



Number: HR7

Title: **FAIR - Fast and Impartial Resolution**

Purpose / Objective: **Company policy for resolution of disputes**

Applicable To: All U.S. Employees

Effective Date: January 1, 2016

Supersedes Notification: N/A

**Revision Record Date**

**Revision Description**

**Additional Information**

Office of Authorization: SVP Human Resources

Help or More Information Contact: **GERC@mheducation.com**

Related Policies / Documents / Forms: Step 1 – Submission Form  
Step 1 – Response Form  
Step 2 – Mediation Submission Form  
Step 3 – Arbitration Submission Form  
(all forms are located at the end of this policy)

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## **FAIR FAST AND IMPARTIAL RESOLUTION OF DISPUTES**

### **I. PURPOSE**

Fast And Impartial Resolution (“FAIR”) is a three-step program that provides McGraw-Hill Education and employees a fair, quick and efficient process to resolve certain claims arising out of or relating to their employment relationship. We believe that this proactive approach to handling workplace disputes will contribute to a positive, high performance work environment that recognizes and supports all of our best interests.

FAIR is a binding obligation on both employees (as defined in Section III(B) below) and the Company (as defined in Section III(A) below) for the resolution of certain employment disputes or “Covered Claims” (as defined in Section III(G) below). This program is the exclusive means by which employees and the Company are able to seek resolution of Covered Claims. Therefore, no Covered Claim can be made the subject of a lawsuit or otherwise addressed in court. Throughout this document, the Company and the employees will be referred to as the “parties”.

Participation in this program is a mandatory condition of your employment or continued employment. The FAIR program is not a guarantee of employment for any fixed period of time and does not alter any employee’s at-will status.

This program is separate from the Open Door process, which employees are encouraged to use to resolve issues informally. Information about the Open Door process is available in the HR Guide, which is available to Employees on Spark.

### **II. INTRODUCING FAIR**

McGraw-Hill Education values each of its employees and looks forward to good relations with, and among, all of its employees. Occasionally, however, disagreements may arise between an individual employee and the Company or between employees in a context that involves the Company. Employees are encouraged to resolve issues informally through the Open Door process. Sometimes, however, these informal efforts do not resolve an employee’s concern, and in such cases an employee or the Company may submit the concern to FAIR for resolution.

McGraw-Hill Education believes that the resolution of such disagreements will best be achieved by a structured 3-Step dispute resolution procedure. For these reasons, McGraw-Hill Education has adopted this FAIR program to address Covered Claims. FAIR consists of internal dispute resolution (Step 1) and, where that fails, external mediation (Step 2). While we believe that most, if not all, disagreements can be resolved through Steps 1 and 2, FAIR also provides a third and final Step, external arbitration, where

necessary (Step 3). Employees must complete each level of the process before proceeding to the next level.

At Step 1, an employee who has a Covered Claim and a Company Representative work together to address the employee's concern. In most instances, the Company Representative will be a member of McGraw-Hill Education's Human Resources Department. If the employee is not satisfied with the outcome of Step 1, he or she may submit the claim to Step 2.

At Step 2, in a Mediation, an external neutral mediator helps the employee and the Company open lines of communication in an attempt to facilitate resolution. If there is no resolution through mediation, the next step is arbitration.

At Step 3, in an Arbitration, an external and independent arbitrator conducts a hearing and provides the employee and the Company with a binding decision on the merits of the Covered Claim.

Both mediation and arbitration under Steps 2 and 3 will be administered by a nationally recognized dispute resolution organization ("DRO"). Employees may obtain information regarding which DRO has been designated to handle Step 2 and 3 proceedings and the DRO's rules governing such proceedings from Human Resources, the Legal Department or the DRO.

FAIR works both ways. In the rare instances when the Company has a Covered Claim against an employee, the Company will also be required to use FAIR.

### **III. FAIR Terms and Rules**

#### **A. Company**

The Company includes McGraw-Hill Education, Inc. and all of its subsidiaries, divisions, affiliates, joint ventures, and business units, and, their officers, directors, agents, and supervisors/managers against whom a claim is made. In this document, the Company is sometimes referred to as "McGraw-Hill Education."

#### **B. Employees**

Employees include all employees working in the United States of McGraw-Hill Education, including, without limitation, former employees of McGraw-Hill Education who separated from McGraw-Hill Education after the effective date of FAIR, unless he/she has an employment contract or other agreement, or local law provides otherwise.

Employees continue to be obligated to use FAIR following termination of their employment regardless of the reason for the departure with respect to any and

all Covered Claims they may have. The Company also must use FAIR to address Covered Claims the Company may have against any current or former employee, consistent with the definitions of “Covered Claims” and “Excluded Claims” set forth below.

Employees bound by an Employment Agreement that contains alternative dispute resolution procedures that override FAIR shall remain subject to those conflict resolution procedures and are not bound by FAIR.

Employees not bound by FAIR but who are otherwise covered by a different alternative dispute resolution procedure that provides for final and binding resolution of Covered Claims remain bound by the other procedure. Employees not bound by FAIR and not otherwise bound by a different alternative dispute resolution procedure may request the Company’s agreement to resolve Covered Claims through FAIR.

**C. Effective Date**

FAIR will take effect on January 1, 2016. All disputes submitted to FAIR on or after January 1, 2016 will be subject to the terms of this program, even though the occurrences that lead to the claim may have occurred before that date.

**D. FAIR’s Relationship to Other Appeal Procedures**

Employees are encouraged to use the Open Door process and other informal means to resolve an issue. Under the Open Door Policy, employees are encouraged to bring questions, suggestions and complaints to management’s attention. This may include day-to-day discussions with your manager, or another manager. The Open Door Policy is discussed in detail in the Company’s HR Guide. Employees may also contact Human Resources or a Compliance representative before submitting a matter to FAIR.

If an Employee does not resolve his or her concerns with the Company by using these other procedures, or if the Employee elects not to use them, the employee may submit a matter to FAIR. The Company may also attempt to resolve an issue informally, where appropriate, before submitting a dispute to FAIR.

Neither an Employee nor the Company is waiving or giving up any rights to pursue claims and have those claims resolved as a result of FAIR. Rather, the Employee and the Company agree that Covered Claims will be resolved exclusively by FAIR, not in court.

**E. Applicable Procedure**

All concerns/claims shall be processed under the terms of the FAIR program in effect at the time the concern/claim is first submitted to the program.

Beginning on January 1, 2016, this FAIR program will supersede and replace the Company's voluntary FAIR program that was previously in effect. However, this program shall not affect disputes that were submitted under the voluntary FAIR program before January 1, 2016, unless the employee voluntarily elects to use this program. An employee may elect to proceed under this FAIR program by notifying Human Resources in writing of his or her election to proceed under the new procedures. If an employee makes such an election, the dispute will be subject to the terms of this FAIR program only.

#### **F. FAIR Administration**

The FAIR Administrator is Bill Vanden Noven, Director of Employee Relations. The Fair Administrator can be contacted at: FAIR.MHE@MHEDUCATION.COM.

The Fair Administrator is responsible for the day-to-day management and administration of FAIR, including, but not limited to:

- Answering questions about FAIR;
- Coordinating the receipt and processing of employee and Company claims under FAIR Step 1;
- Coordinating and confirming scheduling of Step 1 meetings;
- Working with Legal to respond to claims at Step 1;
- Monitoring the Company's and employee's compliance with all time requirements;
- Scheduling mediation meetings and arbitration hearings at Steps 2 and 3, as applicable;
- Working with Company representatives, employees, their attorneys, and the DROs to select and schedule mediators and arbitrators;
- Functioning as the Company's administrative liaison with the DROs; and
- Processing FAIR deadlines.

#### **G. Covered Claims**

While employees may use the Open Door process and informal means to resolve any employment-related concern, only Covered Claims will be accepted and

processed by FAIR. Covered Claims include all claims that arise out of or are related to an employee's employment or termination of employment (whether asserted by or against the Company), where a court in the jurisdiction in question would otherwise have the authority to hear and resolve the claim under any federal, state or local (e.g., municipal or county) statute, regulation or common law. Covered Claims do not include Excluded Claims (as defined in Section III(H)).

**Covered Claims** must involve legally protected rights and may include the following:

- Claims relating to compensation, promotion, demotion or other employment actions;
- Claims relating to leaves of absence provided by law;
- Claims relating to involuntary terminations, such as layoffs and discharges (including constructive discharges), notice of mass layoffs;
- Employment discrimination and harassment claims, based on, for example, age, race, sex, gender identity/expression, religion, national origin, veteran status, citizenship, handicap/disability, or other characteristic protected by law;
- Retaliation claims for legally protected activity, including whistleblowing claims;
- Tort claims (such as intentional torts, negligence, defamation, invasion of privacy, infliction of emotional distress, etc.);
- Claims of violation of public policy;
- Claims of violation of this procedure; and/or
- Other claims that both the employee and the Company expressly agree in writing should be treated as Covered Claims.

This is not intended to be an exhaustive list.

## **H. Excluded Claims**

**Excluded Claims**, which are excluded from FAIR in its entirety, are claims that allege concerns such as those listed below. Excluded Claims, while not subject to FAIR, where appropriate, may be brought in court. Employees who have questions about whether a claim is an Excluded Claim should consult with Human Resources or the Legal Department.

- Claims that do not allege legally protected or enforceable rights;
- Claims for benefits under a Company benefit plan (*e.g.*, health, medical, dental, vision) covered by the Employment Retirement Income Security Act of 1974 (ERISA), or any other claims covered by ERISA; including claims of service miscalculation to the extent such calculations determine eligibility for, or level of benefits under, a plan governed by ERISA. This exclusion precludes a claim alleging a violation of such plans but does not prevent an arbitrator from including in an award, in connection with a Covered Claim, the monetary value of lost Company benefits caused by a wrongful termination of employment or other violation of law;
- Claims for workers' compensation (except claims for interference with, or retaliation for, filing a workers' compensation claim);
- Claims for unemployment compensation benefits;
- Claims that would be unfair labor practice charges under the National Labor Relations Act;
- Intellectual property claims (for example, those relating to patents, trademarks and copyrights);
- Claims based on alleged violations of the federal False Claims Act (except retaliation claims) or federal procurement laws or regulations (these should be reported to a Company Compliance representative);
- Claims relating to the enforcement of the arbitration provisions of this program (for example, temporary restraining orders, injunctions, and motions to stay and/or compel arbitration);
- Claims for violations of restrictive covenants, including, but not limited to, the unauthorized disclosure by an employee of Company trade secrets or confidential information; and
- Claims brought by or against employees, where a third person or entity would be a party to the action or where the absence of the third person or entity could subject the Company or the employee to inconsistent obligations.

**Additional Excluded Claims, which are excluded from Step 3 of FAIR (arbitration), but may be addressed in Steps 1 and 2:**

- Claims which, by applicable statute, regulation or other legal requirement are precluded from mandatory coverage under a pre-dispute binding arbitration



agreement, including claims arising under §1514A of the Sarbanes Oxley Act of 2002, as amended; and §§ 748 and 922 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”).

**I. Exclusivity of Arbitration for Covered Claims; Injunctive Relief Exception**

Employees and the Company are not allowed to litigate a Covered Claim in any court. However, a provisional remedy (*e.g.*, a temporary restraining order or a preliminary injunction) to preserve or reinstate the status quo pending the resolution of the Covered Claim pursuant to FAIR may be sought at any time in a court of competent jurisdiction. As discussed in Section (III)(H), injunction actions with respect to Excluded Claims will not be subject to the FAIR program.

**J. Individual Nature of Covered Claims**

**Employees and the Company waive their right to bring any Covered Claims as, or against, a representative or member of a class or collective action (whether opt-in or opt-out) or in a private attorney general capacity, unless all parties agree to do so in writing.** All Covered Claims must be brought on an individual basis and only through FAIR. Any disputes concerning the validity of this class, collective and representative waiver will be decided by a court of competent jurisdiction, not by the arbitrator. If a court determines in a final non-appealable ruling that the waiver in this paragraph III(J) is unenforceable, any claims brought and intended to be collective, class or private attorney general actions will be considered Excluded Claims that must be pursued (if at all) in court. If at any point a court finds that claims addressed in this section are not appropriate for treatment as a class, collective or private attorney general action, the claims must proceed (if at all) through FAIR as individual claims.

**K. Exhaustion of Resolution Steps**

Employees and the Company must satisfy the requirements at each Step of FAIR before proceeding to the next Step, unless the employee and the Company mutually agree in writing to skip a FAIR Step.

**L. Filing Charges with Government Agencies**

Nothing in this procedure is intended to discourage or interfere with employees’ rights to file administrative claims or charges with government agencies or authorities, such as the Equal Employment Opportunity Commission, the U.S. Department of Labor, the National Labor Relations Board, the Office of Federal Contract Compliance Programs, the Securities Exchange Commission, and any other Federal or State governmental agency or regulator acting pursuant to federal or state law.

Either an employee or the Company, or both, may request that a governmental agency, regulator or other authority with which the other party has filed a claim or charge defer processing that claim or charge pending exhaustion of the FAIR process.

**M. Statutes of Limitations and Administrative Agency Filing Deadlines**

This program does not extend the statute of limitations or agency filing deadlines for any claims.

*Statutes of Limitations.* Under the law, legal claims must be brought within a certain amount of time. The time period governing when a claim must be brought is called the “Statute of Limitations.” Statutes of limitations are the maximum time periods during which certain legal disputes can be brought or enforced. The length of the applicable statute of limitations is determined by the legal nature of the claim – *i.e.*, whether it is a contract claim, discrimination claim, tort claim etc. Different statutes of limitations apply to different claims. A statute of limitations generally begins to run with the occurrence of the event or conduct that is the basis of a person’s claim. If the time period for a Covered Claim has run out, the other party can use the statute of limitations as a defense against the Covered Claim.

*Administrative Agency Filing Deadlines.* Administrative agency filing deadlines can affect an employee’s legal rights in different ways. Some statutes require individuals to file administrative claims with government agencies (as one example, the Equal Employment Opportunity Commission (“EEOC”)) as a prerequisite for filing such claims in court. In this context, administrative agency filing deadlines are the time periods within which individuals must file administrative claims with, for example, a federal agency. Such deadlines also may apply to the time period for filing a claim in court after a government agency has discontinued its investigation of the claim.

*Application to FAIR.* In order to have Covered Claims processed under FAIR, an employee or the Company must have submitted such claims to Step 1 before the expiration of the applicable statutes of limitations and/or administrative agency filing deadlines for such Covered Claims. If a party does not commence FAIR Step 1 within the applicable statute of limitations period, the party will forfeit any further right to make use of the FAIR program for that claim and will be foreclosed from bringing an action in any court based on the Covered Claim. Neither the Company nor an employee will be compelled to proceed with regard to any Covered Claim that is barred by the statute of limitations, and both parties expressly reserve the right to assert the statute of limitations as a defense in any proceeding brought either under this program, before a court of law or before any administrative agency.

Where an employee files a Covered Claim with an administrative agency or in a court that has (or, absent FAIR, would have) jurisdiction over the Covered Claim before the expiration of the applicable limitations period, the Company agrees to stop the further running of the limitations period as to that Covered Claim while it is pending before the agency or court until ninety (90) days from the time a decision is made by a court regarding the appropriate forum for resolution, or the agency process has been concluded. Nothing in this paragraph is intended to interfere with the right of administrative agencies to investigate and otherwise process claims or relieve a party with Covered Claims that, under FAIR, must be arbitrated, from adhering to the deadlines established by FAIR in accordance with Section III(N) below.

Each party shall be solely responsible for determining the correct statutes of limitations and/or administrative agency deadlines applicable to their Covered Claims. Human Resources' failure to reject a Covered Claim or an opposing party's failure to object to a Covered Claim that has been submitted to FAIR after the expiration of the applicable statutes of limitations or administrative agency deadlines shall not constitute a waiver of the opposing party's right to assert as a defense at a later time the untimeliness of the Covered Claim.

**N. Deadlines Established by This Procedure**

This program establishes deadlines for certain actions, including, but not limited to, deadlines for submitting claims to the different Steps of FAIR and Human Resources' issuance of written responses. Deadlines are established by this program rather than by law and are different from statutes of limitations.

The failure to submit Covered Claims at all levels of FAIR within the deadlines established by this program constitutes a failure to complete the FAIR process, unless the employee(s) and the Company agree to an extension of deadlines or the arbitrator (where Step 3 applies) rules that such failure was the result of excusable delay. Any deadline referred to in this program that falls on a weekend or holiday will be extended to the next business day.

Employees and the Company agree that they will make a good faith effort to comply with the deadlines in this procedure. Human Resources' failure to respond at Step 1 of FAIR to the submission of an Employee claim by the expiration of the applicable deadline will be considered a denial of the claim and enable the employee or the Company either to submit the claim to the next Step or demand a response from Human Resources before proceeding to the next Step.

**O. Rules of Administration for Mediation and Arbitration**

JAMS has been designated as the DRO that shall handle the mediation proceedings at Step 2 and the American Arbitration Association (“AAA”) as the DRO that shall handle the arbitration proceedings at Step 3.

Employees may obtain information regarding the DRO designated to handle their Covered Claims, including the name and location of the DRO and the DRO’s current rules of procedure, from the FAIR Administrator. These rules are also available online at <http://www.jamsadr.com/rules-employment-arbitration/> (for JAMS) and [www.adr.org/rules](http://www.adr.org/rules) (for AAA).

Except as supplemented or provided otherwise by this procedure, the mediation and arbitration of Covered Claims will be administered by the designated DRO under its current rules for employment mediation and for employment arbitration, respectively, as may be amended, without notice by the DRO.

**P. Agreement to Arbitrate in Interstate Commerce**

For all employees, this procedure is an agreement to arbitrate pursuant to the Federal Arbitration Act (FAA), 9 U.S.C. Sections 1-14, or if that Act is held to be inapplicable for any reason, the arbitration law in the state in which the arbitration hearing is held.

**Q. Retaliation Is Prohibited**

Company employees at all levels are strictly prohibited from retaliating against anyone for submitting a concern or claim to, or otherwise participating in, FAIR. Any concern that retaliation has occurred must be reported promptly to the employee’s supervisor, local Human Resources representative, or a Company Compliance representative, and may be submitted as a concern to FAIR. Any employee who engages in retaliatory conduct will be subject to discipline, up to and including discharge.

**R. Consolidation of Additional Covered Claims**

The parties are solely responsible for including in the FAIR Submission Forms all Covered Claims arising from substantially the same set of facts and circumstances. Consequently, if a party wants to raise, or raises in any manner at any time during the FAIR process, new Covered Claims or new facts which give rise to new Covered Claims, the party shall include such claims and/or facts in a new Submission Form at the appropriate level. The responding party at its sole discretion may consolidate new Covered Claims at the level of the other party’s pending claims, or may elect to address the new Covered Claims as a separate claim.

**S. Finality of FAIR**

Any resolution of a concern or claim reached through FAIR is final. This means that neither an employee nor the Company can bring forward a concern or claim in FAIR or in court that is based on substantially the same set of facts and circumstances as one that has been processed in accordance with the terms of FAIR.

**T. Consideration and Assent**

An employee's employment or continued employment after the Effective Date of the program and/or the mutuality of the obligations for an employee and the Company under this program shall constitute consideration for the parties' rights and obligations under this program. Employment or continued employment after the Effective Date constitutes consent by both the employee and the Company to be bound by this program during the employment and after termination of employment.

**U. Modification**

The CEO of McGraw-Hill Education (or his or her designee) may modify or discontinue the FAIR program at any time in the future so long as the Company gives affected employees sixty (60) calendar days' advance notice. Any such change shall be prospective, and shall not affect previously filed claims. An employee's continuation of employment shall be deemed acceptance of the modification.

**V. Entire Agreement**

This procedure constitutes the sole agreement between the Company and its employees concerning the requirements of FAIR and may not be modified by written or oral statements of any Company representative except as set forth in Section III(U) above. If there are conflicts between the requirements of this program and other Company policies, procedures, publications or statements by Company representatives regarding matters addressed by this procedure, the requirements of this program control.

**W. Severability**

In the event that any provision of this program is determined to be legally invalid or unenforceable, and cannot be modified to be enforceable, the affected provision shall be stricken from the Agreement. The remaining terms of the Agreement and its enforceability shall remain unaffected. This program supersedes any prior oral or written understanding or policies on these subjects.

**X. Interpretation & Waiver of Procedures**

The arbitrator shall interpret and apply these rules insofar as they relate to the

arbitrator's powers and duties. Except as otherwise provided by this program (including with respect to the class/collective/representative action waiver), the arbitrator, and not a court, shall have exclusive authority to resolve any dispute relating to the interpretation, applicability, enforceability or formation of this program, including without limitation disputes regarding the procedural or substantive arbitrability of any claim, any objections with respect to the existence, scope or validity of FAIR, and any claim that all or any part of FAIR is void or voidable. The arbitrator shall be limited to resolving the Covered Claim between the Company and the employee(s). These rules do not grant the arbitrator the power to render a decision that will be binding on any other parties or in any other dispute.

Any party who proceeds with the arbitration with knowledge that any provision or requirement of these procedures has not been complied with and who fails to state objections thereto in writing, shall be deemed to have waived the right to object.

#### **Y. Governing Law**

This Agreement shall be construed, interpreted, and applied in accordance with the law of the state where the Employee is based, without regard to choice of law principles.

### **IV. FAIR 3-STEP PROCEDURE**

Preliminary note: Employees are encouraged to first discuss their concerns through the Open Door process by speaking with their direct manager, the next higher level manager and/or a Human Resources representative before submitting a claim to FAIR. Only Covered Claims will be addressed under FAIR.

#### **A. Step 1 – Meeting with Human Resources**

1. Submission of Claims. To commence a claim under FAIR, the employee or the Company must complete and submit a FAIR Step 1 Submission Form to the FAIR Administrator. Employees are required to identify on the FAIR Step 1 Submission Form the occurrences and facts that form the basis of the claim(s), the dates of those occurrences, the legal claim(s) you are making based on the facts (for example, unlawful discrimination, breach of contract, etc.), the names of individuals with knowledge of the claim(s) and the nature of their involvement, documents or other evidence that support the claim(s) and the requested relief. The employee should keep a copy of the completed Step 1 Submission Form. The Company will also follow this procedure with respect to any Covered Claim that it may have against an employee.

The FAIR Step 1 Submission Form is annexed to this program, and is also available on Spark. A FAIR Step 1 Submission Form also can be obtained from the FAIR Administrator.

2. Statutes of Limitations for Submission of Claims. Claims must be submitted to the FAIR Administrator before the expiration of the statutes of limitations applicable to such claims as established in the jurisdiction where the employee is based.
3. Determination of Covered Claims. If the employee is not an employee bound by FAIR, or the submitted claim is not a Covered Claim, the FAIR Administrator will notify the submitting party, whether it be an employee or the Company, that the claim has been rejected, which will end the FAIR process.
4. Scheduling the Step 1 Meeting. Within seven (7) calendar days of receiving the FAIR Step 1 Submission Form, and provided the employee is an employee bound by FAIR and the claim is a Covered Claim, the FAIR Administrator will schedule a Step 1 meeting or telephone call. The meeting shall be held within thirty (30) calendar days of the receipt of the FAIR Step 1 Submission Form, or as soon thereafter as may be practical.
5. Attendees at Step 1 Meeting. A Human Resources Representative will meet with the Employee to attempt to resolve the employee's claim. If the Company submits a claim, a Human Resources Representative will meet with a Company Representative and where appropriate, the employee. Where appropriate, the employee's manager, next-level manager, or other Company employees who were involved in the events giving rise to the claim may attend the meeting.
6. Access to Personnel Files/Medical Files. By request to the FAIR Administrator, an employee may gain access to review documents from his/her personnel and medical files in the Company's possession that are relevant to the employee's concern. Upon request and to the extent possible, such documents will be made available to the employee in advance of the Step 1 meeting.
7. Meeting and Format. The Step 1 meeting will consist of a single meeting or telephone call. At the meeting, the employee (or the Company) shall state the basis for his/her claim and the nature of the resolution he/she is seeking. In addition to the discussion, the employee (or the Company) may present written information or documents to assist in his or her explanation of the claim.

8. No Stenographic Record or Electronic Recording. No formal record or transcript may be made, nor electronic recording device used, at the Step 1 meeting. However, the parties may make notes during the meeting.
9. Confidentiality and Inadmissibility of Discussions. Statements made in the meeting are understood to be solely for the purpose of reaching a resolution of the employee's or the Company's claim and shall be kept confidential by the employee and the Company except as provided below, and conveyed on a need-to-know basis by the Company. Neither party shall attempt to use statements made by the other party as evidence of settlement discussions. However, either party may gather information in support of the effort to resolve the claim as long as it is not done in violation of Company policy or law.

Notwithstanding this provision or any other confidentiality requirement of this procedure, nothing in this procedure shall prevent employees from communicating or cooperating with any government agency investigation into matters that occurred during the FAIR procedure or during their employment with the Company.

10. Response within 45 Days. Human Resources will investigate the employee's claim, and will provide the employee (or the Company, as applicable) with a written response within forty-five (45) calendar days of the conclusion of the Step 1 meeting. The fact that a claim is allowed to proceed to Step 2 (and, if applicable, later at Step 3) is not a waiver of any defense to such claim, including without limitation that such claim is untimely or fails to state a claim upon which relief may be granted.

## **B. Step 2 – Mediation**

If the employee or the Company is not satisfied with the Step 1 resolution, the employee or the Company may proceed to Step 2 Mediation as provided below. The term "Claimant" as used below shall mean the party that is bringing the claim, whether it be the employee or the Company.

1. Description. Mediation is a process in which parties attempt to resolve their dispute with the aid of a neutral third party. The mediator will not be an employee of the Company. The mediator encourages the parties to discuss their differences and assists them in developing a resolution that is satisfactory to each party. If the parties are able to resolve their dispute, they typically set forth the terms of their agreement in a legally binding writing. The mediator is provided by a professional, independent company, called JAMS, which specializes in helping parties resolve disputes.



2. Submission of Claims to Step 2. Within thirty (30) calendar days of the date of Human Resources' written response at Step 1, the Claimant shall submit the Covered Claims to mediation by either:
  - a. submitting a completed FAIR Step 2 Submission Form to the FAIR Administrator, who shall then submit a request for mediation to JAMS within seven (7) calendar days of receiving the FAIR Step 2 Submission Form; or
  - b. submitting a completed FAIR Step 2 Submission Form by email to JAMS at fairprogram@jamsadr.com, and simultaneously providing a copy of that completed Form to
    - i. the FAIR Administrator if the Claimant is an employee; or
    - ii. the employee if the Claimant is the Company.

*FAIR Step 2 Submission Form.* Claimants are required to identify on the FAIR Step 2 Submission Form the occurrences and facts that form the basis of the claim(s), the dates of those occurrences, the legal claim(s) you are making based on the facts (for example, unlawful discrimination, breach of contract, etc.), the names of individuals with knowledge of the claim(s) and the nature of their involvement, documents or other evidence that support the claim(s) and the requested relief. The FAIR Step 2 Submission Form is annexed to this program, and is also available on Spark. A FAIR Step 2 Submission Form can also be obtained from the FAIR Administrator.

3. Selection of a Mediator. Mediation will be conducted by a single mediator supplied by JAMS. The employee and the Company may select a mediator by agreement. Absent such agreement, JAMS will facilitate the mediator selection by providing the parties with a list of potential mediators whom the parties will rank/strike pursuant to JAMS' instructions.

If acceptable mediators are unable to serve, or if for any other reason an appointment cannot be made from the initial list, JAMS shall submit a second list to the parties. The parties shall repeat the same process of selection. However, if for any reason JAMS cannot make an appointment from the second list, JAMS shall make the appointment from other members of its panel of mediators without the submission of additional lists.

4. Qualifications of Mediator. The mediator will be experienced in resolving disputes. The mediator shall not have any financial or personal interest in the result of the mediation.
5. Date, Time, and Place of Mediation. The mediation shall be held within ninety (90) calendar days of the parties agreeing upon a mediator or a mediator being appointed unless the parties mutually agree on a later date. The mediation shall take place in or near the city where the employee is based (unless the mediator is not located in that city). The parties shall agree on the date, time and place for mediation. If the parties cannot agree on a location for the mediation, the parties shall use the JAMS office nearest to the employee's work location or another neutral location that is within a reasonable radius of the employee's work location.
6. Length of Mediation. The length of the mediation shall not exceed one eight (8) hour day. However, either of the parties or the mediator may end the mediation at an earlier point.
7. Access to Personnel Files/Medical Files. Same as Step 1, unless the parties agree otherwise.
8. Identification of Matters in Dispute. Unless otherwise ordered by the mediator, each party may (but is not required to) provide to the mediator a brief written summary of the dispute setting forth the party's position concerning all claims and defenses at least seven (7) calendar days prior to the scheduled mediation. This summary shall be for the mediator only, shall not be shared with the other party, and shall not be admissible as evidence in any other proceeding.
9. Attendees at Mediation. Either party may be assisted or represented by a lawyer at the mediation. The mediation shall be a private meeting of the parties and the mediator. Without the written agreement of both parties, no one may attend the mediation except the mediator, the employee, Company representatives and each party's attorneys.
10. No Stenographic Record or Electronic Recording. No formal record or transcript may be made, nor electronic recording device used, at the mediation. However, the parties may make notes during the mediation.
11. Confidentiality and Inadmissibility of Mediation Discussions. The mediator shall not disclose to anyone outside the mediation any information provided by the parties in the course of the mediation. The mediator shall not be compelled to disclose any information related to

the mediation or to testify in regard to the mediation in any other proceeding or judicial or arbitral forum.

The parties shall maintain the confidentiality of the mediation. On or before the date of the mediation, the mediator and the parties shall sign a mediation confidentiality agreement provided by JAMS. Statements by the parties at the mediation are understood to be solely for the purpose of reaching a resolution of the claims and shall be kept confidential by the employee and the Company except as provided below, and conveyed by the Company on a need-to-know basis. Either party may gather information in support of the effort to resolve the concern, however, as long as it is not done in violation of Company policy or law.

Neither party shall, unless compelled by law, attempt to use statements of the other party or the other party's representatives in any arbitral, judicial or other proceeding to impeach the testimony of the other party's witnesses, or as evidence of: (a) views expressed or suggestions made by another party with respect to a possible settlement of the dispute; (b) admissions made by another party in the course of the mediation proceedings; (c) proposals made or views expressed by the mediator; or (d) the fact that the other party had or had not indicated willingness to accept a proposal for settlement made by the mediator. The employee may disclose the contents of the mediation to his/her spouse and attorney, however, provided they first agree not to disclose such information to others.

Notwithstanding this provision or any other confidentiality requirement of this procedure, nothing in this procedure shall prevent employees from communicating with or cooperating with any government agency investigation into matters that occurred during the FAIR process or during their employment with the Company.

12. Costs and Fees. The Company will pay (1) the JAMS filing fee and other administrative fees; (2) the mediator's fee and his/her reasonable travel and related expenses; and (3) the cost of renting mediation rooms. The Company also will pay for the time spent at the mediation by a Claimant still employed by the Company as follows: 1) non-exempt employees will be paid at their regular base rate for time in mediation that occurs during their regularly scheduled hours; and 2) exempt employees will continue to receive their regular salary.

The Company shall pay the fees and expenses of the mediator by making such payments directly to JAMS. JAMS shall then pay the mediator without disclosing the source of such payments. To avoid disclosing to the mediator the source of the payment of his/her fees and expenses and

other costs of mediation, all references to the “costs and fees” of FAIR shall be redacted from copies of this procedure which are provided to the mediator.

If the parties retain legal counsel for Step 2, the parties shall each pay their own attorneys’ fees and costs. If the employee causes the mediation to be postponed, resulting in a postponement fee, the Company will pay the fee, if any, for the first postponement. However, the employee will be responsible for any fees associated with subsequent postponements caused by the employee.

13. Conclusion. If the mediation is successful, Step 2 proceedings will conclude with the execution of a settlement agreement and release, or other arrangement as agreed to by the parties and/or the mediator. If the mediation is unsuccessful, as determined by the mediator and/or either party, the mediation shall be terminated by: (i) a written declaration of the mediator to the effect that in his/her opinion, further efforts at mediation are no longer worthwhile; or (ii) a written declaration of a party to the effect that the mediation is terminated. In this case, Step 2 will conclude on the date of or the written declaration, unless otherwise agreed by the parties.

### **C. Step 3 – Arbitration**

1. Description. Arbitration is a dispute resolution process in which the employee and the Company present their respective positions concerning the Covered Claims to an impartial third-party arbitrator who determines the merits of the claims. An arbitration hearing resembles a court proceeding in certain ways. Both parties have the opportunity to be represented by an attorney, to make opening statements, to present the testimony of witnesses and to introduce exhibits through witnesses, to cross-examine the other party’s witnesses, and to make closing statements. Arbitration differs from mediation in that the arbitrator renders a final and binding decision on the merits of the Covered Claim and can impose remedies. An arbitrator’s decision may include monetary damages or reinstatement of employment, just as in a court case.

The procedures below contain certain guidelines on discovery and witnesses in an effort to further the interests of simplicity and expedition of arbitration. These guidelines will apply unless the arbitrator determines that they will prevent the party from obtaining information and/or presenting evidence that will assist the party in proving a claim or defense, in which case the arbitrator shall have authority to make reasonable alterations to such guidelines.

2. Submission of Claims to Step 3. Within ninety (90) calendar days of the date of the mediator's letter deeming the mediation unsuccessful, the Claimant shall submit his/her Covered Claims to arbitration by either:
- (1) submitting a completed FAIR Step 3 Submission Form to the FAIR Administrator, who shall then submit a request for arbitration to AAA within seven (7) calendar days of receiving the FAIR Step 2 Submission Form; or
  - (2) submitting a completed FAIR Step 3 Submission Form by email to AAA, at [casefiling@adr.org](mailto:casefiling@adr.org), **and** simultaneously providing a copy of that completed Form to:
    - (i) the FAIR Administrator if the Claimant is an employee;or
    - (ii) the employee if the Claimant is the Company.

*FAIR Step 3 Submission Form.* The FAIR Step 3 Submission Form requires the Claimant to identify the occurrences and facts that form the basis of the claim(s), the dates of those occurrences, the legal claim(s) you are making based on the facts (for example, unlawful discrimination, breach of contract, etc.), the names of individuals with knowledge of the claim(s) and the nature of their involvement, documents or other evidence that support the claim(s) and the requested relief. The FAIR Step 3 Submission Form is annexed to this program, and is also available on Spark. A FAIR Step 3 Submission Form also can be obtained from the FAIR Administrator.

*AAA Filing Fee.* An employee shall not be responsible for paying the AAA filing fee. The Company will be responsible for the AAA filing.

*Answering Statement.* A responding party may deliver an answering statement to AAA and the Claimant within thirty (30) calendar days of receiving notice of the intent to arbitrate, which shall include any defense of the responding party and any claim that the responding party would like to make against the Claimant. The Claimant shall have thirty (30) calendar days to deliver to AAA and the responding party an answering statement containing any defenses to the counterclaim.

3. Selection of an Arbitrator. A single arbitrator will preside over the arbitration. The parties may select an arbitrator by agreement. In the event of agreement, the Company will notify AAA of the name of the selected arbitrator and AAA will appoint the arbitrator. However, if the parties cannot agree to the selection of an arbitrator, the parties will

follow the AAA process for arbitrator selection, whereby AAA will provide an initial list of arbitrators for both parties to consider. If the parties are unable to agree on an arbitrator from that list, each party shall rank/strike pursuant to AAA instructions.

If acceptable arbitrators are unable to serve, or if for any other reason an appointment cannot be made from the initial list, AAA shall submit a second list to the parties and the parties shall repeat the same selection process, as provided by the AAA. However, if for any reason AAA cannot appoint an arbitrator from the second list, AAA shall make the appointment from other members of its panel of employment arbitrators without the submission of additional lists.

4. Qualifications of a Neutral Arbitrator. In addition to not having any financial or personal interest in the result of the arbitration, arbitrators shall be licensed attorneys or former judges.
5. No Ex Parte Communications with Arbitrator. No party and no one acting on behalf of any party shall communicate *ex parte* with an arbitrator or a potential arbitrator. This means that neither party may submit written communication to the arbitrator without copying the other party on that communication nor can a party have a discussion with the arbitrator without the other party present in person or by telephone.
6. Strictly Private Nature of Proceedings. Unless otherwise provided herein and as allowed by law, information compiled, shared, exchanged, and generated as a result of the arbitration process shall be treated as strictly private and confidential. The arbitrator shall have the authority to make appropriate rulings to safeguard that privacy and confidentiality.
7. Initial Conference & Discovery. Promptly after appointment, the arbitrator shall hold an initial conference with the parties to discuss matters pertinent to the proceedings, including a plan for discovery. Discovery is the process by which parties to a pending Covered Claim obtain certain non-privileged information in the possession, custody or control of the other party, which is relevant to the proof or defense of the Covered Claim, including information concerning the existence, description, nature, custody, and location of any documents or other tangible things, and the identity and location of persons having knowledge of any such matter. The arbitrator shall have the authority to order such discovery, by way of deposition, interrogatory, document production, requests for admission or otherwise, as the arbitrator considers necessary for a full and fair exploration of the issues in dispute, consistent with the expedited nature of arbitration.

Discovery is subject to certain presumptive guidelines set forth below, including the requirement that the parties shall complete all discovery no later than fourteen (14) calendar days prior to the start of the arbitration hearing. The arbitrator may depart from these guidelines by increasing or decreasing the amount of discovery based on the facts of the particular claim and upon weighing the interests of simplicity and expedition of arbitration against the value of the information in establishing a claim or defense. Unless expressly stated otherwise, each party shall be responsible for its own discovery-related costs and expenses just as if the parties were before a court.

- a. Guidelines on Discovery. Either party may seek from the other party discovery of the type permissible under the Federal Rules of Civil Procedure unless stated otherwise below. To the extent the below guidelines conflict with the Federal Rules of Civil Procedure, the below guidelines shall govern.
  - i. Initial Disclosures. Within fourteen (14) calendar days following submission of the responding party's answering statement to AAA, each party shall identify to the opposing party: (i) all documents which support their claims or defenses, but not including documents that are privileged, attorney work product or subject to a protective order; (ii) the names of individuals who possess information or documents relevant to their claims or defenses; (iii) the categories of information that such individuals possess; and (iv) a computation of any damages claimed by the disclosing party.
  - ii. Protective Orders. The arbitrator may issue protective orders in response to a request by either party or by a third-party witness. Such protective orders may provide that requested discovery not be had, that it be had only on specified terms and conditions, that certain matters not be inquired into, that discovery be conducted with no one present except those designated by the arbitrator, that a trade secret or other proprietary or confidential information not be revealed or be revealed only in a designated way, or any other limitation that the arbitrator deems warranted in the interests of justice, to protect the privacy, trade secrets, proprietary information and/or other legal rights of the parties or the witnesses.

- iii. Interrogatories. Interrogatories are written questions that must be answered by the responding party under oath. Interrogatories shall be restricted to written questions seeking names of witnesses with knowledge of information relevant to the subject matter of the action, the computation of each category of damage alleged, and the existence, custodian, location and general description of relevant documents, and other physical evidence, or information of a similar nature. Each party may submit up to twenty-five (25) separately numbered interrogatories to the other party. Subparts to interrogatories will count as separate interrogatories. Answers and objections to interrogatories must be served on the inquiring party within thirty (30) calendar days of receipt.
- iv. Document Requests. A party may serve on any other party a requests for documents. Answers and objections to document requests must be served on the inquiring party within thirty (30) calendar days of receipt. Responsive documents or things, not including those that are privileged, attorney work product or subject to a protective order, in the responding party's possession, custody or control and/or objections to the requests must be served on the inquiring party within thirty (30) calendar days of receipt. Document requests must be reasonable in number.
- v. Depositions. A deposition is an oral statement under oath that is given in response to specific questions asked by one of the parties and that usually is recorded or transcribed by a court reporter. Each party shall be entitled to take the deposition of up to three (3) individuals (excluding experts) after having given the other party reasonable notice of the identity of the individual to be deposed and the time and place of the deposition. The arbitrator, however, may permit additional depositions, but in no case shall a party conduct more than ten (10) depositions. The party taking the deposition shall be responsible for all costs associated therewith, such as the cost of the court reporter and/or transcript.
- vi. Time for Initiation and Completion of Discovery. In order to expedite the arbitration, the parties may initiate discovery prior to the appointment of the arbitrator.



Unless the arbitrator determines that additional time is necessary, the parties shall complete discovery within one hundred and twenty (120) calendar days of the submission of the responding party's answering statement to AAA, and neither party shall be required to provide information or documents or otherwise respond to a discovery request received less than thirty (30) calendar days before the date for completion of discovery.

- vii. Expert Witnesses. If scientific, technical or other specialized knowledge will assist the arbitrator to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training or education may testify thereto. A party wishing to use expert testimony at the arbitration hearing must disclose to the other party the identity of such expert. The party also must provide an expert report containing a complete statement of all opinions to be expressed, the reasons therefore, the data or other information considered in forming the opinions, and exhibits to be used in support of the opinions, the expert's qualifications, the compensation to be paid to the expert and a list of any other cases in which the expert has testified as an expert in the prior four years. Each party shall pay for their own expert(s).

When the mental or physical condition of a party is in controversy, the arbitrator may order the party to submit to a physical or mental examination by a licensed or certified examiner of the other party's choosing. The examiner will produce to both parties a report containing his or her findings.

Where a party decides to use an expert witness, the arbitrator shall set a date by which the identification of such expert must be made. The non-disclosing party shall have forty-five (45) calendar days thereafter to identify a rebuttal expert. Further, the arbitrator may postpone the hearing date by thirty (30) calendar days or such time as is necessary to permit the parties to complete expert discovery (including the taking of the initial expert's deposition and receipt of transcript, disclosure of any rebuttal expert and deposition of such rebuttal expert and

receipt of transcript) no less than fourteen (14) calendar days prior to the hearing.

- viii. Discovery Disputes. The parties will make a good faith attempt to quickly resolve any discovery disputes between themselves prior to seeking a decision from the arbitrator. The arbitrator shall have the authority to resolve any remaining disputes pursuant to the Employment Arbitration Rules of the AAA. The arbitrator will resolve all discovery disputes no less than 14 calendar days before the arbitration hearing.
8. Third-Party Subpoenas. A third-party subpoena is a command to an individual or a representative of a company to appear at a certain place and time and give testimony and/or furnish documents. A party may ask the arbitrator to issue a third-party subpoena and such third-party subpoena must be served on the other party no less than ten (10) calendar days prior to the start of the hearing, deposition or time for production of documents contemplated by the third-party subpoena. The third-party subpoena shall comply with the Federal Rules of Civil Procedure. The arbitrator shall have the authority to enforce, limit, modify, and/or cancel such third-party subpoenas once they are issued. The party asking the arbitrator to issue the third-party subpoena shall be responsible for the fees and expenses associated with the issuance of and compliance with the subpoena.
9. Pre-Hearing Disclosures and Motions. No less than ten (10) calendar days before the hearing, each party shall provide, in writing, the names of all witnesses (including any expert witness already disclosed in accordance with the discovery guidelines) that the party intends to call to testify at the hearing in support of its case in chief, copies of all exhibits it intends to introduce at the hearing, a brief summary of any preliminary issues the party intends to raise before the arbitrator, and any pre-hearing motions (*e.g.*, motions in limine, motions for summary judgment). The arbitrator shall be authorized to consider and rule on prehearing motions, including dispositive motions. Any ruling regarding such motion shall be made consistent with paragraph III(C)(20).
10. Date and Time of Arbitration Hearing. The arbitrator, in consultation with the parties, shall set the time and date of the arbitration hearing to occur no later than one hundred and eighty (180) calendar days after the submission of the responding party's answering statement to AAA. This date will be extended only by agreement of the parties or in the exercise of the judgment of the arbitrator.

11. Length of Hearing. The arbitrator shall control the duration of the arbitration hearing; provided, however, that the arbitrator shall provide each party an adequate opportunity to present its case, considering the nature and complexity of the Covered Claims at issue. If an arbitration requires multiple hearing dates, the parties and the arbitrator shall use their best efforts to schedule the hearing days on consecutive dates.
12. Place of Hearing. Unless the parties agree otherwise, the arbitration shall take place in or near the city where the employee is based (unless the arbitrator is not located in that city). The parties shall agree on the date, time and venue for the arbitration. If the parties cannot agree on a venue, the parties shall use the AAA office nearest to the employee's work location or a nearby office space to arbitrate the dispute. If the AAA office is unavailable within a reasonable radius of the employee's work location, the arbitrator shall select a convenient, neutral site.
13. Arbitration Hearing Attendees. The parties may be assisted or represented by an attorney at the arbitration hearing. The arbitration hearing shall be a private hearing. Without the written agreement of both parties, no one may attend the arbitration hearing except the arbitrator; an official recorder (if any); the employee, attorneys, experts, and witnesses; and the Company's attorneys, representative(s), experts, and witnesses; provided, however, that the arbitrator shall have authority to sequester or separate the witnesses upon request of a party.
14. Recording of the Arbitration Hearing. In the event a party requests a stenographic record, that party shall bear the cost of such record. If both parties request a stenographic record, the cost shall be borne equally by the parties. In the event an employee requests a stenographic record, the employee and the Company shall each bear the cost of obtaining a copy of the record. In the event the Company requests a stenographic record, the Company also shall bear the cost of providing a copy to the employee.
15. Evidence. The parties may offer such evidence at the hearing as is relevant and material to the determination of the Covered Claim(s) at issue. The arbitrator shall determine the weight and relevance to be afforded the evidence offered by the parties. This procedure does not require conformity to legal rules of evidence, except for the law applicable to attorney-client privilege, attorney work product, and compromise and offers to compromise. However, the arbitrator shall not receive or consider evidence by affidavit or evidence submitted to the arbitrator after the arbitration hearing has concluded.

16. Closing Statements/Post-Hearing Briefs. At the conclusion of the presentation of testimony and evidence, the arbitrator shall determine that each party shall either (i) make a closing statement, and/or (ii) submit a post-hearing brief thirty (30) days following the conclusion of the presentation of testimony and evidence. If the arbitrator requests that the parties submit post-hearing briefs, each party shall simultaneously serve a copy of their brief on the opposing party at the same time that the brief is submitted to the arbitrator.
17. Arbitrator's Decision. The arbitrator shall issue a reasoned written opinion to the parties not more than thirty (30) calendar days after the close of the arbitration hearing, or thirty (30) calendar days after the arbitrator's receipt of the parties' briefs, whichever is later. The opinion shall be signed by the arbitrator and shall contain: (a) the names of the parties and their representatives; (b) the date(s) and place of the hearing; (c) a summary of the Covered Claims arbitrated and decided; (d) the factual and legal reasons for the opinion; and (e) the damages and/or other remedies/relief, if any.

The parties shall accept as legal delivery of the award the placing of the award or a true copy thereof in the mail addressed to a party or its representative at the last known address via certified mail, return receipt requested, personal service of the award, or the filing of the award in any manner that is permitted by law.

18. Authority of the Arbitrator and Scope of Award. The arbitrator may, in connection with the Covered Claim of a specific employee, decide whether the Company has complied with its policies, procedures, rules or practices, and/or whether such policies, procedures, rules, and/or practices are in violation of applicable state or federal law, and where a violation is found, the arbitrator may, solely with respect to the claimant, order the Company to change the application of its policies, procedures, rules, or practices. The arbitrator shall not, however, change, require the Company to establish, nor diminish the Company's authority to establish or revise its policies, procedures, rules and/or practices. Except as provided by this procedure below (Front Pay Option), the arbitrator may grant any remedy or relief that would have been available had the claim been asserted in court.

The arbitrator shall interpret and apply the law of remedies of the state or the federal circuit, or both, in which the claim arose, or the applicable law pursuant to any contractual agreement. The arbitrator, and not any court or agency, shall have exclusive authority to resolve any dispute relating to the applicability, interpretation, formation or enforceability of

this Agreement including, but not limited to, any claim that the entirety or any part of this Agreement is voidable or void. However, under no circumstances shall the arbitrator have the authority to consider any putative class, collective or private attorney general claims.

The arbitrator also shall have the authority to determine issues of timeliness of the Covered Claim(s). The arbitrator further shall have the power to sanction a party for that party's failure to comply with these procedures, the AAA's Employment Arbitration Rules, or the arbitrator's rulings. These sanctions may include assessment of costs, adverse inferences, prohibitions of evidence or, if justified by a willful disregard of any of the above, an adverse ruling in the arbitration.

19. Front Pay Option Instead of Reinstatement. If the arbitrator orders the reinstatement of an employee whose employment has been involuntarily terminated, there may be situations where either the employee does not want to return to work or the Company does not wish to reinstate the employee. In such situations, the arbitrator, at the request of either party, shall accept additional evidence or argument on that issue and shall issue a supplementary award. Such an award will grant the employee reasonable front pay instead of reinstatement in accordance with applicable state or federal law.
20. Effect of Arbitrator's Decision. An arbitrator's award rendered under FAIR shall be a final, binding, and exclusive determination of Covered Claims. The arbitrator's award will not be subject to review or appeal, except as provided by the Federal Arbitration Act, 9 U.S.C. Sections 1-14, or by the applicable state arbitration statute.

Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The award may be vacated or modified only on the limited grounds specified in the Federal Arbitration Act or other applicable law.

Neither party shall publish or disseminate the arbitrator's award or arrange for publication or dissemination of the award. The award shall have no legal effect on the claims of employees who are not party to the arbitration. Neither party may cite the arbitrator's decision as precedent in any other arbitration, or in any administrative or court proceeding. However, either party may cite the decision to appeal or enforce the arbitrator's award and/or to seek dismissal of claims in litigation arising from substantially the same set of facts and circumstances.

21. Costs and Fees. The Company will pay: (1) the AAA filing and other administrative fees; (2) the arbitrator's fee and his/her reasonable travel

and related expenses; and (3) the cost of renting an arbitration hearing room. The Company also will pay for necessary time spent at the arbitration by a Claimant or witness currently employed by the Company as follows: 1) non-exempt employees will be paid at their regular base rate for time in the arbitration hearing that occurs during their regularly scheduled hours; and 2) exempt employees will continue to receive their regular salary for such time.

The Company shall pay the fees and expenses of the arbitrator by making such payments directly to AAA, which shall then pay the arbitrator without disclosing the source of such payments. To avoid disclosing to the arbitrator the source of the payment of his/her fees and expenses or other costs of arbitration, all references to the "costs and fees" of the FAIR procedure shall be redacted from copies of this procedure which are provided to the arbitrator.

Each party shall pay its experts' and/or attorneys' fees, unless the arbitrator awards reasonable experts' and/or attorneys' fees to a "prevailing party" under applicable law. As discussed above, each party shall be responsible for its own discovery-related costs and expenses as if the parties were before a court. If the employee causes the arbitration to be postponed, resulting in a postponement fee, the Company will pay the fee for the first postponement. The employee will be responsible for the fee imputed as a result of any subsequent postponements caused by the employee.

22. Arbitration in the Absence of a Party. The arbitrator may proceed with the arbitration in the absence of parties or legal representatives who, after due written notice, fail to be present or fail to obtain a postponement. A decision shall not be made solely on the default of a party. The arbitrator shall require any party who is present to submit such evidence as the arbitrator may require for the making of a decision.
23. Settlement Prior to Award. If the parties reach an agreement to resolve the Covered Claims prior to the issuance of the arbitrator's decision, the arbitrator will retain jurisdiction of the matter until the parties have executed a written settlement agreement and release of claims and such agreement has become effective.

**FAIR**  
**Step 1 - Submission Form**

To request a Step 1 meeting, complete and deliver this form to the FAIR Administrator by email at FAIR.MHE@MHEDUCATION.COM or by mail or Federal Express to Bill Vanden Noven, c/o McGraw-Hill Education, 8787 Orion Place, Columbus, Ohio 43240.

*\*Only Covered Claims may be addressed under FAIR. Covered Claims that are submitted to Step 1 after the expiration of the applicable statute of limitations period will be rejected as untimely.*

Name:	Employee ID Number:	Phone Number:
Job Title:	Location/Office:	HR Representative:
Email:	Manager:	Submission Date:

Have you previously discussed this concern/claim with your Manager?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Have you previously discussed this concern/claim with another Manager?	YES <input type="checkbox"/>	NO <input type="checkbox"/>
Have you previously discussed this concern/claim with Human Resources?	YES <input type="checkbox"/>	NO <input type="checkbox"/>

<b>STEP I</b>	<b>DATE YOUR CONCERN(S)/CLAIM(S) FIRST AROSE:</b>
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Explain in detail all of the occurrences and facts that support your claim(s), the dates of those occurrences, the legal claim(s) you are making based on the facts (for example, unlawful discrimination, breach of contract, etc.), the names of individuals involved and/or who have knowledge of your claim(s) and the nature of their involvement, and any documents or other evidence that support your claim(s).

In addition, identify your requested relief.

(You may attach additional pages if needed.)

**FAIR**  
**Step 1 - Submission Form**

Employee Signature:

Date:



**FAIR**  
**Step 1 –Response**

Claimant's Name:	Employee ID Number:	HR Representative:
Job Title:	Employee's Location/Office:	Date of Step 1 Submission:
Manager:	Second-Level Manager:	Date of Company Response:

Date of Step 1 Meeting:
Individuals present at Step 1 Meeting:

**STEP 1 Response**

The Human Resources Representative who attended the Step 1 Meeting should prepare a written response consisting of:

- 1) A summary of the Claimant's concern;
- 2) The date, time, place and attendees at the Step 1 Meeting, and any follow-up meetings; and either
  - (i) The responding party's position for each element of the Claimant's concern **and** any action items to be taken in response to the Claimant's concern; OR
  - (ii) If the exact concerns have previously been reviewed as part of the Open Door process, reference may be made to the findings from the Open Door process.

(Attach additional pages as needed.)

\*If you are unhappy with this Response, and would like to pursue FAIR Step 2 Mediation, you must submit a request for Mediation within thirty (30) calendar days of the date of this response by submitting a completed FAIR Step 2 Submission Form to: (i) the FAIR Administrator or (ii) JAMS at fairprogram@jamsadr.com, and simultaneously providing a copy of the same to the FAIR Administrator (if the Claimant is an Employee) or the Employee (if the Claimant is the Company).

**FAIR**  
**Step 2 – Mediation Submission Form**

To request mediation in accordance with FAIR, complete and deliver this form to the FAIR Administrator at FAIR.MHE@MHEDUCATION.COM or by mail or Federal Express to Bill Vanden Noven, c/o McGraw-Hill Education, 8787 Orion Place, Columbus, Ohio 43240 **or** to JAMS at fairprogram@jamsadr.com. If this form is submitted directly to JAMS, you also must simultaneously provide a copy of the same to the FAIR Administrator (if the Claimant is an Employee) or the Employee (if the Claimant is the Company).

*The Employee/Company must submit the Covered Claim(s) at Step 2 within **thirty (30) calendar days** of the*

Claimant Name:	Employee ID Number:	HR Representative:
Claimant Address:	Claimant Telephone Number:	Claimant Email:
Attorney's Name (if represented):	Attorney's Address (if represented):	Attorney's Email (if represented):
Job Title:	Employee's Location/Office:	Date of Step 1 Submission:
Manager:	Second-Level Manager:	Date of Step 1 Meeting:

*date of the written response at Step 1.*

**STEP 2 - MEDIATION**

Explain in detail all of the occurrences and facts that support your claim(s), the dates of those occurrences, the legal claim(s) you are making based on the facts (for example, unlawful discrimination, breach of contract, etc.), the names of individuals involved and/or who have knowledge of your claim(s) and the nature of their involvement, and any documents or other evidence that support your claim(s).

In addition, identify your requested relief.

(You may attach additional pages if needed.)

**FAIR**  
**Step 2 – Mediation Submission Form**

**FAIR**  
**Step 2 – Mediation Submission Form**

*I believe that I have a Covered Claim, as that term is defined under FAIR. My claim has not been resolved to my satisfaction pursuant to Step 1 of the FAIR program. I understand that the entire mediation process will be confidential.*

Employee Signature:

Date:

**FAIR**  
**Step 3 – Arbitration Submission Form**

To request arbitration in accordance with FAIR, complete and deliver this form to the FAIR Administrator at FAIR.MHE@MHEDUCATION.COM or by mail or Federal Express to Bill Vanden Noven, c/o McGraw-Hill Education, 8787 Orion Place, Columbus, Ohio 43240 **or** to AAA at casefiling@adr.org. If this form is submitted directly to AAA, you also must simultaneously provide a copy of the same to the FAIR Administrator (if the Claimant is an Employee) or the Employee (if the Claimant is the Company).

*The Employee/Company must submit the Covered Claim(s) to Step 3 within **ninety (90) calendar days** of the date the Parties and/or the Mediator determines that the Mediation at Step 2 has not been successful.*

Employee Name:	Employee ID Number:	HR Representative:
Employee Address:	Employee Telephone Number:	Employee Email:
Attorney's Name (if represented):	Attorney's Address (if represented):	Attorney's Email (if represented):
Job Title:	Employee's Location/Office:	Date of Mediation Determination:

**STEP 3 - ARBITRATION**

Explain in detail all of the occurrences and facts that support your claim(s), the dates of those occurrences, the legal claim(s) you are making based on the facts (for example, unlawful discrimination, breach of contract, etc.), the names of individuals involved and/or who have knowledge of your claim(s) and the nature of their involvement, and any documents or other evidence that support your claim(s).

In addition, identify your requested relief.

(You may attach additional pages if needed.)

**FAIR**  
**Step 3 – Arbitration Submission Form**

***I believe that I have a Covered Claim, as that term is defined under FAIR. My claim has not been resolved to my satisfaction pursuant to Steps 1 and 2 of the FAIR program. I understand that the entire arbitration process will be confidential as provided for under FAIR.***

***I understand and agree that the arbitrator's decision at Step 3 is final and binding.***

Employee Signature:

Date: