



A Guide to Self-Administered ADR
and
CPR's Dispute Resolution Services



Introduction

With litigation costing companies billions of dollars each year, the effective management of conflict is essential to reduce costs, lower risks and improve business relationships. Mediation, arbitration and other consensual methods offer a low-cost, high-return option for corporations and their outside counsel.

However, parties often complain about the excessive costs and inefficiencies that are inherent in traditional administered ADR proceedings. This is especially true for complex commercial cases with billions of dollars at issue.

CPR specializes in these large-scale disputes and has developed proprietary self-administered processes to empower parties and expedite resolution. Refined over three decades, CPR's self-administered approach to arbitration and mediation provides a vehicle for parties to conduct a proceeding without the unnecessary intervention of an administering body.

For complex business matters, CPR's approach assures:

- **Cost Savings:** Because the proceedings are directly administered by the neutrals, the parties pay no administrative fees to CPR – significantly lowering the overall cost of resolving the dispute.
- **Control:** The parties are in complete control of the neutral selection process but may request highly-customized selection assistance when needed.
- **Efficiency:** Once selected, the neutral can quickly agree on procedures and schedules with the parties, with no intervention of third-party administrative staff.
- **Flexibility:** Parties maintain maximum ability to create a resolution process that best suits their dispute and the freedom to amend it in order to meet specific circumstances.

CPR's methodology also includes a broad spectrum of available related services, resources and tools, including panels of neutrals, clauses and rules, and drafting tools. This guide will describe CPR's approach in more detail and explain how to best take advantage of our numerous services to achieve your business priorities.

A Guide to Self-Administered Processes

Alternative Dispute Resolution (ADR) is a collection of procedures, typically mediation and arbitration, used for the purpose of resolving disputes more efficiently and at a lower cost. When corporations utilize ADR methods, they can avoid expensive and time-consuming trials. ADR also encourages creativity, helps parties find practical business-centric solutions, and avoids the unpredictability involved with traditional dispute resolution mechanisms. The process usually results in improved communications between parties and is, therefore, better for ongoing business relationships.

There are different methods for conducting ADR proceedings, based on the level of control the parties would like over the process. In deciding which process to use, parties should consider the amount of support necessary for the matter and how much they are willing to spend on the administrative elements of the case.

1. Administered

An administered approach requires the active involvement of a separate administering entity as a matter of course throughout the process. Administered ADR occurs under the auspices of a court or an independent ADR entity that functions much like a clerk by arranging and managing conduct of the ADR proceedings, including providing filing, docketing, and logistical, administrative and secretarial support. Due to its significant involvement, the administering entity typically charges a substantial fee for its services. This is in addition to the fee charged by the neutral(s).

2. Self-Administered/Non-Administered/Ad-Hoc

A self-administered process is designed to proceed without the involvement of a separate administering entity. Instead, the neutral(s) and parties, themselves, administer the proceedings. The process may also involve an ADR provider entity, which simply assists with the selection of neutrals if called upon by the parties' agreement or if for some reason the parties are unable to select a neutral. The selected neutral manages all aspects of the proceedings not controlled by the parties under their agreement, including keeping the necessary files, arranging the location of the proceedings, and agreeing upon a neutral fee and collection process. The proceedings may follow institutional rules and procedures, such as those outlined in CPR's Rules for Non-Administered Arbitration and the CPR Mediation Procedure, or may adhere to a procedure defined by and agreed to by the parties. A major advantage of this approach is that such proceedings typically cost less than institutional processes because there is no need to pay an institution a percentage of the claim as a filing fee, or indeed any fees, if the parties can proceed on their own without an institution's intervention.

3. Assisted Dispute Resolution

For those using a self-administered approach, situations may arise in which limited administration may be needed for a given type of matter. In these instances, assisted dispute resolution services – like customized neutral selection services, fund holding, award review, and serving non-respondents – may be provided upon request of the parties. In this approach, parties only pay for the services that they use. By merging the flexibility of a self-administered resolution process with occasional administrative support, the assisted resolution approach offers parties the best of both worlds.

"Dispute resolution is a vital component of business relations. If and when faced with a dispute, companies should, whenever possible, strive for alternatives which preserve both parties' business interests."

Jean-Claude Najjar
Senior Counsel & Chief Compliance Officer
GE Commercial Finance



Benefits of CPR's Self-Administered Processes



CPR is the leading proponent of self-administered ADR processes. These processes enable parties to constructively and efficiently arrive at a just result, while significantly controlling risks and expenditures of time and money. By directly administering the dispute resolution process pursuant to CPR's Rules or by any agreed-upon procedures, parties conduct their proceedings without filing pleadings with CPR or paying any administrative fee. Also, there is no or minimal involvement of an administrative entity and proceedings can be held where you are – anywhere in the world.

A Comparison of ADR Approaches

	Self-Administered Arbitration	Assisted Arbitration	Administered Arbitration
Cost	\$0	A la carte pricing that allows you to pay only for what you use. Flat fees for services.	Filing fees & additional administrative fees – usually based on size of claim.
Efficiency	Proceed as quickly as desired, without the intervention of a middleman.	Proceed as quickly as desired. Use an Administrator only when necessary.	Administrator usually acts as middleman for everything from pleadings to billing.
Flexibility	Rules and procedures can be drawn up by parties as they wish.	When needed, there are procedures in place to help with neutral selection, challenges, etc.	Parties must follow pre-set and established rules.
Control	Parties are able to select specific process alternatives in response to the changing goals and expectations that parties may bring to the table.	When needed, parties may request administrative assistance. However, parties retain as much control as they desire.	Administrator and specific rules govern the proceeding.

(Continued on next page)

	Self-Administered Arbitration	Assisted Arbitration	Administered Arbitration
Customization	Parties handle all administration and design their own proceeding by combining desired elements.	Parties may customize the role of the Administrator as they see fit, using services for selection, billing or other unmet needs.	Parties must follow the rules of the Administrator, without room for customization.
Best for	Experienced clients and/or counsel knowledgeable in ADR procedures and complex commercial matters.	Complex cases where the subject matter requires neutrals with highly-specific expertise or when parties and/or neutral desire a limited level of administration during the proceedings.	High volume pattern cases requiring set procedures and a high level of administration.

Simplifying Self-Administered Processes

A self-administered approach offers inherent flexibility and control. Experienced neutrals and counsel are capable of performing most of the functions generally performed by an administering organization. Therefore, it is ideal for parties who want to avoid the burden of a third-party conduit for service of pleadings or to arrange conference calls and meeting locations.

CPR offers a broad spectrum of tools and services to help parties and neutrals direct their own proceedings, including:

- **Clauses and Agreements:** CPR provides models of pre-dispute ADR clauses and post-dispute ADR agreements and can work directly with parties to devise the best process for their proceeding to ensure that practitioners have the resources they need to craft procedures tailor-made for their business objectives.
- **Best Practice Protocols:** The ability to customize the proceeding is particularly beneficial because it enables parties to draft their own rules, set their own timetables and proceed at their own pace. Template procedures, like CPR's Non-Administered Arbitration Rules, are available to assist neutrals or to help fill the gap in areas where the parties have not otherwise agreed.

- **Biographies of Distinguished Neutrals:** With access to CPR's extensive database, parties can select from an elite roster of highly-qualified neutrals with specific experience in complex commercial matters. CPR's arbitrators and mediators are pre-screened for strong case management skills and all possess the highest commitment to neutrality and ethical conduct.

Clauses and Rules Tailored to Your Business Needs

A successful and efficient dispute resolution process is dependent upon well-designed rules of procedure. For 30 years, CPR has harnessed the collective expertise of thought leaders and industry experts to craft model ADR clauses, rules, codes, and procedures for business agreements and practices. Together, CPR's varied offerings help parties achieve a customized and more streamlined approach to dispute resolution.

Crafted prior to a dispute, contract clauses can protect business interests and provide a means by which parties can avoid the potential hazards of litigation. To make the drafting process as efficient as possible, CPR publishes templates to assist in drafting clauses for agreements.

CPR offers specialized rules and procedures for business disputes, specific industries, and for cross-border or international proceedings. In addition, CPR provides disclosure and damages protocols to assist arbitrators in conducting these proceedings. These tools are highly customizable and can be adapted by parties to the particular needs of the dispute.



Other ADR tools developed by CPR to assist parties in managing disputes include an early case assessment toolkit, an economical litigation agreement, guidelines for mass claims facilities, and procedures regarding information exchange (including e-data) and presentation of witnesses. CPR also directs special programs which provide mechanisms for the resolution of franchise disputes, for mediating disputes arising between American and Chinese businesses, and for the resolution of asbestos-related insurance coverage disputes by means of the Wellington Agreement.

A Select List of Tools to Assist Parties

The following CPR-crafted tools, as well as a full library of commercial ADR-related resources and protocols, can be ordered or are available for free download from CPR's website at www.cpradr.org.

- Master Guide: "Drafting Dispute Resolution Clauses"
- Master Guide: "Patent Mediation"
- Master Guide: "Commercial Mediation in Europe"
- Master Guide: "Avoiding & Resolving Information Technology Disputes"
- ADR in Trademark & Unfair Practices Disputes: A Practitioner's Guide
- CPR International Reinsurance Industry Dispute Resolution Protocol
- Dispute Review Boards: A Management Best Practice
- Dispute Resolution Drafting Checklist
- CPR Model Dispute Resolution Clauses
- CPR's Franchise Mediation Procedure
- CPR's Rules for Expedited Arbitration of Construction Disputes
- CPR's Global Rules for Accelerated Commercial Arbitration
- CPR's Rules for Non-Administered Arbitration of Patent & Trade Secret Disputes
- CPR's Protocol on Document Disclosure & Presentation of Witnesses in Commercial Arbitration
- CPR Arbitration Appeal Procedure
- Protocol on Determination of Damages in Arbitration
- CPR International Arbitration: Model ADR Procedures & Practices
- CPR Economical Litigation Agreement: Civil Litigation "Pre-nup"

Superior Neutrals Expert in Complex Commercial Matters



Reaching resolution is most likely to be achieved if the parties and their attorneys select highly-skilled neutrals that strike an appropriate balance between achieving efficiency and fairness, while actively managing a complex process.

CPR's arbitrators and mediators are the most sought-after in the field. Its Panels of Distinguished Neutrals comprise the industry elite – retired state and federal judges, prominent attorneys, leading business executives, academics, and ADR professionals from around the world.

CPR's neutrals:

- Are highly-skilled in resolving complex business disputes;
- Are experienced in multinational corporate disputes or issues of public sensitivity;
- Have been qualified through CPR's rigorous credentialing process;
- Have been peer-reviewed and user-approved for quality;
- Are pre-screened for strong case management skills; and
- Have achieved resolutions in thousands of cases, with billions of dollars at issue, worldwide.

"In my role at Chartis, I am constantly searching for highly-skilled and effective neutrals. CPR's comprehensive Panel of Distinguished Neutrals is one of the most respected and useful listings of mediators and arbitrators in the field."

Deborah Masucci
Vice President, Office of Dispute Resolution, Litigation Management
Chartis Inc.



CPR maintains exclusive rosters of highly-experienced arbitrators and mediators, with specialization in more than 20 industry practice areas, including:

- Asbestos
- Banking, Accounting & Financial Services
- BioTech
- Certified Public Accountants
- Construction
- Cross Border Disputes
- e-Discovery
- Employment*
- Energy, Oil & Gas
- Entertainment
- Environmental
- Franchise*
- General Counsel
- Global
- Health Care & Life Sciences
- Insurance
- Insurer-Policy Holder Coverage
- Judicial
- Sports Law
- Taxation
- Technology
- Trademark/IP
- U.S.-China Business Mediation

**Available free to non-CPR members at CPR's website*

CPR can also offer appeal arbitrators and special arbitrators for interim relief on request. CPR members have free, unrestricted 24/7 access to CPR's proprietary Panels of Distinguished Neutrals. Non-members can take advantage of CPR's Panels and services for a fee by contacting CPR directly.

Why Choose CPR's Neutrals?

When you engage a CPR neutral, you can be assured of a highly-qualified professional who has been both peer-reviewed and, more importantly, user-approved for excellence. CPR's admission process is rigorous and comprehensive; resulting in a world-class list of the most seasoned and credentialed neutrals, categorized by industry, practice area, geographic location, and expertise.

Select committees of industry-specific users, peers, and academics review applicants to CPR's panels. Candidates are pre-screened for their ADR expertise and training, and candidate references are asked to comment specifically on the applicant's qualifications to serve on large complex commercial disputes. Qualification to the CPR roster is demanding and available openings are limited.

Choosing the wrong neutral can adversely affect the outcome of the dispute which, in turn, can have a long-term impact on business relationships and the bottom line. This is particularly important for arbitral proceedings because arbitral decisions are typically final and binding. Thus, selecting the right neutral is critical and should not be left to chance.

CPR's Assisted Dispute Resolution Services



CPR's self-administered processes allow parties to conduct an arbitration or mediation without the help of an administering body. However, given the varying nature of complex commercial disputes, CPR provides additional services to assist parties should limited administrative help be needed. With CPR's assisted dispute resolution services, parties can customize their processes by choosing the type and amount of assistance that is needed for each proceeding.

Many of these services are available to CPR's members at minimal to no cost. Non-members seeking assistance with their proceedings may access these services for a modest fee.

Neutral Selection Services – CPR's Most Requested Service – Parties can avoid deadlock and reduce the time spent vetting neutrals by using CPR's Neutral Selection Services. Whether you are looking for a mediator, an arbitrator, an appeals arbitrator, a special arbitrator for interim relief, or other third party neutral, CPR's experienced attorneys can help you select the most qualified neutral for your proceedings.

Learn more in the next section.

CPR's Assisted Arbitration Services: CPR can assist parties in proactively addressing disputes and effecting resolution via the following services:

- Serving non-responding respondent
- Scheduling interviews for neutral selection
- Reviewing challenges of arbitrator post selection
- Reviewing awards (form, clerical, computational, and typographical)
- Acting as fund-holder for matters
- Providing conference/caucus room rental at CPR's New York office

Designing Corporate ADR Systems and Programs: CPR can assist companies and industry groups in crafting internal ADR programs for frequently occurring disputes, identify and train a panel of industry-specific neutrals, and communicate the program to relevant parties.

Coalescing and Convening Parties in Multi-Party Disputes: CPR is the only organization which has created a means by which corporations and law firms can commit to trying ADR procedures before moving to full-scale litigation – the **CPR Pledge**.[®] More than 4,000 operating companies and 1,500 law firms have committed to the **CPR Pledge**.[®] At the request of any party, CPR can leverage this commitment to convene multi-party disputes and obtain consent to engage in an appropriate ADR process to resolve a matter.

Most Comprehensive Neutral Selection Services in the Field



Although administration is not required for resolution, CPR does offer assistance with the most critical element in your proceeding – the challenge of selecting the best neutral with the right set of skills.

For a modest fee, CPR can act on behalf of all parties to help select a neutral that is ideally suited to the case – and one that is acceptable to all sides.

CPR assists parties via four primary selection services:

1. List of Neutral Candidates

By default, CPR's Rules and self-administered processes provide that the parties may choose their mediator or party-appointed arbitrator without assistance. However, selecting a neutral can be daunting. CPR maintains an extensive and detailed neutrals database which can be searched to identify neutrals who specifically fit parties' requirements in terms of experience, credentials, language ability, and geographic location. Once criteria have been established, CPR simply provides biographies and contact information for the neutrals meeting parties' specific needs. The parties, then, proceed using their own selection process.

2. Vetted List of Neutral Candidates

The greatest burden faced by parties is to expeditiously find an agreed-upon neutral with no conflicts of interest and one who will be available when the parties want their arbitration hearing or mediation to take place. With its thorough vetting process, CPR can pre-screen neutral candidates for conflicts and availability and submit to parties a list of vetted candidates, including biographical information, hourly rates, disclosures, availability, and responses to special queries from the parties. The parties may then proceed with their own selection process or follow a traditional ranking method. If needed, CPR offers consulting services to help parties craft their own customized neutral selection process.

CPR's Vetted Neutral Selection Process Conducted by an Experienced Attorney

Profiling	<ul style="list-style-type: none"> • Develop a detailed profile of the necessary neutral qualifications and experience. • Discuss the complexity and issues involved in the dispute and the potential for resolution. • Agree on a venue and a time period for hearing the matter (if not already confirmed). • Agree on special queries to be made to candidates.
Identification	<ul style="list-style-type: none"> • CPR searches its database, including a thorough review of the neutrals' substantive and procedural qualifications. • CPR identifies neutrals who best meet the parties' desired requirements.
Query	<ul style="list-style-type: none"> • CPR prepares a list of potential neutrals. • CPR queries candidates to determine their availability and willingness to serve, as well as to identify any potential conflicts. • Any special queries are made at this time.
Nomination	<ul style="list-style-type: none"> • CPR provides parties with a list of candidates who are conflict-free and available for the hearing calendar window preferred by the parties. • CPR provides biographical information, hourly rates, disclosures, and responses to special queries.
Ranking	<ul style="list-style-type: none"> • Absent party agreement to a different process, if parties are unable to agree on a neutral, they rank their preferences, and CPR selects the nominee with the highest combined ranking.
Selection	<ul style="list-style-type: none"> • CPR notifies the selected neutral/s • Parties are contacted by the neutral to begin the dispute resolution process. • The neutral assumes responsibility for both directing and administering the ADR proceedings.
Assistance	<ul style="list-style-type: none"> • CPR remains available to address later-arising challenges.

3. Screened Arbitrator Selection

CPR's Rule 5.4 for Non-Administered Arbitration provides a unique mechanism for the constitution of a tripartite tribunal whereby parties select their party-appointed arbitrators without the candidates knowing which party designated them. In this process, CPR handles all communications with the party candidates to ensure confidentiality. This screened selection process offers an additional layer of protection to parties with respect to the impartiality of the neutrals. When the parties provide for CPR screened arbitrator selection in their ADR clause, CPR can assist them throughout the selection of party-appointed arbitrators and a chair.

4. Direct Appointments

Acting as a widely-respected and independent organization, CPR can directly appoint an arbitrator or a mediator when the parties provide for a direct appointment in their contract or at the parties' request after the dispute has arisen. In that case, CPR will select a neutral who is fully qualified to resolve the dispute and who has been screened for conflicts and availability.

In many cases, a neutral can be appointed within one-four weeks depending on the process used. The expedited selection process offered by CPR means a more efficient and less costly proceeding for all parties.

For decades, parties have relied upon CPR for sophisticated and innovative best practices in commercial conflict resolution and self-administered processes.

For more information, please contact CPR's Dispute Resolution Services Department at +1.212.949.6490, email CPRNeutrals@cpradr.org, or visit CPR on the web at www.cpradr.org.



About CPR

The International Institute for Conflict Prevention and Resolution (CPR) serves as an independent, objective resource for the avoidance, management and resolution of complex business-related disputes. By harnessing the expertise of leading minds in ADR and benchmarking best practices, it is the resource of choice for multinational corporations with billions of dollars at risk. No other organization has equal influence, range of intellectual property, or breadth of programs focused exclusively on commercial conflict management.

CPR is also a leading destination for lawyers seeking superior arbitrators and mediators, as well as cutting-edge ADR tools and training. CPR's membership comprises an elite group of ADR trailblazers, including executives and legal counsel from the most successful companies in the world, partners from global law firms, government officials, retired judges, highly-experienced neutrals, and academic heavyweights.

Learn more at www.cpradr.org.

**International Institute for
Conflict Prevention & Resolution**

575 Lexington Avenue, 21st Floor
New York, NY 10022
+1.212.949.6490
www.cpradr.org
info@cpradr.org