

CHAPTER 11

SERVICE ENHANCEMENTS BY  
THE AMERICAN ARBITRATION ASSOCIATION

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For over 75 years, the American Arbitration Association (AAA) has sponsored arbitration as a method of resolving labor disputes. From October 1937, when the Association established the Voluntary Labor Arbitration Tribunal, to 2002, hundreds and thousands of disputes arising under collective bargaining agreements (CBAs) have been administered and arbitrated.

**Present Initiatives**

With judicial support as a backdrop, the AAA has entered a new phase in its longstanding relationship with labor and management.

In 1999, the AAA established the National Labor-Management Arbitration and Mediation Task Force to address current issues that unions and employers face. “While the AAA’s labor dispute resolution and election monitoring processes are well-tested and widely-recognized for their quality and efficiency, we continuously seek ways to improve our systems in partnership with those who use them,”<sup>1</sup> said William K. Slate II, AAA president and CEO. “The task force will provide valuable feedback about the Association’s rules and procedures, education and training programs, and outreach efforts, with the labor-management community.”<sup>2</sup>

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The authors would like to express their appreciation for the contributions of Mike Moran, Case Management Manager, American Arbitration Association.

<sup>1</sup>Fazzi, *Labor of Love: A Commemorative History of the American Arbitration Association and the Labor-Management Community*, at 23–24.

<sup>2</sup>*Id.*

This task force was instrumental in creating a special representation panel in 2000. Members of the panel, who concentrate on resolving recognition and related representation issues, were chosen from among 1,400 labor arbitrators on the AAA roster. Panel members handle disputes involving card checks, neutrality clauses, affiliation issues, voluntary recognition, accretion, and after-acquired clauses.

### **C-MAP: Our Formula for Improving Case Administration**

In 1998, the AAA implemented the Case Management Action Plan—C-MAP—to provide uniformity of the case administration process. Although C-MAP guidelines have been applied to all case types, labor cases are uniquely situated to benefit from this approach.

Among the key changes to streamline AAA case administration are:

- AAA labor case managers will offer accelerated exchange to parties and arbitrators. This process, which requires the consent of all parties, permits parties to send correspondence directly to the arbitrator, with copies to the AAA. The AAA will closely monitor the exchange to ensure that deadlines are met, including the time for rendering the award.
- AAA labor case managers, along with the business development staff, will encourage parties to consider adopting the expedited AAA rules. These rules offer important features not found in other rules, such as appointment by the AAA of a single neutral, continuance of proceedings to occur within seven days, award within seven days from the date of the closing of the hearing, and opinions, if necessary, in summary form.
- AAA labor case managers will advise labor arbitrators that parties expect them to give at least two hearing dates not more than two months out for discharge cases and four months out for other grievances. If an arbitrator does not offer dates for hearings within that time frame, the AAA case manager will advise the parties that either may request replacement of the arbitrator.
- An arbitrator requesting an extension to file an award must do so in writing. The case manager will work with the arbitrator to avoid any extensions on AAA case awards.

C-MAP, which introduced a new standard of administration for all labor arbitrations, furthers the AAA's goal of streamlining operations without compromising due process. The Association will continue to monitor the effects of C-MAP's applications to ensure that the needs of the parties and the arbitrators who use AAA services are satisfied. (See Table 1 at the end of this chapter for a listing of current AAA offices, and persons to contact.)

### **AAA Election Services**

In September 2000, the AAA unveiled its advanced electronic voting system, using telephone and online technology. The availability of touch-screen technology has thrust AAA into being a full-fledged "e-ballot" election provider. In addition to the new technology, the Association continues to conduct elections using the traditional methods of mail ballot voting and polling site voting.

The Association's 50-plus years of experience with elections paved the way for it to assist public officials seeking ways to improve the nation's voting system, triggered by the problems associated with the 2000 national election. The Association's president, William Slate, represented the AAA in a coalition of federal, state, and local officials and voting reform advocates that announced the proposed Voting Study and Improvement Act of 2000 in December 2001. The proposed legislation directs the Federal Election Commission to conduct a comprehensive study of alternative election methods.

### **The Mission of Education**

The AAA's fidelity to education continues unabated. In 2002, the Association redesigned its education programs for the various labor constituencies. The new courses in labor arbitration advocacy emphasize principles of collective bargaining (including mandatory, prohibited, and permitted subjects of bargaining), principles of grievance negotiation, fact-finding, elements of case preparation and presentation, a review of how arbitrators decide cases (standards and tests), and grievance mediation.

Beginning in 2003, all labor arbitrators are required to complete a course entitled "Arbitrator II—Advanced Case Management Issues." Developed by members of the National Academy and other well-respected arbitrators, the course is intended to raise the

bar for neutrals deciding critical issues of industrial governance. The course must be completed in 2004.

Customized training programs also are available. These programs cover critical aspects of negotiations, mediation (evaluative and facilitative), and arbitration.

### **Opportunities and Predictions for the Future**

Few could foresee that the private sector labor arbitration model would have such a dramatic impact on the growth of arbitration elsewhere. The 1980s, in particular, witnessed the influence of labor arbitration migrating into the nonunion sector. In 1978, the AAA developed its Employment Dispute Arbitration Rules. By 1993, the Association had handled over 400 employment cases. By 1995, employment issues captured the spotlight. Specifically, there was public attention paid to the need for due process protections—the hallmark of collective bargaining—in employment alternative dispute resolution (ADR) systems.

In 1995, the AAA created a special task force comprised of individuals representing management, labor, employment, civil rights organizations, private administrative agencies, government, and the AAA. The Due Process Protocol, which was endorsed by the Association, seeks to ensure fairness and equity in resolving workplace disputes. The Due Process Protocol encourages mediation and arbitration of statutory disputes, provided there are due process safeguards. It conveys the hope that ADR will reduce delays caused by the huge backlog of cases pending before administrative agencies and the courts. The Due Process Protocol “recognizes the dilemma inherent in the timing of an agreement to mediate and/or arbitrate statutory disputes” but does not take a position on whether an employer can require a pre-dispute, binding arbitration program as a condition of employment.

The Due Process Protocol has been endorsed by organizations representing many sectors. They include the AAA, the American Bar Association’s Labor and Employment Section, the American Civil Liberties Union, the Federal Mediation and Conciliation Service, the National Academy of Arbitrators, and the National Society of Professionals in Dispute Resolution. The National Employment Lawyers Association has endorsed the substantive provisions of the Due Process Protocol. It has been incorporated into the ADR procedures of the Massachusetts Commission Against

Discrimination (MCAD) and into the Report of the U.S. Secretary of Labor's Task Force in Excellence in State and Local Government.

In 2001, the AAA administered 2,136 employment cases. This number suggests that the private sector model has provided significant benefits to the nonunion sector, notably the accessibility of a forum through which grievances may be channeled and resolved.

The Association's work with labor and management is ongoing, strong, and extensive. Initiatives in administration, elections, education, and solid advancement of our mission, through a network of regional offices and case management centers, will continue to dominate our efforts as we strive to improve both arbitration and mediation.

TABLE 1. LABOR OFFICES

Region	Office	Geography	Case Management
Michigan	Southfield Regional Office One Towne Square, Ste. 1600 Southfield, MI 48076-3728 Phone: 248-352-5500 Fax: 248-352-3147	Michigan	Robert Harner Supervisor 248-352-5500
Massachusetts	Boston Regional Office 133 Federal Street, 11th Floor Boston, MA 02110-1703 Phone: 617-451-6600 Fax: 617-451-0763	Maine, Massachusetts, New Hampshire, Rhode Island, Vermont & Connecticut	Nicole Gilmore Supervisor 617-695-6021
New Jersey	Somerset Regional Office 220 Davidson Avenue, 1st Floor Somerset, NJ 08873-4159 Phone: 732-560-9560 Fax: 732-560-8850	New Jersey	Susan Pfeiff Supervisor 732-667-2015
New York	New York City Regional Office 1633 Broadway, 10th Floor New York, NY 10019-6708 Phone: 212-484-3266 Fax: 212-307-4387	New York City, Long Island, Southern New York – the 9 lower Hudson Valley counties (Columbia, Dutchess, Greene, Orange, Putnam, Rockland, Sullivan, Ulster & Westchester)	Colin Dean Supervisor 212-484-4162

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Table 1 continued

Region	Office	Geography	Case Management
New York	Syracuse Regional Office 115 E Jefferson Street, Ste. 401 Syracuse, NY 13202-2595 Phone: 315-472-5483 Fax: 315-472-0966	Northern New York (Counties of Albany, Delaware, Rensselaer, Schoharie & all counties north & west of same).	Linda Cimino Case Manager 315-472-5483
Pennsylvania	Philadelphia Regional Office 230 South Broad Street 12th Floor Philadelphia, PA 19102-4199 Phone: 215-732-5260 Fax: 215-732-5002	Delaware, Pennsylvania & West Virginia	George Wood Assistant Vice President 215-731-2286
Ohio	Cleveland Regional Office Great Northern Corp. Cntr. III 25050 Country Club Blvd Suite 200 North Olmstead, OH 44130 Phone: 440-716-2220 Fax: 440-716-2221	Northern Ohio (including the counties of Drake, Miami, Clark, Madison, Franklin, Licking, Muskingum, Guernsey, & Belmont)	Bernice Begay Case Manager 440-716-2220
	Cincinnati Regional Office Chiquita Center 250 East 5th Street, 4th Floor Cincinnati, OH 45202-4173 Phone: 513-241-8434 Fax: 513-241-8437	Southern Ohio (including the counties of Preble, Montgomery, Greene, Fayette, Pickaway, Fairfield, Perry, Morgan, Noble and Monroe), Indiana, and Kentucky	Yara Luca Case Manager 513-241-8434

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Table 1 continued

Region	Office	Geography	Case Management
Chicago	Chicago Regional Office 225 N. Michigan Avenue Suite 2527 Chicago, IL 60601-7601 Phone: 312-616-6560 Fax: 312-819-0404	Illinois & Wisconsin	Pat Velasco Supervisor 312-616-6574
Southeast Case Management Center	200 Century Parkway Suite 300 Atlanta, GA 30345-3203 Phone: 404-325-0101 Fax: 404-325-8034	Alabama, Caribbean, Florida, Georgia, Indian, Kentucky, Maryland, North Carolina, Ohio, South Carolina, Tennessee, Virginia & Washington, D.C.	Mark Miller Supervisor 404-320-5121
Western Case Management Center	6795 N. Palm Avenue 2nd Floor Fresno, CA 93704 Phone: 559-490-1900 Fax: 559-490-1919	Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah & Washington.	Sandra Marshall Supervisor 559-490-1921
Central Case Management Center	13455 Noel Road Suite 1750 Dallas, TX 75240-6620 Phone: 972-702-8222 Fax: 972-490-9008	Arkansas, Colorado, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Nebraska, North Dakota & South Dakota, Oklahoma, Texas, Wisconsin & Wyoming.	Lesley Barton Supervisor 972-702-8222