

INITIATING AN ETHICS HEARING:

(a) Any person, whether a member or not, having reason to believe that a member is guilty of any conduct subject to disciplinary action, may file a complaint in writing in their own name with the Secretary, dated and signed by complainant, stating the facts on which it is based (Form #E-1, Complaint, Part Six), provided that the complaint is filed within one hundred eighty (180) days after the facts constituting the matter complained of could have been known in the exercise of reasonable diligence or within one hundred eighty (180) days after the conclusion of the transaction or event, whichever is later. (Revised 5/13)

The procedures for processing complaints alleging violations of an Association's bylaws prohibiting harassment are available on-line at REALTOR.org, and those procedures do not involve an Association's Grievance Committee, Professional Standards Committee, or Board of Directors. (Adopted 11/11)

Suspension of filing deadlines: If the Board's informal dispute resolution processes (e.g., ombudsman, mediation, etc.) are invoked or initiated by a complainant (or potential complainant) with respect to conduct that becomes the subject of a subsequent ethics complaint, the one hundred eighty (180) day filing deadline shall be suspended beginning with the date of the complainant's (or potential complainant's) request for informal dispute resolution service or assistance and shall resume when the informal dispute resolution procedures are concluded or terminated. Questions about when informal dispute resolution began or ended will be determined by the Board President or the President's designee. The filing deadline shall also be suspended during any period when the respondent does not hold REALTOR® or REALTOR-ASSOCIATE® membership (Amended 11/12)

The Secretary shall promptly refer any complaint to the Chairperson of the Grievance Committee, who may designate one or more members of the Grievance Committee to review the complaint and report their findings to the Grievance Committee for its determination as to whether to (1) dismiss the complaint as unworthy of further consideration, (2) refer it back to the complainant as appropriate for arbitration rather than disciplinary action, or (3) refer it back to the Secretary to schedule for hearing. This review process may include additional information other than the written complaint itself only if necessary to determine whether a complaint will be referring for hearing. The Grievance Committee may, if it thinks it appropriate, send a copy of the complaint to the party complained of and require the respondent to furnish it with a response before making its determination. (See Form #E-4, Grievance Committee Request for Information [Ethics Complaint] and Form #E-5, Response to Grievance Committee Request for Information, Part Six of this Manual). The party complained of shall be advised that failure to respond to the Grievance Committee's request may result in the complaint being forwarded for a hearing and may subject the respondent to a charge of having violated Article 14 for failing to submit pertinent facts to an appropriate tribunal. The function of the Grievance Committee is to make only such preliminary review and evaluation of the complaint as are required to determine whether the complaint warrants further consideration by a Hearing Panel of the Professional Standards Committee. The Grievance Committee does not conduct hearings and does not determine if a violation of the Code of Ethics has occurred. (Revised 5/13)

When Grievance Committees refer ethics complaints and arbitration requests for hearing, hearing panel chairs can determine if questions about

1. whether ethics complaints and arbitration requests are timely filed,
2. whether arbitrable issues exist,
3. whether arbitration requests are too legally complex to be fairly arbitrated, and
4. other administrative issues

will be addressed through a pre-hearing meeting of the hearing panel or at the outset of the hearing prior to testimony relating to the ethics complaint or arbitration request commencing. If these matters arise during a hearing, the hearing panel will address them at that time.

Dismissals of ethics complaints and arbitration requests by hearing panels can be appealed to the Board of Directors on the same bases as dismissals by the Grievance Committee.

Where such issues are considered at a pre-hearing meeting of the hearing panel, the chair will determine whether the parties may be present, and the extent to which their participation will be permitted. (Revised 05/14)

In the event the complaint is from a client, customer, or a member of the general public, and the Grievance Committee determines that the complaint is vague, overly general, does not allege violations of

specific Articles, or is otherwise insufficient on its face, a member of the Grievance Committee may be assigned by the Chairperson of the Grievance Committee to assist the complainant in preparing the complaint in proper form. The member providing such assistance shall not participate in any consideration or deliberations of the Grievance Committee with respect to the matter and are not and will not act as the complainant's advocate or representative. In such cases, the respondent shall receive the revised complaint with the original complaint and all other supporting documentation provided by the complainant incorporated as an appendix. (Revised 11/14)

(b) Upon its own motion the Grievance Committee may, and upon instruction of the Directors must, review the actions of any member when there is reason to believe that the member's conduct may be subject to disciplinary action, and, if the evidence of unethical conduct warrants a hearing, shall prepare a complaint, refer it to the Secretary, and designate one of its members to present the case at the subsequent hearing on its behalf as complainant. However, no member of the Grievance Committee shall serve as a member of the Hearing Panel. (Revised 4/94)

(c) Any action by the Grievance Committee dismissing the complaint as unworthy of further consideration may be appealed to the Board of Directors within twenty (20) days from transmittal of the dismissal notice using Form #E-22, Appeal of Grievance Committee Dismissal of Ethics Complaint. The materials and information which were available to the Grievance Committee when the committee made its decision will be presented to the Directors and considered with the appeal. The complainant and respondent do not have the right to appear at the hearing before the Directors. The complaint and any attachments to the complaint may not be revised, modified, or supplemented. The complainant may, however, explain in writing why the complainant disagrees with the Grievance Committee's conclusion that the complaint should be dismissed. If the Directors determine that the complaint was improperly dismissed by the Grievance Committee, they shall refer it to the Professional Standards Committee for a hearing. If referred for hearing, the Secretary shall at that time provide a copy of the response to the complainant if one had been submitted for review by the Grievance Committee. (Revised 11/14)

The President may appoint a panel of Directors, acting on behalf of the Board of Directors, to hear the appeal. Any appeal panel so appointed must be composed of at least five (5) Directors or a quorum of the Board of Directors, whichever is less. (Alternatively, the appeal may be heard by the Board's Executive Committee.) The decision of the appeal panel (or the Executive Committee) is final and binding and is not subject to further review by the Board of Directors. (Revised 11/91)

(d) If the complaint asserts multiple allegations of unethical conduct and the Grievance Committee determines that one or more of the allegations would not, under any circumstances, constitute a violation, that portion of the complaint may be dismissed while the balance of the complaint is forwarded for a hearing before a Hearing Panel of the Professional Standards Committee. However, the complainant has the right to appeal the dismissal to the Board of Directors using Form #E-22, Appeal of Grievance Committee Dismissal of Ethics Complaint. The complaint and any attachments to the complaint cannot be revised, modified, or supplemented. The complainant may, however, explain in writing why the complainant disagrees with the Grievance Committee's dismissal. (Revised 5/06)

If the Grievance Committee feels that the respondent's alleged conduct may be the basis for a violation but that an inappropriate Article(s) has been cited, the Grievance Committee may amend the complaint by deleting any inappropriate Article(s) and by adding any appropriate Article(s) and/or individuals to the complaint. If the complainant disagrees with the deletion of an Article(s) from the complaint, the complainant may appeal to the Board of Directors requesting that the original complaint be forwarded to a Hearing Panel as filed using Form #E-22, Appeal of Grievance Committee Dismissal of Ethics Complaint. The complaint and any attachments to the complaint cannot be revised, modified, or supplemented. The complainant may, however, explain in writing why the complainant disagrees with the Grievance Committee's dismissal. If the Grievance Committee determines that an Article(s) or an additional respondent(s) should be added to the complaint and the complainant will not agree to the addition, the Grievance Committee may file its own complaint and both complaints will be heard simultaneously by the same Hearing Panel. (Revised 5/06)

(e) If an ethics respondent resigns or otherwise causes membership in the Board to terminate after an ethics complaint is filed but before final action is taken by the Board of Directors, the hearing process shall suspend and the Board Secretary shall cause the complaint to be forwarded to any other Board in which the respondent continues to hold membership. If the respondent does not hold membership in another Board, or if the Board Secretary is unable to determine if the respondent holds membership in

another Board, the complaint shall be held in abeyance until such time as the respondent rejoins the Board or it can be determined that the respondent holds membership in another Board. In any instance where a complaint is transferred to another Board, the complainant shall be so advised. (Adopted 5/88)
NOTE: Adoption of the following expedited ethics administration procedures (Sections 20 [f-q]), is at the option of each Member Board.

(f) Any person, whether a member or not, having reason to believe that a member is guilty of any conduct subject to disciplinary action, may file a complaint in writing with the Secretary, dated and signed by the complainant, stating the facts on which it is based (Form #1, Complaint, Part Nine); provided, however, that the complaint must be filed within one hundred eighty (180) days after the facts constituting the matter complained of could have been known in the exercise of reasonable diligence. (Revised 11/97)

(g) Any complaint alleging a violation of the Code of Ethics by a Board Member or by any other person subject to the disciplinary authority of the Board, will be scheduled for review by the Grievance Committee (or by a panel thereof) at the next regular meeting. It will be a matter of local determination whether responses will be sought or accepted in instances where these optional enforcement procedures are utilized. (Revised 11/04)

(h) If the Grievance Committee concludes that the complaint is vague, overly general, does not allege violations of specific Article(s), or is otherwise insufficient on its face, the complaint shall be referred back to the complainant accompanied by the Grievance Committee's initial conclusions. The complainant shall be free to refile an amended complaint.

(i) If the Grievance Committee concludes that the allegations in the complaint, if taken as true, could not support a finding that the Code of Ethics had been violated, then the complaint shall be dismissed and the complainant advised of the dismissal and of their right to appeal the dismissal to the Board of Directors using Form #E-22, Appeal of Grievance Committee Dismissal of Ethics Complaint. The complaint and any attachments to the complaint cannot be revised, modified, or supplemented. The complainant may, however, explain in writing why the complainant disagrees with the Grievance Committee's conclusion that the complaint should be dismissed. (Revised 5/06)

(j) If the Grievance Committee concludes that the complaint alleges conduct which, if taken as true, could support a possible violation of the Code of Ethics, then staff or counsel, or in the absence of staff or counsel, the Grievance Committee Chairperson will ascertain whether or not there were any prior violations of the Code of Ethics in the past three (3) years. The complaint will then be sent to the respondent together with a response form (Form #E-20, Notice to Respondent [Ethics] and Optional Waiver of Right to Hearing), which will advise the respondent of the complaint; which will ask the respondent to affirm that the respondent has not been found in violation of the Code of Ethics by any Board within the past three (3) years; which will give the respondent an opportunity to waive the right to a hearing by acknowledging the conduct alleged in the complaint and by agreeing to accept discipline which will not exceed a fine in excess of \$15,000 or suspension for a period of thirty (30) days should a violation of the Code ultimately be determined. Any response provided cannot contest the facts stated in the complaint but may offer information in mitigation of any discipline that might be imposed. (Revised 05/14)

(k) Alternatively, the respondent has the right to a hearing pursuant to the procedures established in Part Four of this Manual.

(l) If the respondent does not acknowledge the conduct alleged in the complaint or waive the right to a hearing, or does not respond within ten (10) days from transmittal of the complaint, a hearing shall be scheduled in the manner provided for in Section 21, Ethics Hearing, beginning with the twenty (20) day deadline for the Professional Standards Committee chair to select a hearing date. (Revised 11/14)

(m) If the respondent waives the right to a hearing and acknowledges the conduct alleged in the complaint, such elections will be affirmatively indicated on the response form which shall be returned to the Grievance Committee Chairperson (or staff or counsel) within ten (10) days from transmittal of the complaint by the respondent. The Grievance Committee Chairperson (or staff or counsel) will verify the respondent's assertions as to prior violations in the past three (3) years. In the absence of any prior violation within the past three (3) year period, the complaint will be referred to a panel of the Professional Standards Committee for consideration within thirty (30) days. The panel shall be appointed pursuant to the procedures established elsewhere in this Manual. (Revised 11/14)

(n) The panel of the Professional Standards Committee will meet in executive session. Neither the complainant nor the respondent will be present. Board staff and counsel will be present as deemed necessary by the Chairperson. The initial question to be determined by the panel will be whether the

allegations in the complaint, as acknowledged and agreed to by the respondent, support a violation of one or more of the Articles of the Code of Ethics. The panel shall prepare a brief, concise decision which shall include findings of fact, conclusions, and a recommendation for discipline if a violation is found. Discipline that may be imposed, if a violation is determined, may only include one or more of the following: letter of warning or reprimand, mandatory attendance at a relevant educational program, probation, suspension for thirty (30) days, or a fine not in excess of \$15,000. In addition to imposing discipline, the Hearing Panel can also recommend to the Board of Directors that the disciplined member be put on probation. Probation is not a form of discipline. (Revised 11/14)

(o) The decision of the panel will be filed with the Secretary the day of the hearing, or no later than forty-eight (48) hours following the hearing.* The procedures for dissemination of the decision shall be those in Section 22(b), Decision of a Hearing Panel. Appeals of decisions shall be pursuant to Section 23, Action of the Board of Directors, of this Manual. (Revised 11/14)

(p) The expedited Code enforcement procedures established in the Code of Ethics and Arbitration Manual are available only to REALTORS® holding primary or secondary membership in the Board enforcing the Code or other membership duties and are not available to REALTORS® who become subject to the Code of Ethics or other membership duties pursuant to their participation in or access to MLS under board of choice. (Adopted 11/96)

(q) Where an ethics complaint names more than one respondent, the expedited Code enforcement procedures are available only when all respondents are eligible and all respondents elect to utilize these procedures. (Adopted 11/98)]

*The Hearing Panel's decision shall be considered final only when it is in writing and signed by members of the panel following their personal review and any review by legal counsel which may be required.