

Mediation Policy and Procedures

1. The purpose of mediation is to assist REALTOR® members of the Association and their clients to settle disputes swiftly and informally under the “mediation clause” of their written agreement or because they have otherwise elected to mediate their disputes.
2. If the parties do not settle their dispute at the mediation conference, they still retain their right to an arbitration hearing under the rules and procedures used by the Association for arbitration, or under any arbitration clause contained in the underlying contract, or other legal recourse provided by contract.
3. The mediation process is confidential, and the parties must agree in writing to keep all information from the mediation confidential. This encourages the parties to negotiate openly without the risk of undermining legal positions they may wish to take in subsequent proceedings if the mediation is unsuccessful. This also means that mediators involved in the sessions will not be required to testify or appear in subsequent ethics or arbitration hearings or lawsuits involving the same dispute.

The mediation process begins with either party’s initial request for mediation and does not end until the parties come to mutual agreement, a party notifies the Association of the intent to withdraw from mediation, or the mediators decide it is in the best interest of the parties to terminate further mediation attempts.

4. Upon receipt by the Association of a request for mediation, the Association will appoint a Case Manager to contact the parties and discuss the mediation process. A package of information will be sent to the parties with the necessary forms and disclosures.

Each party participating in mediation must submit a completed Agreement to Mediate, together with the requested fees and a copy of the contract with the mediation clause. Additionally, the parties should provide the mediator with a written “mediation brief” which can be informal but should include the relevant facts and the nature of the dispute.

5. If some but not all parties agree to mediation, the parties may agree to mediate with the consenting parties and consult legal counsel regarding options against the parties refusing to mediate.

If all the parties do not agree to mediate the dispute, the initial deposit paid by the initiating party will be refunded.

6. Once the required forms and fees are received by the Association, the Association will appoint mediators and set a date and place for the initial mediation conference. Parties are requested to commit to a minimum of three hours for each mediation conference scheduled.

7. Once a date for the conference has been determined, there shall be no postponements except at the discretion of the mediators. If any party fails to appear or fails to give 24-hour notice of an emergency preventing their attendance, a two-hour fee will be assessed against that party.

Any action that requires the mediation conference to be rescheduled, will be assessed a one-hour fee against the party at cause. Fees assessed against individual parties are not subject to equal division per the mediation clause.

8. If the parties come to an agreement, they are strongly encouraged to reduce that agreement to writing at the mediation conference. Upon request, the parties may have up to ten days for individual counsel to review the agreement prior to signing.

The mediators shall forward the signed form or agreement to the Association. If the settlement agreement so provides, the Association will cancel any arbitration or other proceeding filed and refund the arbitration filing fees according to Association policy.

If the parties do not resolve the dispute, the mediators shall advise the Association that mediation was unsuccessful, and a letter shall be mailed to the parties confirming that the parties first attempted to mediate the dispute per the mediation clause without reference to any specific discussions or negotiations.