



Office of Travel Agent Arbiter Rules of Practice and Procedure

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The office of the Travel Agent Arbiter is located at:

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An Agent's Guide to the Arbiter's Rules of Practice and Procedure

(Ed. Note: This guide was prepared and provided to ARC by the Travel Agent Arbiter)

This quick-reference guide to the Travel Agent Arbiter's Rules of Practice and Procedure (which follow in their entirety) is designed to assist the agent who may be unfamiliar with either the Travel Agent Arbiter Program or the arbitration process, or both. It is not meant to be a substitute for the Rules, but merely a starting point for the uninitiated.

1. What kind of cases can the Arbiter resolve?

Virtually any dispute regarding any aspect of the contractual relationship between the Airlines Reporting Corporation (ARC) and the agent if the parties are unable to resolve it informally. Either the agent or ARC may file a complaint against the other, and where both agree, agents and individual airlines may also bring their disputes to the Arbiter (see sec. 2.E.). Typical disputes: ARC's 'finding' that "reasonable care" was not used for the security of ticket stock in a daytime theft; ARC's disapproval of an application; an agent's request to release it from the "personal guarantee of performance".

2. What can't be brought before the Arbiter?

Questions involving matters of "general applicability" or ARC policy matters are usually not appropriate (although the Independent Arbitration Panel may be the correct forum for these disputes). Also, any dispute already in court, earlier Travel Agent Commissioner (TAC) decisions, or an individual carrier's revocation of the agent's appointment are excluded.

3. Who is the Arbiter, what is an Arbitration, and what will it cost?

The TAA is a neutral, impartial third-party whose authority to resolve disputes in a final and binding manner is established in the Agent Reporting Agreement (ARA) and /or various ARC resolutions. The TAA is an employee of a non-profit corporation funded in equal parts by the agent community and the airline industry through assessments collected by ARC; however, neither has any influence over the Arbiter in any proceeding. The Corporation's Board consists of three agent groups and three airline representatives; ARC is not a member.

Arbitration is a quicker, less expensive method of resolving legal disputes without court litigation. The rules are flexible and the proceedings informal and relatively brief. The decisions will be final and binding on both sides.

No costs are assessed in an ARC-Agency case; the TAA's expenses are paid by the Program, which receives its funding through a small share of the annual ARC assessments.

4. What must I do if ARC files a complaint against me?

In the usual case, the agent has 15 calendar days in which to file a response [sec. 3.G.(3).]; cases involving "expedited appeals" have their own unique rules (see sec. 3.E. and 3.F.). Your answer must address each of the allegations, and may include your own complaint and/or request for damages. A failure to file a complete answer could result in a decision against you [sec.3.G.(4).].

In addition, your answer should contain:

- a list of available hearing dates
- a request for or a waiver of an oral hearing
- specific details and facts supporting your version of events [sec.3.A.(1).]

5. How do I file a complaint against ARC?

First, be sure the matter is within the TAA's authority. If so and informal discussions with ARC are unsuccessful, a written "complaint" is sent to ARC and the TAA (be sure copies of everything you send to the Arbiter are sent to ARC at all stages).

The complaint:

- identifies the parties
- details the problem and supports the allegations with references to the ARA
- requests a specific remedy
- includes a list of available hearing dates, and
- includes copies of relevant documents.

Once a complaint and response are filed, the TAA will establish a hearing date, if appropriate. In such cases, the parties must exchange copies of every document they intend to present to the Arbiter at least seven (7) days prior to the hearing, including the names and summaries of expected testimony of all witnesses they intend to produce.

6. What will the decision be based upon?

The Arbiter must base the decision solely on the evidence presented, either in writing and/or at the hearing, through documents and live testimony. Each



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point must be established by a fair preponderance of all the convincing and substantial evidence presented on the record.

7. What if I don't like the decision?

By the terms of the ARA, the parties have agreed to submit to arbitration which is "final and binding." Ordinarily, courts will not accept appeals based on disagreement with an arbitral decision unless characterized by extreme unfairness or disregard of the facts or law. Courts will, however, enforce an arbitration decision which is properly reached.

The TAA's Rules provide an internal appeal (sec. 7.D.). Within ten days of receipt, you may ask the TAA to reconsider the decision who may then review all or part of the record, and may even reopen the hearing if an error is found or new and previously unavailable evidence is offered.

8. Are the decisions always made public?

Once a decision is 'final' the TAA makes it available to the press and public. This is an important aspect of the program's emphasis on educating the industry and in

demonstrating the openness and objectivity of the process (sec.7.E.). The record, however, is not open to public access, but only by written permission of the parties.

9. How long will this all take?

Depending on the complexity of the case, a hearing can be scheduled within 30 days of the first filing of a complaint; it has been the Arbitrator's practice to issue a decision within 10-14 days of the close of the hearing.

10. Whom do I call if I have questions?

At the TAA's office (phone (703) 988-9002) contact the Office Manager who may refer you to the Travel Agent Arbitrator, William S. McGee. Remember, only procedural questions can be handled here. At ARC, Deborah A. Erickson, Manager-Compliance Services, is available to handle most issues which may involve a potential arbitration. Her phone number is 703-816-8126, and agents may feel free to discuss a possible settlement with ARC at any time prior to or during an arbitration. The TAA will not participate in these negotiations, but does encourage them wholeheartedly.