



## Fact Sheet

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### Subpoenas

The purpose of this Q & A is to provide a brief explanation regarding the subpoena process in arbitration. Please make sure to review any applicable arbitration statutes and rules pertaining to your specific case for additional information.

Q. How do I subpoena someone?

A. Anyone authorized by law to issue subpoenas may do so in arbitration. In addition, under many arbitration statutes, the arbitrator can issue subpoenas either at the request of a party or independently. In either instance, the parties are responsible for preparation of the subpoena service and enforcement.

Q. Is the arbitrator the only one who can sign a subpoena?

A. An arbitrator or other person who is authorized by law to subpoena witnesses or documents may sign a subpoena in an arbitration.

Q. In a panel of three arbitrators, can only one arbitrator issue the subpoena?

A. Unless the law or the applicable rules provide to the contrary, or the parties otherwise agree, decisions on subpoena issuance should be made by a majority of the panel.

Q. What does the subpoena process involve?

A. In general, the following steps take place when subpoenas are sought by a party:

1. Party/attorney informs the AAA case manager of its wish to request subpoena(s).
2. The AAA case manager sends subpoena form(s) to the party/attorney for completion or directs the party/attorney to the AAA web site to obtain the form for completion.
3. Party/attorney completes subpoena form(s) and returns same to the case manager, with a copy to all parties.
4. The case manager sends completed subpoena form(s) to the arbitrator for review and signature, if determined by the arbitrator to be appropriate (if there are three arbitrators serving, at least a majority will generally sign the subpoenas, unless the parties have agreed otherwise).

5. If acceptable, arbitrator signs subpoena(s) and returns same to the case manager. If time is of the essence, the arbitrator, with the approval of the case manager, may forward signed subpoena(s) directly to the requesting party/attorney, with a copy to all parties.
6. The case manager receives subpoenas(s) and returns same to requesting party/attorney, with a copy to all parties.
7. Requesting party/attorney serves subpoena(s) on witness or custodian of documents.

Q: What if I do not want to copy the other parties on my subpoena request?

A: If you want or need the arbitrator to sign the subpoena and do not want the subpoena request shared with the other side, you should put your request in writing to your case manager and your case manager will forward your request to the arbitrator for a determination. The arbitrator will decide whether or not you need to share the subpoena request with the other parties. The AAA's actions will then be guided by the arbitrator's determination.

Q. Can I subpoena someone from another state?

A. This requires review of the applicable law. Ultimately, enforcement of the subpoena lies with the court, not the AAA.

Q. May an arbitrator refuse to sign a subpoena requested by a party?

A. In some instances, an arbitrator may question the need for the subpoena requested and ask the case manager to obtain detailed information from the requesting party to aid the arbitrator in deciding whether or not to sign the subpoena.

Q. How are subpoenas enforced?

A. Enforcement of subpoenas is sought through a court of proper jurisdiction.

Q. What if someone I subpoena does not appear for the hearing?

A. If a subpoena is ignored, it is up to the requesting party to have that subpoena enforced through a court of proper jurisdiction. In addition, arbitrators may draw "negative inferences" about a party's failure to abide by a subpoena.

Q. Can a party request an arbitrator to quash a subpoena?

A. A party to the arbitration, who is served with a subpoena and questions the authority of the arbitrator, may raise the issue to the arbitrator at the hearing. The arbitrator may then rule as to whether the subpoena should be quashed.

Q. Who should I contact if I have questions regarding subpoenas or any other general questions about the process?

A. Contact the case manager assigned to your case. The case manager has the most knowledge about every aspect of your case and is there to assist you throughout the process.