



FEE ARBITRATION RULES & PROCEDURES

The arbitration of fee disputes shall be subject to the following rules:

1. Except as may otherwise be expressly provided in these rules the arbitrator(s) shall have all the powers of an arbitrator in accordance with the New Mexico Uniform Arbitration Act §44-7A-1 et. seq. NMSA 1978.
2. The fee arbitration program provides lawyers and clients with an out-of-court method of resolving fee disputes that is expeditious, confidential, inexpensive, and impartial.
3. "Client" means a person or entity who directly or through an authorized representative consults, retains or secures legal service or advice from a lawyer in the lawyer's professional capacity.
4. "Lawyer" means a person admitted to the practice of law in New Mexico, or any non-admitted lawyer who appears, participates or otherwise engages in the practice of law in this state, regardless of the status of his or her license.
5. Arbitration shall be instituted by filing with the State Bar of New Mexico a Petition for Fee Arbitration form, which shall state the specific nature of the controversy. Approved forms are available from the Fee Arbitration Program of the State Bar of New Mexico or at www.nmbar.org.
6. Filings with the State Bar shall be made by submitting one original and two copies of the completed, signed and dated Petition and supporting documents if under \$25,000 and one original and four copies of the signed dated Petition and supporting documents if over \$25,000. Send information to:

**State Bar of New Mexico
Fee Arbitration Program
Office of General Counsel
P. O. Box 92860
Albuquerque, New Mexico 87199**

7. The Petition shall be reviewed by the Program Administrator and/or the General Counsel of the State Bar to determine if the matter is appropriate for fee arbitration. Petitioner will be notified if the matter is not appropriate for fee arbitration. Fee disputes such as overcharging for services or services not performed would be arbitrated. The following are a list of disputes not subject to arbitration:
 - o Unfavorable outcome of the case is not a reason to dispute the fees;
 - o Disputes where the client seeks affirmative relief for damages against the lawyer based upon alleged malpractice or professional misconduct;
 - o Disputes where entitlement to and the amount of the fees and/or costs charged or paid to a lawyer by the client or on the client's behalf have been determined by court order, rule, or decision; and,
 - o Disputes where a third person is responsible for payment of the fees and the client fails to join in the request for arbitration.

8. The Program Administrator shall submit a copy of the Petition along with a Respondent Fee Arbitration Agreement form to the respondent by mail.
9. The respondent has twenty business days to review, sign and return the form. If the respondent does not return the signed Respondent Agreement within twenty business days, or does not seek an extension of time the respondent shall be deemed to have refused to arbitrate and the petitioner shall be so notified and the file will be closed. Extension of the time to respond shall be given at the discretion of the Program Administrator.
10. Upon receipt of the signed Respondent Fee Arbitration Agreement and response, Program Administrator shall assign an arbitrator, in the judicial district where the dispute arose, if possible. If more than one arbitrator is requested, in accordance with Rule 12, the Program Administrator or the lead arbitrator shall designate two other arbitrators.
11. All arbitrators appointed under these rules shall be members in good standing of the State Bar of New Mexico or shall be experienced non-lawyer members appointed to the Panel.
12. Only amounts over \$1,000 will be arbitrated. When the amount in controversy is \$25,000 or less, the hearing shall be before a single arbitrator. When the amount in controversy is more than \$25,000, either party may request a panel of three arbitrators, one of which may be a non-lawyer member of the panel.
13. It shall be the responsibility of the arbitrator or lead arbitrator to select the hearing date, and provide appropriate notice to the parties and any other arbitrators if any. Hearings may be conducted telephonically.
14. A record of the hearing may be made at the expense of the party requesting it by informing the arbitrator in writing following receipt of the notice of hearing.
15. The parties to the arbitration are entitled to be heard, to be represented by a lawyer, to present evidence and to cross-examine witnesses appearing at the hearings, but the rules of evidence and the rules of civil procedure need not be observed at the discretion of the arbitrator. On the request of any party to the arbitration or any arbitrator, the testimony of witnesses shall be given under oath.
16. The arbitrators may hear and determine the controversy on the testimony and the evidence produced notwithstanding the failure of a party duly notified to appear.
17. The award shall be in writing and signed by the arbitrator(s) concurring therein. The award shall include the determination of all issues submitted to the arbitrator(s). The award need not be in any particular form, but should in general consist of a preliminary statement reciting the jurisdictional facts, i.e., that a hearing was held upon notice pursuant to a written agreement to arbitrate; that the parties were given an opportunity to testify and cross-examine, etc.; a brief statement of the dispute; the findings of fact; and the award.
18. The original award shall be signed by the arbitrator(s) concurring therein, which shall be forwarded to the Program Administrator. The Program Administrator will review the award, file stamp and mail a signed copy of the award to each party to the arbitration, and retain the original in the client file.
19. As agreed, any arbitration award rendered shall be **final and binding** upon the parties and may be confirmed and enforced by any court of competent jurisdiction.
20. Except as necessary for compliance with these rules or to take ancillary legal action, all records and documents pertaining to the arbitration shall be confidential unless otherwise ordered by the Court or court rule. General information, facts, summaries, amounts, and statistical data, not referencing individual participants or individual arbitrations may be disclosed by the State Bar for reporting, statistical or education purposes.
21. These rules may be modified by the General Counsel of the State Bar of New Mexico.

Petition for Arbitration forms are available from the Fee Arbitration Program at P. O. Box 92860, Albuquerque NM 87199, phone (505) 797-6054 or download at the State of New Mexico Bar website www.nmbar.org.