitration would benefit the process. The resulting protocols are based on *The Initial Discovery Protocols for Fair Labor Standards Act Cases Not Plead as Collective Actions* that were drafted by the Federal Judicial Center’s (FJC) Fair Labor Standard Act Protocols Committee to “encourage the parties and their counsel to exchange information and documents early in the case, help frame the issues to be resolved, and plan for more efficient and targeted discovery.”¹

¹ *Initial Discovery Protocols For Fair Labor Standards Act Cases Not Plead As Collective Actions (2018)*

