



## REBNY Arbitration FAQs

### What is arbitration?

Arbitration is similar to a trial, but it is decided by an arbitration panel of neutral REBNY members as opposed to judges in a court of law. The proponent and respondent present evidence to support their positions and the arbitration ends with the arbitration panel's decision in favor of one side or the other. Unlike mediation, an arbitration panel has no duty to find a compromise between the parties.

### How is the arbitration conducted?

Generally, arbitrations are scheduled for either a morning or afternoon session for three hours. If your case contains extraordinary facts or has multiple witnesses, additional time may be allotted based upon the sole discretion of the arbitration panel.

The arbitration is usually held at REBNY's offices located at 570 Lexington Avenue, New York, NY. Proponent and respondent, their witnesses (if any), will sit in the same room.

REBNY staff will ask everyone to sign in and will begin the arbitration with the introduction of the parties and the panel. REBNY staff will also go over the rules for the arbitration. Witnesses who do not have a direct, material interest in the outcome of the arbitration may be asked to leave the room and wait until their testimony is requested.

Both sides have the option of making an opening statement. Statements should be brief and highlight to the panel what each side intends to prove. Then each side may present their case. Respondents are not required to present a case because the burden of proof rests upon the proponent to show that compensation is due.

When each side is presenting their case, witnesses will be called, sworn in by the panel, and asked to testify. The opposing side has the opportunity to cross-examine each witness. Arbitration panelists may also ask questions during either the witness' direct or cross-examination.

Strict rules of evidence do not apply in arbitrations. Hearsay evidence is admissible, but will be weighed accordingly by the arbitration panel. (Hearsay is a statement — either oral or written — made outside of the arbitration proceeding offered for the truth of matter asserted therein.) Direct evidence such as documents, contracts, letters and email correspondence may be offered as well. Recordings of phone calls may be offered into evidence but the arbitrators may weigh it accordingly whether or not the person(s) being recorded are available to testify.

To help facilitate matters, parties may also stipulate to certain facts (e.g., the amount in controversy, relevant dates and parties).

**Who presides over the arbitration?**

Once the proponent and respondent have submitted their selections of who they do not want to be on the panel, the Arbitration Secretary will select a panel of three conflict- and interest-free arbitrators to hear your case. The panel is assisted by REBNY staff for administrative matters and outside counsel for complex matters. But neither REBNY staff nor outside counsel take any part in decision-making.

**What should I bring to the arbitration?**

You are not required to bring anything to the arbitration. If you choose to bring witnesses, be sure that they have direct, material knowledge of the controversy at hand. And if you choose to bring documents, be sure that they are material to the controversy (such as contracts, agreements). Please be sure to have at least five copies of such document(s).

**Do I need an attorney?**

Representation by an attorney is entirely up to you. Arbitrations are informal and there is no requirement that the parties need to be represented by legal counsel.

**How are judgments of the arbitration panel enforced?**

Should a party fail to pay an arbitration award, the prevailing party may utilize the procedures set forth under Article 75 of New York State's Civil Practice Law and Rules, which grants jurisdiction upon the State's courts to enforce the written agreement to submit to arbitration and to enter judgement on an arbitration award issued by a REBNY arbitration panel.

**Are decisions of the arbitration panel appealable?**

No. However, decisions of the arbitration panel may be reviewed if procedural irregularities prejudiced a party's rights and constitute grounds for overturning the decision. But the grounds for such reversal are limited to malfeasance of the arbitration panel.

**How much does arbitration cost?**

Total cost includes: the arbitration fee, the room fee, the panelists' fees, and outside counsel, if applicable. The arbitration fee starts at \$1,000 plus a percentage of the amount in controversy. Fixed costs are the room fee (\$300); arbitration panel (\$500 per panelist per session); and outside counsel (\$500 per hour).

**What are the alternatives to REBNY arbitration?**

REBNY members who are Broker A or B; Borough Broker; Appraiser A; Non-Resident Appraiser; Non-Resident Broker; and Management A or B must submit to arbitration if requested by another REBNY member. Parties can agree to arbitrate in a forum other than REBNY such as the American Arbitration Association or JAMS but both sides must agree in writing. However, members of the Residential Brokerage Division must submit to arbitration for all monetary disputes.