



Greater Albuquerque
Association of REALTORS®
1635 University Blvd. NE
Albuquerque, NM 87102

Mediation and Conflict Resolution Services (Public)

The Greater Albuquerque Association of REALTORS® (GAAR) is dedicated to promoting effective and amicable conflict resolution. We offer two distinct services to assist parties involved in real estate-related disputes: formal mediation and the Ombuds conflict resolution program.

Mediation Services

Mediation provides a confidential, timely, and cost-effective way to facilitate communication between conflicting parties, fostering reconciliation, settlement, or agreement. Mediation is available for disputes involving:

- REALTORS® and members of the public (buyers or sellers).
- Public-to-public disputes available provided the parties had a REALTOR® member involved during the transaction.
- **Cost:** \$250 per party, per session.

To initiate voluntary mediation:

1. Complete the **Request for Mediation (Form M-1)** and **Agreement to Mediate (Form M-3)**.
2. Submit the forms and any supporting documents to the Professional Standards Office.
3. GAAR will contact the other party to request their participation. Please note that mediation is **voluntary**; if the other party declines, the process will not proceed further.

Mediation sessions are easy to schedule, and any resulting resolution agreements are binding and enforceable through the courts if necessary.

Ombuds Conflict Resolution Program

The Ombuds program offers a complimentary and informal approach to resolving low-level disputes. Ombuds are neutral facilitators who are trained REALTORS® in good standing with the Association. They assist disputing parties by exploring options and solutions that are agreeable to all involved.

Key features of the Ombuds program:

- Informal and non-adversarial.
- No in-person meetings required; communication occurs by phone.

Please note that Ombuds is **voluntary**; if the other party declines, the process will not proceed further.

Additional Information

For complex disputes requiring face-to-face discussions, formal mediation is often the most effective non-adversarial option. However, GAAR does not provide legal or advocacy services, as we operate solely as a trade association.

The policies and procedures for GAAR's mediation and Ombuds programs are guided by the National Association of REALTORS® Code of Ethics and Arbitration Manual. This document is available <https://www.nar.realtor/code-of-ethics-and-arbitration-manual>.

If you have questions or would like to explore conflict resolution options, please contact the Professional Standards Office at **505-724-3485**.



Greater Albuquerque
Association of REALTORS®
Professional Standards Office
1635 University Blvd. NE
Albuquerque, NM 87102
505-724-3485

Form #M-1

Request for Mediation

Requestor(s):

(Type/Print Name)

(Mailing Address)

(Phone/E-mail Address)

(Type/Print Name)

(Mailing Address)

(Phone/E-mail Address)

Respondent(s):

(Type/Print Name)

(Mailing Address)

(Phone/E-mail Address)

(Type/Print Name)

(Mailing Address)

(Phone/E-mail Address)

I am requesting mediation with the above-named party (Respondent) to be conducted by a Mediator(s) of the Greater Albuquerque Association of REALTORS®. There is due, unpaid, and owing to me (or I retain) from the above-named person(s) the sum of \$ _____ related to _____.

OR I am seeking a resolution of a non-monetary issue related to

_____.

My claim is predicated upon the statement attached and marked as Exhibit 1 and incorporated by reference into this request.

[Signature of Requesting Party(ies)]

(Date)

[Signature of Requesting Party(ies)]

(Date)

(Revised 11/16)



Greater Albuquerque
Association of REALTORS®
Professional Standards Office
1635 University Blvd. NE
Albuquerque, NM 87102
505-724-3485

Form #M-3

Agreement to Mediate

The undersigned agree to voluntarily submit this dispute to mediation in accordance with the mediation guidelines, as set forth in the Code of Ethics and Arbitration Manual of the National Association of REALTORS® and the policies of the Greater Albuquerque Association of REALTORS®.

Any agreement signed by the parties, pursuant to the mediation conference, shall be binding.

As a party to the mediation process, I understand and agree as follows:

Parties to mediation may withdraw from the process at any point prior to reaching an agreement. Parties to mediation that do not reach an agreement shall be free to pursue an arbitration request or ethics complaint process in accordance with the guidelines set forth in the *Code of Ethics and Arbitration Manual* of the National Association of REALTORS®. The parties acknowledge that the mediator is not providing legal representation, legal advice, or legal services, and that the parties are advised of their right to be represented by counsel at the mediation and of their right to obtain independent legal advice (if counsel are not at the mediation) before signing any final settlement agreement.

The entire mediation process and all statements, communications, discussions, and documents exchanged or generated in connection with any mediation shall be confidential. Evidence or information generated, submitted, or exchanged during a mediation conference may be used in an ethics hearing only to the extent that it was obtained independent of the mediation process. Any offers of settlement that were not accepted or any suggested resolutions proposed that were not accepted cannot be introduced as evidence nor considered in any manner should the matter require an arbitration or ethics hearing by the Board's Professional Standards Committee. However, if the parties agree to a settlement of the dispute, and the settlement is reduced to writing and has been signed by all the parties, the matter shall be considered resolved and shall not be the subject of a subsequent arbitration or ethics hearing. If either of the parties fails to abide by the terms of the settlement, the matter may not be arbitrated; instead, the other party should be encouraged to have the settlement agreement judicially enforced by a court of competent jurisdiction.

No aspect of this mediation conference shall be relied upon or introduced as evidence in any ethics, arbitration, judicial, or other proceeding, including, but not limited to: views expressed, or suggestions made by a party with respect to a possible settlement of the dispute; admissions made during the mediation; proposals made, or views expressed by the Mediator(s) or the response of any party thereto. No privilege shall be affected by disclosures made during mediation. Disclosure of any records, reports, or other documents received or prepared by the Board or Mediator(s) shall not be compelled. Neither the Board nor the Mediator(s) shall be compelled to disclose or to testify in any proceeding as to information disclosed or representations made during the mediation or communication to the Mediator(s) in confidence. Neither the Mediators(s), the Greater Albuquerque Association of REALTORS®, the New Mexico Association of REALTORS®, nor the National Association of REALTORS® or any of its Member Boards shall be deemed "necessary parties" in any judicial proceedings relating to mediation under this Agreement. The parties acknowledge that the mediation proceedings will not be recorded and that weapons of any type are prohibited.



Greater Albuquerque
Association of REALTORS®
Professional Standards Office
1635 University Blvd. NE
Albuquerque, NM 87102
505-724-3485

Are the circumstances giving rise to this request for Mediation the subject of civil or criminal litigation or in any proceeding before the state real estate licensing authority or any other state or federal regulatory or administrative agency? ☐ Yes ☐ No

If any party to this mediation wishes to be represented by an attorney and/or to have witnesses or others present at the mediation conference, they should notify the Association three (3) business days prior to the mediation, so that appropriate notice to the mediators and other participants can be provided. If adequate notice is not given, the non-party participants may not be included in the mediation conference. _____ (Initial)

By my signature on this Agreement to Mediate, I acknowledge my rights and agree to the terms of the mediation procedures as stated above. I hereby affirm that I have the authority to enter into and sign a binding written agreement to settle this dispute.

Mediation Participant:

(Type/Print Name)

(Signature) (Date)

Mediation Participant:

(Type/Print Name)

(Signature) (Date)

Mediation Participant:

(Type/Print Name)

(Signature) (Date)

Mediation Participant:

(Type/Print Name)

(Signature) (Date)

(Revised 4/21)

PROCESS OVERVIEW

Pre-mediation Preparation

- » Ten days prior to the session, the parties receive a letter explaining the mediation process and addressing logistical issues.
- » Parties agree to mediate.
- » Mediator is selected/appointed by random rotation, mutual request, or objection to a proposed mediator.
- » Arrangements are made via letter or telephone.
 - Pre-mediation concerns are addressed.
 - The date and time are typically scheduled at the convenience of the parties after receiving a request for arbitration or mediation, or following the grievance committee's determination of arbitrability.
- » Witnesses and/or attorneys may attend, but this is not necessary because the process is non-adversarial; there are no "findings of facts."
- » Information is exchanged.
 - Parties need not prepare exhibits or extensive documentation. If a document will clarify an issue, it may be used, but parties are reminded that mediation is not a fact-finding conference.

MEDIATION CONFERENCE

1. Mediator's opening statement/questions

Explain process and goals, including the mediator's and parties' roles, voluntariness (unless the association mandates mediation), neutrality, and confidentiality.

2. Parties' initial statements/questions

- Understanding perspectives
- Venting

3. Identification of issues

4. Create agenda

5. Cross-talk

Parties respond to each other and explain/explore information, needs, ideas and feelings.

6. Caucus (private meeting)

The mediator may meet privately with the parties to clarify needs, explore options for resolution, and discuss proposals.

7. Building an agreement

With the mediator's assistance, parties explore and refine workable solutions.

8. Conclusion

An agreement is reached or signed before leaving mediation, or all parties agree that no further progress can be made. In this case, the parties are free to pursue arbitration.

Code of Ethics

NATIONAL ASSOCIATION OF REALTORS®

MEDIATION

The Winning
Solution
for Buyers
and Sellers



NATIONAL
ASSOCIATION OF
REALTORS®



NATIONAL
ASSOCIATION OF
REALTORS®

©2023 NATIONAL ASSOCIATION OF REALTORS®
All rights reserved.
166-292 (07/23)

Even the best-intentioned buyers and sellers occasionally have honest disputes with other parties. There is an ongoing need for an efficient, economical mechanism to resolve such disputes. Arbitration is valuable, but mediation is simpler and easier.

WHAT IS MEDIATION?

"The act or process of mediating; intervention between conflicting parties to promote reconciliation, settlement, or compromise."

—Webster's Ninth New Collegiate Dictionary

- » Arbitration and mediation are valuable in resolving business disputes.
- » Both mediation and arbitration are private and neutral/with expertise.

But...

- » Mediation is an attractive alternative to arbitration.

WHY USE MEDIATION?

Mediation	Arbitration
Low or no cost	Moderate cost
Little delay	Moderate delay
Win/win outcome	Win/lose/split
Collaborative	Adversarial
Maximum range of solutions	Result limited to monetary award
Improves relationships	May damage relationships

KEY FEATURES

Voluntary*/Private Process

- » Parties decide to enter the mediation process, unless the association has adopted mandatory mediation.
- » Parties can leave the mediation process at any time.
- » Parties have complete control over the outcome.

Neutral/Impartial Mediator

- » Understands issues quickly because typically, the facilitator is familiar with real estate practices and customs.
- » Mediates only matters in which he/she remains neutral and impartial.
- » Discloses conflicts of interest (parties may agree to continue following disclosure or terminate session).
- » Facilitates and assists with negotiations – controls the process, not the substance.
- » Honors the concepts of self determination, respect, and civility.
- » Enhances the parties' abilities to understand their own and each other's needs.
- » Helps parties understand the alternatives to settling.
- » Should possess these qualities, according to William Simkin in *Settling Disputes*:
 - wisdom of Solomon
 - the hide of a rhinoceros
 - the patience of Job
 - abilities of a half-back
 - wit of the Irish

**Voluntary unless REALTORS® are required to mediate by their association*

CONFIDENTIAL PROCESS

- » Mediation is a confidential settlement process.
- » Neither the mediator nor the parties disclose the communications or conduct of the mediation, unless all parties agree (with limited exceptions, such as risk of harm).
- » Ethical violations discovered as a result of participation in the mediation are not reported.
- » Settlements discussed in mediation are not admissible in arbitration.
- » Generally a mediator is not a witness in arbitration or court.
- » Information gathered and exchanged may be used in arbitration only to the extent that it was obtained independently from the mediation process.

WHY MEDIATION WORKS

- » Most disputes are successfully resolved
- » High speed
- » Low or no cost
- » Flexible
- » Maintains/improves relationships
- » Improves poor communication/clarifies misunderstandings because parties come together and talk
- » Discovers/addressess the true interests of parties
- » Moves beyond different views of law/fact
- » Allows creative solutions beyond win/lose
- » Mediated resolution is just as binding and enforceable as an arbitration award

WHEN IT WILL NOT WORK

- » When a precedent is necessary
- » When there is no relationship and it is cheaper to contest the claim
- » When vindication/punishment remains the main objective
- » When the "jackpot syndrome" is involved (maximize/minimize recovery)

"Mediation is user friendly. It takes a potential conflict, turns it around and saves relationships."
—Larry Apple

"Mediation is the ONLY win/win solution in dispute resolution."
—Mike Wasmann

"Mediation lets participants accept responsibility for the outcome of their disputes, as opposed to relinquishing that authority to a third party."
—C. Hilea Walker

"Mediation is the best alternative because you have more control over the results, a better chance to communicate your story, and it strengthens REALTOR® relationships through mutual gain and satisfaction."
—Patrick Reilly

Mediation can save time and money, providing a quicker, easier, and more amicable means of resolving business disputes compared to arbitration.