

(4) The Neutral List Selection System will exclude arbitrators from the lists based upon current conflicts of interest identified within the Neutral List Selection System.

**(b) Lists Generated in Disputes Between Associated Persons or Between or Among Members and Associated Persons**

(1) If the panel consists of one arbitrator, the Neutral List Selection System will generate a list of 10 public arbitrators from the FINRA public chairperson roster.

(2) If the panel consists of three arbitrators, the Neutral List Selection System will generate:

- A list of 10 arbitrators from the FINRA non-public arbitrator roster;
- A list of 10 arbitrators from the FINRA public arbitrator roster; and
- A list of 10 public arbitrators from the FINRA public chairperson roster.

(3) If the panel consists of three arbitrators, the Neutral List Selection System will generate the public chairperson list first. Chair-qualified arbitrators who were not selected for the public chairperson list will be eligible for selection on the public list. An individual arbitrator cannot appear on both the public chairperson list and the public list for the same case.

(4) The Neutral List Selection System will exclude arbitrators from the lists based upon current conflicts of interest identified within the Neutral List Selection System.

**(c) Sending Lists to Parties**

(1) The Director will send the lists generated by the Neutral List Selection System to all parties at the same time, within approximately 30 days after the last answer is due. The parties will also receive employment history for the past 10 years and other background information for each arbitrator listed.

(2) If a party requests additional information about an arbitrator, the Director will request the additional information from the arbitrator, and will send any response to all of the parties at the same time. When a party requests additional information, the Director may, but is not required to, toll the time for parties to return the ranked lists under Rule 13404(d).

**13404. Striking and Ranking Arbitrators**

(a) Except for lists generated pursuant to Rule 13403(a)(2), each separately represented party may strike up to four of the arbitrators from each list for any reason by crossing through the names of the arbitrators. At least six names must remain on each list.

(b) For lists generated pursuant to Rule 13403(a)(2), each separately represented party may strike up to eight of the arbitrators from the non-public list and up to four of the arbitrators from the non-public chairperson list for any reason by crossing through the names of the arbitrators. At least 12 names must remain on the non-public list and at least six names must remain on the non-public chairperson list.

(c) Each separately represented party shall rank all remaining arbitrators on the lists in order of preference, with a "1" indicating the party's first choice, a "2" indicating the party's second choice, and so on. Each list of arbitrators must be ranked separately.

(d) The ranked lists must be returned to the Director no more than 20 days after the date upon which the Director sent the lists to the parties. If the Director does not receive a party's

ranked lists within that time, the Director will proceed as though the party did not want to strike any arbitrator or have any preferences among the listed arbitrators.

#### **13405. Combining Lists**

For each arbitrator classification (public, non-public, and chairperson), the Director will prepare combined ranked lists of arbitrators based on the parties' numerical rankings, as follows:

- The Director will add the rankings of all claimants together, and the rankings of all respondents together, to produce separate combined ranked lists for the claimants and the respondents.
- The Director will then add the combined rankings of claimants and the respondents together, to produce a single combined ranking number for each arbitrator, excluding all arbitrators stricken by a party.
- The Director will create separate combined ranked lists for each arbitrator classification in cases with both public and non-public arbitrators.

#### **13406. Appointment of Arbitrators; Discretion to Appoint Arbitrators Not on List**

*For disputes involving statutory employment discrimination claims, see Rule 13802.*

##### (a) Appointment of Arbitrators in Disputes Between Members

(1) If the panel consists of one arbitrator, the Director will appoint the highest-ranked available arbitrator from the combined non-public chairperson list.

(2) If the panel consists of three arbitrators, the Director will appoint a three-arbitrator panel consisting of:

- The two highest-ranked available arbitrators from the combined non-public arbitrator list; and
- The highest-ranked available arbitrator from the combined non-public chairperson list, who will serve as chairperson of the panel.

##### (b) Appointment of Arbitrators in Disputes Between Associated Persons or Between or Among Members and Associated Persons

(1) If the panel consists of one arbitrator, the Director will appoint the highest-ranked available arbitrator from the combined public chairperson list.

(2) If the panel consists of three arbitrators, the Director will appoint a three-arbitrator panel consisting of:

- The highest-ranked available arbitrator from the combined non-public arbitrator list;
- The highest-ranked available arbitrator from the combined public arbitrator list; and
- The highest-ranked available arbitrator from the combined public chairperson list, who will serve as chairperson of the panel.

(c) If the number of arbitrators available to serve from the combined list(s) is not sufficient to fill an initial panel, the Director will appoint one or more arbitrators of the

required classification to complete the panel from names generated randomly by the Neutral List Selection System. If the Director must appoint a non-public arbitrator, the Director may not appoint a non-public arbitrator as defined in Rule 13100 (p)(2) or (3), unless the parties agree otherwise. The Director will provide the parties information about the arbitrators as provided in Rule 13403 and the parties will have the right to challenge the arbitrators as provided in Rule 13410.

(d) Appointment of arbitrators occurs when the Director sends notice to the parties of the names of the arbitrators on the panel. Before making any decision as an arbitrator or attending a hearing session, the arbitrators must execute FINRA's arbitrator oath or affirmation.

#### **13407. Additional Parties**

(a) If a party is added to an arbitration after the Director sends the lists generated by the Neutral List Selection System to the parties, but before parties must return the ranked lists to the Director, the Director will send the lists to the newly added party, with employment history for the past 10 years and other background information for each arbitrator listed. The newly added party may rank and strike the arbitrators in accordance with Rule 13404. If the newly added party returns the lists within 20 days after the date upon which the Director sent the lists to the party, the Director will include the new party's lists when combining rankings under Rule 13405. If the Director does not receive the list within that time, the Director will proceed as though the party did not want to strike any arbitrator, or have any preference among the listed arbitrators.

(b) Once the ranked lists are due to the Director under Rule 13404, no party may amend a pleading to add a new party to the arbitration until a panel is appointed and grants a motion to add the party. Motions to add a party must be served on all parties, including the party to be added, and the party to be added may respond to the motion in accordance with Rule 13503 without waiving any rights or objections under the Code. If the panel grants the motion to add the party, the newly added party may not strike and rank the arbitrators, but may challenge an arbitrator for cause in accordance with Rule 13410.

#### **13408. Disclosures Required of Arbitrators**

(a) Before appointing arbitrators to a panel, the Director will notify the arbitrators of the nature of the dispute and the identity of the parties. Each potential arbitrator must make a reasonable effort to learn of, and must disclose to the Director, any circumstances which might preclude the arbitrator from rendering an objective and impartial determination in the proceeding, including:

- (1) Any direct or indirect financial or personal interest in the outcome of the arbitration;
- (2) Any existing or past financial, business, professional, family, social, or other relationships or circumstances with any party, any party's representative, or anyone who the arbitrator is told may be a witness in the proceeding, that are likely to affect impartiality or might reasonably create an appearance of partiality or bias;
- (3) Any such relationship or circumstances involving members of the arbitrator's family or the arbitrator's current employers, partners, or business associates; and
- (4) Any existing or past service as a mediator for any of the parties in the case for which the arbitrator has been selected.