

COMMERCIAL

# Commercial

Mediation Procedures and Costs



**American Arbitration Association<sup>®</sup>**

Available online at **[adr.org/commercial](https://adr.org/commercial)**

Amended and Effective June 1, 2026

If you would like to speak to a member of the AAA Commercial Team, please visit <https://go.adr.org/commercial-contact.html>.

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# Commercial Mediation Procedures and Costs



## M-1. Agreement of Parties\*

The parties shall be deemed to have made these Procedures a part of their dispute resolution agreement whenever, by stipulation or in their contract, they have provided for mediation or conciliation of existing or future disputes to be administered by the American Arbitration Association (AAA) or under these Procedures. Where parties agree to mediate under these Procedures, they are deemed to have agreed to have AAA administer the mediation. Unless the parties agree otherwise in writing, the Procedures and any amendment to them shall apply in the form in effect as of the date of filing of a request for mediation.

The parties by written agreement, may vary any part of these Procedures including, but not limited to, agreeing to conduct the mediation via telephone or other electronic or technical means.

## M-2. Initiation of Mediation

Any party or parties to a dispute may initiate mediation with the AAA by filing a Request for Mediation online via AAA WebFile® at [www.adr.org](http://www.adr.org), via email to [casefiling@adr.org](mailto:casefiling@adr.org), or by mail to:

### **American Arbitration Association**

Case Filing Services

120 Broadway

Floor 21 - Intake

New York, NY 10271

*If a contract calls for the Commercial Mediation Procedures, and the dispute is between a consumer and a business or between an online marketplace or platform and an individual user or subscriber (using or subscribed to the service as an individual and not incorporated) and the dispute does not involve work or work-related claims, the AAA has the discretion to apply the Consumer Mediation Procedures and Consumer Fee Schedule.*

*If the dispute is between an individual employee or an independent contractor (working or performing as an individual and not incorporated) and a business or organization and the dispute involves work or work-related claims, including any statutory claims and including work-related claims under independent contractor agreements, the AAA has the discretion to apply the Employment/Workplace Mediation Procedures and Employment/Workplace Fee Schedule.*

*If a contract calls for the Consumer Mediation Procedures, and the dispute is not between a consumer and a business, the AAA has the discretion to apply the Commercial Mediation Procedures and Commercial Fee schedule.*

The party initiating the mediation shall simultaneously notify the other party or parties of the request. The initiating party shall provide the following information to the AAA and the other party or parties as applicable:

- (i) A copy of the mediation provision of the parties' contract or the parties' stipulation to mediate.
- (ii) The names, mailing addresses, email addresses, and telephone numbers of all parties to the dispute and representatives, if any, in the mediation.
- (iii) A brief statement of the nature of the dispute and the relief requested.
- (iv) Any specific qualifications the mediator should possess.

### M-3. Representation

Subject to any applicable law, any party may be represented by persons of the party's choice. The names and addresses of such persons shall be communicated in writing to all parties and to the AAA.

### M-4. Appointment of the Mediator

If the parties have not agreed on the mediator to be appointed and have not provided any other method of appointment, the mediator shall be appointed in the following manner:

- (i) Upon receipt of a request for mediation, the AAA will direct each party to the AAAi Mediator Search Tool. The parties are encouraged to meet and confer to agree on a mediator identified through the search tool and to notify the AAA of their mutual selection by the deadline the AAA set.
- (ii) If the parties are unable to agree on a mediator through use of the search tool, the parties may request that the AAA provide a list of mediators drawn from the AAA Panel of Mediators. The parties are encouraged to meet and confer to agree on a mediator from the list and to advise the AAA of their agreement.
- (iii) If the parties are still unable to agree on a mediator after conferring regarding the mediator list, one of the following procedures shall apply:
  - (a) The parties may mutually agree that the AAA administratively appoint the mediator; or,
  - (b) Each party shall strike the names of any unacceptable mediators from the list, rank the remaining mediators in order of preference, and return the completed list to the AAA within the time specified. If a party fails to return the list within the prescribed time, all mediators on the list shall be deemed acceptable to that party. From the mediators mutually approved by the parties, and in accordance with the highest order of mutual preference, the AAA shall invite a mediator to serve.

## M-5. Mediator's Impartiality and Duty to Disclose

AAA mediators are required to abide by the *Model Standards of Conduct for Mediators* in effect at the time a mediator is appointed to a case. Where there is a conflict between the *Model Standards* and any provision of these Procedures, these Procedures shall govern. The *Model Standards* require mediators to (i) decline a mediation if the mediator cannot conduct it in an impartial manner, and (ii) disclose, as soon as practicable, all actual and potential conflicts of interest that are reasonably known to the mediator and could reasonably be seen as raising a question about the mediator's impartiality.

Prior to accepting an appointment, AAA mediators are required to make a reasonable inquiry to determine whether there are any facts that a reasonable individual would consider likely to create a potential or actual conflict of interest for the mediator. AAA mediators are required to disclose any circumstance likely to create a presumption of bias or prevent a resolution of the parties' dispute within the timeframe desired by the parties. Upon receipt of such disclosures, the AAA shall immediately communicate the disclosures to the parties for their comments.

The parties may, upon receiving the mediator's disclosure of actual or potential conflicts of interest waive such conflicts and proceed with the mediation. In the event that a party disagrees as to whether the mediator shall serve, or in the event that the mediator's conflict of interest might reasonably be viewed as undermining the integrity of the mediation, the AAA shall remove and replace the mediator in accordance with section M-4.

## M-6. Vacancies

If any mediator becomes unwilling or unable to serve, the AAA will remove and replace the mediator, unless the parties agree otherwise, in accordance with section M-4.

## M-7. Duties and Responsibilities of the Mediator

- (i) The mediator shall conduct the mediation based on the principle of party self-determination. Self-determination is the act of coming to a voluntary, uncoerced decision in which each party makes free and informed choices as to process and outcome.

- (ii) The mediator is authorized to conduct separate or *ex parte* meetings and other communications with the parties and/or their representatives, before, during, and after any scheduled mediation conference. Such communications may be conducted via telephone, in writing, via email, online/virtually, in person or otherwise.
- (iii) The parties are encouraged to exchange all documents pertinent to the relief requested. The mediator may request the exchange of memoranda on issues, including the underlying interests and the history of the parties' negotiations. Information that a party wishes to keep confidential may be sent to the mediator, as necessary, in a separate communication with the mediator.
- (iv) The mediator does not have the authority to impose a settlement on the parties but will attempt to help them reach a satisfactory resolution of their dispute. Subject to the discretion of the mediator, the mediator may make oral or written recommendations for settlement to a party privately or, if the parties agree, to all parties jointly.
- (v) In the event a complete settlement of all or some issues in dispute is not achieved within the scheduled mediation session(s), the mediator may continue to communicate with the parties, for a period of time, in an ongoing effort to facilitate a complete settlement.
- (vi) The mediator is not a legal representative of any party and has no fiduciary duty to any party.

## M-8. Responsibilities of the Parties

The parties shall ensure that appropriate representatives of each party, having authority to consummate a settlement, attend the mediation conference.

Prior to and during the scheduled mediation conference session(s) the parties and their representatives shall, as appropriate to each party's circumstances, exercise their best efforts to prepare for and engage in a meaningful and productive mediation.

## M-9. Privacy

Mediation sessions and related mediation communications are private proceedings. The parties and their representatives may attend mediation sessions. Other persons may attend only with the permission of all parties and with the consent of the mediator.

## M-10. Confidentiality

Subject to applicable law or the parties' agreement, the mediator shall not divulge any confidential information disclosed to them by the parties or by other participants (such as witnesses) in the course of the mediation. The mediator shall maintain the confidentiality of all information obtained in the mediation, and all records, reports, or other documents the mediator received while serving in that capacity shall be confidential.

The mediator shall not be compelled to divulge such records or to testify in regard to the mediation in any adversary proceeding or judicial forum.

The parties shall maintain the confidentiality of the mediation and shall not rely on, or introduce as evidence in any arbitral, judicial, or other proceeding the following, unless agreed to by the parties or required by applicable law:

- (i) Views expressed or suggestions made by a party or other participant with respect to a possible settlement of the dispute;
- (ii) Admissions made by a party or other participant in the course of the mediation proceedings;
- (iii) Proposals made or views expressed by the mediator; or
- (iv) The fact that a party had or had not indicated willingness to accept a proposal for settlement made by the mediator.

## M-11. No Stenographic Record

There shall be no stenographic record of the mediation process.

## M-12. Termination of Mediation

The mediation shall be terminated:

- (i) By the execution of a settlement agreement by the parties; or
- (ii) By a written or verbal declaration of the mediator to the effect that further efforts at mediation would not contribute to a resolution of the parties' dispute; or
- (iii) By a written or verbal declaration of all parties to the effect that the mediation proceedings are terminated; or
- (iv) When there has been no communication between the mediator and any party or party's representative for 21 days following the conclusion of the mediation conference.

### M-13. Exclusion of Liability

Neither the AAA nor any mediator is a necessary party in judicial proceedings relating to the mediation. Neither the AAA nor any mediator shall be liable to any party for any error, act or omission in connection with any mediation conducted under these Procedures. Parties to a mediation under these Procedures may not call the mediator, the AAA, or AAA employees as a witness in litigation or any other proceeding relating to the mediation. The mediator, the AAA and AAA employees are not competent to testify as witnesses in any such proceeding.

### M-14. Interpretation and Application of Procedures

The mediator shall interpret and apply these Procedures insofar as they relate to the mediator's duties and responsibilities. All other procedures shall be interpreted and applied by the AAA.

### M-15. Deposits

Unless otherwise directed by the mediator, the AAA will require the parties to deposit in advance of the mediation conference such sums of money as the AAA, in consultation with the mediator, deems reasonable to cover the costs and expenses of the mediation. The AAA shall render an accounting to the parties and return any unexpended deposit balance at the conclusion of the mediation.

### M-16. Expenses

All expenses of the mediation, including required traveling and other expenses or charges of the mediator, shall be borne equally by the parties unless they agree otherwise. The expenses of participants for either side shall be paid by the party requesting the attendance of such participants.

### M-17. Cost of the Mediation

Each party to the dispute is responsible for a \$350 non-refundable mediation filing fee, in addition to the mediator's compensation.

The mediation filing fees are due at the time the mediation is filed. The mediation filing fee does not apply where the parties to the mediation have an active AAA-ICDR arbitration in which they have met all filing requirements.

The mediator's compensation rates are stated on the mediator's AAA-ICDR resume; those rates include both the mediator's compensation and the AAA-ICDR's administrative fee. Expenses referenced in Section M-16 of the Mediation Procedures may also apply. Unless otherwise directed by the mediator, the AAA-ICDR will require the parties to deposit in advance of the mediation conference such sums of money as the AAA-ICDR, in consultation with the mediator, deems reasonable to cover the costs and expenses of the mediation.

If a mediation matter is withdrawn or canceled, or the parties settle after filing the request to initiate mediation, the AAA-ICDR will retain the per-party \$350 non-refundable mediation filing fee and will bill the parties for any mediator time and expenses incurred.

If you have questions about mediation costs or services, visit [www.adr.org/mediation](http://www.adr.org/mediation) or contact [mediationservices@adr.org](mailto:mediationservices@adr.org).





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