

The Ethics Mediation Process

at the
Arizona Association of REALTORS®

Serving Local Member Signatory Associations:

Bullhead City / Mohave Valley * Central Arizona * Douglas * Graham / Greenlee * Green Valley * Kingman / Golden Valley
Lake Havasu * La Paz * Northern Arizona * Phoenix * Prescott Area * Santa Cruz * Sedona / Verde Valley * Southeast Arizona
Scottsdale Area * Tucson * West Maricopa County Regional Western Pinal * White Mountain * Yuma

Participation in the ethics mediation process is voluntary. Mediation benefits: 1) Speedier results than the hearing process, 2) Participants create their own mutually agreeable settlement, 3) More amicable results, and 4) Sense of personal accomplishment.

WHAT IS ETHICS MEDIATION AT THE ARIZONA ASSOCIATION OF REALTORS®?

Ethics Mediation is an alternative dispute resolution option the Arizona Association of REALTORS® (AAR) provides to parties involved in ethics complaints. As a party, you are eligible to request mediation through AAR.

HOW DO I GET STARTED?

If you would like to attempt this simplified and equitable resolution method, contact AAR and they will contact the other party to determine their interest in participating. If both parties agree to participate, AAR will arrange to appoint a mediator to facilitate the process.

WHAT HAPPENS AT THE MEDIATION CONFERENCE?

The session is usually held at a REALTOR® association close to where the parties are located. Each party will get an opportunity to address their position without the formality of a hearing. Discussion of positions and possible solutions takes place.

WHO ARE THE MEDIATORS?

AAR-appointed mediators are also REALTORS®. They are trained to listen, encourage open communication between parties and help the parties to resolve their issues. Ethics mediators are completely objective and will not dictate a resolution to the parties.

WHAT ARE THE BENEFITS OF ETHICS MEDIATION?

In mediation, the parties are completely involved in reaching a resolution that is satisfactory to all. Possible results can be any mutually agreeable resolution, many of which would not be available at a formal hearing. Also, at a hearing, the hearing panel determines the results, not the parties.

WHAT IF WE CAN'T AGREE?

If there is no agreement between the parties, the matter can still proceed to a hearing. The details of the mediation attempt are confidential and will not be shared as part of the hearing process.

HOW TO INITIATE AN ETHICS MEDIATION.

Complete and return the attached Ethics Mediation Request. Once AAR receives the completed Ethics Mediation Request form, AAR will contact the other party to describe the process and offer the mediation. If the other party is in agreement to participate in an Ethics Mediation session, a date will be selected and a mediation officer will be assigned.



THE ETHICS MEDIATION PROCESS

THE SESSION:

- * Parties to an Ethics Mediation conference may withdraw from the process at any point prior to reaching an agreement. Should either party choose to withdraw from the process prior to reaching an agreement, the complainant is free to have their complaint considered through the formal process in accordance with the guidelines set forth in the *Code of Ethics and Arbitration Manual* of the NATIONAL ASSOCIATION OF REALTORS®.

- * In the event that the respondent fails to abide by the terms of the resolution, the complaining party may submit or resubmit the original complaint.

- * Parties to the Ethics Mediation may be accompanied at the conference by counsel. If it is your intent to have counsel present at the mediation conference, the Mediation Officer or the Association staff should be advised of this fact, in writing, at least ten (10) days prior to the mediation conference.

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RESOLUTION OPTIONS:

* Parties to the Ethics Mediation may agree to a mutual resolution of the matter at any time during the mediation conference. The Mediation Officer and the parties have considerable latitude in fashioning a mutually acceptable resolution. Resolutions can include, but not be limited to:

- payment of disputed funds,
- repairs or restoration of property,
- written or oral apology, or
- acknowledgement of a violation of the Code of Ethics.

In cases where a REALTOR® acknowledges that the Code has been violated, that admission may be sufficient to resolve the matter or, alternatively, the parties may agree that discipline should be imposed. The discipline may, at the agreement of all parties, include any of the forms of discipline established in the *Code of Ethics and Arbitration Manual* and may also include payment of monies to the complainant or to a third party. Also, the parties may agree that the complainant will withdraw a complaint or agree not to file a formal, written ethics complaint in return for the respondent's action or acknowledgement. Again, any discipline imposed must be agreed to by all of the parties.

* If following a thorough discussion of all the pertinent facts the parties are still unable to resolve the matter, the Mediation Officer may make a recommendation for the resolution of the complaint. The recommendation for resolution can be oral or in writing and may be provided to both parties at the conclusion of the mediation conference. The parties can agree to the Mediation Officer's proposed resolution at the time it is presented to them. If neither of the parties desires to give additional consideration to the Mediation Officer's resolution, both parties will be given a specified period of time, not to exceed forty-eight (48) hours, to consider the resolution and to advise the Mediation Officer of their acceptance or rejection of the recommended resolution. Failure to respond to the recommended resolution within the specified time period will be deemed a rejection of the suggested resolution. If either of the parties reject the proposed resolution, the mediation conference will be deemed concluded and the complaint will be considered at a formal ethics hearing.

* If the parties to the Ethics Mediation conference are unable to resolve the matter, any offers of settlement that were not accepted or any suggested resolution proposed by the Mediation Officer that was not accepted will not be introduced as evidence nor considered in any manner should the matter require an ethics hearing.



CONFIDENTIALITY:

The Mediation Officer cannot refer concerns regarding the conduct of any party to mediation to the Grievance Committee, to the state real estate licensing authority, or to any other regulatory body. This prohibition is intended to ensure impartiality and avoid the possible appearance of bias.

Mediation vs. Hearing

	Ethics Mediation	Ethics Hearing
Voluntary process?	Yes	No
Scheduling?	Faster	Slower
Both parties must appear at the session?	Yes	Yes Complainant No Respondent
Both parties must be present in the same room?	No, not all the time	Yes
Who makes the decisions?	Parties	Panel of REALTORS®
Settlements are fashioned from AAR Code of Ethics?	No, not all the time	Yes
Decisions are known the same day?	Usually	No
Results are confidential?	Yes	Yes
Is legal representation permitted?	Yes	Yes



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