

**§ 50-54. Vacating an award.**

(a) Upon a party's application, the court shall vacate an award for any of the following reasons:

- (1) The award was procured by corruption, fraud, or other undue means;
- (2) There was evident partiality by an arbitrator appointed as a neutral, corruption of an arbitrator, or misconduct prejudicing the rights of a party;
- (3) The arbitrators exceeded their powers;
- (4) The arbitrators refused to postpone the hearing upon a showing of sufficient cause for the postponement, refused to hear evidence material to the controversy, or otherwise conducted the hearing contrary to the provisions of G.S. 50-47;
- (5) There was no arbitration agreement, the issue was not adversely determined in proceedings under G.S. 50-43, and the party did not participate in the arbitration hearing without raising the objection. The fact that the relief awarded either could not or would not be granted by a court is not a ground for vacating or refusing to confirm the award;
- (6) The court determines that the award for child support or child custody is not in the best interest of the child. The burden of proof at a hearing under this subdivision is on the party seeking to vacate the arbitrator's award;
- (7) The award included punitive damages, and the court determines that the award for punitive damages is clearly erroneous; or
- (8) If the parties contract in an arbitration agreement for judicial review of errors of law in the award, the court shall vacate the award if the arbitrators have committed an error of law prejudicing a party's rights.

(b) An application under this section shall be made within 90 days after delivery of a copy of the award to the applicant. If the application is predicated on corruption, fraud, or other undue means, it shall be made within 90 days after these grounds are known or should have been known.

(c) In vacating an award on grounds other than stated in subdivision (5) of subsection (a) of this section, the court may order a rehearing before arbitrators chosen as provided in the agreement, or in the absence of a provision regarding the appointment of arbitrators, by the court in accordance with G.S. 50-45, except in the case of a vacated award for child support or child custody in which case the court may proceed to hear and determine all such issues. The time within which the agreement requires an award to be made applies to the rehearing and commences from the date of the order.

(d) The court shall confirm the award and may award costs of the application and subsequent proceedings under G.S. 50-51(f) if an application to vacate is denied, no motion to modify or correct the award is pending, and the parties have not agreed in writing that the award shall not be confirmed under G.S. 50-53. (1999-185, s. 1; 2005-187, s. 13.)