

CBA RESOLUTION OF LEGAL FEE DISPUTES PROGRAM SELECTING MEDIATION OR ARBITRATION

The CBA Resolution of Legal Fee Disputes Program offers several ways to resolve disputes: mediation, arbitration, or mediation followed by arbitration if the mediation is unsuccessful. Mediation and arbitration are both effective ways to resolve a dispute. In mediation, two people in opposition attempt to work out their differences with the help and guidance of a neutral mediator. If you choose to mediate, no one will make a decision for you; you and your opponent may come to an agreement that satisfies you both, but there is no guarantee a resolution will be reached. The process often works and people frequently leave mediation with a common solution—even if they’ve been in conflict for months. In arbitration, a neutral arbitrator listens to both sides of an argument, and then makes a decision for the disputing people. Arbitration is useful when both parties want to know there will be an end to their dispute in one session. If you agree to arbitration, you and your opponent are generally promising to end your argument with whatever solution the arbitrator decides upon. Both methods are free and may be confidential. In addition to selecting mediation or arbitration, parties may also choose both. If both mediation and arbitration are selected, the parties start with mediation; if no resolution is obtained, the parties then participate in an arbitration. The table below may help you decide which resolution method is right for you.

<u>Mediation</u>	<u>Arbitration</u>
Free.	Free.
Voluntary at all times.	Consent of both parties required to participate; once consent is obtained, decision of arbitrator is binding.
Always confidential.	Arbitrator may decide whether decision is confidential.
Informal discussions facilitated by the mediator; witnesses and formal evidence are not generally necessary.	Less formal than litigation and more formal than mediation; arbitrator asks questions instead of open discussion between parties; parties may use witnesses and evidence.
If agreement is reached, the agreement will be written down and parties must abide by the terms of the agreement.	The parties must abide by the written decision of the arbitrator.
Resolution of the dispute is not guaranteed.	The arbitrator will make a binding decision.
Promotes cooperative problem-solving and communication; parties are likely to have a better relationship after a successful mediation.	Arbitration is efficient; the arbitrator will always make a decision.



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