

Mediation/Arbitration Submission Agreement

Provide answers in the appropriate fields.

Date Submitted/Mailed: _____

This agreement is submitted pursuant to the rules (the “rules”) of the Kehilla Standards Committee (the “committee”), a copy of which rules are attached hereto and incorporated by reference as though fully set forth. The following parties have advised the committee that they are involved in a dispute that has not been resolved by conciliation, mediation or other informal means.

A. Claimant Name: _____

Address: _____

Phone Number: _____ Email Address: _____

Is claimant a member of an affiliate of the Conservative Movement? ___Yes ___No

If so, please indicate which affiliate: ___USCJ___RA___CA___NAASE___JEA___SDSN -- Other (please identify):

B. Respondent: _____

Address: _____

Phone Number: _____ Email Address: _____

Is respondent a member of an affiliate of the Conservative Movement? ___Yes ___No

If so, please indicate which affiliate: ___USCJ___RA___CA___NAASE___JEA___SDSN -- Other (please identify):

C. Briefly describe the nature of the dispute:

Claimant’s Statement (Please use Exhibit A)

Respondent’s Statement (Please use Exhibit B)

D. Type of dispute:

1. Between an employee and employer? ___Yes ___No (If answer 1 is “no,” go to subsection G. below)

2. Between a *kehilla* and member? ___Yes ___No

3. Against an institution? ___Yes___No

4. If this is a complaint against an institution, is this a complaint of *Hasagaat G’vul* (territorial infringement)? ___Yes___No

E. Is there a contract between the parties (“contract”)? ___Yes ___No

If so, please attach a copy of the contract as Exhibit C

F. If there is a contract; does the contract *require* mediation and/or arbitration? If applicable, identify the applicable section or paragraph:

1. Mediation: ___Yes (Page Section/paragraph)___No

2. Arbitration: ___Yes (Page Section/paragraph)___No

G. Is the amount in controversy less than \$5,000? ___Yes ___No

H. If there is no contract, or the contract does not require mediation and/or arbitration, please indicate below the voluntary settlement mechanism desired:

VOLUNTARY SETTLEMENT MECHANISM:

Claimant / Respondent

Mediation: The parties hereby seek mediation pursuant to the rules ___Yes ___ No / ___Yes ___No

Arbitration: The parties hereby seek arbitration pursuant to the rules ___Yes ___ No / ___ Yes ___No

Both: The parties hereby seek mediation, and if not successful, arbitration ___Yes ___ No / ___ Yes ___No

Designees of the parties: Each party appoints the following person as the party’s designee to give and receive all communications on such party’s behalf:

(A) Claimant

Name: _____

Address: _____

City: _____ State/Province: _____ Zip/Postal Code: _____

Telephone: _____ Fax: _____

Email Address: _____

Signature: _____

Is this designee an attorney or qualified layperson (See General Provision #1). ___Yes ___No

Is the claimant appearing *pro se* (without an attorney)? ___Yes ___No

(B) Respondent

Name: _____

Address: _____

City: _____ State/Province: _____ Zip/Postal Code: _____

Telephone: _____ Fax: _____

Email Address: _____

Signature: _____

Is this designee an attorney or qualified layperson (See General Provision #1). ___Yes ___No

Is the claimant appearing *pro se* (without an attorney)? ___Yes ___No

The undersigned parties hereby certify that the information set forth above is true and accurate and agree to be bound by the rules.

Claimant:

Respondent:

By: _____

By: _____

Date: _____

Date: _____

___Received by the committee. Assigned case number:

Name: _____ Capacity: _____

Date: _____

Please e-mail to disputeresolution@uscj.org. For more information, contact Mindy Gordon at 847-337-6979.

The *Kehilla* Standards Committee Rules for Settling Disputes

Introduction: Jewish tradition has long held that that disputes between and among Jews and Jewish institutions be first resolved with respect in a forum that does not subject the Jewish community to intrusions from the general public or secular institutions. If such efforts fail, then resolution through secular legal forums is acceptable. This is evidenced by the model rabbinic and cantorial contracts, approved by the United Synagogue of Conservative Judaism (“USCJ”) and the Rabbinical Assembly and Cantors Assembly (respectively), both of which provide that disputes should first be resolved with assistance from the professionals of USCJ and the Rabbinical or Cantors Assembly. If the above process does not resolve the dispute, then such dispute shall be settled by arbitration in accordance with the rules of the USCJ Kehilla Standards Committee (formerly the Committee on Congregational Standards). Any arbitration award rendered shall have the force of law.

The purpose of this procedure is to keep disputes private and “within house,” to be settled by the parties themselves and with the assistance of persons appointed by the committee. The committee’s representatives have specialized experience and training in settling disputes and in synagogue operations. The committee’s goal is to promote *shalom bayit*, recognizing that even if the professional is moving to another position, the *kehilla* will want the assurance that each party has been treated fairly, with the result confidential and not subject to the financial and emotional cost often inflicted through the legal system. The process is designed to protect the reputation of both the *kehilla* and the professional.

The committee strongly believes that all disputes within our movement should be resolved through this process if possible. For this reason, while the model rabbinic and cantorial contracts provide for such a process, the same process is also available to all employees of synagogues, Schechter Day Schools and other affiliates of the Conservative Movement, as well as to disputes concerning or between institutions within our movement, provided all parties have agreed in a contract or voluntarily agree at the time the dispute arises to use our process.

Eligibility: The committee’s procedure, which starts with informal resolution by Jewish professionals and also includes mediation and arbitration, is open to all affiliates of USCJ and the professionals they employ, regardless of whether the employee is subject to a written contract and, if there is a contract, the contract at issue requires that disputes be settled through the committee’s rules. Furthermore, these procedures may also be utilized by individuals employed in a Solomon Schechter Day School or any Conservative Movement affiliate, provided all parties have agreed in a contract or voluntarily agree at the time the dispute arises to use our process.

Step One - Notification to Committee and Information Resolution: When a dispute arises, the claimant should notify the USCJ district or regional director, who will contact the committee. The committee will attempt to work out a resolution of the dispute, possibly by enlisting the assistance of staff members of the employee’s professional association. The committee strongly encourages parties to use the informal resolution process as early as possible, since early intervention often pre-empts disputes from becoming more divisive and complex, avoids adverse publicity, etc.

Step Two - Mediation / Arbitration Submission Agreement: If the dispute is not resolved informally, the parties will complete a form entitled **MEDIATION / ARBITRATION SUBMISSION AGREEMENT** (the “agreement”) and forward the agreement to the committee’s staff director. The parties’ joint or reciprocal submission of the agreement to the staff director constitutes submission to the committee’s jurisdiction as the forum for resolution of the dispute in accordance with these rules. Once the agreement has been signed by both parties, neither party may opt out of the agreement without the written consent of the other party.

Step Three - Mediation: Mediation is a voluntary, non-binding process. If both parties request mediation, or if there is a contractual requirement mandating mediation, the committee will assign a mediator to the dispute. The committee’s mediators are trained and qualified to assist the parties to reach their own resolution. The

mediator acts as a catalyst but has no authority to impose a settlement or to bind either of the parties in the absence of their mutual agreement. The entire process of mediation is ordinarily confidential and a confidentiality agreement is customarily executed for that purpose. Provided such an agreement is executed, it is generally understood that none of the statements made during mediation nor any documents presented in the context of mediation may be used or quoted in any subsequent proceedings or be used as evidence in any future proceeding; each party should, however, consult with its own attorney to determine the law of the jurisdiction regarding mediation confidentiality. The committee will monitor the progress of mediation and will determine when a dispute cannot, after the exercise of good faith and diligence, be resolved through the mediation efforts.

Step Four - Arbitration: Arbitration is binding process in which a decision is rendered, usually (but not always) after testimony and evidence. If the parties both request arbitration without mediation, or if mediation efforts are unsuccessful and the parties have agreed to arbitrate, the committee will notify the parties that the dispute is being submitted to binding arbitration. The committee will proceed as follows:

1. If the dispute concerns a claimed amount of \$5,000 or less, the chair of the committee (the "chair") will assign a single neutral arbitrator. The parties may also agree to a single neutral arbitrator chosen by the chair if the value of the claim exceeds \$5,000.
2. If the value of the claim exceeds \$5,000 and the parties do not both elect to proceed with a single arbitrator, the disputed will be resolved by a panel of three arbitrators. Each party shall appoint one arbitrator, and the two arbitrators will jointly select a third arbitrator, who shall preside as panel chair. When there is a three-member panel, a decision by two of the three arbitrators shall be the decision of the panel.
3. A party shall appoint an arbitrator by notifying the committee of the arbitrator's name, address, telephone number, facsimile number and email address in writing (or by email). If the committee is not notified of a party's arbitrator 30 days after the dispute is submitted to binding arbitration, the chair of the committee will appoint all remaining arbitrators.
4. Arbitrators who accept appointment agree to serve without compensation as an act of righteous community service (*tikun olam*) and faithfully and fairly to hear, examine and resolve the dispute based upon position statements, oral presentations by the parties and attorneys, affidavits, and, when deemed necessary and appropriate (or required by applicable local law) testimony and documentary evidence introduced and admitted during the arbitration hearing. Unless required by the local jurisdiction, arbitrators need not be sworn.
5. Arbitrators appointed by any party must be Jewish and may not be a party or a paid employee of a party, a witness to the dispute, or a relative of a party. Arbitrators may not be on a board of trustees of a participating organization. Arbitrators may not be related to counsel for either side.
6. The panel chair or single arbitrator (the "neutral") shall meet all criteria set forth in Section 5 of these rules above and shall, furthermore, be a neutral person and, preferably, an attorney or other qualified individual. Except as provided by local law, a member of a *kehilla* affiliated with USCJ or a member of an affiliate of the Conservative Movement shall not be disqualified on the basis of such affiliation.
7. The chair of the committee shall determine the qualifications of any arbitrator designated. Any party who wishes to challenge the qualifications of an arbitrator must file written objections with the committee on congregational standards within ten days following receipt of notification of the designation. The chair may allow the challenge of an arbitrator to be resolved by the neutral.
8. The arbitrator or panel shall consider all relevant issues raised by the parties. If there is a dispute as to how to define the issues, the neutral shall define the issues.
9. Hearings will be scheduled at a location selected by the neutral, taking into consideration the availability of necessary witnesses. Whenever practical, the hearing location should be in the locale where the dispute arose.
10. The neutral is authorized to issue subpoenas, at the request of any party or at the neutral's discretion, for the production of documents or for attendance of witnesses as may be appropriate

to reach a just and fair resolution. If there are procedural requirements in a local jurisdiction, the neutral should be aware of and follow those procedures.

11. The decision of the panel or single arbitrator will be written as an ^{AWARD}, signed by the arbitrator(s) and promptly sent to the chair for review as to procedure, form and completeness. The chair will either approve the ^{AWARD} or remand the ^{AWARD} to the neutral arbitrator, detailing any deficiencies, within 15 days following its receipt. Upon approval, the chair shall transmit a copy of the ^{AWARD} to each of the parties, and the ^{AWARD} shall then be binding on the parties, their heirs, administrators, personal representatives, successors and assigns.
12. An approved award shall not be subject to appeal and may be entered and enforced as a Judgment of record in accordance with the laws of the jurisdiction.

General Provisions:

1. Any party may be represented by legal counsel or a lay representative at any stage of the proceedings. Once a party notifies the committee of such appointment, all future communications with the represented party shall be through counsel or the designated representative. A lay (non-lawyer) representative should have experience in mediation and/or arbitration matters (as the case may be) and in the types of disputes that are the subject of this Agreement.
2. The arbitration shall be conducted pursuant to the rules, subject to the arbitration act or equivalent law of the state or province where the hearing is convened. The paramount duty of the arbitrator(s) shall be to reach an equitable result, taking into account all relevant factors, including but not limited to the language of the contract (if any), the course of dealing between the parties, applicable secular legal principles, and Jewish values.
3. The agreement may be executed in counterparts (separately signed identical copies), each of which will be considered to be an original and all of such counterparts collectively shall be considered to be the agreement of the parties. When submitted by all of the parties, the agreement supersedes any prior oral or written agreement between the parties with respect to the resolution of the dispute.
4. These rules shall be attached to the agreement and incorporated therein by reference, as though fully set forth.
5. All disputes shall be subject to the statutes of limitations and laws of laches that are applicable in the jurisdiction in which the dispute resides. No claim can be made under these rules if the claim could not be raised in such jurisdiction on account of the applicable statute of limitations (for legal claims) or law of laches (for equitable claims). If a respondent believes that a claim is barred under this general provision 5, then the respondent should set forth its reasoning and cite the applicable statute or case law precedent in Exhibit B. If the claimant disagrees with the respondent's reasoning and/or citation, the claimant shall have 30 days in which to address same by in writing to the committee, with a copy sent simultaneously to the respondent. The chair of the committee will, upon receipt of such submission, contact the parties to schedule a hearing on this issue. If the chair finds that the claim is time-barred, then the claim shall be dismissed, with prejudice (finality) against the claimant. If the chair finds that the claim is not time-barred, then the mediation and/or arbitration of the claim shall proceed. The determination of the chair under this general provision 5 shall not be subject to appeal.
6. Parties are expected to cooperate with the process described herein. If a party does not cooperate with the process, after having received notice from the neutral and 30 days in which to cure such lack of cooperation (which 30 day period may be extended by the neutral for good cause), the neutral shall have all authority to order (i) dismissal of the claim with prejudice, if the non-cooperating party is the claimant, or (ii) judgement by default against the respondent, if the non-cooperating party is the respondent.

EXHIBIT A
CLAIMANT'S BRIEF DESCRIPTION OF THE DISPUTE

EXHIBIT B
RESPONDENT'S BRIEF DESCRIPTION OF THE DISPUTE

EXHIBIT C
CONTRACT BETWEEN THE PARTIES (IF APPLICABLE)