

Board or State Association

Address

City

State

Zip

### Outline of Procedure for Ethics Hearing (To be Transmitted in Advance to Both Parties)

**Remote testimony:** Hearings may be held in person, virtually, or a combination thereof. If the hearing is in person, testimony provided in the physical presence of the Hearing Panel is preferred, however, parties and witnesses to ethics hearings may be permitted to participate virtually in hearings at the discretion of the Hearing Panel Chair. Associations may, at their sole discretion, hold hearings when all parties must participate virtually.

**Postponement of hearing:** Postponement may be granted if there are extenuating circumstances. Parties' requests for continuances shall only be granted when all parties mutually agree to a subsequent specified date, or when the hearing panel chair determines that denying the continuance would deny the requestor a fair hearing. Requests for postponement must be made in writing. Permission can be given by the Chairperson. All parties shall be advised of the date of the rescheduled hearing.

**Recording the hearing:** The Association shall have a court reporter present at the hearing or shall record the proceeding. Any party may, at the Association's discretion, record the proceeding or utilize a court reporter at their own expense. If a party utilizes a court reporter and orders a transcript, a copy of the transcription shall be made at the party's expense and presented to the Professional Standards Administrator. If the Association utilizes a court reported in lieu of recording, the parties may not be prohibited from making their own recording. Videotaping is not permitted except with the advance express consent of the parties and the panelists. Any and all recording should be conducted in accordance with state law. Copies of any recording or transcription are to be used only for the purpose of appeals or procedural reviews. Appeals and limited procedural reviews shall not be recorded by the Association or the parties.

**Method and objective of procedure:** The Hearing Panel shall not be bound by the rules of evidence applicable in courts of law, but shall afford all parties a full opportunity to be heard, present witnesses, and offer evidence, subject to its judgment as to relevance.

Parties are strongly encouraged to provide any and all documents and evidence they intend to introduce during the hearing to the other party(ies) and to the association prior to the day of the hearing. Providing documents and evidence in advance can expedite the hearing process and prevent costly, unnecessary continuances. Evidence submitted to the association but not provided to the other party(ies) will be provided to the other party(ies) by the association at the time of submission. Evidence submitted at the time of the hearing will be evaluated for admissibility by the hearing panel chair.

**Due process procedure:** (Chairperson's Procedural Guide of an Ethics Hearing is available in the *Code of Ethics and Arbitration Manual*.) The hearing procedures will be:

- (1) Chairperson cites authority to hear case and explains reason for hearing.
- (2) The complaint will be read into the record.
- (3) The testimony of all parties and witnesses will be affirmed. All witnesses will be excused from the hearing except while testifying.
- (4) Opening statements, first by complainant, then by respondent, briefly explaining party's basic position.
- (5) The parties will be given an opportunity to present evidence and testimony on their behalf and they may call witnesses. All parties appearing at the hearing may be called as witnesses without advance notice.
- (6) The parties and their counsel will be afforded an opportunity to examine and cross-examine all witnesses and parties.
- (7) The panel members may ask questions at any time during the proceedings.
- (8) The Chairperson may exclude any question ruled to be irrelevant or argumentative.
- (9) Each side may make a closing statement. The complainant will make the first closing statement and the respondent will make the final closing statement.
- (10) Adjournment of hearing.
- (11) The Hearing Panel will go into executive session to decide the case.

**Findings in ethics hearing:** The findings and recommendation for discipline, if any, shall be reduced to writing by the Hearing Panel and submitted to the Board of Directors in accordance with the procedures of **Part Four**, Sections 22 and 23 of the *Code of Ethics and Arbitration Manual*.

**Use of counsel:** A party may be represented in any ethics hearing by legal counsel or by a REALTOR® of their choosing (or both). However, parties may not refuse to directly respond to requests for information or questions addressed to them by members of the panel except on grounds of self-incrimination, or on other grounds deemed by the panel to be appropriate. In this connection, the panel need not accept the statements of counsel as being the statements of counsel's client if the panel desires direct testimony. Parties shall be held responsible for the conduct of their counsel. Any effort by counsel to harass, intimidate, coerce, or confuse the panel members or any party to the proceedings, or any action by counsel which is viewed by the panel as disruptive of the proceedings, shall be grounds for exclusion of counsel. The decision to exclude counsel for any of the foregoing reasons shall be the result of a majority vote of the members of the panel and shall be nonappealable. In the event counsel is excluded, the hearing shall be postponed to a date certain not

less than fifteen (15) nor more than thirty (30) days from date of adjournment to enable the party to obtain alternate counsel provided, however, that such postponement shall not be authorized if it appears to members of the panel that the action of counsel has been undertaken by counsel to obtain a postponement or delay of the hearing.

Be advised that all matters discussed are strictly confidential.

*(Revised 11/23)*

*Code of Ethics and Arbitration Manual*