

**FDRP**

THE NEW YORK STATE ATTORNEY-CLIENT  
FEE DISPUTE RESOLUTION PROGRAM



**2023**

# Annual Report

to the Administrative Board of the Courts

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## Introduction

The Unified Court System Office of Alternative Dispute Resolution (ADR Office) administers the New York State Fee Dispute Resolution Program (FDRP). The administration of the Program is guided by the Board of Governors, with the goal of ensuring that attorneys and clients have access to cost-effective, high-quality methods of resolving fee disputes.

All lawyers admitted to practice in New York State are required to comply with the Program, which is contained in Part 137 of the Rules of the Chief Administrative Judge. For any fee dispute between a lawyer and client that falls within the jurisdiction of Part 137, if the client chooses to seek to resolve the dispute through the Program, the lawyer is required to participate.

The Board continues to monitor local programs across New York State. Working with counsel from the ADR Office, the Board supports their efficient operation by overseeing the training of and approving volunteer arbitrators, promoting the Program and responding to substantive and operational questions from staff of local programs as well as attorneys and clients.

The Board regularly reviews questions arising under Part 137 of the Rules of the Chief Administrative Judge and the Board's Standards and Guidelines to promote consistent practices where appropriate. The Board also reviews the UCS website for the Program to ensure that parties and local programs have access to the information and forms they need.

## Board Membership

The Board is chaired by Martha E. Gifford, Esq. a member of the Board since the Program was established in 2001, who was appointed to her current position by then-Chief Judge Hon. Jonathan Lippman on December 30, 2015.

Mark V. Collins., appointed by then- Chief Judge Janet DiFiore in 2017, completed his term on the Board in 2023.

Hon. Hector LaSalle, Presiding Justice of the Second Department reappointed Robin

Abramowitz, Esq. and Dee Rabady and appointed Matthew F. Didora, Esq.

Presiding Justice of the Third Department Hon. Elizabeth Garry appointed Kris Campbell and Hon. Kris Singh.

Hon. Gerald J. Whalen, Presiding Justice of the Fourth Department reappointed Shari Jo Reich, Esq. and appointed David McNamara, Esq., and David Richardson to the Board.



## Board Composition

*As of December 31, 2023*

Member	Appointment
Martha E. Gifford, Chair	Chief Judge Janet DiFiore <sup>1</sup>
Simeon H. Baum, Esq.	Chief Judge Janet DiFiore <sup>2</sup>
Mark V. Collins	Chief Judge Janet DiFiore
Gene A. Johnson, Jr.	Chief Judge Janet DiFiore <sup>3</sup>
Maurice Q. Robinson, Esq.	Chief Judge Janet DiFiore
Abigail A. Wickham, Esq.	Chief Judge Janet DiFiore <sup>4</sup>
Susan L. Bender, Esq.	Acting Presiding Justice Hon. Peter Tom
William J. Dockery, Esq.	Acting Presiding Justice Hon. Peter Tom <sup>5</sup>
Vacant	Presiding Justice First Department
Robin S. Abramowitz, Esq.	Presiding Justice Hector LaSalle
Dee Rabady	Presiding Justice Hector LaSalle
Matthew F. Didora, Esq.	Presiding Justice Hector LaSalle
Eleanor M. DeCoursey, Esq.	Presiding Justice Elizabeth Garry
Kris Campbell	Presiding Justice Elizabeth Garry
Hon. Kris Singh	Presiding Justice Elizabeth Garry
David McNamara, Esq.	Presiding Justice Gerald J. Whalen
David Richardson	Presiding Justice Gerald J. Whalen
Shari Jo Reich, Esq.	Presiding Justice Gerald J. Whalen

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<sup>1</sup> Initial Appointment by Chief Judge Judith S. Kaye.

<sup>2</sup> Initial Appointment by Chief Judge Jonathan Lippman.

<sup>3</sup> Initial Appointment by Chief Judge Jonathan Lippman.

<sup>4</sup> Initial Appointment by Presiding Justice A. Gail Prudenti.

<sup>5</sup> Initial Appointment by Presiding Justice Joseph P. Sullivan.

## WHERE WE ARE NOW

### January -December 2023

In 2023, the Attorney-Client Fee Dispute Resolution Program (FDRP) continued to see a steady rise in case disposition since the start of the pandemic in 2020.

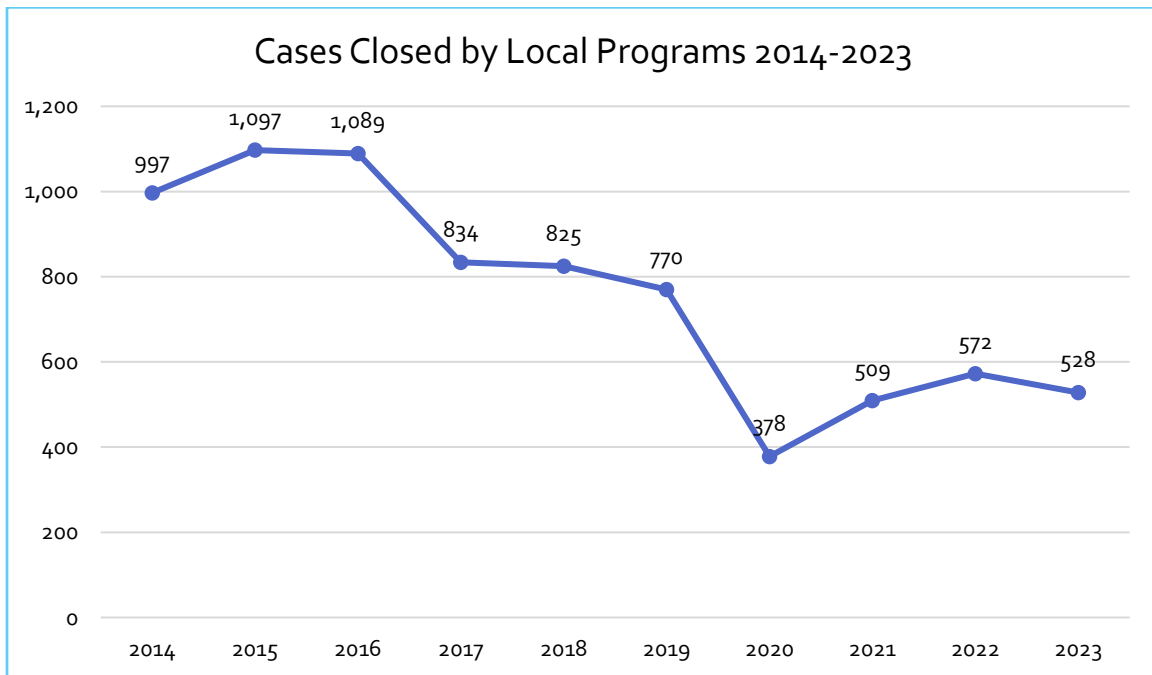


Local programs closed 528 cases in an average of 26 weeks. Local program administrators continued to schedule remote hearings, offering flexibility to neutrals, parties, and their counsel.

## Statistical Highlights

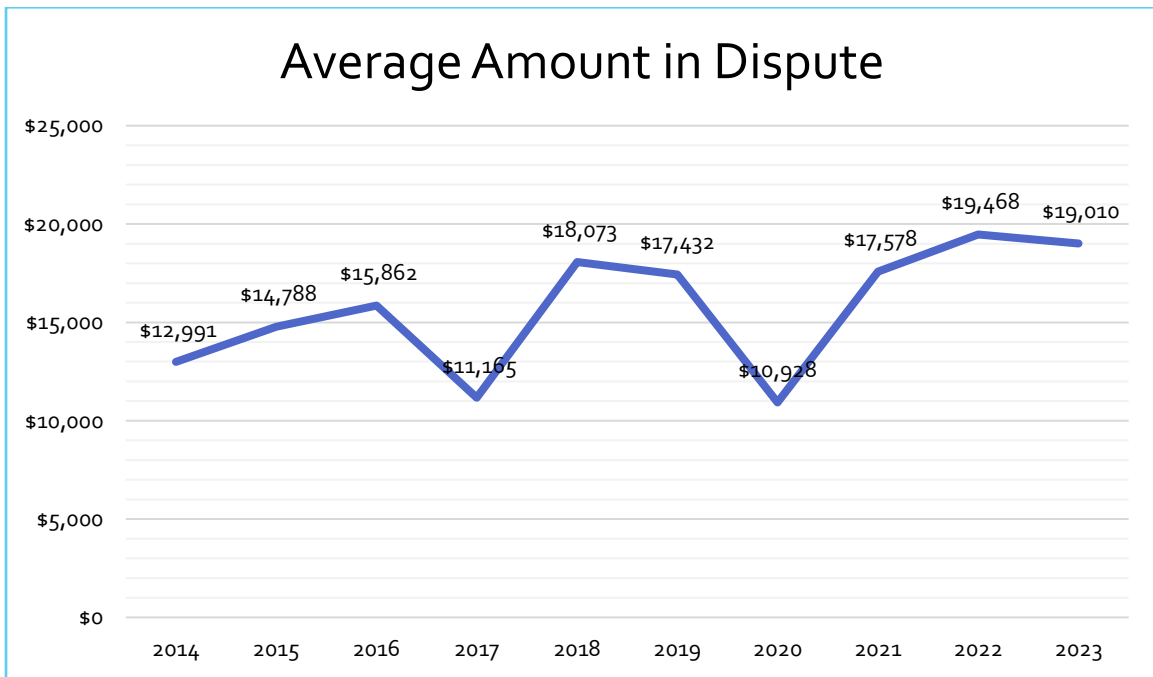
### Cases Closed

During 2023, local programs closed 528 cases, which is about an 8% decrease in the number of cases closed in 2022. The graph below depicts data from the last 10 years.



### Average Amount in Dispute

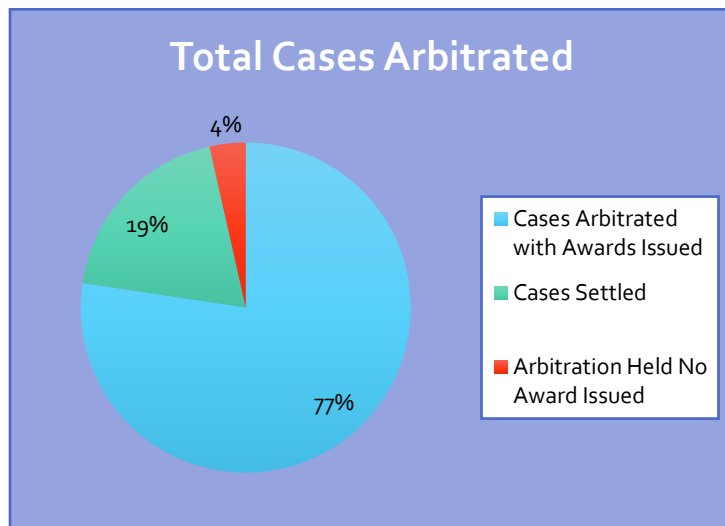
The average amount in dispute continued at a steady pace from 2022 at \$19,010.



### Disposition Information

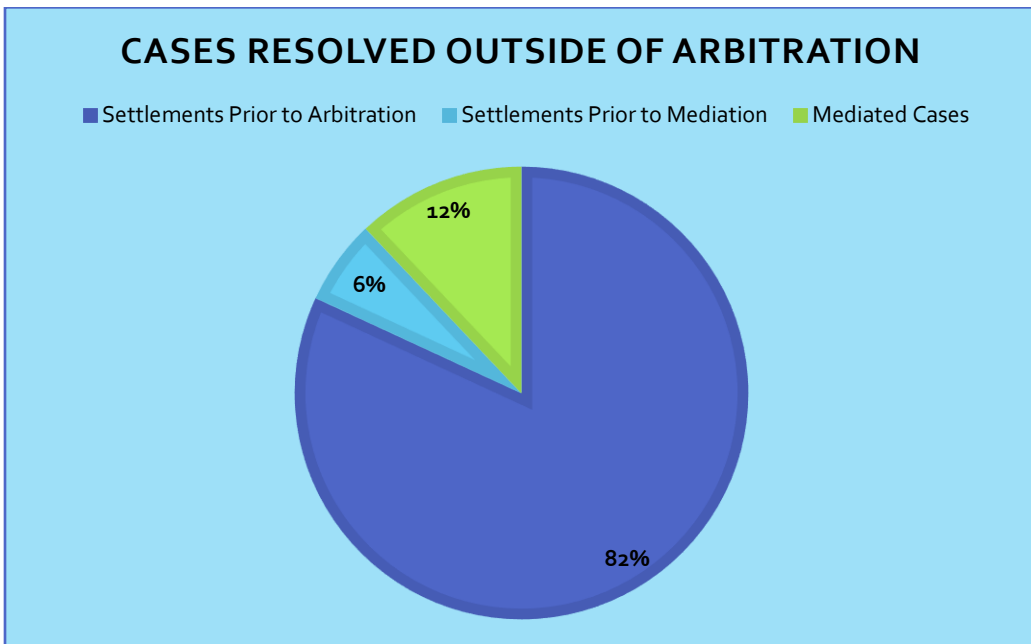
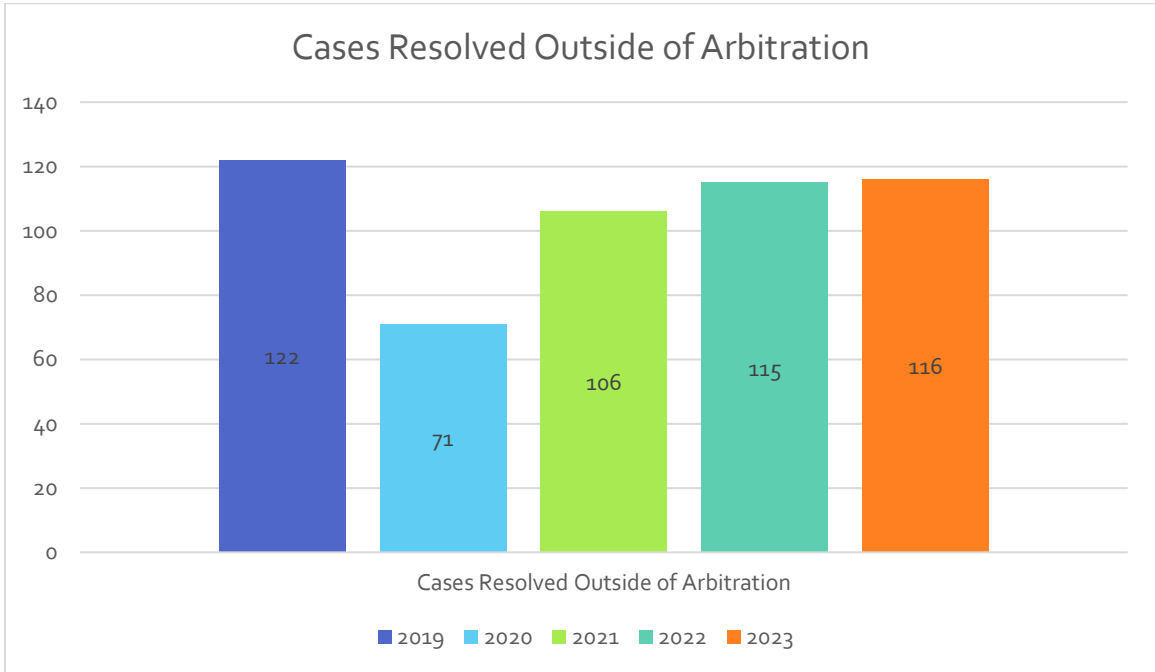
283 out of the 528 cases closed went to arbitration

- Arbitrators issued awards in 219 of the 283 cases that went to arbitration.
- 54 of the cases that went to arbitration settled during the arbitration.
- 10 of the cases that went to arbitration had no award issued.



116 Cases were resolved outside of arbitration

- 95 cases settled prior to arbitration.
- 7 cases settled prior to mediation.
- 14 mediated cases.



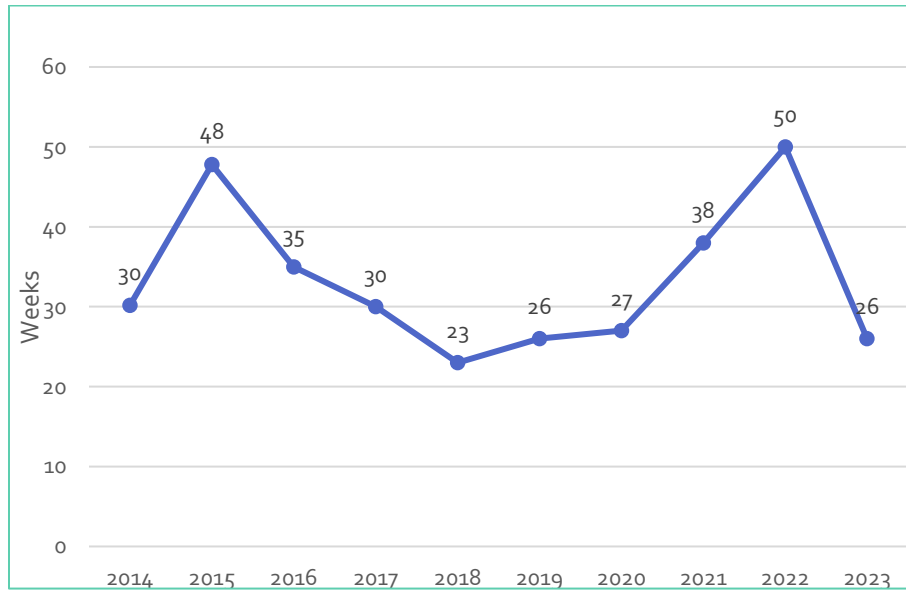
## Cases Either Withdrawn by the Filing Party or Dismissed for Lack of Jurisdiction

	2023
<b>Withdrawn by Filing Party</b>	16
<b>Dismissed for Lack of Jurisdiction</b>	93
<b>Total</b>	109

Reason for Lack of Jurisdiction	2023
Amount in Dispute is Outside of the Program's Monetary Jurisdiction	12
Attorney Admitted in Another Jurisdiction and Does Not Maintain a NY Office or No Material Portion of Services Rendered in NY	0
Client Filed Late	1
Damages or Affirmative Relief Other than Adjustment of the Fee	0
Fee Determined by Statute, Rule, Court Order	9
Legal Services Provided Outside Local Program's Geographic Region	14
No Attorney's Services for More than Two Years	15
Referred to Grievance Committee for Apparent Misconduct	0
Referred to Grievance Committee for Not Complying with Part 137	0
Representation in a Criminal Matter	5
Substantial Legal Question, including Allegations of Attorney Misconduct or Malpractice	10
Request for Arbitration made by Non-Client or the Legal Representative of the Client	4
Other*	23
<b>Total</b>	<b>93</b>
* <i>Other</i> includes party deceased; party did not respond; attorney requested arbitration, but client did not consent; party bankruptcy; concurrent action pending in court for same relief.	

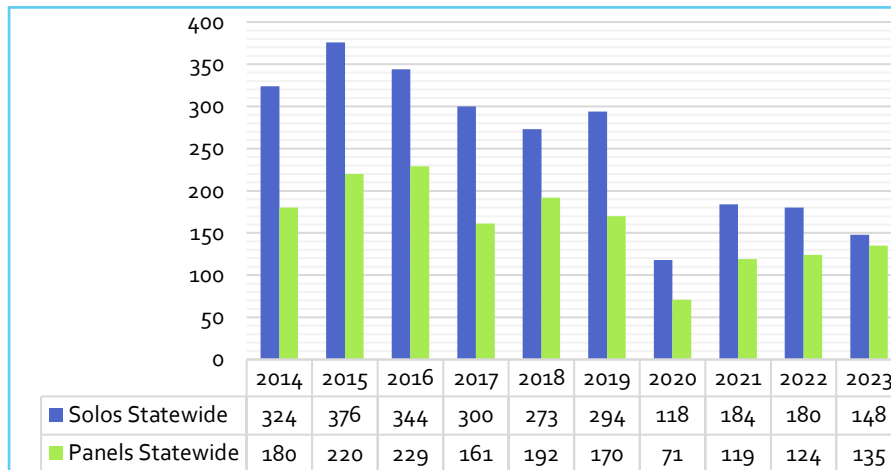
## Average Time from Intake to Disposition

The overall time from intake to disposition decreased by about half of the amount of time in 2022.



### Panel Arbitrations Compared to Solo Arbitrations

Solo arbitrators, who are attorneys, are assigned where the amount in dispute is less than \$10,000. Three-arbitrator panels are assigned where the amount in dispute is \$10,000 or more. Panels consist of a chairperson who must be an attorney, at least one non-attorney member of the public, and the remaining arbitrator may be either an attorney or non-attorney member of the public. In 2023, the number of solo arbitrations continued to exceed the number of panel arbitrations. However, the gap between solo arbitrations and panel arbitrations has shrunk and the ratio is the smallest it has than it has been since the Board raised the threshold for assembling panels from \$6,000 to \$10,000 in 2014. The Board raised the threshold as the number of panels vs. solos reached parity and the local program administrators reported on the difficulty of assembling panels. The Board will continue to monitor this to determine if there is a trend.



## Case Type Information

Fee disputes stemming from representation in [matrimonial matters](#) continue to be the majority case type handled by the program, numbering 281 cases in 2023. [Real Estate/ Property/ Landlord & Tenant](#) was the second most handled case type, numbering 61 in 2023.

Case-Type	2023
Bankruptcy/Collection	5
Business/ Commercial	12
Civil Litigation	47
Contracts	2
Criminal	5
Education	10
Elder Law/ Guardianship	13
FINRA/ SEC	0
Immigration	18
Intellectual Property	2
Labor/ Employment	10
Matrimonial/ Family	281
Real Estate/ Property/ Landlord & Tenant	61
Retirement Planning/ Stocks/ Pension	0
Tort	2
Wills/Trusts/Estate/ Probate	27
Other*	24
Unspecified†	9
<b>Totals</b>	<b>528</b>

\* "Other" includes but is not limited to the following subjects: construction litigation, debt consolidation, Medicaid, multiple/ various legal matters, tax, political consultation, and small claims defense.

† "Unspecified" is generally used as a temporary placeholder until the administrator receives more information in order to designate a case type or to determine that the program lacks jurisdiction.

## New Arbitrator Trainings

In 2023, the Board continued its practice of accepting the New York State Bar Association's Dispute Resolution Section's "Three Day Commercial Arbitration Training for Arbitrators and Counsel: Comprehensive Training for The Conduction of Commercial Arbitrations Pursuant to Contemporary Best Practices" as a Board approved training. Attendees of this program, after watching the fee dispute resolution program's orientation to the program, were qualified to apply to the Board for approval and acceptance to join a local roster.

The Board offers a new arbitrator training program sponsored by the ADR Office. **On March 8, 2023**, the training was offered in collaboration with the New York County Lawyers' Association, one of the local program providers. It is an all-day event now offered remotely to be accessible to more people; participants learn the background and basics about the Part 137 rule and program during the first part of the day and complete the day by learning the skills needed as an arbitrator. After participating in the training, potential arbitrators apply to a local program, by first submitting a résumé or biography for review by the Qualifications, Training and Review Committee of the Board, which then makes a recommendation for the full Board to vote on. Once the Board approves an arbitrator to join a roster, local programs add the newly approved arbitrators to their rosters. Each new arbitrator must submit a notarized oath or affirmation to arbitrate faithfully and fairly, which the

local program keeps on file.

Both attorney and non-attorney volunteers are assigned to Part 137 cases. Arbitrations where the amount in dispute is less than \$10,000 are heard by one arbitrator, who must be an attorney. However, where the amount in dispute is \$10,000 or greater, the local program assigns a panel of three arbitrators. Panels must include one non-attorney arbitrator and one attorney who serves as the chair.

Over 50 arbitrators were trained and approved to arbitrate for local programs in 2023.

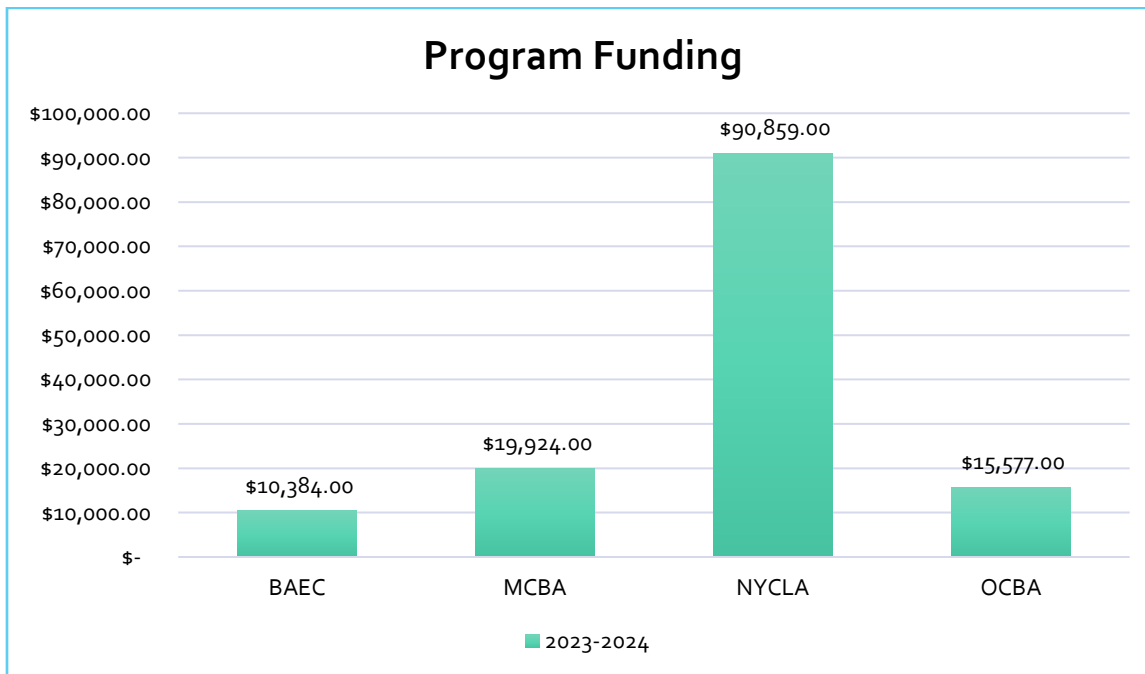
**The Board is grateful for all the arbitrators and mediators who volunteer their time to the program. The program would not work if not for them.**

In the fall of 2023, the ADR Office offered three anti-bias trainings, lead by Theo Cheng, Esq., that he developed specifically for Part 137 volunteers. The ADR Office offered these two-hour trainings to help volunteers meet their obligations under [Administrative Order 124/22](#) requiring all neutrals serving on court rosters and in court-sponsored programs complete at least two (2) hours of anti-bias training every two years.

The board also incorporated one (1) hour of anti-bias training into its new arbitrator training curriculum and continues to develop content for the full two-hour requirement in arbitrators' training curriculum.

## Funding

The Office of Court Administration continues to fund the following programs to help defray costs: The Bar Association of Erie County (BAEC); the New York County Lawyers Association (NYCLA), which administers the Joint Committee on Fee Disputes and Conciliation in Bronx and New York Counties; the Onondaga County Bar Association (OCBA); and the Monroe County Bar Association (MCBA). Beginning in 2007, all funding to bar associations occurs pursuant to the terms of negotiated multi-year contracts based on a fiscal year.



## Program Approval Status- Statewide Overview

*As of December 31, 2023*

<b>District</b>	<b>Administrator</b>	<b>Status</b>
<i>First (Manhattan)</i>	Joint Committee on Fee Disputes and Conciliation	Joint program of New York County Lawyers Assn, Bronx County Bar Assn, and New York City Bar Assn. Program operates out of NYCLA headquarters. Approved to administer program as of 3/4/2002
<i>Second (Kings)</i>	Brooklyn Bar Assn	Approved to administer program as of 8/20/2002
<i>Third (Albany, Schoharie, Rensselaer, Greene, Columbia, Ulster, Sullivan)</i>	District Administrative Judge's Office. (Program covers entire District)	Approved to administer program as of 7/23/2002
<i>Fourth (Schenectady, Saratoga, Montgomery, Fulton, Washington, Warren, Hamilton, Essex, St. Lawrence, Franklin, &amp; Clinton)</i>	District Administrative Judge's Office (Program covers entire District)	Approved to administer program as of 5/1/2005
<i>Fifth (Onondaga, Herkimer, Jefferson, Lewis, Oneida, Oswego)</i>	Onondaga County Bar Assn, in partnership with the District Administrative Judge's Office (Program covers entire District)	Approved to administer program as of 7/24/2002
<i>Sixth (Broome, Chemung, Chenango, Cortland, Delaware, Madison, Otsego, Schuyler, Tioga &amp; Tompkins)</i>	District Administrative Judge's Office (Program covers entire District)	Approved to administer program as of 4/16/2003
<i>Seventh (Monroe, Cayuga, Livingston, Ontario, Seneca, Steuben, Wayne &amp; Yates)</i>	Monroe County Bar Assn, in partnership with the District Administrative Judge's Office (Program covers entire District)	Approved to administer program as of 10/1/2002
<i>Eighth (Erie, Allegany, Cattaraugus, Chautauqua, Genesee, Niagara, Orleans &amp; Wyoming)</i>	Bar Assn of Erie County (Program covers entire District)	Approved to administer program as of 2/6/2002
<i>Ninth (Westchester, Dutchess, Orange, Putnam, Rockland)</i>	District Administrative Judge's Office (Program covers entire District)	Approved to administer program as of 2/24/2003
<i>Tenth (Nassau)</i>	District Administrative Judge's Office (Program covers Nassau County)	Approved to administer program as of 2/24/2003

<i>Tenth (Suffolk)</i>	Suffolk County Bar Assn (SCBA Pilot program ran from Feb. 28, 2003 to Nov. 22, 2004 to arbitrate disputes of \$3000 and above only in Suffolk County; District Administrative Judge's Office arbitrated disputes between \$1,000 and \$3,000. The SCBA now handles all Part 137 fee disputes.)	Approved to administer program as of 10/9/2002
<i>Eleventh (Queens)</i>	District Administrative Judge's Office	Approved to administer program as of 4/24/2003
<i>Twelfth (Bronx)</i>	Same as First District	Same as First District
<i>Thirteenth (Staten Island)</i>	Richmond County Bar Assn	Approved to administer program as of 1/9/2003

## Appendix A Caseload Data

	Statewide	1st & 12th JDS	2nd JD	3rd JD	4th JD	5th JD	6th JD
<b><u>Disposition Information</u></b>							
<b>Total Cases Closed</b>	<b>528</b>	<b>122</b>	<b>5</b>	<b>19</b>	<b>11</b>	<b>2</b>	<b>3</b>
Average Weeks from Intake to Disposition	25.65	20.31	114.48	25.46	8.71	52.50	88.80
<b>Total Cases Arbitrated</b>	<b>283</b>	<b>64</b>	<b>5</b>	<b>2</b>	<b>5</b>	<b>2</b>	<b>3</b>
Cases Arbitrated with Awards Issued	219	52	5	2	2	2	2
Cases Settled During Arbitration	54	12	0	0	3	0	0
Arbitration Held with No Award Issued	10	0	0	0	0	0	1
Cases Arbitrated by One Arbitrator	148	27	2	2	4	2	2
Cases Arbitrated by Three Arbitrators	135	37	3	0	1	0	1
<b>Total Cases Resolved Outside Of Arbitration</b>	<b>116</b>	<b>39</b>	<b>0</b>	<b>8</b>	<b>1</b>	<b>0</b>	<b>0</b>
Total Number of Settled Cases	102	26	0	8	1	0	0
Settlements Prior to Arbitration	95	19	0	8	1	0	0
Settlements Prior to Mediation	7	7	0	0	0	0	0
Total Number of Mediated Cases	14	13	0	0	0	0	0
Cases Meditated to Agreement	14	13	0	0	0	0	0
Cases Meditated with No Agreement	0	0	0	0	0	0	0
<b>Total Cases Withdrawn and Dismissed for Lack of Jurisdiction</b>	<b>109</b>	<b>17</b>	<b>0</b>	<b>8</b>	<b>5</b>	<b>0</b>	<b>0</b>
Cases Withdrawn	16	0	0	1	1	0	0
Cases Dismissed for Lack of Jurisdiction	93	17	0	7	4	0	0
<b><u>Financial Information</u></b>							
Total Admin. Fees Collected From Parties	<b>\$42,225.00</b>	<b>\$19,475.00</b>	<b>\$1,750.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$150.00</b>	<b>\$0.00</b>
Average Amount in Dispute	<b>\$19,010.14</b>	<b>\$27,679.44</b>	<b>\$20,765.84</b>	<b>\$6,522.52</b>	<b>\$10,905.08</b>	<b>\$1,453.75</b>	<b>\$9,603.24</b>

	7th JD	8th JD	9th JD	10th JD- Nassau	10th JD- Suffolk	11th JD	13th JD
<b>Disposition Information</b>							
<b>Total Cases Closed</b>	<b>23</b>	<b>20</b>	<b>61</b>	<b>96</b>	<b>110</b>	<b>52</b>	<b>4</b>
Average Weeks from Intake to Disposition	15.06	18.97	18.45	17.16	21.80	65.20	25.18
<b>Total Cases Arbitrated</b>	<b>11</b>	<b>12</b>	<b>31</b>	<b>52</b>	<b>79</b>	<b>14</b>	<b>3</b>
Cases Arbitrated with Awards Issued	7	10	30	41	54	9	3
Cases Settled During Arbitration	3	2	1	7	25	1	0
Arbitration Held with No Award Issued	1	0	0	4	0	4	0
Cases Arbitrated by One Arbitrator	9	10	19	23	39	7	2
Cases Arbitrated by Three Arbitrators	2	2	12	29	40	7	1
<b>Total Cases Resolved Outside Of Arbitration</b>	<b>4</b>	<b>6</b>	<b>8</b>	<b>23</b>	<b>23</b>	<b>3</b>	<b>1</b>
Total Number of Settled Cases	4	6	8	22	23	3	1
Settlements Prior to Arbitration	4	6	8	22	23	3	1
Settlements Prior to Mediation	0	0	0	0	0	0	0
Total Number of Mediated Cases	0	0	0	1	0	0	0
Cases Meditated to Agreement	0	0	0	1	0	0	0
Cases Meditated with No Agreement	0	0	0	0	0	0	0
<b>Total Cases Withdrawn and Dismissed for Lack of Jurisdiction</b>	<b>8</b>	<b>2</b>	<b>22</b>	<b>21</b>	<b>7</b>	<b>19</b>	<b>0</b>
Cases Withdrawn	4	0	5	0	2	3	0
Cases Dismissed for Lack of Jurisdiction	4	2	17	21	5	16	0
<b>Financial Information</b>							
Total Admin. Fees Collected From Parties	<b>\$2,300.00</b>	<b>\$4,300.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$13,850.00</b>	<b>\$0.00</b>	<b>\$400.00</b>
Average Amount in Dispute	<b>\$4,148.49</b>	<b>\$8,659.07</b>	<b>\$41,249.12</b>	<b>\$14,355.56</b>	<b>\$11,280.89</b>	<b>\$15,865.11</b>	<b>\$8,481.19</b>