

## ARBITRATION PROCEDURES

Arbitration complaint form must be accompanied by the \$500.00 non-refundable filing fee, payable to the SANTA CLARA COUNTY ASSOCIATION OF REALTORS®. However, if the parties are able to come to a settlement prior to 24 hours or more prior to the hearing, 50% (\$250) of the filing fee will be refunded to the filing party. The complaint and response must be printed and on Association forms. If a cross complaint is included in the response, the \$500.00 cross complaint non-refundable filing fee, payable to the SANTA CLARA COUNTY ASSOCIATION OF REALTORS®, must be included. However, if the parties are able to come to a settlement prior to 24 hours or more prior to the hearing, 50% (\$250) of the filing fee will be refunded to the party filing the cross complaint. Exhibits submitted with complaint and response must be original documents or legible copies.

**If anyone other than the responsible broker files an arbitration complaint, the responsible broker for that member must join as a complainant and sign all documents.**

A complaint meeting all filing requirements must be filed within one hundred and eighty (180) calendar days after the facts constituting the matter complained of could have been known in the exercise of reasonable diligence or one hundred eighty (180) days after the conclusion of the transaction, or event, whichever is later.

**Duty to Arbitrate; Disputes Subject to Arbitration, Section 42 of the California Code of Ethics and Arbitration Manual.** By becoming and remaining a member of an Association and by signing or having signed the agreement to abide by the Association bylaws, every member binds him or herself and the corporation or firm for which he or she acts, and agrees to submit to binding arbitration, at the local Association where all parties are members or C.A.R. All disputes as defined by Article 17 of the NAR Code of Ethics and as set forth in the provisions (subject to the conditions or exceptions listed in this Section). Disputes subject to arbitration include: 1) disputes with other members arising out of the real estate business and their relationship as REALTORS® and 2) contractual disputes with a member's client arising out of an agency relationship between the member and client provided the client agrees to submit the dispute to binding arbitration using the Association's facilities and be bound by the arbitration agreement within the meaning of Part 3, Title 9 of the California Code of Civil Procedure.

The response is due within **fifteen (15) days** after the date of Notice to Respondent is mailed.

Complainant and Respondent have the right to challenge qualification of Panel members for cause and disqualify any dates within a specified time period when they

would be unavailable for hearing. If either of the parties fail to challenge the qualification of any tribunal or disqualify any dates within **fifteen (15) days** after the forms are mailed, the tribunal will be appointed by the Chairperson of the Arbitration & Professional Standards Committee. The video conference hearing will be scheduled on a date within the time period specified.

Complainant and Respondent will be notified in writing, at least **twenty-one (21) days** in advance of the time, date and place of the video conference hearing. The hearing will be tape-recorded and a copy of the tape will be available to any party, at Association cost. Legal counsel may represent both parties.

Association and the other party must receive a notice of intent to be represented by legal counsel **at least fifteen (15) days prior to the hearing**. Failure to give adequate notice may result in the continuance of the hearing and a continuance fee imposed against the party failing to give adequate notice.

All requests for continuance of a hearing must be in writing and must state the reason for the request. All parties must mutually agree to a subsequent specified date or when the Professional Standards Chairperson, his or her designee, or the hearing panel chair determines that denying the request for continuance would deny the requesting party a fair hearing. The first request for continuance is free with good cause and \$150 without good cause, the second request is \$250, the third request is \$400. Please see the California Code of Ethics and Arbitration Manual for a description of the valid request for continuances, Section 7.

It is the responsibility of each party to arrange for their witnesses to be present at the time and place designated for the hearing. Parties are responsible to bring with them all evidence and written documents pertinent to the arbitration. If video hearing is being held new documents should be sent to the staff coordinator at least 3 days prior to the video hearing.

All hearings will be conducted in the English language. Interpreters are allowed to assist any party or witness at the hearing. Arrangements for having an interpreter present is the responsibility of the party requiring such services and the cost for the same shall be paid by that party.