

(Previous revisions addressed in the 45-day comment period of 10/4/02 to 11/18/02 were in bold underscore and strikeout. Additional changes addressed in the 15-day comment period from 2/28/03 to 3/17/03 are indicated in bold double-underscore and double-strikeout.)

1322. Disclosure and Challenge Procedure

- (a) **The Office of Administrative Hearings shall notify the arbitrator of selection as arbitrator.** On notice of selection, the prospective Arbitrator, **including one selected by the Superior Court,** shall disclose to the Office of Administrative Hearings any circumstances likely to prevent prompt hearing and decision or to create a presumption of bias, ~~including any past or present relationship with the Parties, their officers or employees, or their counsel, or other representative.~~ **The disclosures shall satisfy the requirements of Standards 1, 4, 5, 6, 9, 10 (except subdivision (d)), and 11; Standard 2 (a) through (c) and (h) through (n), and (q); (l); and Standard 7 except for subdivision (b)(12) of the Ethics Standards for Neutral Arbitrators in Contractual Arbitration, Cal. Rules of Court, Appendix, Div. IV. For purposes of disclosure under these standards the following definitions shall apply:**
- (i) **"Member of the arbitrator's immediate family" includes the arbitrator's spouse or domestic partner (as defined in Family Code section 297) and children living in the arbitrator's household.**
- (ii) **"Member of the arbitrator's extended family" includes the members of the arbitrator's immediate family and the parents, children and siblings of the arbitrator or the arbitrator's spouse or domestic partner (as defined in Family Code section 297) and the spouse of those persons.**

(b) Upon disclosure, the Office of Administrative Hearings shall advise the Parties of ~~such the~~ information in writing. ~~Within ten days from the date of receipt of such information, the~~ **The** prospective Arbitrator shall be disqualified by the Office of Administrative Hearings if an objection is made to the Office of Administrative Hearings by Petitioner or Respondent **within ten days from the date of receipt of the information.** If neither Petitioner or Respondent objects within the time specified, the prospective Arbitrator shall be deemed acceptable.

~~**(b) An Arbitrator, once selected has a continuing duty to disclose to the Office of Administrative Hearings any circumstances likely to prevent a prompt hearing and decision or to create a presumption of bias, including any past or present relationship with the Parties, their officers or employees, or their counsel, or other representative. Upon disclosure, the Office of**~~

~~Administrative Hearings shall advise the Parties of such information in writing. Within ten days from the date of receipt of such information, the Arbitrator shall be disqualified by the Office of Administrative Hearings if an objection is made to the Office of Administrative Hearings by the Petitioner or Respondent and if the Office of Administrative Hearings determines good cause for disqualification exists. If neither Petitioner or Respondent objects within the time specified, the Arbitrator shall continue to be deemed acceptable.~~

(c) After appointment, an arbitrator has a continuing duty to make any disclosures required in subdivision (a) to the Office of Administrative Hearings. Upon disclosure, the Office of Administrative Hearings shall advise the Parties of the information and their right to object. If neither Petitioner or Respondent objects within the time specified, the Arbitrator shall continue to be deemed acceptable. In addition, a party who becomes aware that an arbitrator has made a material misrepresentation or material omission in his/her disclosures, may, within 15 days of becoming aware of the misrepresentation or omission, object to the Office of Administrative Hearings, clearly describing the material misrepresentation or material omission and how and when he/she became aware of it. If a timely objection is made to the Office of Administrative Hearings by the Petitioner or Respondent and the Office of Administrative Hearings determines good cause for disqualification exists, the arbitrator shall be disqualified. ~~If neither Petitioner or Respondent objects within the time specified, the Arbitrator shall continue to be deemed acceptable.~~

Note: Authority cited: Sections 10240.5 and 10245.2, Public Contract Code.
Reference: Sections 10240.5 and 10245.4, Public Contract Code.

1332. Appointment of Special Arbitrator to Determine Acceptance of the Work

~~(a) If prior to Arbitrator selection a dispute arises regarding acceptance of the work~~ If a complaint asserts that a project has been completed sufficient to require acceptance of the project or if an answer or objection to a complaint contends that 240 days have not expired since acceptance of the project, the Office of Administrative Hearings shall, upon request of one or more of the Parties, cause a special arbitrator to be appointed pursuant to Section 1342 for the sole purpose of resolving that dispute.

(b) If acceptance of the project as complete is at issue, the special arbitrator selected under this section shall after a hearing provide a written decision on whether the project should have been accepted and, if so, on what date.

(c) If the timeliness of filing of the complaint after acceptance is at issue, ~~the~~ the special arbitrator selected under this section shall after a hearing provide a written decision on the timeliness of filing of the complaint in

Arbitration under the Public Contract Code Section 10240.2 provision for arbitration 240 days after acceptance of the work and whether the requirements of that section have been met. If the special arbitrator decides that the requirements have been met, a new Arbitrator shall be selected pursuant to Section 1321 to handle the Arbitration on the merits. If the special arbitrator decides that the requirements have not been met, the Office of Administrative Hearings shall dismiss the complaint in Arbitration without prejudice to the filing of a timely complaint.