

Portland Metropolitan Association of Realtors®
150 SW Harrison, STE. 200, Portland OR 97201
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GUIDE TO FILING AN ARBITRATION REQUEST

Who can file an arbitration request?

An Arbitration Request may be filed by:

- REALTORS® who are principal brokers
- REALTORS® who are not principals, provided their principal broker joins in the request

Is your complaint Ethics or Arbitration?

Ethics - charges that a REALTOR® has violated an Article(s) of the National Association of REALTORS® Code of Ethics.

Arbitration - a dispute arising out of a real estate transaction, usually a commission dispute.

If your situation concerns both ethics and arbitration, they will be handled separately. Arbitration cases are always processed first. Only when the arbitration is completed, will the ethics complaint be considered.

Filing an arbitration request

1. Complete and sign the Request and Agreement to Arbitrate form (supplied by our office), indicating the REALTOR® in question as Respondent.
2. Indicate the amount in dispute.
3. Include an explanation of the situation. State why you feel you are entitled to an award of some kind. Do not include allegations of unethical violations. They must be handled separately as an ethics complaint.
4. Attach copies of any and all pertinent documents such as listing agreements, purchase and sale agreements, closing statements, addendums, etc. If you have notarized statements from witnesses, include those also.
5. Send all these items to the Portland Metropolitan Association of REALTORS at the address listed above along with the arbitration deposit of \$250.00.

Arbitration is not a disciplinary proceeding nor does it award damages. Be aware that not every situation may be arbitrated by the Association. There are conditions and limitations to be considered, which will be explained to you as the process continues. Remember, if you think the REALTOR(s) in your situation has also violated the Code of Ethics, you must complete an ethics complaint form.

The Process

There are two (2) committees of the Portland Metropolitan Association of REALTORS® that handle complaints. The Grievance Committee reviews the cases first and the Professional Standards Committee provides the panel to hear the complaints and render a decision.

The Grievance Committee reviews arbitration requests and may decide as follows:

- forward the case for a hearing as a properly arbitrable matter
- dismiss the case if:
 1. the amount requested is not within PMAR policy guidelines of \$1,000.00 minimum
 2. the complaint does not involve a properly arbitrable matter
 3. the complaint is a voluntary arbitration and one of the parties refuses to sign the arbitration agreement
 4. the complaint is from a REALTOR and was not signed by a REALTOR principal
 5. the issues involved are too technical or too legally complex for peer judgment
 6. the complaint was filed more than 180 days after the closing of the transaction or after the facts constituting the matter could have been known in the exercise of reasonable diligence. “Filed” is defined as the date received by PMAR.

In the event your case is forwarded on to hearing

- the respondent will be notified and an agreement to arbitration will be requested, along with a \$250.00 deposit
- all parties will be sent a list of the Professional Standards Committee, along with a form to challenge any of the members serving on the hearing panel
- all parties will be given 21 days notice of the hearing date
- an Outline of Procedures will be included in materials you receive prior to the hearing

The function of the Professional Standards Committee is to hold ethics and arbitration hearings. These hearings provide an opportunity for the Complainant and the Respondent to explain “his/her side of the story” by presenting testimony and witnesses, if any. Once all the facts have been presented, the Hearing Panel will determine how the dispute should be settled.

Please note that all parties will be required to attend the hearing and present their case to the hearing panel.

What the Association can and cannot do

In Arbitration cases the Association:

- **can** - arbitrate certain money disputes, and must in some situations
- **cannot** - award damages
- **cannot** - award more than the amount in dispute

A REALTOR® association does have limitations to its authority. We cannot try a member for violation of the law or any alleged violations of the law. We cannot suspend or terminate a real estate license. The Real Estate Agency has jurisdiction over real estate licenses and should be contacted for violations of the law at 503-378-4170.

You will be informed by the Association office about each step of the process as it occurs. Please contact PMAR at 503-459-2156, if you are interested in participating in voluntary mediation of this dispute. PMAR can provide you with information about the informal mediation process that is offered to its members.

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REQUEST AND AGREEMENT TO ARBITRATE

1. The undersigned, by becoming and remaining a member of the Portland Metropolitan Association of REALTORS® (or Participant in its MLS), has previously consented to arbitration through the Association under its Rules and Regulations.
2. I am informed that each person named below is a member in good standing of the Association (or Participant in its MLS), or was a member of said Association of REALTORS® at the time the dispute arose.
3. A dispute arising out of the real estate business as defined by Article 17 of the Code of Ethics exists between me and (or my firm) and (list all persons and/or firms you wish to name as Respondents to this arbitration):

_____, Realtor® principal _____
 Name address

_____, Realtor® principal _____
 Name address

 Firm Address

(NOTE: Arbitration is generally conducted between Realtor® Principals or between firms comprised of Realtor® Principals. Naming a Realtor® Principal as respondent enables the complainant to know who will participate in the hearing from the respondent's firm; naming a firm may increase the likelihood of collecting any resulting award.)

4. There is due, unpaid and owing to me (or I retain) from the above-named persons the sum of \$_____. My claim is predicated upon the statement attached, marked Exhibit 1 and incorporated by reference into this application. The disputed funds are currently held by _____.

Parties are strongly encouraged to provide any and all documents and evidence they intend to introduce during the hearing to the other party(ies) and to the association prior to the day of the hearing. Providing documents and evidence in advance can expedite the hearing process and prevent costly, unnecessary continuances.

5. I request and consent to arbitration through the Association in accordance with its *Code of Ethics and Arbitration Manual* (alternatively, "in accordance with the professional standards procedures set forth in the Bylaws of the Association"). I agree to abide by the arbitration award and, if I am the non-prevailing party, to, within ten (10) days following transmittal of the award, either (1) pay the award to the party(ies) named in the award or (2) deposit the funds with the Professional Standards Administrator to be held in an escrow or trust account maintained for this purpose. Failure to satisfy the award or to deposit the funds in the escrow or trust account within this time period may be considered a violation of a membership duty and may subject the member to disciplinary action at the discretion of the Board of Directors consistent with Section 53, The Award, Code of Ethics and Arbitration Manual. In event I do not comply with the arbitration award and it is necessary for any party to this arbitration to obtain

judicial confirmation and enforcement of the arbitration award against me, I agree to pay the party obtaining such confirmation the costs and reasonable attorney's fees incurred in obtaining such confirmation and enforcement.

6. I enclose my check in the sum of \$250.00 for the arbitration filing fee.

7. I understand that I may be represented by counsel, and that I should give written notice no less than 15 days before the hearing of the name, address and phone number of my attorney to all parties and the Association. Failure to provide this notice may result in a continuance of the hearing, if the Hearing Panel determines that the rights of the other party(ies) require representation.

8. Each party must provide a list of the names of witnesses he intends to call at the hearing to the Association and to all other parties not less than 15 days prior to the hearing. Each party shall arrange for his witnesses to be present at the time and place designated for the hearing. The following Realtor® nonprincipal affiliated with my firm has a financial interest in the outcome of the proceeding and may be called as a witness, and has the right to be present throughout the hearing: _____

All parties appearing at a hearing may be called as a witness without advance notice.

9. I declare that this application and the allegations contained herein are true and correct to the best of my knowledge and belief and this request for arbitration is filed within one hundred eighty (180) days after the closing of the transaction, if any, or within one hundred eighty (180) days after the facts constituting the arbitrable matter could have been known in the exercise of reasonable diligence, whichever is later. Date(s) alleged dispute took place _____

10. If either party to an Arbitration Request believes that the Grievance Committee has incorrectly classified the issue presented in the request (i.e., mandatory or voluntary), the party has 20 days from the date of transmittal of the Grievance Committee's decision to file a written appeal of the decision. Only those materials that the Grievance Committee had at the time of its determination may be considered with the appeal by the Board of Directors.

11. Are the circumstances giving rise to this arbitration request the subject of civil litigation? _ Yes _ No.

12. Important note related to arbitration conducted pursuant to Standard of Practice 17-4 (1) or (2): Where arbitration is conducted between two (or more) cooperating brokers pursuant to Standard of Practice 17-4 (1) or (2), the amount in dispute and the amount of any potential resulting award is limited to the amount paid to the respondent by the listing broker, seller, or landlord and any amount credited or paid to a party to the transaction at the direction of the respondent.

13. Address of the property in the transaction giving rise to this arbitration request:

14. The sale/lease closed on: _____

15. Agreements to arbitrate are irrevocable except as otherwise provided under state law.

COMPLAINANT(S):

Signature of Realtor® principal

Signature of Realtor® principal

Name (Type or Print)

Name (Type or Print)

Street Address

Street Address

City State Zip Code

City State Zip Code

Phone

Phone

Email

Email

Name of Firm

Name of Firm