

Enforcing Arbitration Awards in Oklahoma

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A Practice Note explaining how to enforce arbitral awards in the state and federal courts in Oklahoma. This Note explains the procedure for confirming an arbitration award in Oklahoma and the grounds on which a party may challenge enforcement under Oklahoma and federal law, including the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, the Federal Arbitration Act (FAA), and the Oklahoma Uniform Arbitration Act (OUAA). This Note also explains the procedure for vacating, modifying, or correcting an arbitral award in Oklahoma.

SCOPE OF THIS NOTE

The prevailing party in an arbitration may need to enforce the arbitration award if the losing party fails to pay or voluntarily comply. In the arbitration context, “enforcement” generally refers to judicial confirmation, modification, or correction of an arbitration award and entry of a judgment on it.

This Note explains how a party may enforce an arbitration award in Oklahoma state or federal court. It describes the relevant state and federal statutes, jurisdictional and venue considerations, the procedure for confirming an award in state and federal court, and the potential challenges to enforcement. This Note also briefly explains the legal standards and procedure for vacating, modifying, or correcting an arbitration award in Oklahoma state or federal court.

This Note does not cover the mechanics of debt collection once a party obtains a judgment. For information about enforcing a federal judgment, see Practice Note, Enforcing Federal Court Judgments: Basic Principles ([1-531-5966](#)).

For more information about enforcing or challenging arbitration awards generally, see *Enforcing or Challenging Arbitration Awards in the US Toolkit* ([W-002-9420](#)). For information on compelling arbitration in Oklahoma, see Practice Note, *Compelling and Staying Arbitration in Oklahoma* ([W-020-6716](#)).

STATUTORY FRAMEWORK

A party seeking to enforce an arbitration award in Oklahoma must determine whether federal or state law governs the enforcement procedure. In Oklahoma, the two possibilities are:

- The Federal Arbitration Act (FAA) (see *Federal Arbitration Act*).
- The Oklahoma Uniform Arbitration Act (OUAA) (see *Oklahoma Arbitration Law*).

FEDERAL ARBITRATION ACT

US arbitration law greatly favors the enforcement of arbitration awards, including those rendered outside US territory. The FAA is the federal statute that governs arbitration. The FAA:

- Governs domestic US arbitrations and applies to maritime disputes and contracts involving interstate commerce, a term the courts define broadly (9 U.S.C. §§ 1 to 16) (Chapter 1).
- Implements the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention), subject to reciprocity and commercial reservations (9 U.S.C. §§ 201 to 208) (Chapter 2).
- Implements the Inter-American Convention on International Commercial Arbitration (Panama Convention) (9 U.S.C. §§ 301 to 307) (Chapter 3).

The FAA applies to a broad range of arbitration awards (see *Citizens Bank v. Alafabco, Inc.*, 539 U.S. 52 (2003)). Together with the New York Convention, the FAA governs the enforcement of most arbitral awards in the US. Parties may, however, consider enforcement of their arbitration agreement under state law (see *Hall St. Assocs., L.L.C. v. Mattel, Inc.*, 552 U.S. 576, 590 (2008); *C & L Enters., Inc. v. Citizen Band Potawatomi Indian Tribe of Okla.*, 532 U.S. 411, 419-20 (2001); *Coulter v. First Am. Res., L.L.C.*, 214 P.3d 807, 809 (Okla. 2009)).

For more information on the FAA, see Practice Note, Understanding the Federal Arbitration Act ([0-500-9284](#)).

Domestic Arbitrations Under FAA Chapter 1

Chapter 1 of the FAA applies to arbitrations and awards that involve:

- Maritime matters.
- Interstate or foreign commerce.

(9 U.S.C. § 2.)

For more information on enforcing domestic arbitration awards under Chapter 1 of the FAA, see Practice Note, Enforcing Arbitration Awards in the US: Enforcement of Arbitration Awards Under Chapter 1 of the FAA for Non-New York Convention Awards ([9-500-4550](#)).

New York Convention

Chapter 2 of the FAA implements the New York Convention and provides federal court jurisdiction for the enforcement of international awards that are governed by the New York Convention (9 U.S.C. §§ 201 to 208). The New York Convention applies to arbitration agreements and awards arising out of a legal commercial relationship, whether or not contractual, including a transaction, contract, or agreement described in Chapter 1 of the FAA (9 U.S.C. § 2).

The New York Convention applies to international disputes, meaning disputes that involve non-US parties or property, even if the arbitration is held in the US (see *Bergesen v. Joseph Muller Corp.*, 710 F.2d 928, 932 (2d Cir. 1983)). An arbitration agreement or award arising out of a relationship entirely between US citizens does not fall under the New York Convention unless that relationship either:

- Involves property located abroad.
- Contemplates performance or enforcement abroad.
- Has some other reasonable relation to one or more foreign states.

(9 U.S.C. § 202.)

If the New York Convention and the FAA conflict, the New York Convention applies (9 U.S.C. § 208). An arbitration award issued in a country that is a signatory to the New York Convention is generally enforceable in the US, subject to the New York Convention's provisions for refusal of enforcement and recognition (see Practice Note, Enforcing arbitral awards under the New York Convention 1958: overview ([W-010-9715](#)) and Article, Fifty years of the New York Convention on Arbitral Awards: success and controversy ([3-384-4388](#))).

For more information on enforcing international arbitration awards under the New York Convention, see Practice Note, Enforcing Arbitration Awards in the US: Enforcement of Arbitration Awards Under Chapter 2 of the FAA Implementing the New York Convention ([9-500-4550](#)).

The Panama Convention

The Panama Convention applies to arbitrations arising from a commercial relationship between citizens of nations that have signed the Panama Convention if, with certain exceptions, the parties are not all US citizens (9 U.S.C. §§ 301 to 307). Chapter 3 of the FAA incorporates the Panama Convention into US law (9 U.S.C. §§ 203

and 302). If both the Panama Convention and the New York Convention apply to an international arbitration, the New York Convention controls unless:

- The parties expressly agree that the Panama Convention applies.
- A majority of the parties to the arbitration agreement are citizens of a nation or nations that:
 - have ratified or acceded to the Panama Convention; and
 - are member states of the Organization of American States.

(9 U.S.C. § 305.)

Because parties most often enforce arbitration awards under the New York Convention or the FAA's domestic arbitration provisions, this Note does not provide a detailed analysis of the Panama Convention.

OKLAHOMA ARBITRATION LAW

Oklahoma law favors arbitration (see *Voss v. City of Oklahoma City*, 618 P.2d 925, 928 (Okla. 1980)). The Oklahoma Uniform Arbitration Act (OUAA), codified at Okla. Stat. tit. 12, §§ 1851 to 1881, governs arbitration in Oklahoma, including the procedure for confirming, vacating, modifying, or correcting arbitration awards in Oklahoma.

The OUAA does not apply to arbitrations arising from:

- Collective bargaining agreements.
- Insurance contracts, except for contracts between insurance companies.

(Okla. Stat. tit. 12, § 1855(D).)

The OUAA allows parties to waive or modify provisions of the OUAA (Okla. Stat. tit. 12, § 1855(A)). Certain provisions of the OUAA cannot be waived (Okla. Stat. tit. 12, § 1855(B)(C)). The mandatory provisions include:

- The jurisdiction of Oklahoma courts to:
 - enforce arbitration agreements; and
 - confirm and enter judgments on awards.
 (Okla. Stat. tit. 12, §§ 1877, 1873, and 1876(A).)
- The procedure and grounds for seeking *vacatur* or modification of an arbitration award (Okla. Stat. tit. 12, §§ 1874 and 1875).
- The right of a party to appeal:
 - an order confirming or denying confirmation of an award;
 - an order modifying or correcting an award;
 - an order vacating an award without directing a rehearing; or
 - a final judgment entered on a confirmed award.

(Okla. Stat. tit. 12, § 1879.)

The OUAA is based on the Revised Uniform Arbitration Act. For more information on the RUAA and a list of states that have adopted it, see Practice Note, Revised Uniform Arbitration Act: Overview ([W-004-5167](#)).

INTERPLAY BETWEEN FEDERAL AND OKLAHOMA ARBITRATION LAW

The OUAA grants exclusive jurisdiction to Oklahoma state courts to enter judgment on an award where the arbitration agreement

provides for arbitration in Oklahoma (Okla. Stat. tit. 12, § 1877). A federal court may still have jurisdiction over a confirmation proceeding under the OUAA because a state statute purporting to confer exclusive jurisdiction on the state court generally cannot divest a federal court of subject matter jurisdiction (see *Marshall v. Marshall*, 547 U.S. 293, 314 (2006)).

If both federal and Oklahoma law may apply to an arbitration agreement and its resulting award, the FAA preempts state law only to the extent that state law is inconsistent with the FAA's policy of ensuring that arbitration agreements and awards are enforced (see *Volt Info. Scis., Inc. v. Bd. of Trs. of Leland Stanford Junior Univ.*, 489 U.S. 468, 479 (1989)). Parties may choose state law to govern an arbitration agreement (see *Hall St. Assocs.*, 552 U.S. at 590; *C & L Enters.*, 532 U.S. at 419-20; *Coulter*, 214 P.3d at 809; *Rogers v. Dell Comput. Corp.*, 138 P.3d 826, 829 (Okla. 2005)).

If the FAA governs the arbitration, the FAA also governs the enforcement of the award. If parties want the OUAA to govern the award enforcement proceedings, they must expressly provide for it in their arbitration agreement. (See *Shaffer v. Jeffrey*, 915 P.2d 910, 915 n. 10 (Okla. 1996).)

CONFIRMING AWARDS

To confirm an arbitration award under either the FAA or the OUAA, a party must move for confirmation of the award in a court of competent jurisdiction. In both state and federal court, the proceeding is an expedited proceeding rather than a regular lawsuit (9 U.S.C. § 9; Okla. Stat. tit. 12, §§ 1869 and 1873).

CONFIRMING AWARDS UNDER THE FAA

For the FAA to apply to enforcement proceedings, the parties' agreement must state that a court may enter judgment on the award (9 U.S.C. § 9; *Oklahoma City Assocs. v. Wal-Mart Stores, Inc.*, 923 F.2d 791, 795 (10th Cir. 1991)).

Standard for Confirmation Awards Under the FAA

A federal court must confirm an arbitration award unless it finds grounds to vacate, modify, or correct the award (9 U.S.C. §§ 10 and 11; see *Vacating, Modifying, or Correcting Awards*). Federal courts exercise very limited review of arbitration awards in order to encourage the use of arbitration as an alternative to formal litigation (see *Remmey v. PaineWebber, Inc.*, 32 F.3d 143, 146 (4th Cir. 1994)).

Federal Court Jurisdiction

Although the FAA is federal substantive law that requires parties to honor arbitration agreements, Chapter 1 of the FAA does not create any independent federal subject matter jurisdiction (see *Southland Corp. v. Keating*, 465 U.S. 1, 16 n.9 (1984) (citing *Moses H. Cone Mem'l Hosp. v. Mercury Constr. Corp.*, 460 U.S. 1 (1983))). Before a federal court may enforce an award under Chapter 1 of the FAA, the petitioner must show that the court has either:

- Diversity jurisdiction.
- Federal question jurisdiction.

(See *Vaden v. Discover Bank*, 556 U.S. 49 (2009).)

Courts are split on whether they may "look through" to the arbitration claims in determining subject matter jurisdiction. Because

the FAA permits a federal court to look through to the underlying claim to establish federal question jurisdiction to entertain an action to compel arbitration, some courts have looked through to the underlying arbitration claims to determine if a petition to confirm, vacate, or modify an arbitration award under Sections 9, 10, or 11 of the FAA presents a federal question (see *Landau v. Rheingold*, 922 F.3d 495, 498 (2d Cir. 2019); *McCormick v. Am. Online, Inc.*, 909 F.3d 677, 682-84 (4th Cir. 2018) (applying a look through approach for petition to confirm, vacate, or modify award even if no party filed a petition to compel under FAA § 4); see also *Ortiz-Espinosa v. BBVA Sec. of P.R., Inc.*, 852 F.3d 36, 46-47 (1st Cir. 2017)).

In other courts, the fact that the underlying arbitration involved federal claims does not confer federal jurisdiction for the petition to confirm or vacate (see *Goldman v. Citigroup Global Mkts., Inc.*, 834 F.3d 242, 353-55 (3d Cir. 2016); *Magruder v. Fid. Brokerage Servs. LLC*, 818 F.3d 285, 288 (7th Cir. 2016)). The US Court of Appeals for the Tenth Circuit has not addressed this issue, but at least one federal district court in the Tenth Circuit has adopted the look through approach to determine whether a petition to vacate an arbitration award under Section 10 of the FAA presented a federal question (see *Harman v. Wilson-Davis & Co.*, 2017 WL 74707, at *3-4 (D. Utah Jan. 6, 2017)).

The New York and Panama Conventions provide federal courts with subject matter jurisdiction to enforce foreign arbitration awards to which these conventions apply (9 U.S.C. §§ 203 and 302). These conventions provide federal subject matter jurisdiction for international arbitrations even if the arbitrations occur in the US (see *Indus. Risk Insurers v. M.A.N. Gutehoffnungshütte GmbH*, 141 F.3d 1434, 1441 (11th Cir. 1998)).

To establish personal jurisdiction in cases involving foreign awards, the petitioner may invoke *in personam* jurisdiction, *in rem* jurisdiction, or quasi *in rem* jurisdiction as applicable if their use under the circumstances also comports with due process standards.

Where applicable, a court also may base jurisdiction over the other party on an aggregation of state or national contacts under Federal Rule of Civil Procedure (FRCP) 4(k)(2). The moving party must serve international parties under FRCP 4 because neither the FAA nor the New York Convention provides direction on how to properly serve international parties. For information on serving international parties, see Practice Note, International Litigation: US Laws Governing Cross-Border Service of Process ([9-531-3925](#)).

Under the FAA, once the moving party serves a notice of a petition for confirmation on all parties, the federal court has personal jurisdiction over those parties (9 U.S.C. § 9).

Federal Venue

Arbitration agreements may contain forum selection clauses specifying the venue for an arbitration award's enforcement. The FAA, New York Convention, and Panama Convention give effect to the forum the parties select (9 U.S.C. §§ 9, 204, and 302).

For domestic arbitrations under Chapter 1 of the FAA, a party seeking enforcement must file the application for judicial confirmation in either:

- The court the parties specified for entering judgment on the award in the arbitration agreement, if any.

- Any court in the district where the arbitrator issued the award if the arbitration agreement does not identify a particular court for entry of judgment on the award.

(9 U.S.C. § 9.)

Under the New York and Panama Conventions, a party may file a petition for judicial confirmation in any court either:

- Where the underlying dispute may have been brought if there had been no agreement to arbitrate.
- In the location designated for arbitration in the arbitration agreement if that location is within the US.

(9 U.S.C. §§ 204 and 302.)

Timing Under the FAA

A party to the arbitration may apply for an order confirming the award within one year after the arbitrator makes the award (9 U.S.C. § 9). The federal courts of appeals are split on whether this time limitation is mandatory. Some courts, including the US Court of Appeals for the Second Circuit, have interpreted Section 9 as a strictly enforced, one-year statute of limitations (see *Photopaint Techs., LLC v. Smartlens Corp.*, 335 F.3d 152 (2d Cir. 2003)). Other courts, including the US Courts of Appeals for the Fourth and Eighth Circuits, have relied on the ordinary meaning of “may” to conclude that the one-year limitations period is permissive (see *Sverdrup Corp. v. WHC Constructors, Inc.*, 989 F.2d 148 (4th Cir. 1993); *Val-U Constr. Co. of S.D. v. Rosebud Sioux Tribe*, 146 F.3d 573 (8th Cir. 1998)). The Tenth Circuit has not addressed this issue.

Any party seeking confirmation of an international arbitration award governed by the New York or Panama Conventions must apply within three years from when the arbitrator makes the award (9 U.S.C. §§ 207 and 302).

Confirmation Procedure in Federal Court

A party seeks confirmation of an arbitration award by serving and filing in the federal district court either:

- A petition to confirm if no lawsuit involving the arbitration is already pending.
- A motion to confirm if a lawsuit involving the arbitration is already pending (for example, because a party previously moved to compel or stay arbitration).

(9 U.S.C. § 6.)

A petition to confirm an arbitration award enables a petitioner to request that a court confirm an award without first filing a complaint. When a party starts an arbitration-related action in federal court by filing a petition without an accompanying complaint, the court treats the petition as a motion to confirm an arbitration award (9 U.S.C. § 6; *D.H. Blair & Co. v. Gottdiener*, 462 F.3d 95 (2d Cir. 2006)). A confirmation proceeding is usually faster than a regular lawsuit on the merits, especially if no party challenges the award.

The party seeking confirmation must file with the petition or motion:

- The arbitration agreement, including the parties’ agreement, if any, on:
 - selecting an arbitrator; and

- any extension of time, such as an agreement extending the deadline for the arbitrator to issue the award.

- A copy of the award.

- Any documents a party submitted in connection with any application to modify or correct the award.

(9 U.S.C. § 9.)

The moving party must serve notice of the confirmation application on the adverse party. Service of the notice gives the court personal jurisdiction over the adverse party as though that party had appeared generally in the proceeding. If the adverse party is:

- A resident of the district in which the arbitrator made the award, the moving party must serve either the party or its attorney in the same manner that a party must serve notice of a motion in that court.
- Not a resident of the district, the moving party may serve notice by the marshal of any district in which the adverse party is found in the same manner as other process of court.

(9 U.S.C. § 9.)

An application to confirm an arbitration award is a summary proceeding. The court may hear argument but does not hold an evidentiary hearing. The court confirms the arbitration award based on the parties’ submissions and argument, if any. If no party challenges the enforcement and the court finds no grounds for modifying or vacating the award, the court confirms the award and enters judgment (see *Vacating Awards Under the FAA*).

For more information on confirming an arbitration award in federal court, see Practice Note, *Enforcing Arbitration Awards in the US: General Confirmation Procedure: Application by Motion or Petition (9-500-4550)*. For a sample petition to confirm an arbitration award in federal court with integrated notes and detailed drafting tips, see Standard Document, *Petition to Confirm Arbitration Award (Federal) (W-000-5309)*. For a sample petition to confirm a foreign arbitral award in federal court with integrated notes and detailed drafting tips, see Standard Document, *Petition to Recognize and Enforce Foreign Arbitration Award (Federal) (W-000-7469)*.

CONFIRMING AWARDS UNDER THE OUAA

A party seeking to confirm an arbitration award in Oklahoma state court files a motion to confirm the award (Okla. Stat. tit. 12, § 1873).

Standard for Confirming Awards Under the OUAA

When deciding a motion to confirm an arbitration award, Oklahoma courts apply a highly deferential standard in favor of confirmation (see *Wilbanks Sec., Inc. v. McFarland*, 231 P.3d 714, 719 (Okla. Civ. App. 2010)). The court must issue an order confirming the award unless the court vacates, modifies, or corrects the award (Okla. Stat. tit. 12, §§ 1869 and 1873).

Oklahoma Court Jurisdiction

Oklahoma is divided into twenty-six district court judicial districts (Okla. Stat. tit. 20, §§ 92.1 to 92.27). Oklahoma district courts have unlimited original jurisdiction over all justiciable matters except as provided by the Oklahoma Constitution (Okla. Const., art. VII, §§ 7(a) and 8(d)). The OUAA grants exclusive jurisdiction to Oklahoma state courts to enter judgment on an award where the arbitration agreement provides for arbitration in Oklahoma (Okla. Stat. tit. 12, § 1877).

Oklahoma Venue

Oklahoma courts generally enforce forum selection clauses (see *Fisher v. S. Atl. Dredging Co., Inc.*, 15 P.3d 523, 525 (Okla. Civ. App. 2000) (citing *Carnival Cruise Lines, Inc. v. Shute*, 499 U.S. 585, 595 (1991))). The parties' agreement on Oklahoma as the forum for enforcement of their agreement sets Oklahoma as the venue for a motion to confirm, vacate, or correct an arbitration award.

If the parties' agreement does not contain a forum selection clause, venue for a motion to confirm, vacate, or modify an arbitration award is proper under the OUAA in the district court of the county:

- Where the arbitration agreement specifies the arbitration hearing is to be held.
- Where the arbitration hearing occurred.
- If neither of the above applies:
 - where the adverse party either resides or has a place of business; or
 - if the adverse party has no residence or place of business in Oklahoma, the moving party may file the motion in the district court of any Oklahoma county.

(Okla. Stat. tit. 12, § 1878.)

Timing Under the OUAA

The OUAA does not impose a deadline by which a party must move to confirm an arbitration award. A party may move to confirm the award at any time after the arbitrator issues the award (Okla. Stat. tit. 12, § 1873).

Confirmation Procedure Under the OUAA

Under the OUAA, after receiving notice of an arbitration award, a party may seek confirmation of the award by filing a motion to confirm in an Oklahoma district court where venue is proper (Okla. Stat. tit. 12, § 1873; see Oklahoma Venue).

If there is no lawsuit involving the arbitration already pending, a party moving to confirm an arbitration award serves notice of an initial motion in the same manner provided by the rules for the service of a summons in a civil action (Okla. Stat. tit. 12, §§ 1856(B) and 2004). If there is a lawsuit already pending between the parties involving an arbitrable dispute, for example because a party moved to compel arbitration, the party seeking to confirm the arbitration award files the motion in that court case (Okla. Stat. tit. 12, § 1858(E)).

Although the OUAA does not require any specific content in the motion to confirm an arbitration award, the motion generally should:

- Identify the parties and the grounds for the motion.
- Include a concise brief or list of the authorities on which the movant relies.
- State the relief the movant seeks.
- Attach a copy of:
 - the arbitration agreement; and
 - the award.

(Rule 4, Okla. Stat. tit. 12, ch. 2, app.)

The party moving for confirmation of an award may request an expedited order confirming the award, and the court must summarily decide the motion (Okla. Stat. tit. 12, § 1869). Otherwise, the

court hears the motion in the same manner and under the same procedural rules as it hears motions in other civil actions (Okla. Stat. tit. 12, § 1856). If no party objects to the motion, the court may deem the motion confessed (Rule 4(d), Okla. Stat. tit. 12, ch. 2, app.). The court may decide the motion with or without a hearing (Rule 4(h), Okla. Stat. tit. 12, ch. 2, app.).

Once the court issues an order that confirms, vacates, or modifies an arbitration award under the OUAA, the court must enter judgment on the order. The judgment is enforceable as any other judgment in a civil action (Okla. Stat. tit. 12, § 1876(A)). The court may allow reasonable costs of the motion and later judicial proceedings (Okla. Stat. tit. 12, § 1876(B)). If a party opposes a motion to confirm, vacate, or modify an arbitration award, the OUAA gives the court discretion to award reasonable attorney fees and litigation expenses to the prevailing party on the motion (Okla. Stat. tit. 12, § 1876(C)).

Counsel should be familiar with applicable procedure and formatting rules for motions in Oklahoma district courts. Counsel also should check the relevant court's local rules and website for additional information and guidance on procedure.

VACATING, MODIFYING, OR CORRECTING AWARDS

Both the FAA and the OUAA permit a party to challenge or request modification or correction of an arbitration award. For detailed information on vacating, modifying, or correcting arbitration awards in federal court, see Practice Note, *Vacating, Modifying, or Correcting an Arbitration Award in Federal Court* ([W-000-6340](#)). For a sample petition to vacate an arbitration award in federal court with integrated notes and detailed drafting tips, see Standard Document, *Petition to Vacate, Modify, or Correct Arbitration Award (Federal)* ([W-000-5608](#)).

VACATING AWARDS UNDER THE FAA

Standard for Vacating Awards Under the FAA

Federal courts give strong deference to arbitration awards and will not review the award's factual or legal findings (see *THI of N.M. at Vida Encantada, LLC v. Lovato*, 864 F.3d 1080, 1083 (10th Cir. 2017)). Federal courts begin with a presumption that an award is enforceable and may vacate it only under the "exceedingly narrow circumstances" listed in Section 10(a) of the FAA (*Freeman v. Pittsburgh Glass Works, LLC*, 709 F.3d 240, 251 (3d Cir. 2013)). Under the FAA, a court may vacate an award if:

- A party obtained an award by corruption, fraud, or undue means.
- The arbitrator was partial or corrupt.
- The arbitrator engaged in misconduct by:
 - refusing to postpone the hearing on sufficient cause shown;
 - refusing to hear evidence pertinent and material to the controversy; or
 - any other behavior that has prejudiced the rights of any party.
- The arbitrator exceeded the arbitrator's powers or so imperfectly executed them that the arbitrator did not make a mutual, final, and definite award on the matters the parties submitted to arbitration.

(9 U.S.C. § 10.)

Some federal courts have also held that arbitration awards governed by the FAA may be vacated on the common law ground of manifest disregard of the law if the award's reasoning demonstrates the arbitrator

recognized the applicable law but chose to ignore it (see *Koruga v. Fiserv Correspondent Servs., Inc.*, 40 F. App'x 364, 365 (9th Cir. 2002) (citing *Mich. Mut. Ins. Co. v. Unigard Sec. Ins. Co.*, 44 F.3d 826, 832 (9th Cir. 1995))).

The federal courts of appeals are split on whether manifest disregard remains a proper ground for *vacatur* after *Hall Street*, which held that:

- The FAA lists the exclusive grounds for refusing to enforce an award, and it does not list manifest disregard of the law as one of the grounds.
- Parties may not agree to expand the scope of judicial review of arbitration awards.

(552 U.S. at 586.)

The Tenth Circuit has expressly declined to decide whether manifest disregard remains a proper ground for *vacatur* but continues to consider manifest disregard when reviewing decisions on *vacatur* (see *A. Kershaw, P.C. v. Shannon L. Spangler, P.C.*, 703 F. App'x 635, 640 (10th Cir. 2017); *Abbott v. Law Office of Patrick J. Mulligan*, 440 F. App'x 612, 620 (10th Cir. 2011)). The Tenth Circuit also notes other common law grounds for *vacatur* may still exist following *Hall Street*, including the common law requirement that an arbitrator must grant the parties a fundamentally fair hearing (see *Gidding v. Fitz*, 752 F. App'x 656, 658 (10th Cir. 2018); *Dish Network L.L.C. v. Ray*, 900 F.3d 1240, 1243 (10th Cir. 2018)).

Although the New York Convention does not expressly address vacating awards, it provides grounds for opposing the enforcement of awards. These grounds include challenges to the validity of:

- The award.
- The arbitration panel.
- The arbitration agreement.
- The arbitration process.

(New York Convention, Art. V(1), (2).)

For information on opposing enforcement of awards under the New York Convention, see Practice Note, Enforcing Arbitration Awards in the US: Defending Against Enforcement ([9-500-4550](https://www.thomsonreuters.com/us/practice-notes/enforcing-arbitration-awards-in-the-us-defending-against-enforcement)).

Procedure to Vacate Awards Under the FAA

A party seeking to vacate an arbitration award under the FAA must serve an application to vacate on the adverse party or its attorney within three months after the arbitrator delivers the award (9 U.S.C. § 12).

If a party previously filed a lawsuit relating to the arbitration, such as a proceeding to compel arbitration or confirm the award, the party seeking to vacate the award must file the *vacatur* application as a motion in the same court (see *IDS Life Ins. Co. v. Royal All. Assocs., Inc.*, 266 F.3d 645, 653 (7th Cir. 2001)).

If a lawsuit involving the arbitration is not already pending, a party seeking to vacate, modify, or correct an arbitration award must commence an action by filing a petition in the same way a party files a petition to confirm an award (see Confirmation Procedure in Federal Court).

The application to vacate is a summary proceeding. The court may hear oral argument but does not hold an evidentiary hearing with witnesses. The court decides the application on the parties' submissions and argument, if any. If the court finds sufficient grounds for *vacatur* and the time to issue the award as required

under the agreement has not yet expired, the court may direct a rehearing by the same arbitrators (9 U.S.C. § 10(b)).

VACATING AWARDS UNDER THE OUAA

Standard for Vacating Awards Under the OUAA

The OUAA permits courts to vacate arbitration awards on the following grounds:

- A party obtained an award by corruption, fraud, or undue means.
- Evident partiality by an arbitrator appointed as a neutral or corruption by any arbitrator.
- The arbitrator engaged in any misconduct that prejudiced the rights of a party, including:
 - conducting the arbitration without proper notice of the initiation of an arbitration as required by Section 10 of the OUAA;
 - refusing to postpone the hearing on sufficient cause shown; or
 - refusing to hear evidence material to the controversy.
- The arbitrator exceeded the arbitrator's powers.
- No agreement to arbitrate existed (unless the parties participated in the arbitration without raising an objection at or before the beginning of the arbitration hearing).

(Okla. Stat. tit. 12, § 1874.)

Oklahoma courts generally give deference to arbitration awards and will not review the award's factual or legal findings (see *City Coll., Inc. v. Moore Sorrento, LLC*, 246 P.3d 726, 733 (Okla. Civ. App. 2010)). The Oklahoma Supreme Court has expressed no opinion on the viability of the manifest disregard of the law doctrine, but Oklahoma courts may vacate awards that manifestly disregard the parties' arbitration agreement (see *Sooner Builders & Invs., Inc. v. Nolan Hatcher Constr. Servs., LLC*, 164 P.3d 1063, 1071-72 (Okla. 2007)).

Procedure to Vacate Awards Under the OUAA

A party requests *vacatur* of an arbitration award under the OUAA by filing a motion to vacate within 90 days after receiving notice of the award. If the grounds to vacate are corruption, fraud, or other undue means, the party challenging the award must file the motion within 90 days after the movant either:

- Learns of those grounds.
- Should have known of the grounds through exercise of reasonable care.

(Okla. Stat. tit. 12, § 1874(B).)

The procedure is generally the same as the procedure to confirm arbitration awards (see Confirmation Procedure Under the OUAA).

If a court denies a motion to vacate an award, the court must confirm the award unless there is a pending application to modify or correct the award, even if no party moved to confirm the award (Okla. Stat. tit. 12, § 1874(D)). If the court vacates an award on any ground other than a lack of agreement to arbitrate, the court may order a rehearing before either:

- The same arbitrator.
- A new arbitrator if the court vacates the award due to arbitrator misconduct.

(Okla. Stat. tit. 12, § 1874(C).)

MODIFYING OR CORRECTING AWARDS UNDER THE FAA

Standard for Modifying or Correcting Awards Under the FAA

A court may modify or correct an arbitration award under the FAA if:

- The award contains an evident material mistake in:
 - the calculation of numbers; or
 - the description of a person, thing, or property.
- The award decides a matter the parties did not submit to arbitration and the improperly included matter affects the decision on the merits.
- The award's form is imperfect in some way that does not affect the award's merits.

(9 U.S.C. § 11.)

The FAA also authorizes courts to modify or correct an award to effect the award's intent and promote justice between the parties (9 U.S.C. § 11).

Neither the New York Convention nor the Panama Convention identifies any grounds for modifying or correcting an award. Courts may have some leeway under the New York Convention, but only if the modification or correction does not interfere with the New York Convention's clear preference for confirming awards (see *Admart AG v. Stephen & Mary Birch Found., Inc.*, 457 F.3d 302, 309 (3d Cir. 2006)).

Procedure to Modify or Correct Awards Under the FAA

A party seeking to modify or correct an award under the FAA must serve an application on the adverse party or its attorney within three months after the arbitrator files or delivers the award (9 U.S.C. § 12). The proceedings are substantially similar to proceedings on an application to vacate (see Procedure to Vacate Awards Under the FAA).

MODIFYING OR CORRECTING AWARDS UNDER THE OUAA

The OUAA provides procedures for:

- A party to apply directly to the arbitrator or the court to modify or correct an award.
- The court to submit an award back to the arbitrator to determine whether to modify or correct an award.

(Okla. Stat. tit. 12, §§ 1871 and 1875.)

Standard for Modifying or Correcting Awards Under the OUAA

A court must modify or correct an award under the OUAA if:

- The award contains an evident material mistake in:
 - the calculation of numbers; or
 - the description of a person, thing, or property.
- The arbitrator entered an award on a claim the parties did not submit to arbitration and the court can correct the award without affecting the merits of the decision.
- The award's form is imperfect in some way that does not affect the award's merits.

(Okla. Stat. tit. 12, § 1875.)

Procedure to Modify or Correct Awards Under the OUAA

A party asks a court to modify or correct an award under the OUAA by filing a motion to modify or correct within 90 days after receiving notice of the award (Okla. Stat. tit. 12, § 1875). The procedure is

generally the same as the procedure to confirm arbitration awards (see Confirmation Procedure Under the OUAA).

A party may join a motion to modify or correct the award with a motion to vacate the award (Okla. Stat. tit. 12, § 1875(C); see Vacating Awards Under the OUAA). If the court grants the motion to modify or correct, the court must modify or correct the award and confirm it as modified or corrected. If the court denies the motion, the court must confirm the uncorrected award unless a motion to vacate is pending. (Okla. Stat. tit. 12, § 1875(B).)

Under the OUAA, if a party moves to modify or correct an award, the court has discretion to ask the arbitrator to modify or correct the award (Okla. Stat. tit. 12, § 1871(D)). The arbitrator may modify or correct an award:

- On the same grounds as the grounds for judicial modification or correction (see Standard for Modifying or Correcting Awards Under the OUAA).
- If the arbitrator did not make a final and definite award on a claim the parties submitted to arbitration.
- To clarify the award.

(Okla. Stat. tit. 12, § 1871(A), (D).)

If the arbitrator modifies or corrects the award, any party may file a motion for the court to confirm, vacate, modify, or correct the new award (Okla. Stat. tit. 12, § 1871(E)).

AWARDS AND ORDERS SUBJECT TO APPEAL

Both the FAA and the OUAA permit a party to appeal certain arbitration orders, including:

- An order:
 - confirming or denying confirmation of an award;
 - modifying or correcting an award; or
 - vacating an award without directing a rehearing.
- A final judgment or decision entered under the FAA or OUAA.

(9 U.S.C. § 16; Okla. Stat. tit. 12, § 1879.)

A party appeals an order or judgment under the OUAA in the same manner and under the same procedural rules as a party appeals an order or judgment in a civil action (Okla. Stat. tit. 12, § 1879(B)).

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