

4.11.1.4 Professional Standards Procedures Addendum to *Code of Ethics & Arbitration Manual*
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Ethics

1. Subject to the agreement of the Complainant, an ethics complaint may be processed under the expedited procedures as outlined in Section 20 Items j - q.
2. Ethics complaints shall be processed in accordance with the NAR's Fast Track procedure as outlined in the Checklist: Seven Stages of Processing an Ethics Complaint which shall be attached and made a part of this policy.
3. The Association shall, and any party may, at his own expense, have a court reporter or recorder present at the hearing, or may tape record the proceeding, and, if transcribed, shall present a copy to the Chief Executive Officer.
The Association's tape recording, electronic recording, or transcription shall be considered the official record of the proceeding. Copies of any official recording may be requested in writing up to the date of affirmation at the Board of Directors.
 - a. The cost of duplicating a tape shall be \$75.00 per tape or \$75 per electronic recording if available.
 - b. Parties requesting a duplicate of the recording tape must agree in writing that they understand that the tapes may be used only for the purpose of appeals and rehearing. Further, if a party purchases a copy of the official record and subsequently has it transcribed, at his own expense, the party must provide a copy of the transcript to the Association at no cost.
 - c. Tapes of proceedings shall be destroyed one year following affirmation of the decision by the Board of Directors or upon compliance with the sanction imposed whichever is later, provided there is no threat of litigation by the parties against the Association.
4. The Association shall not impose an administrative processing fee against respondents found in violation of the Code of Ethics.
5. Hearing panels of ethics complaints shall be provided with the complaint and response not less than 15 days prior to the scheduled hearing.
6. The Association shall publish quarterly a Code of Ethics activity report in a similar format as Form #E-17 of the *Code of Ethics and Arbitration Manual*. In accordance with the *Code of Ethics and Arbitration Manual*, if a respondent is found in violation of the Code of Ethics a second time within three years, the respondent's name, the fact that the respondent has been found in violation of the Code of Ethics, the Article(s) violated, and the discipline imposed will be published in the Association electronic newsletter. Such publication shall not include the name of the firm the respondent is (or was) licensed or affiliated with. In cases, where the violator's name is similar to another member's name, the violator's license number or office address (or both) may also be published. (Implementation effective 1/1/2000). Note: This is an option. Joint Committees reaffirmed 04/02/15.
7. Those members of the Board of Directors eligible to affirm ethics decisions shall be provided with a copy of the decision with any reference to the parties, subject property, or panel members removed. Note: This is an option. Joint Committees reaffirmed 04/02/15.
8. As deemed necessary and at the discretion of the Chief Executive Officer, should either party be represented by counsel at an ethics hearing, Association counsel shall also be present at the hearing.
9. Convened hearing panels, shall include no more than two alternates. Alternates present at the hearing shall be seated apart from the panel pane, may not participate in any way unless called upon to replace a panel member, and are bound by the same duties that are applicable to panel members. If panel members are not called on to replace a panel member, alternates may observe post-hearing executive deliberations. Note: If allowed to be present, alternates may not be involved in deliberating or deciding the matter before the hearing panel.

Arbitration

1. In accordance with Article VII, Section 2 of the Reno/Sparks Association of REALTORS® Bylaws, the duty to mediate disputes arising out of real estate transaction as specified in Article 17, mediation shall be mandatory. In all other disputes, mediation is offered as a service of the Association. In the event mediation is unsuccessful, and the parties chose to arbitrate the dispute, the mediation fees paid by the parties shall be applied toward the deposit required for arbitration. (Reference Policy 4.11.1.5 Mediation)

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- The Reno/Sparks Association of REALTORS® shall provide voluntary arbitration under the circumstances described in Part Ten – Arbitration of Disputes, Section 44 Duty and Privilege to Arbitration (4), (5), and (6) of the *Code of Ethics and Arbitration Manual*.
- 2 If a request for arbitration has been reviewed and deemed mandatory as described in Part Ten – Arbitration of Disputes, Section 44 Duty and Privilege to Arbitration (1), (2), and (3) of the *Code of Ethics and Arbitration Manual*, mandatory mediation will be invoked. If the parties fail to reach an agreement during mediation, an arbitration hearing will be scheduled to resolve the matter. Arbitration shall not proceed unless a signed Response and Agreement to Arbitrate form and deposit has been received from the respondent. Requests for Arbitration and subsequent Response and Agreement to Arbitrate must be accompanied by a \$100 filing fee from the claimant and the respondent. The deposits of the parties shall be used to cover the costs of the arbitration. Any portion not used specifically to cover the cost of arbitration shall go into the general operating fund of the Association.
 - 3 Optional adoption of Section 53. The Award 53 (c) – (f) Summarized. Once an award is rendered, the non-prevailing party must either pay the award to the parties or deposit the funds in a special Association, non-interest bearing trust account. Failure to satisfy the award or deposit funds will be considered a violation of a membership duty and subject the members to further disciplinary action.
 - a. If a procedural review is received, the funds deposited with the Association will be held in trust until the review is complete. If the arbitration award is confirmed following a limited procedural review, the non-prevailing party shall also cause legal counsel to advise the Association that a suit challenging the award has been filed. After 15 days, if written notice of a suit challenging the award has not been received, the funds shall be released from trust and paid to the prevailing party. If written notification is received within the 15 days, the funds will be held in trust pending determination by a court.
 - b. Any failure to make deposit will be referred for consideration at a special meeting of the Board of Directors. The offending party will be advised of the date, time and place of the meeting and have an opportunity to explain why the deposit was not made timely. The Board of Directors may impose discipline or may give the party an additional period to make deposits. Directors may also stipulate appropriate discipline to be automatically imposed if the party fails to make the deposit within the established time.
 5. The Board of Directors may, at its sole discretion, elect to cover a portion of court costs, expenses and legal fees, not to exceed \$500.00, incurred by the prevailing party in obtaining a judicial enforcement of an arbitration award. If extraordinary circumstances exist which justify a greater contribution, in the Board's sole discretion, reasonable additional sums, in whatever increments the Board deems appropriate, may be authorized. Should the claimant prevail in the legal action and recover court costs and legal fees, however, the claimant shall repay at least a pro-rata share the amount funded by the Association. (Language change recommended by legal counsel)
 6. Hearing panels of arbitration requests shall be provided with the complaint and response not less than 15 days prior to the scheduled hearing.
 7. If a procedural review is not requested within 10 days of the arbitration panel's decision, the award becomes final and binding upon the parties. The award shall be in accordance arbitration panel's decision and shall be directly disbursed between the parties.
 8. Part Eleven – Inter-board Arbitration Procedures
 - a. In the event of an inter-board (intra-state) arbitration, the Request for Arbitration shall be accompanied by a deposit of \$100.00
 - b. In the event of an inter-board (inter-state) arbitration, the Request for Arbitration shall be accompanied by a deposit of \$250.00
 - c. Within five days after the inter-board arbitration panel has been formed, the Chief Executive Officer shall send a copy of the arbitration request to the respondent, informing the respondent that he may file a written response with the Chief Executive Officer.
 9. As deemed necessary and at the discretion of the Chief Executive Officer, should either party be represented by counsel at an arbitration hearing, Association counsel shall also be present at the hearing.

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10. Convened hearing panels, shall include one or more alternates. Alternates present at the hearing shall be seated apart from the panel pane, may not participate in any way unless called upon to replace a panel member, and are bound by the same duties that are applicable to panel members. If panel members are not called on to replace a panel member, alternates (may or may not) observe post-hearing executive deliberations. Note: If allowed to be present, alternates may not be involved in deliberating or deciding the matter before the hearing panel.
11. The fee for arbitration shall be \$100.00 from each of the parties (respondent and claimant). At the conclusion of the hearing, the hearing panel shall determine the disposition of deposits.

Mediation of Arbitrable Disputes

1. In accordance with Article VII, Section 2 of the Reno/Sparks Association of REALTORS® Bylaws, the duty to mediate disputes arising out of disputes of real estate transaction as specified in Article 17, mediation shall be mandatory. In all other disputes, mediation is offered as a service of the Association. In the event mediation is unsuccessful, and the parties chose to arbitrate the dispute, no additional fees will be required for arbitration from the parties. (Reference Policy 4.11.1.5 Mediation).
2. It shall not be necessary for a Request for Arbitration to be filed in order to initiate mediation. In the event mediation is unsuccessful, the parties may at their option file a Request for Arbitration.
3. Upon receipt of a Request for Arbitration, initiation of mediation proceedings shall be at the instigation of the Chief Executive Officer who will inquire whether the parties desire to participate in mediation prior to review by the Grievance Committee in accordance with Appendix VI, Part Ten Option 2 of the Code of Ethics and Arbitration Manual.
4. The fee for mediation of arbitrable disputes shall be \$100 and shall be non-refundable.

Appeals

1. In accordance with Statement of Professional Standards Policy #33, a panel five (5) members of the Board of Directors shall be appointed by the President in all instances where an appeal is called for in accordance with the *Code of Ethics and Arbitration Manual*.
2. If the Board of Directors has reason to believe that the imposition of a proposed sanction will become the basis of litigation and a claim for damages, it will specify that the discipline become effective upon entry of the final judgment of a court of competent jurisdiction in a suit by the Board of declaratory relief declaring that the discipline proposed violates no rights of the member.
3. The fee for filing an appeal of ethics decision or arbitration procedural review shall be \$100.00.

Approved by Bylaws & Policy: 04/14/16
Approved by Board of Directors: 04/26/16