

**Indiana Association of REALTORS®****Outline of Procedure for Arbitration Hearing**

*(To be Transmitted in Advance to Both Parties with Arbitration Guidelines and Worksheet)*

**Remote testimony:** Hearings may be held in person, virtually, or a combination thereof. If the hearing is in person, testimony provided in the physical presence of the Hearing Panel is preferred, however, parties and witnesses to arbitration hearings may be permitted to participate virtually in hearings at the discretion of the Hearing Panel Chair. Associations may, at their sole discretion, hold hearings where all parties must participate virtually.

**Postponement of hearing:** Postponement may be granted if there are extenuating circumstances. Parties' requests for continuances shall only be granted when all parties mutually agree to a subsequent specified date, or when the hearing panel chair determines that denying the continuance would deny the requestor a fair hearing. Requests for postponement must be made in writing. Permission can be given by the Chairperson. All parties shall be advised of the date of the rescheduled hearing.

**Recording the hearing:** The Board shall record the proceeding. No party may have a court reporter or recorder present. Videotaping is not permitted except with the advance express consent of the parties and the panelists. Any and all recordings shall be conducted in accordance with state law. Copies of any recording or transcription are to be used only for the purpose of appeals or procedural reviews. Appeals and limited procedural reviews shall not be recorded by the Board or the parties.

**Method and objective of procedure:** The Hearing Panel shall not be bound by the rules of evidence applicable in courts of law but shall afford all parties a full opportunity to be heard, present witnesses, and offer evidence, subject to its judgement as to relevance.

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. Evidence submitted to the association but not provided to the other party(ies) will be provided to the other party(ies) by the association at the time of the submission. Evidence submitted at the hearing will be evaluated for admissibility by the hearing panel.

**Due process procedure:** *The hearing procedures will be:*

1. Opening statement by Chairperson – cite authority to hear case and explain reason for hearing.
2. The arbitration request will be read into the record.
3. The testimony of all parties and witnesses will be sworn or affirmed. All witnesses will be excused from the hearing except while testifying.
4. Opening statement first by complainant and then by respondent, briefly explaining the party's basic position.

5. The parties will be given an opportunity to present evidence and testimony on their behalf and they may call witnesses. All parties appearing at a hearing may be called as a witness without advance notice.
6. The parties and their legal counsel will be afforded an opportunity to examine and cross-examine all witnesses and parties.
7. The panel members may ask questions at any time during the proceedings.
8. The Chairperson may exclude any question ruled to be irrelevant or argumentative.
9. Each side may make a closing statement. The complainant will make the first closing statement and the respondent will make the final closing statement.
10. Adjournment of hearing.
11. The Hearing Panel will go into executive session to decide the case.

**Settlement:** The parties are encouraged to settle the dispute at any time. At the outset of the hearing, the Hearing Panel Chair should inform the parties that settlement is an option. At any time during the hearing, the parties can ask for a recess in an attempt to reach a settlement agreement. The parties, with the assistance of their respective counsel, if any, will determine the terms of their settlement agreement.

**Award in arbitration hearing:** The decision of the Hearing panel in an arbitration proceeding shall be reduced to writing (setting forth only the amount of the award by the panel) and signed by the arbitrators or a majority of them, and a copy shall be furnished to each of the parties to the arbitration. A copy also shall be filed with the Secretary of the Board.

**Use of legal counsel:** A party may be represented in any hearing by legal counsel. However, parties may not refuse to directly respond to requests for information or questions addressed to them by members of the panel except on grounds of self-incrimination, or on other grounds deemed by the panel to be appropriate. In this connection, the panel need not accept the statements of counsel as being the statements of counsel's client if the panel desires direct testimony. Parties shall be held responsible for the conduct of their counsel. Any effort by counsel to harass, intimidate, coerce, or confuse the proceedings, shall be grounds for exclusion of counsel. The decision to exclude counsel for any of the foregoing reasons shall be the result of a majority vote of the members of the panel and shall be nonappealable. In the event counsel is excluded, the hearing shall be postponed to a date certain not less than fifteen (15) nor more than thirty (30) days from date of adjournment to enable the party to obtain alternate counsel provided, however, that such postponement shall not be authorized if it appears to members of the panel that the action of counsel has been undertaken by counsel to obtain a postponement or delay of the hearing.

**Be advised that all matters discussed are strictly confidential.**

*(Revised 11/21) Code of Ethics and Arbitration Manual)*