

MEDIATION

Dispute Resolution System Rules and Procedures (DRS)

1. **Agreement of Parties:** These Procedures apply when the parties have agreed in writing to mediate under DRS. The written agreement can be achieved by a standard clause in an agreement of sale, an addendum to an agreement of sale, or through a separate written agreement.
2. **Initiation of Mediation:** If a dispute exists, any party may start the mediation process by submitting a fully completed request for Mediation Transmittal Form to the local Association of REALTORS® (hereafter called the Administrator)
3. **Upon receipt of the request for mediation the administrator will send confirmation to both parties along with the list of approved mediators. The list is comprised of both Attorneys and trained Realtor® mediators. Each party then has ten (10) days to review the list of mediators, cross off the name of any mediator to whom the party has a known conflict of interest, sign and return the list to the Administrator. The Administrator will appoint the first available mediator who is acceptable to all parties involved. A mediator who has any financial or personal interest in the dispute or the results of the mediation cannot serve as mediator to that dispute and will recuse themselves from participating.**
4. **Mediator Fees:** Mediation fees will be divided equally among the parties and will be paid before the mediation conference directly to the Mediator. The parties will follow the payment terms contained in the mediator's fee schedule and as instructed by the letter provided by the Administrator.
5. **Time and Place of Mediation Conference:** Within ten days of being appointed to the dispute, the mediator will contact the parties and set the date, time and place of the mediation conference. The mediator must give at least twenty days' advance notice to all parties. The mediation conference should not be more than sixty days from the mediator's appointment to the dispute.
6. **Conduct of Mediation Conference:** The parties attending the mediation conference will be expected to:
 1. Have the authority to enter into and sign a binding settlement to the dispute.
 2. Produce all information required for the mediator to understand the issues of the dispute. The information may include relevant written materials, as well as descriptions of witnesses and the content of their testimony, whether or not they will be appearing at the mediation conference. The mediator can require the parties to deliver written materials and information before the date of the mediation conference.

The mediator presiding over the conference:

1. Will impartially conduct an orderly settlement negotiation.
2. Will help the parties define the matters in dispute and reach a mutually agreeable solution.
3. Will have no authority to render an opinion, to bind the parties to his or her decision, or to force the parties to reach a settlement.

Formal rules of evidence will not apply to the mediation conference.

7. **Representation by Counsel:** Any party who intends to be accompanied to the mediation conference by legal counsel will notify the mediator and the other parties of the intent at least ten days before the conference.
8. **Confidentiality:** No aspect of the mediation can be relied upon or introduced as evidence in any arbitration, judicial or other proceeding.
 - This includes, but is not limited to, any opinions or suggestions made by any party regarding a possible settlement; any admissions made during the course of the mediation; any proposals or opinions expressed by the mediator; and any responses given by any party to opinions, suggestions, or proposals.
 - No privilege will be affected by disclosures made in the course of the mediation.

- Transcripts or recordings of the mediation will not be allowed without the prior, written consent of all parties and the mediator.
 - Records, reports, and other documents received or prepared by the mediator or Administrator cannot be compelled by an arbitration, judicial, or other proceeding, with the exception of an Agreement that was reached in the course of mediation and signed by all the parties.
 - Neither the mediator nor the Administrator can be compelled to testify in any proceeding regarding information given or representations made either in the course of the mediation or in any confidential communication.
9. Mediated Settlement: When a dispute is resolved through mediation, the mediator will put the complete agreement in writing and all parties will sign the written agreement within ten days of the conclusion of the mediation conference. Every reasonable effort will be made to sign the written agreement at the end of the conference.
10. Judicial Proceedings and Immunity: NEITHER THE ADMINISTRATOR, THE MEDIATOR, THE NATIONAL ASSOCIATION OF REALTORS, THE PENNSYLVANIA ASSOCIATION OF REALTORS, NOR ANY OF ITS MEMBER BOARDS, SHALL BE DEEMED NECESSARY OR INDISPENSABLE PARTIES IN ANY JUDICIAL PROCEEDINGS RELATING TO MEDIATION UNDER THESE RULES AND PROCEDURES, NOR SHALL ANY OF THEM SERVING UNDER THESE PROCEDURES BE LIABLE TO ANY PARTY FOR ANY ACT, ERROR OR OMISSION IN CONNECTION WITH ANY SERVICE OR THE OPERATION OF THE HOME SELLERS/HOME BUYERS DISPUTE RESOLUTION SYSTEM.