ADMINISTRATIVE PROCESSING OVERVIEW

MEDIATION

Case No._____,

VS.	
Complainants	**Respondents**

Notes:

The preferred method for serving notices in the arbitration procedure is email, as set forth in Section 48 of the *Manual*.

Complainant Party includes all named complainants, their legal counsel, if any, and the broker's representative, if any.

Respondent Party includes all named respondents, their legal counsel, if any, and the broker's representative, if any.

ACTION
Parties Agree to Mediate ☐ Once all Parties have submitted their M-1 *Request for Mediation,* send notice to all Parties that a Mediation Conference will be scheduled and include: 1. A-4 *Availability for Hearing* 2. List of Potential Mediators 3. A-5 *Notice of Right to Challenge and Reasons for Challenge*
Schedule Mediation Conference ☐ After the timeframe for the parties to submit their challenges to the proposed mediators and availability for hearing has expired, select (or have your Professional Standards Committee Chairperson select) your Mediator from the final list of proposed mediators and schedule the mediation date and time based on the availability of the parties and panel. • ***Note:*** A party's right to disqualify a proposed neutral mediator is waived if the party fails to deliver timely Form A-5.
Official Notice of Mediation Conference ☐ Once the hearing date, time and panel have been secured, send the parties the **Official Notice of Mediation Packet,** which includes: 1. M-2 *Official Notice of Mediation Conference;* 2. M-3 *Mediation Confidentiality Agreement.*
Materials to Mediator ☐ Prepare a case file for the Mediator, including the complaint, response, relevant correspondence between the Association and the parties, and the following forms: 1. M-2 *Notice of Mediation Conference;* 2. M-3 *Mediation Confidentiality Agreement;* 3. M-4 *Mediation Agreement and Stipulated Arbitration Award;* 4. M-5 *No Settlement at Mediation.*

Important Pre-Mediation Deadlines

At least:

- ☐ 21 days prior to the Mediation, Parties must be notified of the Mediation date, time, location and panel members.
- ☐ 15 days prior to the Mediation, Parties must notify all other Parties and Association staff of their intent to be represented by legal counsel.
- ☐ 10 days prior to the Mediation, Parties must notify all other Parties and Association staff of their intent to utilize an interpreter and/or must submit any translated documents they intend to present at the Mediation.
- ☐ 1 day prior to the Mediation, staff should send a hearing reminder to the Parties and Mediator, which includes a list of attendees and the date/time/location of the Mediation.

Mediation

- ☐ Prepare mediation room – include case files, copy of current C.A.R. Manual, scratch paper. If necessary, the Parties may stay in separate rooms during the Mediation, with the Mediator going between throughout.
- ☐ If necessary, prepare separate waiting areas for the Parties.
- ☐ The Mediation Settlement is entirely up to the Parties to decide. If all Parties do not agree to terms, a Settlement cannot be reached.

Mediation Documents

The following forms should be completed and retained in the case file:

- ☐ A-7 *Certificate of Qualification,* to be signed by the Mediator prior to the start of the Mediation;
- ☐ M-3 *Mediation Confidentiality Agreement,* to be signed by all Parties prior to the start of the Mediation;
- ☐ M-4 *Mediation Agreement and Stipulated Award*, if a Settlement Agreement is reached; or
- ☐ M-5 *No Settlement at Mediation,* if no Settlement Agreement is reached.

Post Mediation

- ☐ If no Settlement is reached at Mediation, send copies of the signed Mediation Documents to the Parties and forward the matter to an Arbitration Hearing.
- ☐ If a Settlement is reached, send copies of the signed Mediation Documents to the Parties and close the file.
- ***Note:*** A Mediation Settlement Agreement is final and binding. Parties may take the Agreement to court for enforcement.
- ☐ ***ETHICS CHECK:*** Upload Form M-4 *Mediation Settlement Agreement* or M-5 *No Settlement at Mediation* onto Ethics Check.