



Seattle Office of Labor Standards

PROPOSED RULES FOR NOTICE AND COMMENT

SEATTLE OFFICE OF LABOR STANDARDS Chapter 200

Rules for administering the TNC Driver Deactivation Rights Ordinance, Seattle Municipal Code 14.32

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General Provisions and Definitions

SHRR 200-010 General

1. **Purpose.** These rules govern the practices of the Seattle Office of Labor Standards in administering requirements for Transportation Network Company (TNC) driver deactivation under Seattle Municipal Code 14.32 (Transportation Network Company (TNC) Driver Deactivation Rights Ordinance or Deactivation Ordinance) and the administration of the Deactivation Ordinance.
2. **Practice where Rules do not Govern.** If a matter arises in administering the Deactivation Ordinance that is not specifically covered by these rules, the Director shall specify the practices to be followed.
3. **Construction of Rules.** These rules shall be liberally construed to permit the Seattle Office of Labor Standards, Neutral Arbitrators, and the Driver Resolution Center to accomplish their administrative duties in implementing the Deactivation Ordinance, providing specificity where the Deactivation Ordinance calls for it explicitly or as the Director deems necessary, appropriate or convenient.
4. **Severability.** These rules are declared to be separate and severable. If any clause, sentence, paragraph, subdivision, section, subsection or portion of these rules or the application thereof to any TNC, TNC driver, or circumstance, is held to be invalid, it shall not affect the validity of the remainder of these rules, or the validity of the application of the rules to other persons or circumstances.
5. **Force of Law.** These Rules supplement the provisions of the Deactivation Ordinance and shall have the force and effect of law.

SHRR 200-020 Definitions

Terms are defined consistently with those in SMC 14.32.020 with the following supplemental definitions.

1. **Arbitration Association:** The association, entity, or individual with which the Seattle Office of Labor Standards contracts to handle administration of arbitration matters under SMC 14.32 shall be called the Arbitration Association. The current Arbitration Association under contract will be specified on the OLS website at <http://www.seattle.gov/laborstandards/ordinances/tnc-legislation/driver-deactivation-rights-ordinance>.
2. **Partisan Arbitrator:** The partisan arbitrator is selected by the respective parties, TNCs and TNC drivers, whose role is intended to be that of an advocate on behalf of their party and to help provide the Neutral Arbitrator with insight based on their experience and expertise.
3. **Rate of Inflation:** “Rate of inflation” means 100 percent of the annual average growth rate of the bi-monthly Seattle-Tacoma-Bellevue Area Consumer Price Index for Urban Wage Earners and Clerical Workers, termed CPI-W, for the 12 month period ending in August, provided that the percentage increase shall not be less than zero.
4. **Service:**
 - a. **Means of Service:** A party may be served personally, by first-class mail, by certified or registered mail with return receipt requested; by facsimile transmission; by email; or by leaving a copy with a person of suitable age and discretion at the office, principal place of business, or residence of the person or entity to be served.

- b. **Date of Service by Mail.** If service is made by mail, the papers shall be mailed via the United States Postal Service (USPS) and addressed to the person upon whom they are served with postage prepaid. Service by mail shall be deemed complete, and documents received, on the third day following the day the papers are placed in the mail, unless the third day is a Saturday, Sunday or legal holiday officially recognized by either the City of Seattle or USPS, in which event service shall be deemed complete on the first day that is not a Saturday, Sunday or legal holiday following the third day.
 - c. **Date of Service by Other Means.** Service by all other means shall be deemed complete, and documents received, on the same day the papers are emailed, faxed, or personally served.
5. **Transportation Network Company:** “Transportation network company” or “TNC” means an organization whether a corporation, partnership, sole proprietor, or other form, licensed or required to be licensed under Seattle Municipal Code Chapter 6.310, operating in Seattle, that offers prearranged transportation services for compensation using an online-enabled application or platform, such as an application dispatch system, to connect passengers with drivers using a “transportation network company (TNC) endorsed vehicle,” as defined in Seattle Municipal Code Chapter 6.310. “Transportation network company” includes any such entity or person acting directly or indirectly in the interest of a transportation network company in relation to the transportation network company driver.

Right to Challenge

SHRR 200-030 Unwarranted Deactivation

1. Unwarranted deactivation happens when a TNC deactivates a TNC driver without satisfying all the following conditions:
 - a. **Fair notice.** The TNC driver was informed of or reasonably should have known of the TNC’s policy or rule as well as the consequences of a violation.
 - b. **Reasonable rule or policy.** The rule or policy is reasonable and is reasonably related to the TNC’s safe and efficient operations.
 - c. **Fair and objective investigation prior to deactivation.** The investigation must be sufficiently thorough to justify the deactivation and demonstrate an unbiased and neutral view of facts collected.
 - d. **Confirmation of violation.** The investigation showed by a preponderance of the evidence that the alleged infraction occurred.
 - e. **Consistent application of rule or policy.** The rule or policy, and penalty for violations, are applied consistently.
 - f. **Proportionate penalty.** The penalty of deactivation is reasonably related to the offense and accounts for mitigating circumstances and the TNC driver’s past work history with the TNC.
2. Deactivation of a TNC driver will also be considered unwarranted if the action is intended to or results in different treatment or differentiates between or among individuals or groups of individuals by reason of the protected classes covered by Seattle Municipal Code Chapter 14.04.
3. In the case of allegations of egregious misconduct, the TNC may deactivate the TNC driver before completing the investigation but in no event shall the investigation take longer than 10 days unless extraordinary circumstances apply. If the investigation is

delayed due to extraordinary circumstances, the TNC must provide the TNC driver with written notice that the investigation is delayed, the reason(s) for the delay, and the date on which the completion of the investigation is anticipated.

4. Notwithstanding the above, in deactivations based on allegations of egregious misconduct of a sexual or violent nature, or threats thereof:
 - a. The arbitrator's review will be limited to determining whether the TNC conducted a fair and objective investigation;
 - b. The fair and objective investigation must lead to a conclusion by the TNC that the alleged infraction occurred by a preponderance of the evidence and must include a search for and review of any exculpatory evidence the TNC can reasonably access; and
 - c. If the arbitration panel determines that the conduct underlying the deactivation is not egregious misconduct of a sexual or violent nature, the TNC must prove all conditions outlined in SHRR 200-030.1.
5. If the TNC characterizes conduct as egregious and immediately deactivates the TNC driver, and the Neutral Arbitrator later determines the conduct was not egregious, the mischaracterization itself is not a basis for finding unwarranted deactivation but may require unpaid compensation for the 14 days during which the TNC driver would otherwise have been driving.

SHRR 200-040 TNC Driver Eligibility to Challenge

1. **Eligible TNC Driver.** A TNC driver is eligible to challenge all temporary and permanent deactivations as provided in SMC 14.32 if, during the 180 days before the TNC's initial notice to the TNC driver of deactivation or future deactivation, ten percent (10%) or more of the TNC driver's trips begin or end in the City of Seattle.
2. **Location of Incident.** TNC driver eligibility is independent of the geographic location of the incidents leading to the TNC's decision to deactivate the TNC driver.
3. **Deactivation.** Deactivation includes the following actions with respect to an individual TNC driver or group of TNC drivers that is implemented by a TNC:
 - a. Blocking access to the TNC driver platform;
 - b. Changing TNC driver status from eligible to provide TNC services to ineligible; or
 - c. Other material restriction in access to the TNC driver platform.
4. **Permanent Deactivation.** A permanent deactivation is one which is unlimited in duration.
5. **Temporary Deactivation.** A temporary deactivation includes the following action by the TNC for reasons related to TNC driver conduct, performance, productivity, or records, consistent with the definition of deactivation outlined in SMC 14.32:
 - a. A deactivation that is continuously in effect for three or more days;
 - b. Multiple deactivations within a 180-day period that add up to three or more days. The reasons for the deactivations need not be the same and will be reviewed through one arbitration proceeding;
 - c. A deactivation that costs the TNC driver over \$450, either through missed work or through consequential damages of more than \$450, e.g., cost of a blood alcohol test to dispute a passenger claim that TNC driver was operating the vehicle under the influence; or
 - d. Precluding a TNC driver from driving in certain geographic locations.
6. **Presumption.** There is a rebuttable presumption that a TNC driver is eligible to challenge their deactivation, which the TNC may rebut with a preponderance of the

evidence that the TNC driver does not meet eligibility standards outlined in SHRR 200-040.1.

SHRR 200-050 Driver Resolution Center’s Discretion to Represent a TNC Driver

1. **Information Services.** The Driver Resolution Center (DRC) shall create written information about the Deactivation Appeals Panel process and TNC drivers' rights, including forms and guidelines for pro se representation, and shall distribute this information broadly to reach eligible TNC drivers.
2. **Representation Services.** The DRC shall represent any TNC driver who requests representation, except if the TNC driver’s claim is untimely or in other circumstances outlined in the agreement reached between the Agency and the DRC.
3. **Filing and Scheduling Assistance.** In any matter where the TNC driver is not represented by the DRC, the DRC must nevertheless assist the TNC driver in filing their request for arbitration and scheduling the arbitration before the Deactivation Appeals Panel. When the Arbitration Association has difficulty reaching a TNC driver, the DRC shall assist the Arbitration Association in contacting the TNC driver.

SHRR 200-060 Notice of TNC Driver’s Right to Challenge Deactivation

1. **Content of notice.** The TNC must provide the TNC driver with the following information:
 - a. The effective date of deactivation;
 - b. A clear and concise statement of the reason(s) for any deactivation, including the date, time and location of all circumstances supporting the deactivation decision, the rule(s) violated, a copy or summary of the evidence the TNC considered in the deactivation decision, and the length of the deactivation or TNC driver action necessary to remedy the deactivation;
 - c. In cases alleging egregious misconduct of a sexual or violent nature, the following language: “You are being deactivated based on allegations of egregious misconduct of a sexual or violent nature.”; and
 - d. Notice of appeal rights using the following language: “To learn about your right to challenge your deactivation, contact THE DRIVER RESOLUTION CENTER (DRC) at EMAIL, PHONE, or ADDRESS or review its materials at WEBSITE LINK. THE DRC may provide administrative and representation services at no cost to you.” The TNC shall substitute relevant contact information for the DRC in place of the words “THE DRIVER RESOLUTION CENTER (DRC)”, “EMAIL”, “PHONE”, “ADDRESS”, “WEBSITE LINK”, and “THE DRC”.
2. **Recipients of notice.** All covered TNC drivers must receive this notice.
3. **Timing of notice.**
 - a. **Non-egregious Conduct.** If the deactivation is for non-egregious circumstances, the TNC must provide this notice 14 days before the deactivation is effective, and again upon deactivation with updated information, if any.
 - b. **Egregious Misconduct.** If the deactivation is allegedly required to comply with law or because the TNC driver is alleged to have engaged in egregious misconduct, the TNC must provide this notice upon deactivation.
4. **Form of notice.** All notices to TNC drivers must be:
 - a. In English and, within 10 days of the initial notice to the TNC driver, TNCs shall make a good faith effort to communicate the notice in any other language that the TNC knows or has reason to know is the TNC driver’s primary language.

and convincing evidence that the conduct directly bears on the TNC driver's fitness to provide TNC services.

2. **Examples.** Egregious misconduct includes but is not limited to the following conduct in connection with a TNC driver's provision of TNC services: assault, sexual assault, sexual harassment, communicating with a minor for immoral purposes, sexual conduct as defined in RCW 7.90.010.4, harassment as defined in RCW 10.14.020, unlawful imprisonment as defined in RCW 9A.40.040, solicitation of a commercial sex act, theft, fraud, robbery, burglary, prostitution, reckless driving, or driving under the influence of alcohol or drugs; solicitation (picking up a passenger in a vehicle used by a TNC driver without the passenger arranging the trip through an online-enabled application or platform, such as an application dispatch system, unless the ride is arranged through another for-hire service provider and the driver has the appropriate license); failing to maintain a valid state driver's license, for hire driver's license or permit, personal vehicle insurance, or vehicle insurance that covers commercial transportation services.
3. **Discrimination.** Egregious misconduct includes a TNC driver's conduct which is intended to or results in different treatment or differentiates between or among individuals or groups of individuals by reason of the protected classes covered by Seattle Municipal Code Chapter 14.06.

SHRR 200-080 Burden and Standard of Proof

The TNC bears the burden of proving by a preponderance of the evidence that the TNC driver's deactivation is warranted.

Arbitration Procedures

SHRR 200-085 Jurisdiction

1. **Generally.** A Deactivation Appeals Panel shall have jurisdiction to arbitrate all eligible TNC drivers' challenges to permanent and temporary deactivation in any of the following circumstances:
 - a. Upon agreement by the TNC driver and TNC notwithstanding a private arbitration agreement;
 - b. Pursuant to an arbitration agreement with authority to arbitrate using SHRR Chapter 200; or
 - c. In the absence of a private arbitration agreement.
2. **Challenges.** If the TNC wishes to challenge the TNC driver's eligibility to contest their deactivation, the TNC must provide notice to the TNC driver and/or representative of its intent to do so within seven days of service with the notice of intent to challenge the deactivation. The notice shall include a copy of the TNC driver's trip records for the 180 days preceding the TNC's initial notice to the TNC driver of deactivation, including the city of the passenger pick-up location and passenger drop-off location for each trip. Unless otherwise agreed by the parties, the Deactivation Appeals Panel will decide this issue.

SHRR 200-090 File

1. **Timeline.**
 - a. Generally, the TNC shall provide the required information within seven days of receiving a request for the file from the TNC driver and/or representative.

- b. If the file cannot be provided within seven days due to unforeseen delays or other extraordinary circumstances, the TNC shall provide written notice of such delay to the requestor within seven days of the request, and provide the information at the earliest possible date.
2. **File – Deactivations not alleging Egregious Misconduct of a Sexual or Violent Nature.** The TNC shall provide the full contents of the investigation related to the deactivation to the TNC driver and/or representative.
3. **File – Deactivations Alleging Egregious Misconduct of a Sexual or Violent Nature.**
 - a. In cases of egregious misconduct of sexual or violent nature, or threats thereof, SHRR 200-090.2 does not apply.
 - b. In cases alleging egregious misconduct of a sexual or violent nature, or threats thereof, the TNC’s obligation to provide information after receipt of a request from the TNC driver and/or representative shall be limited to: a list of witnesses, a summary of the witness’s testimony or copy of their statement, and any other documents the TNC plans to submit at arbitration. The TNC shall also provide any exculpatory information related to the allegations at issue in the matter.
 - c. If the DRC is representing a TNC driver accused of egregious misconduct of a sexual or violent nature, or threats thereof, the TNC shall provide the information in SHRR 200-090.3.b above and the remaining contents of the investigation related to the deactivation with identifying information redacted. The DRC representative shall maintain the remaining contents of the investigation related to the deactivation strictly confidential to the extent permitted by law and will not disclose it to the TNC driver in the context of an arbitration. At a hearing involving allegations of this nature, the DRC representative shall not offer the remaining contents of the investigation in the TNC driver’s presence. The Neutral Arbitrator shall decide the remedy for the DRC’s failure to comply with this strict confidentiality requirement, which may include limitation on the use of evidence.

SHRR 200-095 Witness Tampering Precluded

The TNC and TNC driver and/or its representative shall not tamper with a witness. If the TNC engages in witness tampering, the deactivation will be presumed unwarranted. If the TNC driver and/or its representative engages in witness tampering, the TNC driver will lose their opportunity to challenge their deactivation.

SHRR 200-100 Ordinance Requirements – Prehearing Procedures

As provided in SMC 14.32.050.C:

1. The TNC driver and/or representative must provide notice to the TNC of intent to challenge the deactivation no later than 60 days after the deactivation.
2. The TNC and the TNC driver and/or representative shall attempt to resolve the challenge informally no later than 15 days after the notice of intent to challenge has been provided to the TNC, or within a timeframe mutually agreed by the parties.
3. If the parties resolve the challenge informally pursuant to subsection 14.32.050.C.2, they must memorialize that resolution in a written agreement.
4. The TNC driver and/or representative must provide notice of intent to arbitrate to the TNC no later than 15 days after the notice of intent to challenge has been provided to the TNC.

SHRR 200-105 Pre-Hearing Filing

1. **TNC Driver Filing of Demand.** The TNC driver shall provide notice of intent to arbitrate (also referred to herein as “demand” or “demand for arbitration”) with the TNC. The notice shall set forth the TNC driver’s name, mail and email address, and telephone number, and briefly state the claim and the desired remedy.
 - a. **Represented TNC Driver.** If the TNC driver is represented, they shall simultaneously provide the notice to the Arbitration Association.
 - b. **Amended Demand.** If the TNC driver files the demand without representation or assistance from the DRC, and later obtains representation or assistance, within 5 days of the TNC driver obtaining representation or assistance, the TNC driver and/or its representative may file an amended demand.
2. **TNC Filing Requirements.**
 - a. **Required Filing.** Within 5 days after service with the demand, the TNC shall file the following with the TNC driver and Arbitration Association:
 - i. The TNC’s representative’s name, role, mail and email address, and telephone number; and
 - ii. A copy of the Notice(s) of TNC Driver’s Right to Challenge Deactivation sent by the TNC to the TNC driver pursuant to SHRR 200-060 and 065.
 - b. **TNC Duty - Unrepresented TNC Driver.** If there is no representative listed on the notice of intent to arbitrate, upon receiving it from the TNC driver, the TNC shall forward the same to the Arbitration Association.
 - c. **Optional Filing of Answer.** Within 5 days after service with the demand, the TNC may file an answer with the TNC driver and Arbitration Association providing a brief response to the claim(s) and issue(s) presented. If the TNC does not file an answer, it will be deemed to deny the claims.

SHRR 200-110 Scheduling

1. **Selection of Date.** The Arbitration Association shall schedule arbitration hearings within 30 days from the date of the demand unless by agreement of the parties or by order of the Neutral Arbitrator. The Arbitration Association may establish a regular schedule; for example, it may schedule arbitrations for one TNC for the first Tuesday of every month and another TNC for the fourth Thursday of every month.
2. **Notice.** The Arbitration Association will provide the parties notice of the hearing at least seven days before the date, including notice of the appointed Neutral Arbitrator, unless the parties agree to a shorter timeline.
3. **Continuance.** The Neutral Arbitrator may continue a matter at its discretion.
4. **Group Arbitration.** The Neutral Arbitrator has the authority to grant requests for group arbitrations dealing with similar or identical issues. The Neutral Arbitrator shall hear arguments from the TNC and the TNC driver and/or representative before deciding the issue. Only TNC drivers who agree to participate shall be part of the group arbitration.

SHRR 200-120 Deactivation Appeals Panel

Each Deactivation Appeals Panel (also referred to herein as “arbitration panel”) shall consist of one Neutral Arbitrator and two partisan panel members, one representing the interests of the TNC driver and one representing the interests of the TNC, unless the circumstances in SHRR 200-140.2 apply.

SHRR 200-130 Selection of Neutral Arbitrator

1. **Contract.** The Seattle Office of Labor Standards may establish a contract with an Arbitration Association to administer a rotating roster of Neutral Arbitrators to hear deactivation cases.
2. **Appointment.** The Arbitration Association will appoint a Neutral Arbitrator for each arbitration case drawing from a roster of arbitrators. Prior to creating, or amending, the roster, the Arbitration Association will take steps to make sure no conflicts exist. Thereafter, and prior to the commencement of any cases before the arbitrators, the Arbitration Association will send notice of the roster of arbitrators to the DRC and the TNCs to give them an opportunity to object, within seven calendar days, on the basis of bias or conflict of interest. No other objection will be valid. The Arbitration Association will make a final and binding ruling on all such objections.
3. **Substitute Arbitrator.** In case the appointed Neutral Arbitrator becomes unable to serve, the Arbitration Association may substitute another Neutral Arbitrator from the roster of arbitrators.
4. **Neutral Arbitrator Training.** All Neutral Arbitrators on the roster of arbitrators must attend racial bias and trauma-informed sexual assault training prior to serving as a Neutral Arbitrator as provided in the contract with the Agency.

SHRR 200-140 Selection of Partisan Arbitrators

1. **Parties' Discretion.** A party shall select a partisan arbitrator to represent its interests at least 5 days prior to the arbitration.
2. **Absence.** If either party appears without a partisan arbitrator, the matter shall proceed with no partisan arbitrators. The Neutral Arbitrator shall be the sole decision-maker.

SHRR 200-150 Waiver of Hearing

The parties may agree in writing to waive an oral hearing and proceed by arbitrators' review of submitted documents.

SHRR 200-160 Representation

A party's representative shall give notice of representation to the Arbitration Association a minimum of three calendar days before the hearing at which it will represent the party.

SHRR 200-170 Pre-Arbitration Management Conference

1. **Optional Proceeding.** If either party requests or the Neutral Arbitrator decides it is necessary, the parties may hold a pre-arbitration management conference on the telephone unless the Neutral Arbitrator decides it is necessary to conduct the conference in person.
2. **Scope of Conference.** Parties may use the conference to clarify claims and issues, set a case schedule, schedule the hearing and estimate its duration, and discuss other preliminary matters, such as discovery parameters, stipulations regarding the facts, exhibits, witnesses, and other issues, the scope of witness testimony, and witness exclusion.
3. **Summary Disposition** Any party can bring a motion for summary disposition where the facts are not in dispute. For example:
 - a. Where a TNC is required by law to deactivate a TNC driver as a result of a background check, and the TNC driver does not contest the accuracy of the

- background check in a way that would change the outcome of the deactivation;
or
- b. Where a TNC is required by law to deactivate a TNC driver under local, state, or federal law, and there is no factual issue about the facts supporting the reason for the deactivation (e.g. the TNC driver does not have a valid driver's license).
- 4. Arbitrator's Discretion.** The Neutral Arbitrator may require parties to disclose witnesses and exhibits in advance of the hearing at its discretion. The Neutral Arbitrator shall resolve disputes about discovery and information sharing.

SHRR 200-180 Interpreters and Reasonable Accommodations

- 1. Party's Request.** With its notice of intent to arbitrate or as soon as possible before the scheduled arbitration, a party shall:
 - a. State if they require an interpreter and specify the language; and
 - b. Make any request for reasonable accommodation.
- 2. Interpreter Scheduling.** Upon a party's request, the Arbitration Association shall schedule an interpreter for any prehearing conference and the hearing.
- 3. Reasonable Accommodations.** The Arbitration Association shall respond to any request for reasonable accommodation for a disability-related need, providing the accommodation or working with the party to find an alternative reasonable accommodation.
- 4. Arbitration Association's Role.** The Arbitration Association shall make reasonable accommodations and provide language access to those who need it.
- 5. Cost.** The cost of the interpreter and reasonable accommodations shall be added to the cost of the arbitration and shared equally by the TNC and the DRC. If the TNC driver is not represented by a representative of the DRC, the TNC shall be solely responsible for the cost of the interpreter and reasonable accommodations.

SHRR 200-190 No Ex Parte Contact with Neutral Arbitrator

The parties shall have no ex parte contact with the Neutral Arbitrator on substantive matters.

SHRR 200-200 Written or Recorded Record by Agreement of Parties

There shall be no stenographic record or audio recordings of the proceedings unless the parties agree. If a party pays for or arranges a stenographic record or audio recording, it must distribute a copy to the other party and the Arbitration Association at no cost. The cost of the recording shall be born solely by the requesting party unless it is necessary as a reasonable accommodation, in which case it would be covered as provided in SHRR 200-180.5.

SHRR 200-210 Attendance at Hearings

- 1. In Person.** The parties and their representatives have a right to attend hearings. The Neutral Arbitrator will resolve disputes over whether a non-party may attend a hearing.
- 2. Other than in Person.** For safety or public health reasons, the Neutral Arbitrator may conduct the arbitration via web conference, internet communication, telephone, or another means other than in person. After demonstrating good cause for not appearing in person, the Neutral Arbitrator may allow parties or witnesses to appear and submit evidence through web conference, internet communication, telephone, or another means other than in person. All parties must have a full and equal opportunity for presentation of evidence, examination, and cross examination except as provided for in SHRR 200-210.3.

- 3. Egregious Misconduct of a Sexual or Violent Nature.** A complainant of egregious misconduct of a sexual or violent nature, or threats thereof, need not appear in person. The TNC may provide the complainant's statement by sworn statement of the complainant or sworn statement of a TNC employee, summarizing the complainant's recorded statement.

SHRR 200-220 Oaths

The Neutral Arbitrator may require witnesses to testify under oath administered by the Neutral Arbitrator or another qualified person and shall do so if required by law or a party requests it.

SHRR 200-230 Party's Failure to Appear

If either party fails to appear, the party shall be given a reasonable opportunity to provide good cause for the absence. If the Neutral Arbitrator finds good cause, a continuance shall be granted. If there is no good cause, the Neutral Arbitrator shall decide the matter in favor of the appearing party.

SHRR 200-240 Proceedings

The Neutral Arbitrator shall open the hearing by recording the date, time, place of the hearing, presence of the arbitrators, parties, and representatives, and inviting the parties to give brief statements to clarify the issues before the arbitration. An effort shall be made to keep the arbitration hearings as brief as possible.

SHRR 200-250 Neutral Arbitrator's Role

- 1. Rules.** The Neutral Arbitrator shall interpret and apply these rules to arbitrate all disputes efficiently and fairly. The Neutral Arbitrator is the sole decision-maker on how to conduct the proceedings, with the purpose to afford all parties a full and equal opportunity to present evidence material and relevant to the resolution of the dispute. The Neutral Arbitrator shall also direct the order of proof, the admission of evidence, bifurcation of proceedings, and the determination of dispositive issues.
- 2. Expedited Proceedings.** The Neutral Arbitrator may order expedited proceedings.
- 3. Non-compliance.** In the case of willful non-compliance with any order issued by the Neutral Arbitrator, the arbitration panel may draw adverse inferences and the Neutral Arbitrator may exclude evidence and other submissions, make interim award of costs arising from such non-compliance and issue any other enforcement orders that the Neutral Arbitrator is empowered to issue under applicable law. Before drawing an adverse inference, the arbitration panel must allow the party against whom it is drawing the inference to argue against the adverse inference.
- 4. Remedy Calculations.** If a Deactivation Appeals Panel determines that a deactivation is unwarranted, the Neutral Arbitrator may either calculate the remedy due to the TNC driver or retain jurisdiction for up to 30 days to permit the parties to reach a resolution on the remedy.

SHRR 200-260 Order of Evidence

Evidence shall be presented in the following order:

- 1. TNC's Evidence.** The TNC shall present evidence establishing why the TNC driver's deactivation was warranted, including presentation of witness testimony and records.
- 2. TNC Driver's Evidence.** The TNC driver shall present evidence in response to the TNC's claim, including presentation of witness testimony and records.
- 3. Examination.** Each party shall respond to questions by the other party and the arbitrators, including cross-examination of witnesses. If a complainant of egregious

misconduct of a sexual or violent nature chooses to appear as a witness in an arbitration hearing, the complainant shall not be examined by the TNC, TNC driver, and/or representative for either party. The TNC, TNC driver, and/or representative for either party may submit questions to the Neutral Arbitrator, who will review the questions, strike any that are inappropriate or irrelevant to the legal inquiry, and ask the remaining questions of the complainant.

4. **Rebuttal.** If new evidence comes to light in the TNC driver's presentation of evidence, the Neutral Arbitrator shall allow the TNC a rebuttal. If new evidence comes to light in the rebuttal, the Neutral Arbitrator may allow the TNC driver a sur-rebuttal.
5. **Neutral Arbitrator's Discretion.** Parties shall produce evidence the Neutral Arbitrator deems necessary to understand and determine the outcome of the dispute.
6. **Post-Hearing Filing.** There shall be no post-hearing filings other than those pertaining to remedy calculations unless approved in advance by the Neutral Arbitrator. All post-hearing filings shall be served on the neutral and partisan arbitrators and the opposing party via mail, email, fax, or in person.

SHRR 200-270 Evaluation of Evidence

1. **Admissibility of Evidence.**
 - a. The rules of evidence do not apply at arbitration hearings, but such rules may be used for guidance.
 - b. The arbitration panel may consider arguments regarding the admissibility, relevance, materiality, and weight of evidence at the hearing.
 - c. The Neutral Arbitrator decides admissibility and weight of documentary evidence and witness testimony.
2. **Physical Evidence.** Documents and physical evidence may be received into evidence, including video evidence and video affidavits.
3. **Evidence by Sworn Statement.** Parties may submit evidence via sworn statement. The Neutral Arbitrator shall determine the weight of such evidence.
4. **Inspection.** If necessary for fact-finding and less than 60 miles from the location of the Neutral Arbitrator during the arbitration, the arbitration panel may conduct an inspection in connection with the arbitration and notify parties. If parties or partisan arbitrators cannot attend, the Neutral Arbitrator will provide them an oral or written summary.

SHRR 200-280 Subpoena Power

1. **Subpoena.** Independent of or in response to a request of a party, the Neutral Arbitrator may issue a subpoena for the attendance of a witness except for a complainant of egregious misconduct of a sexual or violent nature, or threats thereof, and for the production of records and other evidence at any hearing. No witness is required to respond to a subpoena if they can demonstrate a reasonable fear for their personal safety. Any party requesting a subpoena shall give notice of such request to the other party. A subpoena must be served in the manner for service of subpoenas in a civil action.
2. **Adverse Inference.** If a party fails to comply with a subpoena, the arbitration panel may make an inference against the party regarding the information under subpoena. Before drawing an adverse inference, the arbitration panel must allow the party against whom it is drawing the inference to argue against the adverse inference.

3. **Enforcement of Subpoena.** If a party or nonparty fails to comply with a subpoena, the requesting party may enforce the subpoena in a court of competent jurisdiction in the manner for enforcement of subpoenas in a civil action.
4. **Cost.** If the Neutral Arbitrator requests the subpoena and must enforce it, the cost of enforcement shall be added to the cost of the arbitration and shared equally by the TNC and the DRC. If the TNC driver is not represented by a representative of the DRC, the TNC shall be solely responsible for the cost of the subpoena enforcement.

SHRR 200-290 Closing Hearing

After confirming that all parties have no further evidence to offer, the arbitration panel shall close the hearing. There shall be no post-hearing briefs except as provided for in SHRR 200-260.6.

Post-Arbitration Rules

SHRR 200-300 Award and Opinion

1. **Award.** The arbitration panel shall promptly decide the case. Absent extraordinary circumstances, the arbitration panel shall notify the parties whether the deactivation is warranted or unwarranted within 48 hours of the hearing. In extraordinary circumstances, the arbitration panel may take up to 7 calendar days after the hearing. The Award shall include whether the deactivation was unwarranted, and if it was, shall seek to make the TNC driver whole. If the arbitration panel concludes that the deactivation was unwarranted, the arbitration panel may order reinstatement of the TNC driver and other equitable relief and shall order full unpaid compensation with interest. The arbitration panel may order liquidated damages, the amount of which is left to the panel's discretion but shall not exceed 200% of unpaid compensation. The arbitration panel may also determine that a portion of the deactivation period was warranted. The Agency may provide a template/form for the Award.
2. **Opinion.** The Neutral Arbitrator must issue a written opinion setting forth the reasons for the Award. The opinion shall be in summary form of no more than two pages within the Award unless a longer opinion is deemed necessary or desirable.
3. **Method of Calculating Unpaid Compensation.** Unpaid compensation calculations shall be based on the amount the TNC driver earned on average per day during the 12 weeks prior to the deactivation.
4. **Daily Amount for Unpaid Compensation.** The daily amount for unpaid compensation is \$200.00 per day or \$1,400.00 per week of deactivation. This amount shall be increased annually to reflect the rate of inflation and calculated to the nearest cent on January 1 of each year thereafter. The Agency shall determine the amounts and file a schedule of such amounts with the City Clerk.
5. **Remedy - Parties' Attempt to Agree.** If the arbitration panel determines that the deactivation is unwarranted and orders the parties to determine a financial remedy, the parties shall attempt to agree, within 15 days of the arbitration panel issuing the award, on the specific dollar amount owed to comport with the award. The agreement shall include unpaid compensation for each day of unwarranted deactivation, calculated as provide in SHRR 200-300.3.
6. **Remedy - Parties' Failure to Agree.** If the parties fail to agree on the remedy within 15 days of receipt of the arbitration panel's decision, within 18 days of the arbitration panel issuing the award, the TNC shall provide the Neutral Arbitrator the daily pay for each day the TNC driver worked, the total number of days the TNC driver performed any

work for the 12 weeks leading up to deactivation, and any arguments about periods of deactivation which should be unpaid, and copy the TNC Driver and/or representative. Within 3 days of receipt of the remedy information from the TNC, the TNC Driver and/or representative may file evidence and arguments in response to the TNC's submission. Within 7 days of receipt of the foregoing information, unless extraordinary circumstances require more time, the Neutral Arbitrator shall determine the remedy based on the information submitted. If the TNC does not provide the foregoing information, the Neutral Arbitrator may determine the remedy based on the daily amount for unpaid compensation provided in SHRR 200-300.4.

7. **Jurisdiction.** The Neutral Arbitrator retains jurisdiction for 30 days after the issuance of the Award to award the remedy except in case of extreme circumstances requiring additional time for the Neutral Arbitrator to award the remedy.

SHRR 200-310 Release of Documents to Judicial Proceedings

Upon a party's request and at the party's expense, the Arbitration Association shall provide certified copies of documents from the arbitration case file that the party may require in judicial proceedings related to the arbitration and may charge a reasonable cost for such service.

SHRR 200-320 Judicial Proceedings

1. **No Witnesses.** The neutral and partisan arbitrators are not necessary or proper parties or witnesses in judicial proceedings relating to the arbitration.
2. **No Liability.** Parties shall be deemed to have consented that the neutral and partisan arbitrators are not liable for damages or injunctive relief for any act or omission in connection with an arbitration.