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Reimagining the Path Forward: Preparing and Promoting the Next Generation of Arbitrators Through Innovative Mentorship, Disclosure, and Transparency

Homer C. La Rue

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REIMAGINING THE PATH FORWARD: PREPARING AND PROMOTING THE NEXT GENERATION OF ARBITRATORS THROUGH INNOVATIVE MENTORSHIP, DISCLOSURE, AND TRANSPARENCY

An Essay about Guiding Principles for a Stronger, More Inclusive Profession

HOMER C. LA RUE*

ABSTRACT

The article addresses a pivotal moment for the labor-management arbitration profession. As demographic changes and the growing complexity of labor relations coincide with a decline in the number of qualified arbitration professionals, Professor La Rue emphasizes the critical role senior arbitrators play as mentors and gatekeepers for the next generation. The piece explores mentorship models, including the traditional “Legacy Method” and initiatives designed to expand opportunities for underrepresented groups, such as the Ray Corollary Initiative.

The article also offers actionable recommendations to advance disclosure and transparency, including: (1) reducing barriers to entry for new arbitrators; (2) establishing a formal mentorship framework, including a role for associate arbitrators; (3) standardizing disclosure statements for consistency; (4) providing insight into panel selection processes; (5) expanding educational access and content; (6) incorporating peer reviews to support professional development; and (7) normalizing mentorship relationships through official Associate Arbitrator Request Forms.

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By championing mentorship, disclosure, and transparency, the essay demonstrates how the profession can uphold integrity, broaden the talent pool, and safeguard the future relevance and legitimacy of private arbitration.

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*An experienced arbitrator should cooperate in the training of new arbitrators.*¹

I. INTRODUCTION

In this era of profound transformation in labor-management relations and the labor-management arbitration profession,² the labor-management arbitrator community stands at a crossroads that demands both wisdom and vision. This article addresses “senior labor-management arbitrators”³—those whose experience, discernment, and integrity have long served as the bedrock of workplace dispute resolution and self-governance in the workplace.⁴

¹ AAA & FMCS, CODE OF PROFESSIONAL RESPONSIBILITY FOR ARBITRATORS OF LABOR-MANAGEMENT DISPUTES OF THE NATIONAL ACADEMY OF ARBITRATORS § 1.C.(a), at 7 (Sep. 2007) [hereinafter CODE], <https://naarb.org/wp-content/uploads/2017/03/NAACODE07.pdf> [<https://perma.cc/5BBF-4HEE>].

² See NAA, COMMITTEE ON THE STATE OF THE PRO. 2024 REP. 7, 33 (2024), <https://naarb.org/wp-content/uploads/2024/05/2024-STATE-OF-THE-PROFESSION-REPORT.pdf> [<https://perma.cc/PGB6-E2L4>] (noting that the former “homogeneity [of the profession] has begun to change, albeit slowly” and discussing “significant legal decisions and changes affecting arbitration” since 2021).

³ For the purposes of this article, I will use the terms “senior arbitrator,” “experienced arbitrator or practitioner,” “seasoned practitioners,” and “long-tenured practitioners” interchangeably to refer to individuals with at least eleven years of experience serving as labor arbitrators. The choice of eleven years is based on a survey of National Academy of Arbitrators (NAA) members that “focused on typical day-to-day arbitration practices” with the purpose of confirming “generally utilized best practices as well as identifying diverse views on several procedural issues,” NAA RSCH. & EDUC. FOUND., SURVEY OF NAA MEMBERS FOR 10TH ED. OF ELKOURI & ELKOURI (Dec. 2023) [hereinafter NAA MEMBER SURVEY], <https://naarb.org/wp-content/uploads/2025/01/NAAREF-December-2023-Member-Survey.pdf> [<https://perma.cc/EDJ8-DXWB>]. This essay is premised on Dr. Ruth Gotian and Andy Lopata’s finding that because “[a] quarter of a century of aging research shows that, as we age we search for meaning, values[,] and joy,” mentorship provides “a profound way to bring about a sense of purpose and happiness.” RUTH GOTIAN & ANDY LOPATA, THE FINANCIAL TIMES GUIDE TO MENTORING 57 (2024) (citing DEBORAH HEISER, *Rethinking Aging: Mentoring a New Generation* (TED, Nov. 2018), https://www.ted.com/talks/deborah_heiser_rethinking_aging_mentoring_a_new_generation (on file with author)). Dr. Gotian and Lopata explain that psychologist Erik Erikson coined the phrase “generativity” to capture “this idea of wanting to give back,” and asserted that “mentorship is the perfect vehicle to make it happen.” *Id.* (citing ERIK H. ERIKSON, DIMENSIONS OF A NEW IDENTITY (1979)). The desire to give back is not limited to the most seasoned of our profession of arbitrators and mediators. Research on mentoring suggests that even “a midcareer professional may find that entering into a mentoring relationship with someone more junior offers an opportunity at midlife to redirect one’s focus into actions that are productive and creative.” *Id.* (citing Kathy E. Kram, *Phases of the Mentor Relationship*, 26 ACAD. MGMT. J. 608 (1983)). This essay focuses on only one kind of mentorship—what is known as the “traditional top-down hierarchical mentoring structure.” *Id.* at 16. This is not the only effective mentoring structure, but other common arrangements—such as peer, reverse, and group mentoring—are beyond the scope of this paper. *Id.*

⁴ The words of the United States Supreme Court in *United Steelworkers v. Warrior & Gulf Navigation Co.* (the first case of the Steelworkers Trilogy) are as true today as they were sixty-five years ago when first set forth. See *United Steelworkers v. Warrior & Gulf Navigation Co.*, 363 U.S. 574 (1960). The Court wrote that “[a] collective bargaining agreement is an effort to erect a system of [workplace] self-government.” *Id.* at 580. The Court continued, explaining: “The parties expect that [the arbitrator’s] judgment of a particular grievance will reflect not only what the contract says but, insofar as the collective bargaining agreement permits, such factors as the effect upon productivity of a particular result, its consequence to the morale of the [workplace], [the arbitrator’s] judgment whether tensions will be heightened or diminished. For the parties’ objective in using the arbitration process is primarily to further their common goal of uninterrupted

A. REIMAGINING THE SENIOR ARBITRATOR ROLE

Senior arbitrators should reimagine their role—not merely as guardians of tradition, but as active gatekeepers and mentors guiding the next generation of practitioners.⁵ As the world of work evolves, so must the stewards who shape its future.⁶ The profession needs arbitrators who are versed in the law of the workplace (in traditional terms, the “law of the shop”) and dispute-resolution techniques, while remaining open to innovation, inclusivity, and new perspectives.

B. THE POWER OF SENIOR INFLUENCE

Senior arbitrators have a unique influence and responsibility to identify, mentor, and empower emerging professionals, ensuring the arbitral community upholds its highest ideals while embracing necessary change. Their professional stories, standards, and practices can inspire newer arbitrators to marry rigor with adaptability and broaden the talent pool available to parties and rosters, thereby utilizing all available talent.

In reimaging the senior arbitrator’s role as gatekeeper, senior members hold the key to a legacy that extends far beyond their individual accomplishments. This entails shaping a profession that will thrive for generations. Senior labor-management arbitrators have contributed significantly to the field by:

- Establishing and upholding professional standards for labor and employment arbitration;
- Developing codes of professional responsibility and ethical guidance for arbitrators;
- Advancing scholarship and practice through research, publications, and education;
- Shaping the legal landscape by participating in appellate litigation and public discourse;
- Providing professional development and practical training for arbitrators at all levels; and

production under the agreement, to make the agreement serve their specialized needs. The ablest judge cannot be expected to bring the same experience and competence to bear upon the determination of a grievance, because [a judge] cannot be similarly informed.” *Id.* at 582.

⁵ See also Maria R. Volpe et al., *Barriers to Participation: Challenges Faced by Members of Underrepresented Racial and Ethnic Groups in Entering, Remaining, and Advancing in the ADR Field*, 35 FORDHAM URB. L.J. 119, 139 (2008) (“ADR is perceived as a ‘gated’ community. The field seems closed to outsiders since many ADR activities occur behind closed doors, and it is hard to see what is going on inside. Because of the barriers related to career paths and access to information about the field, the walls around the field seem impenetrable for all, and especially for young individuals in underrepresented racial and ethnic groups who might be interested in pursuing a career in the field. This barrier seemed to capture the essence of many of the other perceived barriers.”).

⁶ See generally Jim Harter & Ben Wigert, *The Post-Pandemic Workplace: The Experiment Continues*, GALLUP (Mar. 11, 2025), <https://www.gallup.com/workplace/657629/post-pandemic-workplace-experiment-continues.aspx> [<https://perma.cc/53RX-U59Z>] (discussing changes in the workplace including shifting culture, remote work, and artificial intelligence); WORKHUMAN, THE EVOLUTION OF WORK (2023) (providing results of a survey of 4,100 workers in the United States, United Kingdom, Ireland, and Canada concerning change in the workplace).

- Sustaining dispute resolution during crises by adapting procedures, including virtual hearings during the COVID pandemic.

C. PRESENT CHALLENGE AND OPPORTUNITY

Despite these contributions, the profession faces a critical inflection point: membership on many traditional rosters is aging,⁷ entry pathways are constrained,⁸ and systemic barriers continue to limit the entry of new and diverse voices.⁹ To preserve and strengthen the arbitration profession, senior arbitrators must take deliberate, bold action to cultivate the next generation and modernize pathways into the profession.¹⁰

⁷ As experienced practitioners and members of the Academy reflect on the profession's future, the need to welcome, develop, and support newer arbitrators becomes ever more urgent. In 2023, the Academy membership numbered 580, "including approximately 200 inactive members," NAA MEMBER SURVEY, *supra* note 3, at 1. Fourteen percent of Academy members have been granted dues waivers or a reduction in dues because they have retired or are semi-retired, *see id.* at 8. Many experienced arbitrators are approaching retirement, creating a natural vacuum in expertise, institutional memory, and leadership roles within the profession, *see id.* Arbitrators, generally, skew mature—75% are aged 60 or older, and 44% are 70 or older, *see* AM. ASS'N FOR JUST., WHERE WHITE MEN RULE: HOW THE SECRETIVE SYSTEM OF FORCED ARBITRATION HURTS WOMEN AND MINORITIES 6 (2021). There is reliable anecdotal evidence that the labor-management advocacy community is concerned about the development of the next generation of labor-management arbitrators, *see also* Joseph Mamounas, *ICCA 2014. Does "Male, Pale, and Stale" Threaten the Legitimacy of International Arbitration? Perhaps, but There's No Clear Path to Change*, KLUWER ARB. BLOG (Apr. 10, 2014), <https://legalblogs.wolterskluwer.com/arbitration-blog/icca-2014-does-male-pale-and-stale-threaten-the-legitimacy-of-international-arbitration-perhaps-but-theres-no-clear-path-to-change/> [<https://perma.cc/45HY-SXU2>] ("On Monday, 7 April, at the 2014 ICCA Miami Conference, the international-arbitration community gathered to address the question, 'Who are the arbitrators?' The answer, panel attendees were told, was 'male, pale, and stale'—that is, a large majority of the individuals chosen to serve as international arbitrators are male, from North America or Western Europe, and generally quite senior. Whether this reality threatens the legitimacy of international arbitration and motivates the community to aspire to make arbitration more diverse and inclusive and, if so, how that goal can be reached, were the focus of the panel and the audience's spirited discourse throughout the session."). A clear and coherent leadership voice for access to the field, let alone the Academy, is lacking. Senior arbitrators should fill the vacuum.

⁸ *See* Martin H. Malin et al., COLL. OF LAB. & EMP. LAWS. & NAA RSCH. & EDUC. FOUND., A STUDY GUIDE TO ACCOMPANY THE ART & SCIENCE OF LABOR ARBITRATION 30–34 (2013) (noting the hurdles in entering the field of labor arbitration and discussing several of the pathways).

⁹ *See* Volpe et al., *supra* note 5, at 139–41 (outlining barriers "specifically affecting underrepresented racial and ethnic group members who seek involvement in the ADR field"); David A. Hoffman & Lamont E. Stallworth, *Leveling the Playing Field for Workplace Neutrals: A Proposal for Achieving Racial and Ethnic Diversity*, DISP. RESOL. J., Feb.–Apr. 2008, at 1, 3–5 (identifying both the "subtle or obvious" "barriers to diversity in the use of minority neutrals").

¹⁰ The Academy has demonstrated an ongoing commitment to review the membership standards for admission to ensure that they represent the current reality of the labor-management and employment circumstances and practice. *See* NAT'L ACAD. OF ARB., *Membership Guidelines*, <https://naarb.org/membership-guidelines/> [<https://perma.cc/P84C-5SAA>] (last visited July 1, 2026).

Today, labor relations and employment disputes are growing more complex.¹¹ Parties are increasingly seeking diverse perspectives and innovative approaches to solving workplace problems, including issues unique to the new generation of workers.¹² At the same time, a counter-narrative seeks to suppress the advantages of using all available talent by attracting, supporting, and selecting arbitrators from a pool whose life experiences may differ from those of the current cadre.¹³

D. PRINCIPLES FOR TRANSITION

The pathway to introducing newer arbitrators to established practices and rosters is not automatic, effortless, or optional. Two fundamental mandates—disclosure and transparency—offer a principled framework for this transition. If senior arbitrators deliberately embrace these mandates, they can help build a more robust, diverse, and vibrant arbitration community that fully utilizes available talent and better serves evolving workplace needs.

II. REFLECTING ON THE PAST TO BUILD THE FUTURE

*When I want to understand what is happening today or try to decide what will happen tomorrow, I look back.*¹⁴

A. FROM THE LEGACY OF THE ORIGINAL SALON TO THE ACADEMY SALONS

This brief discussion is geared to what I term the “Legacy Method” for introducing newer arbitrators into the field. By Legacy, I mean the communication to advocates from a seasoned arbitrator that an associate arbitrator possesses the skill and judgment necessary to be trusted to conduct a fair arbitration and render a well-reasoned award.¹⁵ Surprisingly, the Legacy Method has not been the path for most National Academy of Arbitrators (Academy) members. The Academy Member Survey asked: “Did you serve as a FORMAL apprentice or mentee for more

¹¹ See Justin Bachman, ‘Active times’ for Employment Law as Courts Wade Through New Rules, LEGAL DIVE (Sep. 18, 2024), <https://www.legaldive.com/news/active-times-for-employment-law-as-courts-wade-through-new-rules/727410/> [<https://perma.cc/T3QT-4AUG>].

¹² Justin Kelly, *Increased Diversity in ADR Essential to Keep Up with Evolving Global Marketplace*, JAMS DISP. RESOL. ALERT, Winter 2012, at 1, 4 (“As corporate employee demographics shift and companies develop programs to resolve employee disputes, they seek a diverse panel of mediators and arbitrators to meet their needs. Global companies have a diverse customer base drawn from diverse markets, and demand is increasing for counsel with diverse viewpoints and problem solvers with cultural sensitivities and diverse ideas. It is critical that the ADR profession evolves to meet this demand.”).

¹³ See also Joseph Mamounas, *ICCA 2014. Does “Male, Pale, and Stale” Threaten the Legitimacy of International Arbitration? Perhaps, but There’s No Clear Path to Change*, KLUWER ARB. BLOG (Apr. 10, 2014), <https://legalblogs.wolterskluwer.com/arbitration-blog/icca-2014-does-male-pale-and-stale-threaten-the-legitimacy-of-international-arbitration-perhaps-but-theres-no-clear-path-to-change/> [<https://perma.cc/US97-WJQ3>] (explaining that “opinions diverge about whether the international arbitration community should take steps to foster diversity and, if so, what those steps should be” and outlining some of the perspectives).

¹⁴ LAURENCE J. PETER, PETER’S QUOTATIONS (1977) (attributing this quote to Oliver Wendell Holmes, Jr.).

¹⁵ See Homer C. La Rue & Alan A. Symonette, *The Ray Corollary Initiative: How to Achieve Diversity and Inclusion in Arbitrator Selection*, 63 HOW. L.J. 215, 222–23, 222 n.18 (2020) (explaining that lawyers “typically avoid selecting an unknown mediator without an assurance that the mediator has the perceived requisite knowledge, skill, and experience” garnered in part by observing/shadowing a well-respected arbitrator).

than [six] months to any labor arbitrator(s)?"¹⁶ Approximately 72.89% of those surveyed responded "No."¹⁷ Only 27.11% answered "Yes."¹⁸ Nonetheless, the survey results include narrative responses that demonstrate interactions between Academy arbitrators in the early stages of their careers and more experienced arbitrators.¹⁹

I, for example, was fortunate early in my career to receive an invitation to participate in the "Salon" initiated by Arbitrators Eva Robins and Peter Sykes in the late 1970s and early 1980s. Together, they invited a small number of newer arbitrators—those with promising arbitration practices, but who had not yet qualified for Academy membership—into their homes to discuss their growing practices and the inner workings of the profession. These reflections and conversations were with two of the most prominent arbitrators in the field at the time.

The Salon experience was significant in the earlier stages of my career. As all arbitrators know, the arbitration profession is necessarily a lonely one. For the newer arbitrator, this means making decisions on procedural and substantive issues without input from anyone except the advocates. The Salon was a safe space to share a decision already made or one about to be made, and to hear the observations and questions from two giants in the field. I emphasize the use of the terms "observations" and "questions." Arbitrators Robins and Sykes always emphasized that their role was not to direct any of us on what decision we should make. The parties had selected us as the arbitrator, and the decision-making role always remained with us.

Additionally, the Salon offered an opportunity to develop close peer relationships. It was a chance to share observations and questions with persons who were similarly situated in terms of the development of their practices. All who attended the Salon adhered to the "Chatham House Rule,"²⁰ ensuring that the Salon was a safe space to rethink a practice or reaffirm a chosen course of action.

Perhaps one of my most significant takeaways from the Salon was learning to be a career-long learner—a reflective practitioner²¹ of my craft as an arbitrator. The Salon enabled me to take a decision I had made and identify what my plan had been for the procedural or substantive outcome of the issue before me. I then had to reflect on the skills necessary to effectuate the decision-making process that would result in this desired outcome. Finally, I learned to ask: "Did I achieve all the goals that were in my plan of action for the task?" In every situation, there are unachieved goals, which calls for the most important step in becoming a career-long learner—reflection on why those goals were not met. In reflecting on my plan and my action, I began to ask the final question: "How will what I have learned about my planning and the skills necessary for the action educate my next arbitral task?" In the solitary role of an arbitrator, this is how I began to learn from my experiences. This is how I began to be a career-long learner.

¹⁶ NAA MEMBER SURVEY, *supra* note 3, at 16.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Chatham House Rule*, CHATHAM HOUSE, <https://www.chathamhouse.org/about-us/chatham-house-rule> [<https://perma.cc/SH9F-73FY>] (last visited July 1, 2026) ("When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.").

²¹ See generally DONALD A. SCHÖN, *THE REFLECTIVE PRACTITIONER* (discussing the importance of "reflection-in-action" for professionals in various fields) (Basic Books 1983); see also MICHAEL LANG, *THE GUIDE TO REFLECTIVE PRACTICE IN CONFLICT RESOLUTION* (Bloomsbury Publishing 2d ed. 2024) (outlining the attributes and methods of reflective practitioners).

Although Arbitrators Robins and Sykes made invaluable contributions to the Salon in shaping its early structure and intellectual rigor, their approach had one notable limitation. Specifically, they did not endorse or promote any of the participants involved. As I will discuss later, this absence of endorsement marks a key distinction between the original Salon—in which I participated—and the current iterations of the Academy Salons, in which the intentional promotion and support of emerging voices has become a defining and progressive feature.

The Robins/Sykes Salon invited newer arbitrators to participate in the monthly gatherings for a one-year period. During my tenure, there were eight to ten participants. Some traveled from as far away as Maine to New York City, but most were located in the New York metropolitan area. Every participant in that first Salon went on to become a member of the Academy, and two eventually became presidents of the Academy.

In 2018, more than thirty-five years after my Salon experience, I joined former President Margaret R. Brogan and President-Elect Walt De Treux to formalize the Salon's Legacy Method in response to the Academy's Outreach Initiative Committee.²² The result was a mentorship, training, and promotion method that the various regions of the Academy could employ.²³ We were shortly joined by Academy member Andrew Strongin as the convenors of the current version of the Salon.²⁴ We termed this initial Academy Salon the "D.C. & Mid-Atlantic Regions Salon"—later to be known as the "Mid-Atlantic Region Salon."²⁵

Hereinafter, the term "Salon" refers to the Academy Salons. The Mid-Atlantic Region Salon and other Academy Salons added an important element to their operations—the introduction and promotion of the newer arbitrators to the parties. The Salons actively seek opportunities for participants to present at conferences and other appropriate advocate gatherings at which the Salon members interact with those who select arbitrators.

The Academy's Salons are an excellent example of how the Legacy Method can be an effective means of outreach and greater diversity. It is beyond the scope of this short article to delve into the Academy's current development and evolution of the Salons, but it should be emphasized that the Salons have become a way to respond to the labor-management advocates who have said, "I only select arbitrators whom I know."

B. THE BOOST METHOD, ANALOGOUS TO THE LEGACY METHOD AS A MEANS TO ACCESS

The focus of this article is to reimagine the Legacy Method as a means to meet the future needs of the labor-management arbitration process. In doing so, however, it is important to note that the Legacy Method is not the exclusive means of achieving greater access for aspiring arbitrators. Nor should the Legacy Method serve as the only way to ensure that the arbitrator ranks will include the wide diversity of available talent.

²² MARJORIE R. BROGAN ET AL., D.C. & MID-ATLANTIC REGIONS OF THE NAA, PROPOSAL: D.C. & MID-ATLANTIC REGIONS RESPONSE TO NAA OUTREACH INITIATIVE 1, 6 (Feb. 22, 2018) [<https://perma.cc/3BFP-N2NG>].

²³ See *id.* at 5–6.

²⁴ See NAA, NAA DIVERSITY, EQUITY, INCLUSION, AND BELONGING: A STRATEGIC PLAN 32 (Mar. 30, 2022) [hereinafter NAA STRATEGIC PLAN].

²⁵ See BROGAN ET AL., *supra* note 22, at 4–5.

Others and I are also working to create another path for the selection of newer, more diverse arbitrators—a method I term the “Boost Method.”²⁶ The aim of the Boost Method is to create opportunities for advancement, improvement, or success in being selected as an arbitrator, mediator, or ADR neutral. The Boost Method targets a cohort of neutrals that represents the broad talent often unknown to advocates.

The Boost Method, an integral part of the Ray Corollary Initiative (RCI),²⁷ aligns with the Legacy Method. The Legacy Method typically relies on existing professional relationships, established reputations, and mentorship connections—factors that can unintentionally favor those already well-represented in the field.²⁸ The Boost Method, however, intentionally seeks out

²⁶ The term “boost” is used in this essay to describe a method or approach that provides additional support, encouragement, or advancement to a person, idea, or project. The term is believed to have had its origins in American English during the early 19th century. Its use reflects its foundational meaning: to lift or push someone up, particularly to help them overcome obstacles or to reach new heights. As the word evolved, it came to represent any action that helps raise, promote, or further something or someone, making it an apt term for strategies or techniques aimed at improving outcomes. In everyday language and professional contexts, “boost” now embodies the concept of giving a helpful push or positive reinforcement to achieve progress or success, which is central to this essay’s discussion of the Boost Method. *See Boost*, OXFORD ENG. DICTIONARY, <https://www.oed.com/search/dictionary/?scope=Entries&q=boost> [<https://perma.cc/4BGU-CXZR>] (last visited July 1, 2026); *Boost*, ONLINE ETYMOLOGY DICTIONARY, <https://www.etymonline.com/search?q=boost> [<https://perma.cc/NR7P-LFHC>] (last visited July 1, 2026); *Boost*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/boost> [<https://perma.cc/U7ZJ-32A8>] (last visited July 1, 2026).

²⁷ *See* NAA STRATEGIC PLAN, *supra* note 24, at 38 (“Conceived in 2019 and incubated within the NAA pursuant to vote by the Academy’s Board of Governors, and thereafter trademarked and separately incorporated, the mission of the Ray Corollary Initiative (RCI) is to increase diversity, equity, and inclusion in the selection of arbitrators, mediators, and other ADR neutrals. The RCI was proposed to address the severe lack of diversity in the selection of arbitrators and mediators in labor and employment disputes, and in the entire practice of Alternative Dispute Resolution. Named after the first woman to graduate from the Howard University School of Law in 1872 and the first Black woman to be admitted to the practice of law in the United States, Charlotte Ray, RCI takes a research-backed and data-driven approach to achieving greater diversity.”). For a historical account of Charlotte E. Ray, *see* J. CLAY SMITH JR., EMANCIPATION 55 (1993). The mission of the RCI includes the entire ADR community, not just labor-management neutrals.

²⁸ *See* Paige Smith, *Lack of Arbitrator Diversity Is an Issue of Supply and Demand*, BLOOMBERG L.: DAILY LAB. REP. (May 15, 2019, at 05:04 CT), <https://news.bloomberglaw.com/daily-labor-report/lack-of-arbitrator-diversity-is-an-issue-of-supply-and-demand> [<https://perma.cc/G6UC-DANZ>] (explaining the traditional “select[ion] and curat[ion]” of arbitrator rosters on the basis of “judges or lawyers who have excellent reputations in their communities,” including “professional organization memberships,” that results in “a cookie-cutter list of arbitrators”); Kabir Duggal & Amanda Lee, *A 360-Degree, Kaleidoscopic View of Diversity and Inclusion (or the Lack Thereof) in International Arbitration*, 33 AM. REV. INT’L ARB. 15, 18–19 (2022) (“Arbitral proceedings, including awards, remain overwhelmingly confidential. Parties are left to choose arbitrators on the basis of background, experience and word of mouth—perhaps not the fairest basis for appointment. Practitioners often emphasize the importance of experience on the basis that an experienced arbitrator is likely to be better prepared to conduct proceedings and produce a satisfactory award. This emphasis on experience makes it challenging for new entrants to gain traction in the market.” (footnotes omitted)); Nicole G. Iannarone, *Structural Barriers to Inclusion in Arbitrator Pools*, 96 WASH. L. REV. 1389, 1411–12 (2021) (“Despite recognizing the importance of inclusion, achieving diversity and including diverse panelists has been difficult within the overall alternative dispute resolution (ADR) community and at FINRA. Inclusion in the ADR field has been slowed by identified barriers including the processes by which neutrals are added to a roster and the means by which forums or parties select neutrals

qualified candidates who may lack such access. The Legacy Method often perpetuates traditional pathways and may overlook diverse talent because familiarity and established networks drive selection.²⁹ In contrast, the Boost Method proactively expands the pool by identifying and elevating new and diverse neutrals, providing them with visibility and otherwise unavailable evaluation opportunities.

The Boost Method complements the Legacy approach but distinguishes itself by emphasizing diversity and intentional outreach. Its primary goal is to ensure that the selection process for arbitrators and neutrals in the labor-management community fully utilizes the broad spectrum of available talent, especially among those who have historically been underrepresented or unknown to traditional selectors.³⁰

III. THE NEED TO SUPPORT NEWER ARBITRATORS

A. DEMOGRAPHIC CHANGE AND SUCCESSION PLANNING

This new generation of arbitrators brings a variety of life experiences that differ from those of the generation that industrialized the United States economy. From the end of World War II in 1945 up to the seminal cases of *Textile Workers Union v. Lincoln Mills* in 1957 and the *Steelworkers Trilogy* in 1960, the goal of collective bargaining was to foster a self-governing workplace.³¹ Lawmakers envisioned a workplace in which parties could resolve disputes without

from a roster to hear a specific proceeding. Panel members who have participated in more proceedings tend to be favored over those without a record, making it difficult for forums that recruit new, diverse arbitrators to ensure that recent entrants preside over or mediate disputes.” (footnotes omitted)).

²⁹ See Smith, *supra* note 28; ABA SECTION OF DISP. RESOL. REP. TO THE HOUSE OF DELEGATES, RESOLUTION 105 § II.A, at 8 (2018) [hereinafter RESOLUTION 105] (noting that it is “common for people to recommend and select those with whom they are most familiar” in the network-based appointment and selection culture).

³⁰ I will term the various activities used by the RCI to promote greater diversity in the selection of arbitrators, mediators, and other ADR neutrals, the Boost Method. Unlike the Legacy Method, the Boost Method of introducing newer arbitrators to the parties is not dependent upon the recommendation of a predecessor arbitrator, but it also does not preclude the role of a predecessor arbitrator as a means of selection by the parties. The Boost Method is intended to expand the avenues and methods for the parties, as a community, to get to know the newer arbitrators. The Boost Method will hopefully turn the statement “I only choose arbitrators whom I know” into one of inclusion rather than exclusion. RCI’s current signature program advancing this mission is the Meet the Neutrals Event (MTNE). MTNE brings together the selectors of neutrals and gives them the opportunity to meet qualified, but likely unfamiliar, neutrals. This event includes a timed series of meetings, or “speed-networking,” in which selectors learn about the qualifications, skills, and abilities of the newer arbitrators. The selectors and neutrals receive the meeting questions and topics in advance, ensuring familiarity with the speed-networking format. At the end of MTNE, the selectors have access to additional information submitted by the arbitrator participants, enabling them to follow up with individuals they met.

³¹ See *Textile Workers Union v. Lincoln Mills*, 353 U.S. 448 (1957); *United Steelworkers v. Warrior & Gulf Navigation Co.*, 363 U.S. 574 (1960); *United Steelworkers v. American Manufacturing Co.*, 363 U.S. 564 (1960); *United Steelworkers v. Enterprise Wheel & Car Corp.*, 363 U.S. 593 (1960).

resorting to the industrial-warfare weapons of strikes and lockouts.³² This era enshrined the principle of just cause as a limitation on employers' discretion to discharge employees.³³

Newer arbitrators have inculcated the values of the prior generation and seek to build on them.³⁴ They bring vital energy, adaptability, and fresh insight to this new generation of workers.³⁵ The inclusion of this new and diverse cadre of arbitrators is not only desirable—it is necessary for the continued health and relevance of the field of private dispute resolution.³⁶ We, the members of the senior cadre, should strive to find multiple ways to utilize all available talent.

There is an urgent need for this multifaceted mentoring and outreach approach. A 2022 survey of NAA arbitrators conducted by Cornell University's ILR Martin and Laurie Scheinman

³² See *Textile Workers Union of Am.*, 353 U.S. at 455 (“Plainly the agreement to arbitrate grievance disputes is the *quid pro quo* for an agreement not to strike. Viewed in this light, the legislation does more than confer jurisdiction in the federal courts over labor organizations. It expresses a federal policy that federal courts should enforce these agreements on behalf of or against labor organizations and that industrial peace can be best obtained only in that way.”).

³³ See Laura J. Cooper et al., *What's The Relationship Between Labor Arbitrators' Backgrounds and Outcomes of Discipline and Discharge Awards? An Empirical Analysis*, 31 ABA J. LAB. & EMP. L. 433, 442 (“[T]he Seven Tests of Just Cause [were] first articulated by arbitrator Carroll R. Daugherty. . . . Since the 1960s, the Seven Tests have been commonly highlighted in training materials for arbitrators and labor arbitration advocates, including those of the American Arbitration Association and American Bar Association.”).

³⁴ See also NAA STRATEGIC PLAN, *supra* note 24, at 10 (recognizing the Academy's historical core values “integrity, competence, honor, and character” and its recent charge to “be at the forefront in promoting the principles of diversity, equity, inclusion, and belonging”).

³⁵ See Duggal & Lee, *supra* note 28, at 18 (“A 2013 study led by economist Sylvia Ann Hewlett concluded that diversity also ensures innovation. Diverse panels benefit from different perspectives and experiences. While speculative, greater representation during the deliberation process may produce better awards as diverse perspectives may better equip the tribunal to obtain a comprehensive understanding of parties' positions and related evidence.” (footnotes omitted)); see, e.g., DELOITTE, 2026 GEN Z AND MILLENNIAL SURVEY (2026) (demonstrating the differences, values, and perspectives of the newest generation of workers).

³⁶ See J. Ole Jensen, *Secretaries to Arbitral Tribunals: Judicial Assistants Rooted in Party Autonomy*, 11 INT'L J. FOR CT. ADMIN., no. 3, 2020, at 1, 4 (“[A] diversification of arbitral tribunals would not only increase efficiency as less overburdened individuals would have more time to devote to individual cases; but there is also reason to believe that this would increase the quality of decision-making as a broader range [sic] of experiences and perspectives can contribute to a more balanced decision.”); Duggal & Lee, *supra* note 28, at 17–18 (“Diversity is therefore key for the symbolic legitimacy of the arbitration process since there is a perception that the ‘pale, male and stale’ profile may be encouraging a certain world view of disputes. Diverse tribunals would accordingly promote public trust in the arbitration process. As important as it is for justice to be done, we are reminded of the aphorism that ‘justice must also be manifestly seen to be done.’”); Aanchal Gupta, *Nudge Towards Diversity in International Arbitration*, ADR CENTURION, Dec. 2022, at 11, 12 (“A diverse panel improves the quality of decision making, as different perspectives lead to better decisions. A homogenous group tends to think alike because of what is known as ‘Group Think.’ It means when a very cohesive and too homogeneous group of people are to take decisions together they tend not to see alternative solutions. A small pool of white male arbitrators runs the risk of group think. Inclusive, balanced and diverse panels are more likely to be effective tribunals, better understand their parties and counsels and benefit from fresh perspectives, new ideas, vigorous challenge and broad experience. With ‘non-standard’ backgrounds and perspectives, a diverse tribunal may be better prepared, more task-orientated, and more attentive to the parties' arguments than a non-diverse tribunal.” (footnote omitted)).

Institute on Conflict Resolution (NAA Survey Report) demonstrates that need.³⁷ The data from the Academy is indicative of the arbitration community's demographics in the labor-management field.³⁸ The authors describe the survey as an investigation of "the professional characteristics, perceptions, and decision-making processes of [NAA] neutrals."³⁹ The survey's scope included all NAA members from fall 2021 to 2022.⁴⁰

Section 1 of the Report, entitled "Arbitrator Demographics and Diversity," reads:

We begin by looking at the demographics of National Academy of Arbitrators membership. . . . One of the long-standing concerns in the arbitration profession is a lack of demographic diversity among labor neutrals. We find that NAA members are *predominantly male and non-Hispanic white*. Specifically, 79 percent identified as male and 21 percent identified as female while 93 percent of respondents identified as White, Non-Hispanic, 3 percent identified as Black or African-American, 2 percent identified as Hispanic or Latin American, and 1 percent identified as Asian or Other. Diversity levels in terms of race and gender within [the] Academy have remained largely unchanged since a 2015 survey where we reported 95 percent of respondents were White, Non-Hispanic and 79 percent were male. The share of females has risen from the 12% figure identified in a 1999 NAA member survey.⁴¹

The "NAA Member Thoughts on the State of Demographics and Diversity" section of the Report, in pertinent part, reads:

We asked NAA members, "The membership of the NAA is approximately 20% female and 5% non-white. How big a problem is the lack of demographic diversity in the NAA?" . . . Approximately 85 percent responded that lack of diversity within the NAA was an urgent problem, a problem that must be actively addressed, or a problem. A much smaller proportion of NAA members, roughly 15 percent, responded that lack of diversity was "not a problem" or "not much of a problem."⁴²

The Report also noted increasing support for demographic diversity:

³⁷ HARRY KATZ ET AL., ILR SCHEINMAN INST., 2022 NAA MEMBER SURVEY: DIVERSITY, PRACTICE CHARACTERISTICS AND REMOTE TECHNOLOGIES (Feb. 2023). Founded in 1947, the NAA is a not-for-profit honorary and professional organization of arbitrators in the United States and Canada. Disputing parties select NAA members to hear and decide thousands of labor and employment arbitration cases annually in private industry, the public sector, and non-profits in both countries. Admission standards are rigorous in keeping with the goal of establishing and fostering the highest standards of integrity and competence. The Academy's purposes are educational and collegial. As a friend of the court, the Academy has participated in appellate litigation in both the United States and Canada involving major issues affecting the institution of arbitration. It also works cooperatively with sister organizations such as government agencies, professional organizations, institutions, and learned societies in the field of labor-management and employment relations.

³⁸ *See id.*

³⁹ *Id.* at 3.

⁴⁰ *Id.*

⁴¹ *Id.* (emphasis added).

⁴² *Id.* at 4.

We also asked members, “To what extent would you support the NAA taking steps to increase the demographic diversity of its membership?”. . . Specifically, nearly 90 percent of respondents indicated they are “very supportive” or “somewhat supportive” while only 12 percent were “not sure,” “somewhat opposed,” or “very opposed.”⁴³

The “Report Highlights” provide the following views and demographics of arbitrator Academy members: (1) ninety-three percent white membership, (2) seventy-ninety percent male membership, (3) eighty-five percent view lack of diversity as an Academy problem, and (4) ninety percent support the NAA taking steps to increase diversity.⁴⁴

B. ADDRESSING BARRIERS TO ENTRY

Newer arbitrators often face significant obstacles.⁴⁵ These include the challenge of building a reputation for impartiality, limited opportunities for observation and mentorship, and difficulty securing case assignments.⁴⁶ Disputing parties often default to well-known names, driven by risk aversion, a lack of accessible information about new entrants, and, at times, unconscious bias.⁴⁷ These barriers are coupled with the financial gamble a new arbitrator must take to build a sustainable practice.⁴⁸ The arbitration profession thus risks becoming insular and static, stifling innovation and renewal, and being perceived as hostile to new and diverse talent.⁴⁹

⁴³ *Id.*

⁴⁴ *Id.* at 2.

⁴⁵ See Duggal & Lee, *supra* note 28, at 18–19.

⁴⁶ See Volpe et al., *supra* note 5, at 136–39; Smith, *supra* note 27.

⁴⁷ See RESOLUTION 105, *supra* note 29, § II, at 7–8; see Iannarone, *supra* note 28, at 1411–12.

⁴⁸ See La Rue & Symonette, *supra* note 15, at 226–27 (explaining that an aspiring arbitrator faces “significant risk to their livelihood while they are struggling to make a ‘go of it,’” because they “must effectively stop [their] practice and find another source of income while seeking to build a labor arbitration practice”); Volpe et al., *supra* note 5, at 141 (“ADR participation requires accepting entry-level work that is volunteer or low paid, and even after that offers little access to higher paid opportunities, and still less access to steady, repeat work. Even though this is true for all in the field, these economic factors affect those from underrepresented groups much more powerfully, for several reasons: (1) Family economics do not permit no pay/low pay work; (2) Training costs require investment with no guarantee of paid work to follow; (3) Conference costs for networking, which are important, add further up-front, economic investment; and (4) Lack of job stability or security disadvantages those who require such security because there is little accumulated wealth to fall back on.”).

⁴⁹ See SuperLawyer Team, *The Most Challenging Aspect of the International Arbitration Field is to Break Into the System Which is Often Referred to as the “Insular Arbitration Bubble”*- Moin Ghani, *Founding Partner, Alliance Laws*, SUPERLAWYER: INTERVIEWS (June 28, 2024), <https://superlawyer.in/the-most-challenging-aspect-of-the-international-arbitration-field-is-to-break-into-the-system-which-is-often-referred-to-as-the-insular-arbitration-bubble-moin-ghani-founding-part> [https://perma.cc/8LB7-EPNL] (identifying the “insular arbitration bubble” and the “need to encourage greater diversity in the pool of professionals”); Duggal & Lee, *supra* note 28, at 17–18 (promoting diversity to move past negative perceptions of arbitration and ensure the legitimacy of and trust in the arbitration process).

IV. THE MANDATES OF DISCLOSURE AND TRANSPARENCY

A. LEVERAGING THE MANDATES OF THE CODE⁵⁰ TO INCREASE ACCESS

To foster this new generation of arbitrators, we seasoned arbitrators must identify fundamental principles of our profession and apply them to our role in nurturing and encouraging the next generation's growth and development. Two of those fundamental principles—among others—are disclosure and transparency.

Disclosure is a cornerstone of professional arbitration practice.⁵¹ Disclosure rules require arbitrators to reveal actual or potential conflicts of interest, prior relationships, and any information that could reasonably be perceived as affecting their impartiality.⁵² Although the fundamental purpose of disclosure is to protect the integrity of each case, it also serves a broader function: demystifying the arbitrator selection process for all involved.⁵³

It is beyond the scope of this article to delve into a general discussion of the Code of Professional Responsibility for Arbitrators of Labor-Management Disputes of the National Academy of Arbitrators (Code) disclosure requirements. It is, however, useful to note that there are nuances in interpreting Code disclosure requirements versus the Federal Arbitration Act (FAA) vacatur requirements.⁵⁴ The newer arbitrator would benefit significantly from a seasoned arbitrator sharing their experiences with the broader mission of the Code in comparison to the minimum legal requirements for vacatur of arbitration awards.⁵⁵

⁵⁰ See CODE, *supra* note 1.

⁵¹ Elie Kleiman & Martin Brasart, *Arbitrators' Duty of Disclosure*, FRESHFIELDS (Jan. 4, 2018), <https://www.lexology.com/library/detail.aspx?g=435dba8f-5247-4ac3-8892-369d25018da8> [<https://perma.cc/SLZ6-DM7Z>] (“Independence and impartiality lie at the heart of justice and they are quintessential to arbitration as a private form of justice. Today, the cornerstone of these principles is arbitrators’ disclosure obligation, which begins on their nomination and lasts throughout the arbitral proceedings.”).

⁵² See CODE, *supra* note 1, § 2.B, at 8–9, § 2.D, at 11.

⁵³ See also Andrea K. Schneider & Brian Farkas, *Towards the FAA's Next Century: Clarifying Disclosure Requirements in Arbitration*, 14 AM. U. BUS. L. REV. 601, 607–10 (2025) (arguing that disclosure evinces neutrality, promoting parties’ perception of arbitration as legitimate and fair, rather than a source of “unprincipled decisions” that is “largely shielded from any public scrutiny”); Iannarone, *supra* note 28, at 1445 (arguing for increased disclosure in arbitration as a “transparency-increasing intervention[]” to promote diversity and “eliminate informational asymmetries that suggest unfair advantages to repeat players”).

⁵⁴ See also 4 LITIGATION OF INTERNATIONAL DISPUTES IN U.S. COURTS § 19:32 (June 2026) (“Very often, the procedures invoked by the parties will influence (whether expressly or subconsciously) the court’s ruling regarding what does and does not constitute sufficient conflict of interest to invoke the evident impartiality defense. Additionally, widely accepted rules, such as the rules of the American Arbitration Association, may also serve as guidelines for assessing the evident impartiality standard. A violation of the rules employed does not in itself invoke a statutory defense. Nonetheless, when the rules have been agreed to in advance, those rules reflect the expectation of the parties.” (footnotes omitted)).

⁵⁵ An example of such a discussion would be a comparison of NAA, *Advisory Opinion No. 22: The Duty to Disclose*, in ADVISORY OPINIONS 22–23 (May 26, 1991), with *Positive Software Sols., Inc. v. New Century Mortg. Corp.*, 436 F.3d 495 (5th Cir. 2006) *rev’d on reh’g en banc*, 476 F.3d 278 (5th Cir. 2007). In *Positive Software*, the Fifth Circuit characterized the undisclosed relationship between the arbitrator and one of the parties’ counsel as trivial, and thus not necessitating vacatur, 436 F.3d at 503. Although nondisclosure by the arbitrator may not result in the vacatur of the award under the FAA, it is useful to review the broader goal of the Code’s disclosure provision: The overall integrity of the arbitration process and the cultivation

For newer arbitrators, the culture of disclosure provides an opportunity to demonstrate professional rigor and build trust.⁵⁶ Established senior arbitrators can lead by example—modeling robust disclosure practices, sharing redacted disclosure statements, and inviting discussion about best practices. By normalizing candid dialogue about conflicts and connections, the profession enables parties to make more informed choices—including the selection of lesser-known but well-qualified arbitrators. We can and must change the narrative about arbitrator selection while maintaining the fundamental principle of party autonomy in the decision.

B. REIMAGINING DISCLOSURE TO INCREASE ACCESS

Many arbitrators employ assistants in their practice.⁵⁷ Assistants are limited to “research, clerical duties, or preliminary drafting under the discretion of the arbitrator.”⁵⁸ To address the Academy’s membership concerns, I advise that members reimagine “assistants” as “associates”⁵⁹ and leverage the Code to increase Academy membership and reduce barriers to entry into the profession. Of course, the use of associates would have to comply with the limitations and requirements of transparency and consent set forth in the Code.⁶⁰ However, arbitrators could select associates from a pool of new or up-and-coming arbitrators who would benefit from the mentorship of a more seasoned arbitrator, increased exposure to selectors, expanded professional networks, and greater trust in the rostering and panel selection process.

The principle of disclosure is equally applicable to the arbitrator’s use of an associate.⁶¹ Arbitrators’ authority to engage associates is premised on adherence to clearly defined guidelines

of trust between the parties and the arbitrator, *see* CODE, *supra* note 1, at 6 (“Essential personal qualifications of an arbitrator include honesty, integrity, impartiality and general competence in labor relations matters. An arbitrator must demonstrate ability to exercise these personal qualities faithfully and with good judgment, both in procedural matters and in substantive decisions.”); *see also* Freeman v. Pittsburgh Glass Works, 709 F.3d 240, 252 (3d Cir. 2013) (emphasizing that the “appearance of bias” is not the standard for vacatur of an arbitration award upon an arbitrator’s failure to disclose and adopting the *Positive Software* position that “evident partiality” should be construed “practically rather than with utmost rigor” and thus “be direct, definite, and capable of demonstration”).

⁵⁶ *See also* Łukasz Wydra, *Arbitrator Disclosure In 2026: Three Rules That Still Catch Arbitrators Off Guard*, MONDAQ (Apr. 14, 2026), <https://www.mondaq.com/arbitration-dispute-resolution/1773094/arbitrator-disclosure-in-2026-three-rules-that-still-catch-arbitrators-off-guard> [<https://perma.cc/Y3ZV-DMWP>] (“[The] gap—between how arbitrators see themselves and how they are seen—is where disclosure failures originate. In a field built on the trust of parties who have chosen to opt out of state court litigation, the perspective of the reasonable outside observer is not optional. It is the job.”).

⁵⁷ *See also* Anne Sanders & Nina Holvast, *Empirical Studies on the Role and Influence of Judicial Assistants and Tribunal Secretaries*, 11 INT’L J. FOR CT. ADMIN., no. 3, 2020, at 1 (“At many courts, in many legal systems, judges are supported by assistants with a legal training who are not judges at that court. The education, career prospects and organisation of judicial assistants vary considerably between different judiciaries and courts. The content of their assistance to judges can reach from acting as a “sounding board” for the judge’s ideas, to conducting research and performing administrative duties to the drafting of decisions and participating in deliberations. However, as different as the role of judicial assistants and the organisation of the assistance scheme may be, all setups have in common that the assistants support the judicial decision making process without being judges (at that court) themselves.”).

⁵⁸ CODE, *supra* note 1, § 2.H, at 13.

⁵⁹ Hereinafter, I will use the term “associate” instead of “assistant.” I will retain the term “assistant” where it is used in an Academy document.

⁶⁰ *See* CODE, *supra* note 1, § 2.H, at 13.

⁶¹ *See id.*

and boundaries for the role.⁶² To maintain the integrity of the arbitration process, these guidelines include the disclosure to, and consent of the parties, should an arbitrator retain an associate.⁶³ The applicable Code provision reads:

H. Use of Assistants [Associate Arbitrator]

1. An arbitrator must not delegate any decision-making function to another person without consent of the parties.
 - a. Without prior consent of the parties, an arbitrator may use the services of an assistant for research, clerical duties, or preliminary drafting under the direction of the arbitrator, which does not involve the delegation of any decision-making function.
 - b. If an arbitrator is unable, because of time limitations or other reasons, to handle all decision-making aspects of a case, it is not a violation of professional responsibility to suggest to the parties an allocation of responsibility between the arbitrator and an assistant or associate. The arbitrator must not exert pressure on the parties to accept such a suggestion.⁶⁴

The NAA's Advisory Opinion on Arbitrator's Use of Assistants is also instructive.⁶⁵

As I have increased mentorship of newer arbitrators as part of the Legacy Method, I have developed a formal request form for parties.⁶⁶ The form recites the terms under which I am requesting an associate arbitrator's participation.⁶⁷ The request seeks both parties' consent to the associate arbitrator's participation, and unless they mutually agree, the associate arbitrator does not participate in the arbitration.⁶⁸ The request form fully states the associate arbitrator's role.⁶⁹ In addition, it assures that the selected arbitrator adheres to the Code mandate that no decision-making function be transferred from the selected arbitrator to the associate arbitrator.⁷⁰

C. TRANSPARENCY: OPENING DOORS, BUILDING TRUST

Transparency goes hand in hand with disclosure but extends beyond individual cases.⁷¹ For the senior arbitrator serving as a mentor, transparency means providing clear, accessible information about arbitrator qualifications, selection processes, training pathways, and

⁶² *See id.*

⁶³ *See id.* § 1.C(1), at 5, § 2.H, at 13 (discussing the importance of acting with integrity in the arbitration process and outlining the guidelines for use of an associate/assistant).

⁶⁴ *Id.* at § 2.H, at 13.

⁶⁵ NAA, *Advisory Opinion No. 12: Arbitrator's Use of Assistants*, in ADVISORY OPINIONS 11–13 (June 7, 1986).

⁶⁶ *See* Appendix A, *infra* p. 22–24.

⁶⁷ *See id.* at 23–24.

⁶⁸ *See id.* at 23.

⁶⁹ *See id.* at 22–23.

⁷⁰ *See* CODE, *supra* note 1, § 2.H(1), at 13.

⁷¹ *See, e.g.,* Iannarone, *supra* note 28, at 1445 (discussing specific disclosure efforts as part of a broader commitment to transparency).

performance expectations.⁷² It also means facilitating open forums where newer arbitrators can ask questions, seek feedback, and learn from experienced colleagues.⁷³ Transparency is not merely about broadcasting information; it is about cultivating a culture of openness, honesty, and reciprocal support. When parties perceive that the profession operates transparently, they are likely to consider a wider pool of arbitrators, including those newer to the field.⁷⁴ Indeed, transparency with the parties regarding the seasoned arbitrator's use of an associate may be one of the most impactful benefits that the seasoned arbitrator can bestow on the newer arbitrator.

Seasoned arbitrators have long enlisted associates consistent with their obligations under the Code.⁷⁵ Although the use of associates is a long-standing tradition, it is rarely discussed openly.⁷⁶ Now is the time to highlight this practice among established arbitrators to advance the profession of labor-management arbitration as a whole. By engaging in open discussion of this practice, arbitrators can establish best practices that will help parties place greater trust in the next generation of arbitrators, whose backgrounds and experiences may differ from those of their more experienced counterparts.⁷⁷

I believe the Associate Arbitrator Request Form⁷⁸ provides advocates and their clients with all the information they need about the associate arbitrator's role to make an informed decision about their participation. Indeed, in the almost three years that I have been using the request form, I have had only two cases out of approximately twenty in which one or both of the parties did not consent to the associate arbitrator's participation.⁷⁹ If even one party does not consent, the associate arbitrator does not participate in the case.

⁷² See, e.g., Emmanuel Chambers, *Growing a Budding ADR Practice: The Role of Mentors and Sponsors in ADR Practice*, AFE BABALOLA & CO. (May 7, 2020), <http://oldsite.afebabalola.com/2020/05/07/adr-practice/> [<https://perma.cc/4A9D-6EZ3>] (suggesting “ways a mentor can facilitate a mentorship relationship”).

⁷³ See, e.g., BROGAN ET AL., *supra* note 22, at 4 (noting that the Academy Salons provide an opportunity for newer arbitrators to ask questions and discuss experiences with experienced arbitrators).

⁷⁴ See Daniel Schimmel et al., *Transparency in Arbitration*, PRACTICAL LAW ARB. (2026) (“Increased transparency in arbitrator selection is also likely to have the benefit of improving diversity among arbitral tribunals. Without access to information about new or lesser-known arbitrators, parties to arbitrations tend to select well-known and frequently appointed arbitrators.”).

⁷⁵ See generally Jensen, *supra* note 36 (demonstrating that arbitrators' use of “tribunal secretaries” is prevalent across countries and organizations).

⁷⁶ See also Anne Sanders, *Judicial Assistants in Europe—A Comparative Analysis*, 11 INT'L J. FOR CT. ADMIN., no. 3, 2020, at 1, 3 (“Judicial assistants can be found in common law systems like England and Wales and Ireland as well as in civil law systems belonging to Romantic, Germanic and Nordic legal traditions. Judicial assistants can be found in the so-called new democracies of middle, Eastern and South-Eastern Europe just as in the so-called established democracies of Western Europe.”).

⁷⁷ See also Kelly, *supra* note 12, at 5 (suggesting that “[f]irms should expose their young diverse professionals to ADR as an advocate and as a staff attorney supporting the work of more senior, established mediators and arbitrators within the firm” as a way to promote diversity).

⁷⁸ See *infra* Appendix A.

⁷⁹ I cannot say why the parties, or one of the parties, declined to permit the participation of the associate arbitrator. To inquire into the reason would be, in my opinion, an inappropriate intrusion on the autonomy of the parties to decide who may participate in the arbitration proceeding. I have only used the request form in approximately twenty cases, solely because I have not had an associate arbitrator available at the time of other cases.

The request form fulfills the principle of transparency, thereby promoting understanding among the parties that the arbitrator is meeting one of the essential obligations imposed by the Code, namely, the “training of new arbitrators.”⁸⁰ The request form also demonstrates to the advocacy community that the arbitrator takes their Code obligation seriously.⁸¹ In other words, the request form creates a narrative in which the arbitrator seeks to introduce the parties to a newer arbitrator; thus, the longer-tenured arbitrator promotes and trains the next generation of arbitrators while preserving trust in the integrity of the process through transparency.

To complete the promotion process of the associate arbitrator, I include the following declaration at the end of my award. It reads as follows:

PARTICIPATION BY ASSOCIATE ARBITRATOR

PURSUANT TO THE WRITTEN AGREEMENT OF THE PARTIES AND CONSISTENT WITH THE CODE OF PROFESSIONAL RESPONSIBILITY FOR ARBITRATORS OF LABOR-MANAGEMENT DISPUTES (CODE), AS AMENDED AND IN EFFECT SEPTEMBER 2007, ASSOCIATE ARBITRATOR _____ ASSISTED IN RESEARCH AND PRELIMINARY DRAFTING OF THIS AWARD UNDER THE DIRECTION OF ARBITRATOR LA RUE. THAT ASSISTANCE DID NOT INVOLVE THE DELEGATION OF ANY DECISION-MAKING FUNCTION FROM ARBITRATOR LA RUE TO ASSOCIATE ARBITRATOR _____.

D. THE REFLECTION OF A NEW ARBITRATOR ON THE BENEFITS OF THE ASSOCIATE ARBITRATOR ROLE

To illustrate the value of the associate arbitrator role, consider the perspective of Mr. Gurvis Miner. Having recently completed the Federal Mediation and Conciliation Service (FMCS) course, *Becoming a Labor Arbitrator (BALA)*,⁸² and joined the FMCS labor roster, Mr. Miner offers a personal reflection that sheds light on the benefits of the role of an associate arbitrator:

⁸⁰ See CODE, *supra* note 1, § 1.C(4), at 7.

⁸¹ See *id.*

⁸² See “*Becoming a Labor Arbitrator*” Course Prepares Next Generation of Neutral Arbitrators, UNIV. OF MO.: MU CTR. FOR THE STUDY OF DISP. RESOL., <https://arbitrationinfo.missouri.edu/news-and-commentary/becoming-a-labor-arbitrator-course-prepares-next-generation-of-neutral-arbitrators/> [<https://perma.cc/9U3Q-7ULB>] (last visited July 1, 2026) (“The National Academy of Arbitrators (NAA) will assume responsibility for the [BALA] course . . . FMCS had offered the BALA course for more than 25 years, providing vital training for aspiring labor arbitrators. With the agency’s future remaining uncertain, the NAA is stepping in to ensure continuity in the development of qualified neutrals. The first cohort under NAA’s stewardship will have orientation on October 16, 2025. . . . More than 2,000 individuals have completed the BALA course since its inception, with many going on to serve as respected labor arbitrators across North America.”).

In January 2024, I completed the FMCS BALA course to fulfill the qualifications required for inclusion on the FMCS Panel. After completing BALA, I was also required to serve as an “apprentice” under the guidance of a NAA arbitrator for two distinct arbitration proceedings. Fulfilling this requirement entailed addressing a range of challenges. Initially, I needed to identify a NAA arbitrator to shadow. Subsequently, it was necessary to find an arbitrator who could accommodate an “apprentice” within their demanding schedule.

I had the privilege of engaging with NAA Past President Homer La Rue, whose distinguished credentials I hold in high regard. I derived considerable benefit from the article he co-authored, *The Ray Corollary Initiative: How to Achieve Diversity and Inclusion in Arbitration Selection*,⁸³ which offers valuable insights for new arbitrators. For instance, the authors note that “There is no pattern for one to become eligible to serve as a labor/employment arbitrator.”⁸⁴ Nevertheless, I considered the opportunity to receive mentorship from an accomplished arbitrator highly beneficial for my professional development. From being present at and observing hearings with a respected arbitrator, I have learned that such exposure conveys an implicit endorsement to the advocates. It demonstrates to all participants that the newer arbitrator may, in time, be regarded as a suitable candidate for future selection.

Arbitrator La Rue graciously provided me with the opportunity to serve as an associate arbitrator, which enabled me to observe and learn from numerous distinct arbitration proceedings under his guidance. In this role, I collaborated with a highly esteemed arbitrator, attended multiple hearings, and drafted several “shadow awards”⁸⁵ for review by Arbitrator La Rue. In doing so, I have received invaluable constructive feedback that has enhanced my analytical reasoning and drafting abilities. This experience enabled me to successfully fulfill the “shadow award” requirement necessary for inclusion on the FMCS Panel.

After being admitted to the FMCS Roster of Arbitrators, I was pleased to have the opportunity to continue serving as an associate arbitrator under the mentorship of Arbitrator La Rue. This mentorship provided me with the opportunity to attend the NAA (Academy) 78th Annual Meeting and Education Conference. At this event, my mentor facilitated my introduction to the community of neutrals that comprise the Academy. Most notably, I had the valuable opportunity to network with participants at the conference and be acknowledged by both labor and management advocates.

As a new arbitrator, I prioritize compliance with the Code of Professional Responsibility for Arbitrators of Labor–Management Disputes (Code). Accordingly, I have adopted the following two fundamental principles from Arbitrator LaRue:

⁸³ See La Rue & Symonette, *supra* note 15.

⁸⁴ *Id.* at 222.

⁸⁵ To complete the BALA Program, a participant is required to shadow an arbitrator, draft an award, and have that award critiqued after the arbitrator has issued the arbitrator’s award in the matter.

Principle I

One of the fundamental propositions of arbitration is that the parties are seeking a fair and efficient resolution process. I firmly believe that an important part of the arbitrator's role is to conduct a fair and efficient process from the filing for arbitration to the issuance of the award by the arbitrator.

Principle II

The arbitral process belongs to the parties to design and to implement. The role of the arbitrator is to manage the process, permitting the parties to agree where they can and being prepared to make a fair decision where the parties have reached an impasse. The management role of the arbitrator is crucial before the hearing and during the hearing if the first principle—fairness and efficiency—is to be achieved.

Serving as an associate arbitrator to Homer La Rue has allowed me to gain meaningful insights and valuable professional experience. By mutual agreement of the parties, and adherence to the *Code*, I have drafted awards that are overseen and supervised by Arb. La Rue. This experience has played an integral role in my professional development, equipping me to conduct impartial arbitration hearings and issue well-reasoned awards with a high level of trust and competence. Additionally, it has underscored the value of continued learning throughout my career.⁸⁶

V. OTHER PRACTICAL STRATEGIES FOR SENIOR ARBITRATORS**A. MENTORSHIP AND SPONSORSHIP**

One of the most effective ways for senior arbitrators to support the introduction of newer arbitrators is through active mentorship and sponsorship.⁸⁷ This entails not only sharing procedural knowledge and ethical standards but also advocating for their associates during selection processes.⁸⁸

Senior arbitrators can offer to co-arbitrate cases, recommend newer colleagues to parties, or serve as references. By openly disclosing their support for emerging practitioners, seasoned arbitrators normalize such advocacy as a valued part of their professional lives—thereby creating a new narrative about access to the arbitration profession.

B. STANDARDIZING AND SHARING DISCLOSURE STATEMENTS

Senior arbitrators can collaborate to establish templates and guidelines for disclosure statements that clarify what information should be included. By sharing examples and engaging in

⁸⁶ Gurvis Miner has completed the FMCS BALA course and has been placed on the FMCS labor roster. At the time of this writing, his application to be placed on the AAA Labor Panel is pending. He also has applications pending to be placed on the New Jersey PERC labor roster and the New York State PERB roster.

⁸⁷ See, e.g., La Rue & Symonette, *supra* note 15, at 222–27 (discussing the role of mentorship, sponsorship, reputation, recommendations, and references in entering and succeeding in the labor arbitration field).

⁸⁸ See *id.* at 227 (“Despite the training efforts and mentoring of underrepresented professionals in dispute resolution, these individuals cannot be successful unless they are regularly selected by the parties themselves. Arbitration, after all, is a voluntary process when it comes to the selection of neutrals. Parties have the freedom to select who they choose to resolve their disputes.”).

regular peer reviews, senior arbitrators can raise the overall standard and consistency of disclosures. Newer arbitrators, in turn, benefit from clear expectations and practical models, and parties gain confidence in the process.

To the seasoned arbitrator, it may seem sufficient to advise a newer arbitrator to follow the maxim that has guided many seasoned arbitrators: “When in doubt, disclose.”⁸⁹ Although it is an apt mantra, it may not be sufficient for the proper education and training of new arbitrators, many of whom have had prior successful careers as management-side or union-side advocates.⁹⁰

For those embarking on a career in labor arbitration, the task of making appropriate disclosures is both foundational and riddled with complexity.⁹¹ At the heart of ethical arbitration practice is an arbitrator’s obligation to disclose any circumstances that might call into question their impartiality or independence.⁹²

Yet, for newcomers, the nuances and demands of full and timely disclosure can be daunting, and the risks of missteps are considerable.⁹³ Senior arbitrators could develop continuing education programs that enable new arbitrators to explore pitfalls in the disclosure process, identify the roots of these challenges, and receive guidance on avoiding them.

It is crucial for the new arbitrator to understand the duty to disclose.⁹⁴ Labor arbitrators, governed by the Code,⁹⁵ must disclose any information or relationships that might give rise to a

⁸⁹ See Wydra, *supra* note 56 (“A near-orthodoxy has taken hold in arbitration practice: when in doubt, disclose.”).

⁹⁰ See also *id.* (“The logic is sound. Disclosure shifts the risk of challenge to the parties; proceeding without objection protects the arbitrator. Non-disclosure creates an information asymmetry that institutions and courts have shown little patience for. But the orthodoxy requires qualification. Over-disclosure carries its own costs. An arbitrator who discloses every tangential connection risks signalling a lack of judgment about what actually matters. The goal is not maximum disclosure. It is accurate identification of what a reasonable party would want to know. These are not the same thing.”).

⁹¹ See Kelly Turner & John Bishop, *The Importance of Timely Arbitrator Disclosures*, AAA (June 15, 2021), <https://www.adr.org/news-and-insights/the-importance-of-timely-arbitrator-disclosures/> [<https://perma.cc/N5PL-GHYX>] (“An arbitrator typically has the duty to disclose any circumstance likely to give rise to justifiable doubt as to the arbitrator’s impartiality or independence. Arbitrators face a difficult challenge when trying to make the ‘perfect’ disclosure, balancing the need for completeness and transparency against protecting the confidentiality of prior arbitrations and mediations and of entities not part of the current proceeding.”).

⁹² The current version of the FMCS course, BALA, began in 1995. I was among the first faculty to teach the course, along with Academy members Margaret Brogan, Jack Clarke, David Weinberg, and Barry Winograd. We conducted the course twice per year for approximately twelve years. Among the objectives of the course was, and still is, assisting labor and management advocates in transitioning from the role of advocacy to that of a neutral. Although the transition from advocate to neutral may seem simple, it can, at times, be intimidating. Newer arbitrators may understandably find it difficult to approach cases without the inherent bias arising from their prior roles as advocates. A senior arbitrator, removed from the advocate role for some time, can support a mentee in cultivating a more impartial perspective.

⁹³ David Allen Larson, *Conflicts of Interest and Disclosures: Are We Making a Mountain Out of a Molehill?*, 49 S. TEX. L. REV. 879, 919–20 (2008) (“The existing myriad of relevant guidance, regulations, and judicial decisions concerning conflicts of interest and required disclosures is not only frustrating but can result in the nuclear option of the arbitral world, vacatur.”).

⁹⁴ See NAT’L ACAD. OF ARBITRATORS COMM. ON PRO. RESP. & GRIEVANCES, ADVISORY OP. NO. 9: DUTY OF DISCLOSURE (May 16, 1981), *reprinted by* CPRG OPINION SUMMARIES 9.

⁹⁵ The Code, in addition to being applicable to Academy members, has been adopted by the American Arbitration Association (AAA) and the Federal Mediation and Conciliation Service (FMCS). It therefore

reasonable impression of bias or conflict of interest.⁹⁶ This includes both actual conflicts and circumstances that might reasonably create an appearance of partiality.⁹⁷

One of the most common errors among newer arbitrators is failing to appreciate just how expansive disclosure duties are meant to be.⁹⁸ Many new arbitrators mistakenly believe that only actual, concrete conflicts must be disclosed.⁹⁹ Rather, an arbitrator should reveal anything that one could reasonably perceive as affecting impartiality—such as prior professional relationships, social connections, or financial interests.¹⁰⁰

Even in the absence of any real bias affecting the arbitration award, the appearance of impropriety can undermine the process.¹⁰¹ New arbitrators sometimes err by failing to imagine how parties unfamiliar with the arbitrator's history might interpret undisclosed connections.¹⁰²

An arbitrator's failure to make material disclosures does not inherently result in vacatur.¹⁰³ Courts reviewing motions to vacate arbitration awards based on an arbitrator's nondisclosure apply the standard set forth in the FAA.¹⁰⁴ Section 10(a)(2) of the FAA permits an arbitral award to be vacated "where there was evident partiality"—one of four limited grounds for vacatur.¹⁰⁵ The U.S. Supreme Court, in *Commonwealth Coatings v. Continental Casualty Co.*, held that an arbitrator is "[required to] disclose to the parties any dealings that might create an impression of possible bias."¹⁰⁶ *Commonwealth Coatings*, however, is a plurality decision, and the circuits are split on

is applicable to labor arbitrators appointed to cases administered by those entities. Many state labor-management agencies have also adopted the Code.

⁹⁶ CODE, *supra* note 1, § 2.B(3), at 9.

⁹⁷ *Id.*

⁹⁸ See Wydra, *supra* note 56 ("The duty to disclose is not controversial. Every major set of institutional rules acknowledges it. . . . Arbitrators understand it exists. And yet disclosure failures remain among the most common — and most costly — causes of challenge proceedings and set-asides. The problem is not ignorance of the rule. It is a persistent misjudgement of its scope.").

⁹⁹ See *id.*

¹⁰⁰ See *id.* ("The obligation to disclose is not limited to professional relationships. Prior friendships, social connections, and past disputes fall within its scope. The age of the relationship—or the arbitrator's own assessment of its irrelevance—does not extinguish the duty. The governing principle is straightforward, even when its application is uncomfortable: the decision about materiality belongs to the parties, not the arbitrator. Disclosure transfers that decision to where it belongs. Non-disclosure does not. . . . Apply the objective test, not the subjective one. The question is not whether you consider a prior relationship relevant. The question is whether a reasonable party, aware of it, might. If the answer is arguably yes, disclose.").

¹⁰¹ Schneider & Farkas, *supra* note 53, at 605, 607–08.

¹⁰² Turner & Bishop, *supra* note 91 ("In writing disclosures, arbitrators must shift their frame of reference, as disclosures should always be viewed from the perspective of the parties, not the arbitrator. What might seem insignificant to the arbitrator, who knows all the details, could be quite serious to one of the parties, who is in the dark about the matter. In addition to drafting disclosures with the parties' perspective in mind, arbitrators should make timely disclosures to avoid any negative perception by the parties that untimeliness might cause. This requirement is critically important, serving to prevent situations where an otherwise innocuous supplemental disclosure becomes magnified in significance because the arbitrator did not make the disclosure at the earliest opportunity. The first questions a party will ask upon receipt of a late disclosure are 'Why didn't the arbitrator make this disclosure earlier?' and 'What were they trying to hide?'").

¹⁰³ See Schneider & Farkas, *supra* note 53, at 613–14; Larson, *supra* note 93, at 885–86.

¹⁰⁴ 9 U.S.C. § 10(a)(2).

¹⁰⁵ *Id.*

¹⁰⁶ *Commonwealth Coatings v. Continental Casualty Co.*, 393 U.S. 145, 149 (1968).

which standard applies when reviewing vacatur challenges based on arbitral nondisclosure.¹⁰⁷ Courts have come to cite Justice White's plurality opinion as the holding of the case, as it is seen as the narrowest of the other plurality opinions.¹⁰⁸ In short, the *appearance of bias* does not equate to *evident partiality*, the standard for vacatur pursuant to the FAA.

Labor management arbitrators should not view this circuit split as a source of solace. Even if the non-disclosure does not result in vacatur of the arbitration award, it may still result in penalties imposed by the Academy, the FMCS, and the AAA, all three of which are signatories to the Code but retain their own enforcement mechanisms.¹⁰⁹

For example, the Academy's Committee of Professional Responsibility and Grievances (CPRG) may investigate and determine that there is a Code violation.¹¹⁰ Penalties range "from a private reprimand up to suspension or expulsion from the National Academy of Arbitrators."¹¹¹ The FMCS and the AAA may also impose penalties for Code violations by arbitrators on their respective rosters.¹¹²

¹⁰⁷ See Seung-Woon Lee, *Arbitrator's Evident Partiality: Current U.S. Standards and Possible Solutions Based on Comparative Review*, 9 ARB. L. REV. 159, 160–66 (2017) (discussing the different standards between circuits); Lou Chang, *Trouble in the World of Hawaii Arbitration Due to Vacature for Arbitrator Nondisclosure*, HAW. BAR J., Mar. 2017, at 4, 6. Academy member Lou Chang explains that the Supreme Court in *Commonwealth Coatings* does not define the "kind of 'dealings' or 'relationships' [that] are sufficient to establish an 'appearance of possible bias' or 'evident partiality.'" *Id.* He further notes that lower courts have "struggled to apply . . . [the Court's] guidance to different factual circumstances," listing the variety of circumstances in which courts have or have not found vacatur appropriate for arbitrator nondisclosure. *Id.* at 6–9.

¹⁰⁸ See *Commonwealth Coatings*, 393 U.S. at 150–52.

¹⁰⁹ See Larson, *supra* note 93, at 895 ("Vacatur is not the only regrettable consequence that may result from a failure to disclose a conflict of interest. Sanctions and penalties may affect an arbitrator personally."); see, e.g., *Int'l Ass'n of Machinists & Aerospace Workers v. Dynamic Sci., Inc. (DSI)*, 322 F. Supp. 2d 817, 822, 824 (S.D. Tex. 2004) (ordering DSI to comply with the arbitrator's award, even though the FMCS Arbitrator Review Board admonished the arbitrator and placed a letter in his file upon determining that the arbitrator acted in violation of FMCS policy as set forth in the Code).

¹¹⁰ *Committee on Professional Responsibility and Grievances*, NAA, <https://naarb.org/committee-on-professional-responsibility-and-grievances/> [<https://perma.cc/SK4A-GYBD>] (last visited July 1, 2026).

¹¹¹ *Id.* The CPRG does not change the award or decision; nor does it award damages. *Id.* The decision of the hearing officer, if there is a hearing, is final. *Id.* The arbitrator and/or the complaining party may appeal the hearing officer's decision. *Id.* That appeal is heard by a three-person Appeals Tribunal, and the decision of the Appeals Tribunal is final. *Id.*

¹¹² See *FAQs*, FMCS, <https://www.fmcs.gov/resources/faqs/> [<https://perma.cc/G96S-JHUW>] (click "What should a party do if they believe an arbitrator has violated FMCS Policies or The Code of Professional Responsibility?" under "Arbitration FAQs") ("FMCS strongly encourages a party or parties to an FMCS case to notify the agency if they believe an arbitrator may have violated either the FMCS Arbitration Policies and Procedures or The Code of Professional Responsibility for Arbitrators of Labor-Management Disputes. . . . All complaints are carefully examined and may be referred to the Arbitrator Review Board.") (last visited July 1, 2026); *Panel Ethics and Guidelines*, AAA, <https://www.adr.org/panel/panel-ethics-and-guidelines/> [<https://perma.cc/43N4-W4Z6>] ("We take all allegations regarding an arbitrator's or mediator's impartiality or other ethical issues seriously and investigate them in accordance with our ethics standards. Parties, representatives, and neutrals may contact their case manager, supervisor, or vice president to raise complaints or provide feedback.") (last visited July 1, 2026); see, e.g., *DSI*, 322 F. Supp. 2d at 822 (noting that the FMCS reprimanded the arbitrator for a Code violation and placed a letter in his file).

C. TRANSPARENT ROSTERING AND PANEL SELECTION

The mechanisms for adding arbitrators to rosters or panels can often seem opaque to outsiders.¹¹³ Senior arbitrators can demystify these processes by publishing selection criteria, timelines, and procedural steps online or in member communications. Current members can further this aim by volunteering for “welcome committees” or open houses, where prospective arbitrators can learn about application requirements, typical career milestones, and the realities of casework.

The Academy Salons are currently taking some of these steps.¹¹⁴ The Academy continues to play an important role in supporting the RCI and its objective to increase diversity in arbitrator selection.¹¹⁵

D. OPEN EDUCATIONAL INITIATIVES

Transparency in education is critical to empowering newer arbitrators.¹¹⁶ Senior members can organize workshops, webinars, or case rounds that walk through actual redacted awards and decision processes. Full disclosure of the reasoning, ethical dilemmas, and lessons learned from real cases enables new practitioners to internalize high standards and practical wisdom.

E. FEEDBACK LOOPS AND PEER REVIEW

A transparent feedback culture benefits everyone.¹¹⁷ Senior arbitrators can institutionalize peer review panels, post-award review sessions, and feedback mechanisms that include newer arbitrators as both recipients and contributors. These channels for feedback and peer review are intended to reflect the supportive environment that the Salon once offered—a place where constructive criticism is welcomed and newer arbitrators can freely ask the “obvious” questions,

¹¹³ See RESOLUTION 105, *supra* note 29, at 2 (explaining that “the network-based and confidential nature of the profession . . . results in selection of neutrals taking place in relative obscurity”); see also Michael Waibel & Damien Charlotin, *To Roster or Not? The Impact of Rosters on Transparency and Diversity*, in 13 IAI SERIES ON INTERNATIONAL ARBITRATION: TRANSPARENCY IN INTERNATIONAL ARBITRATION (forthcoming) (manuscript at 21) [<https://perma.cc/QDW5-WNFD>] (noting the “opacity” in “the way . . . individuals are appointed to a roster” in the international arbitration context).

¹¹⁴ See NAA STRATEGIC PLAN, *supra* note 24, at 31–33.

¹¹⁵ See *id.* at 41 (“The RCI is a project that has, since its inception, been nurtured and supported by the Academy, but not operated by the Academy, to address the lack of diversity in the selection of arbitrators in labor-management and employment matters.”).

¹¹⁶ See Waibel & Charlotin, *supra* note 113 (manuscript at 17) (“In reducing the information asymmetry between appointing parties and newcomers, rosters ease the selection of newcomers, offering ‘means of widening the pool of potential candidates and opening the process to a range of outside institutions and the broader public.’ Diverse rosters coupled with more transparency may lead to greater diversity in actual appointments, especially if those rosters include further information as to the performance and quality of arbitrators.” (footnote omitted)); Iannarone, *supra* note 28, at 1450 (“Transparency and rule interventions work in tandem. Increased transparency and changes to selection and qualification rules work together to eliminate barriers preventing true inclusion. Without more complete information, it is not possible to determine where barriers to inclusion may exist in FINRA arbitrator selection, and without changes to the selection and qualification rules, it is not possible to eliminate barriers to inclusion that have been identified through the study of transparent information.”).

¹¹⁷ See also Alicia Kuin, *The Value of Mentorship, Part 2: Shaping the Next Generation of Professional Mediators*, ADR CHAMBERS (June 6, 2019), <https://adrchambers.com/news-articles/commentary/the-value-of-mentorship-part-2-shaping-the-next-generation-of-professional-mediators/> [<https://perma.cc/357U-YBBR>] (discussing the various benefits of mediator mentorship).

even if they feel they should already know the answers.¹¹⁸ Creating a space where newer arbitrators can ask basic questions without embarrassment is essential to preventing unnecessary mistakes.¹¹⁹ Openness about strengths and areas for improvement accelerates learning and minimizes the sense of isolation that can bedevil new arbitrators.¹²⁰

Arbitrators should undertake potential peer-review processes with great care. The developers of these processes must keep in mind that the arbitrator's award, once issued to the parties, no longer belongs to the arbitrator.¹²¹ Therefore, the processes must ensure the award's continued confidentiality.

In addition, those developing the process must execute it in such a way that it avoids intentionally or unintentionally embarrassing any particular arbitrator. While the peer review process presents challenges, the rewards to both seasoned and newer arbitrators may be worth the risk.

VI. BENEFITS OF EMBRACING DISCLOSURE AND TRANSPARENCY

Embracing associates is a no-cost method to offer mentorship opportunities, thereby expanding associates' networks and increasing the profession's credibility.¹²²

Mentorship is one of the most effective ways for senior arbitrators to support the onboarding of newer arbitrators.¹²³ Successful mentorship in this context includes providing hands-on training, delivering feedback to associates, and sharing useful templates.¹²⁴ Mentorship of associates entails sharing both procedural knowledge and ethical standards.¹²⁵

Network expansion is vital to the success of any arbitrator.¹²⁶ The most successful senior arbitrators have benefited from access to case assignments.¹²⁷ Disputing parties favor the familiarity of well-known, experienced arbitrators, often unintentionally excluding newer and

¹¹⁸ BROGAN ET AL., *supra* note 22, at 4.

¹¹⁹ *See id.*

¹²⁰ *See also* Hanna Roos, *How to Manage Work-Life Balance in Context of First Arbitral Appointments*, KLUWER ARB. BLOG (Oct. 8, 2021) (discussing the sense of loneliness in the arbitration profession); Volpe et al., *supra* note 5, at 141 (noting the "sense of isolation" for people of color when "they are often the 'only one in the room'").

¹²¹ *See* CODE, *supra* note 1, § 2.C, at 10–11.

¹²² *See* Kelly, *supra* note 12, at 4 ("When a dispute is resolved in the court system, the jury and the judge available to resolve the dispute are diverse. The private justice system that provides mediation and arbitration services must be just as, if not more, diverse if it is to maintain credibility.").

¹²³ *See* La Rue & Symonette, *supra* note 15, at 227 ("Regardless of the rigorous challenges one has to undergo to become an arbitrator, it is apparent that in order to qualify for consideration one must, besides getting the requisite experience, . . . seek to generate requisite recognition, and establish a reputation that would make one suitable to decide labor and employment disputes. This requires extensive guidance and mentoring.").

¹²⁴ *See* Chambers, *supra* note 72.

¹²⁵ *See* Kuin, *supra* note 117 (arguing that a "mentorship program can provide these less experienced practitioners with guidance and encouragement to build their practices and tackle the nuanced challenges and ethical dilemmas encountered in dispute resolution work").

¹²⁶ *See* RESOLUTION 105, *supra* note 29, § II, at 7 ("Dispute Resolution is largely a network-based profession in that: (1) many neutrals are chosen or at least vetted through the networks of equity law firm partners, and (2) established neutrals are often asked to make referrals to other neutrals.").

¹²⁷ *See also id.* § II.A, at 8 (explaining the typical arbitrator selection process).

diverse candidates.¹²⁸ By embracing associates, senior arbitrators can increase new arbitrators' exposure to potential parties. This exposure may ultimately support new arbitrators as they attempt to build a sustainable practice.¹²⁹ This model will also expand the up-and-coming arbitrator's professional network of seasoned arbitrators, thereby enabling the newer arbitrator to serve as an associate for any number of arbitrators.¹³⁰

Credibility and trust are vital for attracting and retaining new members.¹³¹ The lack of transparency in the mechanisms by which organizations add arbitrators to rosters or panels decreases trust in the profession and undermines its credibility.¹³² By embracing associates and exposing them to selection criteria, timelines, and procedural steps, senior arbitrators will demystify the selection process, leading to increased trust and the long-term preservation of the profession. Senior arbitrators can and should be at the forefront of developing best practices for mentors as well as mentees.¹³³

¹²⁸ *Id.*; see Hoffman & Stallworth, *supra* note 9, at 4 (“The preference for neutrals who have extensive experience as arbitrators and mediators or who do arbitration or mediation full time, sounds reasonable and are the rationales often given for disparate selection. It is true that many minority neutrals may have less experience and (like many white neutrals) work only part time as a neutral. Yet a significant reason for the lack of experience is disparate selection. The reason they do not have full-time ADR practices is because not enough time has elapsed since the professional ranks have opened to minorities.”); Iannarone, *supra* note 28, at 1411–12.

¹²⁹ See Kuin, *supra* note 117 (“As a young ADR practitioner, how can you secure your first appointment? You are most likely to succeed in securing your first appointment through the intervention of a mentor. A mentor/sponsor . . . is someone who can provide a platform of opportunities which you may use to forge a path of success.”).

¹³⁰ See also Ida Abbot, *High-Quality Mentoring and Sponsorship Can Increase Diversity and Inclusion*, MODERN LEGAL PRAC., Oct. 2018, at 36, 37 (“By carefully selecting associates who are proven performers, and sponsors who are well-positioned and willing, the parties start their relationship with a positive, collaborative and success-oriented learning mindset. By devoting more time, more concentrated attention and a greater degree of personal investment than programme mentors normally would, sponsors lay the groundwork for *protégées*’ eventual promotion. In the process, the junior lawyer acquires the tools, experience, recognition, networks and strategies that make advancement more likely.”).

¹³¹ See also Smith, *supra* note 27 (explaining that the arbitration field must first attract diverse candidates and parties must then promote and prioritize selection of these candidates).

¹³² See *supra* note 113; Kelly, *supra* note 12, at 4; see also Sophie Nappert & Avani Agarwal, *Twenty-First Century Arbitration: Who Do You Trust?*, KLUWER ARB. BLOG (Mar. 2, 2020), <https://legalblogs.wolterskluwer.com/arbitration-blog/twenty-first-century-arbitration-who-do-you-trust/> [<https://perma.cc/5LQW-MFRK>] (“One of the most persistent criticisms of [international arbitration] is the opacity of the decision-making process and its lack of transparency. Recent scholarship illustrates that opacity pervades even the basis for the remuneration of arbitrators. Another criticism is bias, which comes up in the discourse around diversity in [international arbitration]. The pool of arbitrators is still largely homogenous, individuals shaped by their own cultural contexts.” (footnote omitted)).

¹³³ It should not be assumed that because one is a senior and well-respected arbitrator that the arbitrator will be, without training, a competent, if not great, mentor. Rather, the Academy, for example, should assist senior members in being mindful about the skill set that is necessary for effective mentoring. Today’s generation of newer arbitrators are not children of the Great Depression or the Baby Boomer generation, and the senior arbitrator cannot expect that how they learned their tradecraft is necessarily completely transferable as “wisdom” to the newer generation. This is not to discourage the “top-down” hierarchical structure. It is only a caution that in building the mentoring structure, we must be cognizant of the challenges as well as the benefits. See GOTIAN & LOPATA, *supra* note 3, at 87.

Some of benefits of embracing the associates model described include:

- **Increased Confidence:** Parties are more likely to take a chance on newer arbitrators when they have access to candid, comprehensive information about the newer arbitrator's credentials, experience, and approach.¹³⁴
- **Higher Ethical Standards:** Open discussion and disclosure raise standards across the profession, benefiting both parties and practitioners.
- **Diversity and Innovation:** By expanding the points of entry to arbitration, senior arbitrators encourage a broader range of voices and perspectives, making the field more dynamic and responsive.
- **Succession Planning:** A culture of support and openness ensures that institutional knowledge is passed on, safeguarding the future legitimacy of labor arbitration.
- **Professional Fulfillment:** Established arbitrators find new meaning and satisfaction in mentoring, while newer arbitrators build confidence and competence.

VII. CONCLUSION: A CALL TO ACTION

The successful integration of newer arbitrators into the ranks of the profession cannot be left to chance. This crucial mentorship requires the intentional, ongoing commitment of senior arbitrators, grounded in the mandates of disclosure and transparency. By modeling best practices,¹³⁵ nurturing talent, and expanding entry points to the profession, senior arbitrators ensure that arbitration remains a living, evolving discipline capable of meeting the needs of workers, employers, and society for generations to come.

A future in which every arbitrator—new or senior—can thrive is possible. It begins with openness, honesty, and a willingness to share knowledge and opportunities. Senior arbitrators, along with the Academy, RCI, and other invested organizations, can—and must—lead the way by genuinely embodying their shared value of utilizing all available talent to resolve disputes.

¹³⁴ Parties and arbitrators often engage in small talk during breaks. Though these conversations may seem surface level, such interactions are often the key to advocates remembering “who that person was.” It can be an opportunity for the associate to discuss their background, where they are from, why they want to be an arbitrator, etc. In other words, hearings can in fact be a more intimate version of RCI’s Meet-the-Neutrals Event. Allowing associates to participate in hearings serves not only as a valuable training experience—helping them develop essential arbitration skills—but also as an opportunity for advocates to get to know associates they might not otherwise meet. This interaction enables associates to build connections with parties they may never have encountered if not for their involvement as an associate arbitrator.

¹³⁵ See NAA STRATEGIC PLAN, *supra* note 24, at 17–18 (listing best practices to support the NAA’s Diversity, Equity, Inclusion, and Belonging Committee’s goals). Best practices include those practices related to competent mentoring. One should not read this article with the assumption that every senior arbitrator knows instinctively, without training, how to be a competent mentor. This is not an indictment of the senior arbitrator.

APPENDIX A: ASSOCIATE ARBITRATOR REQUEST FORM

NAME OF UNION

and

NAME OF COMPANY/EMPLOYER

Name of Grievant or Grievance

AGENCY/PARTY CASE NO.

ARB. FILE. NO.:

ASSOCIATE ARBITRATOR PARTICIPATION REQUEST

PRELIMINARY STATEMENT

This Request is to give notice to the parties that Homer C. La Rue, Arbitrator (Arb. La Rue) is assisting a colleague to obtain experience to transition to becoming a labor-management arbitrator. The colleague, who will be in the role of an Associate Arbitrator, is _____. Associate Arbitrator's _____ Dispute Resolution Resume is attached to this Request as Attachment A. The designation of _____, as "Associate Arbitrator," is not intended to involve the delegation of any decision-making function from Arbitrator La Rue to Associate Arbitrator _____.

_____ will be assisting Arbitrator La Rue pursuant to the Code of Professional Responsibility for Arbitrators of Labor-Management Disputes (Code), as amended and in effect September 2007.

_____ will observe the hearing, including any executive sessions that may be called by Arb. La Rue. _____ will have access to all documents related to the instant arbitration. The decision-making function will remain with Arb. La Rue. _____ will assist in the drafting of the award, overseen and supervised by Arb. La Rue.

If there is not a mutual agreement to permit the participation of Associate Arbitrator _____, that decision will not prevent Arb. La Rue from serving as the arbitrator in the instant matter; nor will a negative decision impact Arb. La Rue's ability to serve fairly and impartially as the arbitrator in the instant matter.

TERMS OF ASSOCIATE ARBITRATOR PARTICIPATION

Arb. La Rue, having assumed the responsibility of assisting a newer arbitrator, sets forth the terms of the request that _____ be permitted to participate in the instant arbitration as an Associate Arbitrator, as follows:

1. _____ shall serve as Associate Arbitrator in the instant matter which shall not involve the delegation of the decision-making function of Arb. La Rue.
2. In the capacity of Associate Arbitrator, _____ will observe the hearing, including any executive sessions that may be called by Arb. La Rue.
3. _____ will have access to all documents related to the instant arbitration.
4. _____ will assist in the drafting of the award, overseen and supervised by Arb. La Rue, and the decision-making function will remain with Arb. La Rue.
5. Associate Arbitrator _____ shall be subject to and adhere to the Code.
6. All future communications shall be copied to Associate Arbitrator _____.
7. There will be no costs assessed to the parties for Arbitrator _____'s observation or participation in this matter.
8. A copy of Associate Arbitrator _____'s Dispute Resolution Resume is attached hereto and made a part hereof as Attachment A.

Dated: _____, 202__

Columbia, Maryland

Homer C. La Rue

Arbitrator