

Grievance Committee Arbitration Checklist

[This form is designed to be used prior to and during Grievance Committee meetings while considering individual Arbitration Requests.]

In the case of _____ v. _____
Complainant(s) Respondent(s)

1. Is the request in proper form?
 - a) Does it name a REALTOR® principal? * _____
 - b) Does it ask for a specific amount? _____ How much? _____
 - c) Is it signed? _____
 - d) Is a deposit included? _____ How much? _____

2. Who is the dispute **between**? (For example, listing REALTOR® and cooperating REALTOR®, client and REALTOR®, etc) _____

3. Is the complainant entitled to request arbitration from the Association? Yes _____ No _____

4. What is the dispute about? (What does the Complainant want from the Respondent?)

5. What is *each party's role* in the matter (buyer - seller- listing agent - coop. agent, etc.)
Complainant _____
Complainant _____
Respondent _____
Respondent _____

6. Are the necessary parties named in the complaint? (a principal REALTOR and a party with whom that principal has a contractual relationship or specific non-contractual issue in dispute?)
7. Yes _____ No _____

7. Did the transaction close? Yes _____ No _____ If yes, when?

8. Was the request filed within 180 days after the closing of the transaction, if any, or within 180 days after the facts constituting the arbitrable matter could have been known in the exercise of reasonable diligence, whichever is later? Yes ___ No ___ If no, dismiss.

*A named principal(s) is necessary unless the association has opened its MLS to non-members, in which case a non-member principal could be named.

NOTE: "Principal" is defined as a principal, partner, corporate officer or branch office manager standing in the shoes of the owners of a real estate firm.

For more details, please consult the Manual, Section 26 (k).

9. If facts alleged are taken true on their face, **and is it properly arbitrable** (aka "contractual dispute), according to one of the situations described below?
- a dispute between listing and cooperating broker regarding compensation offered through MLS or otherwise
 - a dispute between cooperating brokers over entitlement to a compensation offered through MLS or otherwise
 - a dispute arising from the listing contract between seller and listing broker
 - a dispute arising from a buyer-broker agreement between the buyer and the buyer's broker
 - a dispute between a client or customer and a principal REALTOR® where the client or customer has been **promised** payment from the REALTOR® for a specific purpose related to the transaction in some way - [NOTE: NAR does not generally view a claim made by a client or customer concerning alleged misrepresentation made by a REALTOR® principal to fall within the definition of an "arbitrable matter" or "contractual dispute" and has stated that such business disputes do not require arbitration, but may be arbitrated on a voluntary basis.
 - other (e.g., dispute over commissions between REALTORS® in the same firm)

Does the dispute involve one of the above? ___ Yes ___ No If no, dismiss the request.

10. If yes to #9, (an arbitrable matter exists), are the parties required to arbitrate (a) or is participation voluntary? (b) (see below for explanations)
- a. The matter describes a **mandatory arbitration** situation if it involves a dispute:
- between REALTOR® principals of different firms
 - between a REALTOR® (other than a principal) or REALTOR-ASSOCIATE® and a REALTOR® (other than a principal) or REALTOR-ASSOCIATE® in a different firm provided the principal joins in the request and requests arbitration with the principal broker of the other firm.
 - between a client and a REALTOR® principal if the client agrees to be bound by the arbitration.
- b. The matter describes a **voluntary arbitration** situation if it involves a business dispute:
- between REALTORS®, REALTOR-ASSOCIATE®s (non-principals) affiliated with the same firm. (REALTOR® principal must be involved.)
 - between REALTORS® (principals) and non-member brokers.
 - between a customer and a REALTOR® principal if a contractual relationship has been created by a REALTOR® principal between a customer and a client and all parties agree to be bound by the decision
11. Is litigation pending? Yes _____ No _____ If yes, refer to Section 42 (B5) of the Manual.
12. Is there any reason to conclude the Association cannot provide an impartial panel? Yes ___ No ___ (If yes, where should it be referred?) _____

13. Are there a sufficient number of arbitrators available? Yes ___ No ___ (If no, should the President appoint additional qualified arbitrators or should it be referred elsewhere?)
14. Is the amount involved too small, or too large to arbitrate? Yes ___ No ___ (If yes, dismiss.)
15. Is the matter too legally complex? Yes ___ No ___ (If yes, dismiss.)