

ARBITRATION PROCESS

NAR Code of Ethics and Arbitration Manual

Step #	Process Step
1	Initiating an Arbitration Request (AR) - Request must be in writing. Complainant completes Form A-1 or A-2 and attaches statement indicating nature of dispute, amount in dispute, and attaches any supporting documentation. Request is submitted to Professional Standards (PS) with the \$250 filing fee. Letter acknowledging receipt of AR will be sent to Complainant.
2	PSA and Grievance Committee (GC) Chair Review/Decision
2a	AR ready to forward to GC for next scheduled meeting. Note: Cases pending litigation are placed in abeyance; cases pending NMREC review may be processed
2b	Additional information is needed/requested
3	GC Review/Decision: GC Chair summarizes case to GC; GC discusses, hears motions and votes on case
3a	Forward to Professional Standards (PS) as mandatory or voluntary arbitration. Notice of AR and AR is sent to Respondent, requesting reply within 15 days along with \$250 filing fee. When Response is received, it is forwarded to Complainant. Outline of hearing procedure and challenge forms and disclosure of LC/witnesses are sent to parties; return of documents requested within 10 days Option of mediation discussed with both parties
3b	Classify AR mandatory or voluntary. GC Report Form will be sent to Complainant with appeal form; party has 20 days to appeal classification of the arbitration matter.
3c	Dismiss AR. GC Report Form is sent to Complainant with Appeal form; Complainant has 20 days to appeal dismissal of AR
3d	Place in abeyance (if litigation pending)
4	Appeal of GC Determination
4a	Appeal Filed. Board of Directors (Executive Committee or a minimum of five Directors or a quorum of Directors, whichever is less) reviews AR, GCRF, and appeal request. The Panel decides whether to uphold dismissal or reverse and send to PS for hearing OR decides whether to uphold or reverse classification of arbitration matter. If GC's decision to dismiss is upheld, Board's decision (Form A-21) is final. PSA notifies Complainant, and returns \$250 arbitration filing fee to Complainant. File is destroyed one year after decision final. If GC's decision is reversed or if GC's classification of the arbitration matter is changed, PSA notifies Complainant, and case is forwarded to PS for a hearing. Notice of AR and the AR is sent to Respondent, requesting reply within 15 days along with \$250 filing fee. When Response is received, it is forwarded to Complainant. Outline of hearing procedure and challenge forms and disclosure of LC/witnesses are sent to parties; return of documents requested within 10 days
4b	No appeal filed; case dismissed. PSA returns \$250 arbitration filing fee to Complainant. File destroyed one year after appeal period ended.
5	Prehearing Scheduled: Parties, PS Chair, Hearing Panel (HP) Chair, and PSA attend; Board's LC attends if either of the parties are represented by LC. (Everyone should bring their calendars.) Hearing procedures are discussed; procedural questions are answered; parties are asked if litigation pertaining to this matter is pending; mediation option is again reviewed; any remaining paperwork is completed; and hearing date is scheduled. Twenty-one-days' notice of hearing is provided to parties; new copies of AR and Response, all supporting documentation, and the outline of hearing procedure is forwarded to parties with notice. The case documentation is sent to the HP members at least seven (7) days prior to the hearing.
6	Hearing is scheduled: HP members sign Certification of Qualification (Form A-11). Hearing is conducted per the Arbitration Hearing Procedures (Forms A-10/A-10a) and the Chair's Procedural Guide: Conduct of an Arbitration Hearing. HP goes into Executive Session to make decision whether an award is due or not due based on the preponderance of evidence. The decision of the HP shall be made by simple majority vote and documented by stating the amount of the award and signed by all or a majority of the panel members. HP determines whether any arbitration filing fees will be returned to either party or retained by the Association.
7	Decision Transmitted; HP's award and Request for Procedural Review Form is mailed to parties. If award is rendered, the nonprevailing party must, within ten days following receipt of the award, either (1) pay the award to the party(ies) named in the award or (2) deposit the funds with the Association to be held in a special Association escrow account

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8	Request for Procedural Review: Parties have 20 days to file a request for procedural review. Request for procedural review should cite the alleged procedural deficiencies or other irregularities the party believes constituted a deprivation of due process. Request must be submitted with \$100 filing fee.
9	Procedural Review Period
9a	No request for procedural review is filed: the decision becomes final; arbitration filing fees are returned to prevailing party or placed in GAAR PS fee earnings account; award check is forwarded to prevailing party
9b	Request for procedural review filed (with required \$100 filing fee): Parties are provided at least ten days' notice of procedural review hearing, notice of right to challenge Tribunal members, and disclosure of LC; return of documents requested within five days. Original HP Chair and other parties to the original arbitration hearing are invited to procedural review to explain why the arbitration HP's award should be upheld. Procedural review hearing follows Chair's Procedural Guide: Conduct of an Procedural Review Hearing (Arbitration). Tribunal goes into Executive Session to make final decision.
10	Action of the Board (Tribunal Panel): Affirm the award of the arbitration HP or overturn the award based on a substantial procedural error or deprivation of due process. If overturned, the Board determines if the matter will be referred to PS for a new hearing on the merits before a different HP; the matter will be referred to the State Association for a new hearing on the merits before a different hearing panel by the State; or the parties will be released from their obligation to arbitrate and be free to pursue any other remedy that may be available to them.
11	Decision Transmitted: Notification of Board's decision is sent to parties, original HP Chair, and Board's LC. File destroyed one year after decision final.
	The NAR Code of Ethics and Arbitration Manual is the source material for the Ethics Complaint Flow Chart and Process Matrix. This checklist should not be used as the official authority regarding the process.
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