



FACTS ABOUT MEDIATION

Mediation is **FASTER** than litigation. A lawsuit can take anywhere from several months to several years to be decided.

Mediation can take about thirty days from beginning to end.

Mediation is

LESS EXPENSIVE than litigation.

Because parties typically split fees, no one pays an excessive amount.

Mediation is **NON-ADVERSARIAL**. Arbitration and litigation focus on disagreements between the parties and result in win-lose decisions. Mediation, on the other hand, focuses on agreement between the parties and results in a win-win settlement reached and agreed on by the parties themselves.

Parties who agree to mediation **RETAIN THE RIGHT TO PURSUE OTHER LEGAL REMEDIES**. If parties cannot reach a mutually acceptable settlement during the mediation conference, they are free to arbitrate or litigate their dispute as if mediation never took place.

Statistics show that **MEDIATION IS SUCCESSFUL** 80—90% of the time.



FREQUENTLY ASKED QUESTIONS

Is mediation binding? If the parties reach an agreement during the mediation session, it is legally binding.

Is mediation binding if no agreement is reached during the mediation session? No. If an agreement is not reached, there is nothing for the parties to be bound to.

Should my REALTOR® attend the mediation session? REALTORS® are typically not present, since they have never lived in the property and therefore won't be able to add any relevant information regarding the property condition.

Mediation requires 20 days notice, but my property is experiencing ongoing damage. What should I do? When submitting the mediation packet, request RUSH processing due to ongoing damage (such as rain coming through a hole in the roof).

Is it okay to bring my children to the mediation? The presence of children at the mediation session typically results in unproductive distractions, increasing the length of the sessions and decreasing the chances for a successful resolution.



MEDIATION

using the
Dispute Resolution System



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Mediation is a process in which disputing parties attempt to resolve their disagreements with the help of an impartial, trained third party—the mediator.

THE MEDIATOR DOES NOT OFFER OPINIONS, PASS JUDGMENT, OR RENDER LEGALLY BINDING DECISIONS.



Although a majority of real estate transactions close without incident, disputes sometimes occur. When this happens, it is often successfully resolved through normal channels of communication between the parties. As a result, parties are encouraged to communicate directly with one another and attempt to resolve differences before initiating mediation. However, when a dispute arises which cannot be resolved through negotiation, parties do not have to take their case to court. Instead, they may opt to use mediation as a method for resolving their dispute.

dispute resolution system mediation



ACCESS TO SERVICE

Mediation may be used by any party to a real estate transaction—sellers, buyers, brokers, builders, home inspectors, etc. within one year of the closing date. With the exception of controversies that are subject to hearing under REALTOR® Professional Standards procedures, almost any type of dispute that arises from the transaction can be mediated.

WRITTEN AGREEMENT TO MEDIATE

Parties who decide to submit potential disputes to mediation sign either a sales contract that contains a mediation clause or an addendum that is attached to the sales contract. The clause states, in part, that parties agree to submit any dispute or claim that arise from the transaction to mediation. Once the contract or addendum is signed by the parties, they must submit their dispute to mediation. Parties who do not pre-commit to mediation when the sales contract is executed, they agree to and submit disputes to mediation by signing a written Agreement to Mediate. Parties can sign this agreement either before or after a dispute arises.

INITIATING MEDIATION

Any party can invoke mediation by submitting a written request to the REALTOR® Association of the Sioux Empire, Inc. (RASE). The RASE arranges and schedules the mediation conference, which is then conducted by an independent firm who specializes in providing mediation services. The conference must be held within 45 days from the date on which RASE receives a party's request to initiate mediation. The typical conference lasts two to three hours.

MEDIATORS

Mediators are experienced, qualified individuals often with a legal background and understanding of real estate law.

ROLE OF THE ATTORNEY

Parties to the mediation have the right to be accompanied by counsel. However, attorneys do not participate in the mediation conference.

FEES

Fees for mediation services are \$140 dollars per party for three hours. Fees may be subject to change without notification. Call the RASE for an updated fee schedule.

MEDIATORS

- PROMOTE COMMUNICATION BETWEEN THE PARTIES
- HELP PARTIES IDENTIFY DIFFERENCES
- HELP PARTIES REACH AGREEMENT ON RESOLUTION