

FILING ARBITRATION REQUESTS

AT THE
ARIZONA ASSOCIATION OF REALTORS®



As with any problem that might arise from your relationship with fellow REALTORS®, the first step you should take is to **talk to the other REALTOR®, and next, have your broker talk with the other REALTOR®'s broker or manager.** Many difficulties between REALTORS® result from misunderstanding or miscommunication. Open, constructive discussion often resolves questions or differences, eliminating the need for further action. If these discussions are not successful in resolving the dispute, you may want to consider filing a request for arbitration.

FILING AN ARBITRATION REQUEST

In accordance with its policies, Arizona Association of REALTORS® (AAR) provides arbitration as a service to its members. Arbitration is not a disciplinary proceeding.

Be aware that not every situation may be arbitrated at a REALTOR® association. Many disputes with clients or customers may not fall under AAR's jurisdiction and must be handled through the civil courts. Also, disputes involving clients or customers require that the client or customer sign an agreement to arbitrate and to be bound by the arbitration, which means further legal action would most likely be precluded.

Most disputes handled at AAR by way of arbitration are commission disputes among members. Commission disputes among REALTORS® from different firms are most likely mandated to be arbitrated. Your dispute must also be one that AAR determines is an *arbitrable issue*. NAR Fact Situations, describing common disputes among REALTORS® and how they may be resolved, may also be of assistance to you in determining whether to file for arbitration. You can find information on arbitrable issues and NAR Fact Situations on our website, www.aaronline.com/resolve-disputes/arbitration/

ARBITRATION FLOW CHART



180

“An arbitration request must be filed within 180 days after the closing or 180 days after the facts could have been known in the exercise of reasonable diligence, whichever is later”

STEP ONE

Contact the Arizona Association of REALTORS®.

AAR handles arbitrations for all but one of Arizona's 22 local associations. You can obtain forms and information online at www.aaronline.com or you can contact AAR directly at 602.248.7787 or 1.800.426.7274.

STEP TWO

Filing the arbitration request.

A Request and Agreement to Arbitrate form needs to be completed. Here are some general principles to keep in mind as you begin the process.

The request must:

1. Be in writing.
2. Be signed by the Complainants — including the principal broker.
3. Indicate the disputed amount in dollars and cents (do not indicate percentages).
4. Be filed **within 180 days after the closing or 180 days after the facts could have been known in the exercise of reasonable diligence, whichever is later.**
5. Include the five hundred dollars (\$500) arbitration filing deposit payable to AAR.
6. Include documentation that shows the transaction successfully closed escrow (i.e.: HUD1, tax records, MLS printout, etc.).

When completing the form, steps to follow are:

1. Name the REALTOR® firm involved and all of the REALTORS® involved. This will help the Grievance Committee determine whether the right people are named, whether there is a contractual basis for the claim, and more. You must name at least one REALTOR® principal of the firm and, if you are not a principal in your firm, you must get one of your firm's REALTOR® principals to sign the Request to Arbitrate, as commission disputes are between the principals of the firms involved. *[REALTOR® principal is defined in the Code of Ethics and Arbitration Manual as: a licensed or certified principal, partner, corporate officer or branch office manager acting on behalf of principals of a real estate firm. For more details, please consult the Code of Ethics and Arbitration Manual, Section 26 (k).]*
2. Indicate the monetary amount in dispute.
3. Include an explanation of the situation. State why you believe you are entitled to receive the amount stated in your Request for Arbitration. If you think there have been ethical violations, they can be handled separately with an ethics complaint.
4. Attach copies of any and all pertinent documents such as listing agreements, purchase and sales agreements, closing statements, etc., plus any notarized statements from witnesses.
5. AAR requires a \$500 arbitration filing deposit. Should AAR's Grievance Committee accept your arbitration request, you will first proceed to a mandatory mediation conference. In the event that the dispute is resolved via mediation, all arbitration filing deposits will be refunded. If the request proceeds to a hearing and you prevail at the hearing, the arbitration filing deposit will be returned to you. If you do not prevail at the hearing, the arbitration filing deposit will be retained by the association to help cover costs.

Carefully review your documents before submission. Incomplete requests may slow the process.



ARIZONA ASSOCIATION OF REALTORS®

255 East Osborn Road, Suite 200

Phoenix, Arizona 85012

Tel: 602-248-7787

Toll-free in AZ: 800-426-7274

Fax: 602-351-2474

For forms and more information
visit us online at:

www.aaronline.com/resolve-disputes/



Complainants have the burden to prove that they should prevail.

If the parties successfully reach a resolution to the dispute through either AAR mediation or a privately reached resolution, the parties' arbitration filing deposits will be returned.



Proactively resolve your dispute with mediation

STEP THREE

Sending the complaint to the association.

If you are ready to file your arbitration request send it, and the arbitration filing deposit check, to:

Attn: Ethics
Arizona Association of REALTORS®
255 East Osborn Road, Suite 200
Phoenix, Arizona 85012

STEP FOUR

The Grievance Committee's initial review.

AAR's Grievance Committee is comprised of volunteer REALTORS® who receive annual training in the Code of Ethics and procedures to evaluate whether a dispute can be administrated by way of AAR's Professional Standards procedures. The Committee will review your request to determine if it is appropriate to be arbitrated. Remember, your request must involve a dispute that the procedures define as "arbitrable."

If the Committee determines your request is not arbitrable, it will be dismissed and you will be informed about appeal options.

If the Grievance Committee forwards your request and classifies it as "mandatory," then AAR will then advise you of the appropriate procedures and steps to take.

STEP FIVE

Before any hearing is scheduled, you will participate in a mediation conference to resolve the dispute with the other REALTOR(S)®. Mediation involves an objective third-party REALTOR® mediator who will work with all parties in dispute to assist them in reaching a mutually agreed-upon resolution. If the mediation is successful and the parties reach and sign an agreement, it becomes judicially enforceable. All arbitration filing deposits will be refunded if the mediation is successful.

If the mediation is not successful, the matter will proceed to a hearing and a Hearing Panel will determine entitlement to the disputed funds.

To learn more about mediation of arbitrable issues, visit AAR's website, www.aaronline.com/resolve-disputes/arbitration/

STEP SIX

An arbitration hearing panel is comprised of volunteer REALTORS® from AAR's Professional Standards Committee. Committee members receive annual training in the Code of Ethics and procedures to be able to reach a decision based on the testimony and evidence presented.

An arbitration hearing will be scheduled with at least twenty one (21) days advance notice.

AAR will provide information about the procedures involved and will answer other questions you may have about the process. You may also want to review the NATIONAL ASSOCIATION OF REALTORS® Arbitration Guidelines or the arbitration sections of the Code of Ethics and Arbitration Manual to help you prepare for your case.

CONCLUSION

Many commission disputes between REALTORS® arise from a misunderstanding or a failure to communicate. Before filing an arbitration request, make reasonable efforts to communicate with the other REALTOR® involved. If these efforts are not fruitful, the association can give you the procedures and forms necessary to file a complaint.