

Alternative and Online Dispute Resolution

Negotiation and Mediation

- Negotiation
 - Informal settlement talks with or without counsel
 - May be assisted by mini-trial, neutral case evaluation, summary jury trial, conciliation
- Mediation
 - Non-binding procedure utilizing service of neutral third party to assist in negotiations and make recommendations

Arbitration

- Dispute Resolution Utilizing either
 - Neutral Third Party or
 - Panel of Three Persons (chosen by parties)
- Can be Binding or Non-binding (court annexed)

Arbitration Process

- Submission (Written Referral)
 - Most states require matter to be submitted within 6 months
 - Parties may ask arbitrator to resolve questions of fact, law, or both
 - Hearing (procedures less formal than court)
 - Award (issued generally within 30 days and may be accompanied by written opinion)

Agreement to Arbitrate

- Arbitration Clause in Contract
 - may classify as non-binding or binding
 - may ask court to compel arbitration if clause in contract
 - Courts may decide arbitrability (whether clause is enforceable and what issue is covered)

Judicial Review of Arbitration

- Courts Determine if Valid Award Exists and Enforces it (don't re-examine merits)
- Mistake of Fact or Law by Arbitrator Insufficient for Reviewing Court to vacate award
- Only Procedural Defects Will Cause Court to Vacate Award (only if party raises it timely)
 - Corruption, fraud (undue means; bias by arbitrator, substantial prejudice, overreaching (declaring statute unconstitutional or going against public policy), lack of mutual, final and definite award
