**Chairperson’s Procedural Guide: Conduct of a Virtual Procedural Review Hearing (Arbitration)**

 **Board of REALTORS® State of**

*(Ask the Secretary to make sure that the names of all parties present for the hearing have been added to this Guide and that all the appropriate blanks have been completed. Also note that ethics appeals are not to be recorded.)*

Confirm that the Professional Standards Administrator or staff have confirmed the identity of all parties, witnesses and counsel by requesting verification of at least one government-issued, photo ID card (e.g., driver's license, state ID card, or Passport) prior to being admitted to the hearing.)

*(Ask the Professional Standards Administrator to admit all parties from the virtual waiting room)*

**Display:** Board banner and the American Flag (Professional Standards Administrator should have this displayed behind them and visible to all) if available.

**Seating arrangements:** See **Part Six**, *for ease of identification*, staff will make sure all participants names and titles are visible on the virtual platform.

**Start promptly:** Rap gavel to open meeting.

**Chairperson’s opening statement:** Ladies and gentlemen, I now call this appeal hearing to order. The professional standards procedures of the Board of REALTORS® provide for the right to a procedural review of the arbitration hearing procedures used in arbitration hearings. Both the complainant and/or the respondent have the right to request a procedural review. The request or procedural review will be heard by (the Board of Directors)

(or) (a panel of Directors appointed by the President) (or) (the Board’s Executive Committee) hereinafter referred to as the Procedural Review Hearing Tribunal.

**Basis of this hearing:** The particular matter to be considered by this Procedural Review Hearing Tribunal is a request for procedural review of the arbitration hearing procedures used in an arbitration hearing conducted on 20 . The original arbitration Hearing Panel was composed of:

 , ,

 , , and was chaired by .

The basis of the original arbitration hearing was a Request and Agreement to Arbitrate filed by and the complainant(s), against

 and , the respondent(s). The Award of Arbitrators from the original arbitration hearing was a follows:

*(Read the Award of Arbitrators (Part Thirteen, Form #A-12 of this Manual)*

Prior to the original arbitration hearing, the arbitration request was reviewed by (the Board’s Grievance Committee) (or) (a panel of the Board’s Grievance Committee members) and referred to the Board’s Professional Standards Committee for a hearing.

**Authority:** The Procedural Review Hearing Tribunal present here today is a body duly constituted under the authority of the bylaws of the Board of REALTORS®.

**Introduction of the Procedural Review Hearing Tribunal:** At this time, I would like to introduce the members of this Procedural Review Hearing Tribunal. My name is

 , and I will serve as Chairperson. The other members of this Procedural Review Hearing Tribunal are ,

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 , ,

and .

(If an alternate is present)

We also have an Alternate Panel member attending the hearing today. The Alternate Panel Member is a trained member of \_ Board of Directors and although they are attending the hearing they will not be acting as a participant in the hearing or the executive session nor vote on the decision unless one of the five originally appointed Hearing Panel members are unable to serve on the Hearing Panel from the commencement of the hearing.

**Disqualification:** Anyone who was a party to the original arbitration hearing, a member of the Grievance Committee present during the meeting when the complaint was reviewed, a member of the original Arbitration Hearing Panel, or who was otherwise involved in this matter prior to the procedural review request is disqualified from serving on this Procedural Review Hearing Tribunal. Furthermore, anyone who is related by blood or marriage to any party to the original arbitration hearing, who is an employer, partner, employee, or is associated in business with any of the parties to the original arbitration hearing is also disqualified. I will now ask the members of the Procedural Review Hearing Tribunal if they know of any reason why they should be disqualified.

*(If none)* The members of the Procedural Review Hearing Tribunal have not indicated any reason why they are not qualified to serve. Although the parties have been previously notified of their right to challenge members of this Procedural Review Hearing Tribunal, I will now ask the parties if they are aware of any reason why any member of this Procedural Review

Hearing Tribunal is not qualified to serve.

*(If none)* The parties have not indicated any reason why any member of this Procedural Review Hearing Tribunal is not qualified to serve.

Additional introductions: Also present at this procedural review hearing is

 , the complainant in the original arbitration hearing hearing;

 , the respondent in the original arbitration hearing; , the original Arbitration Hearing Panel Chairperson; and , the Professional Standards Administrator of the Board of REALTORS®.

*(If any attorneys are present, they should be introduced at this time.)*

 , ,

 , and .

**REMOTE HEARING VERIFICATIONS:**

All Parties will be participating in this hearing remotely through a virtual platform.

 Board of REALTORS® allows essential parties and witnesses, panelists, counsel and staff to appear remotely only if that person is in a private location that provides the ability to keep the information presented at this hearing from being heard or overheard by any person who is not authorized to participate in the hearing. Those persons are also strictly prohibited from recording these proceedings or using any electronic or other communication devices during the hearing other than those required to participate in the hearing.

(Chair the questions below and call on each person for an answer, don’t accept a head nod but require a verbal answer.)

*I will need all parties, counsel, panel members and staff to verify the following:*

1. that you are in a private location that will protect the confidentiality of this hearing?
2. *That there are no other persons that can hear or listen in on thishearing*
3. *That you are not recording or allowing anyone else to record this hearing in anyway*
4. *That you are not accessing electronic devices other than to the extent necessary to participate in this hearing remotely*
5. *And that you will continue to take these measures to ensurethe confidentiality of*

*this hearing until the hearing is concluded?*

*All person’s present have answered in the affirmative*

*Although this procedural review hearing is not being recorded, please take note of the following:*

* 1. *All responses must be verbal and audible. Shrugs of the shoulder, gestures, and nods of the head cannot be understood.*
	2. *Only one speaker should speak at a time. I, as Chairman of this panel, will call on each person to speak at the appropriate given time. Please wait for the speaker to finish his/her entire question or comment before responding.*

**Appeal limitations:** In this procedural review hearing we will consider the arguments of

 , hereinafter referred to as the appellant, who filed the Request for Procedural Review. The basis for the procedural review is limited to alleged procedural deficiencies or other irregularities the appellant believes constitute a deprivation of due process (e.g., fraud, coercion, bias, prejudice, evident partiality, etc. The procedural review is further limited to the basis (bases) set forth in writing in the Request for Procedural Review, which is as follows.

*(Read the Request for Procedural Review, [Form #A-13 in Part 13 of this Manual].)*

**Outline of procedure:** At this time, I would like to explain the procedure for this procedural review hearing. First, the appellant will have an opportunity to explain the basis (bases) upon which he/she is requesting that the Award of Arbitrators be overturned. Next, the original arbitration Hearing Panel Chairperson (or a representative from the original panel) will have an opportunity to respond to the allegations raised by the appellant. Then, any of the other parties to the original arbitration hearing will have an opportunity to explain why the Award of Arbitrators should not be overturned. At any time during this proceeding, members of the Procedural Review Hearing Tribunal may ask questions; however, parties have no right of cross-examination. Finally, following the procedural review hearing, the Procedural Review

Hearing Tribunal will go into executive session to render a decision. Do any of the parties have any questions regarding the outline of procedure?

*(If none)* None of the parties has any questions regarding the outline of procedure.

**Guidelines:** This Procedural Review Hearing Tribunal is not dealing with questions of law and is not governed by the technical rules of evidence which may apply in courts. This Procedural Review Hearing Tribunal will seek to determine all ascertainable and relevant facts pertaining to the matter under consideration to arrive at a peer judgment and decision by the Procedural Review Hearing Tribunal that is fair to all of the parties. After the Procedural Review Hearing Tribunal has heard all of the evidence and testimony, we will go into executive session to render our decision. The decision will be based solely upon the arguments, evidence, and testimony offered during this procedural review hearing. All parties or their representatives to these proceedings will be allowed a full opportunity to be heard on matters relevant to the issue. This Procedural Review Hearing Tribunal may rule at any time during this Appeal Hearing on the relevance of testimony being given. All parties giving testimony will be asked to swear or affirm that testimony given is the truth to the best of their knowledge. A party may be represented by legal counsel. This Procedural Review Hearing Tribunal need not accept the statements of counsel as being the statements of their clients if it desires direct testimony. Counsel is present to advise and consult with their clients, and to speak for them subject to appropriate rulings or determinations by this Procedural Review Hearing Tribunal. This Procedural Review Hearing Tribunal will countenance no effort by any party or by counsel to any party to harass, intimidate, coerce, or confuse the Procedural Review Hearing Tribunal or any party to the proceedings.

**Swearing:** At this time, I will request that all persons present in the room who expect to testify at this procedural review hearing stay seated and be sworn or make appropriate affirmation in lieu of being sworn. (The Chairperson should determine if any of the parties prefer affirmation in lieu of being sworn.) Please remain seated, raise your right hand and, following the question I pose, answer in the affirmative if you do so swear. “Do you swear that the statements you are about to make at this hearing are the truth, the whole truth, and nothing but the truth so help you God?”

*(If yes)* All parties have answered in the affirmative.

*(And/or if needed)*

**Affirmation:** Please stay seated, raise your right hand and, following the question I pose, answer in the affirmative if you do so affirm. “Do you affirm that the statements you are about to make at this hearing are the truth, the whole truth, and nothing but the truth?”

*(If yes)* All parties have answered in the affirmative.

**The procedural review hearing:** We shall now proceed with the procedural review hearing.

**Presentation by the appellant:** At this time, the appellant may explain the basis (bases) upon which he/she is requesting that the Award of Arbitrators be overturned. However, no new evidence shall be received except as such new evidence may bear upon the claim of deprivation of due process.

**Rebuttal by the original arbitration Hearing Panel Chairperson:** At this time the original arbitration Hearing Panel Chairperson will have an opportunity to explain why the Award of Arbitrators should be upheld by this Procedural Review Hearing Tribunal.

**Testimony of other parties to the original arbitration hearing:** At this time, any other parties to the original arbitration hearing will have an opportunity to explain why the Award of Arbitrators should be upheld by the Procedural Review Hearing Tribunal. Any party testifying must restrict his/her discussion to the issues raised in the Request for Procedural Review.

**Questions from panel members:** The members of this panel are authorized to ask questions at any time during this procedural review.

**Confirmation of fairness/opportunity to testify:** Do each of you feel that this procedural review hearing has been conducted fairly?

*(If yes)* All parties to this procedural review hearing have indicated that they feel this procedural review hearing has been conducted fairly.

Have each of you had an adequate opportunity to state why you believe that the original Award of Arbitrators should or should not be upheld by this Procedural Review Hearing Tribunal?

*(If yes)* The parties have indicated that they have had an adequate opportunity to state why they believe the original Award of Arbitrators should or should not be upheld by this Procedural Review Hearing Tribunal.

**Closing statements:** The decision of this Procedural Review Hearing Tribunal is final. Before we adjourn this procedural review hearing, all persons present are advised that the final determination of this Procedural Review Hearing Tribunal are considered confidential. Upon final action by this Procedural Review Hearing Tribunal, the Board President shall disseminate to the complainant and the respondent in the original arbitration hearing, the Chairperson and members of the original arbitration Hearing Panel, and, such notice of the action as the Board President deems appropriate under the circumstances.

**Adjournment:** There being no further business to be considered in this procedural review hearing, this portion of the procedural review hearing stands adjourned.

(Ask the Professional Standards Administrator to remove all parties, witnesses and counsel from the meeting prior to going into executive session

**Executive session:** *(The Procedural Review Hearing Tribunal will now go into executive session to render its final decision which will be based solely on the arguments, evidence and testimony offered at the procedural review. hearing.*

**Procedural note:**

*The sole issue for the Procedural Review Hearing Tribunal to decide is whether the arbitration procedures utilized in rendering the Award of Arbitrators afforded all parties*

*due process. If the Procedural Review Hearing Tribunal determines that the original arbitration hearing process was defective in any significant way, then the Award of Arbitrators will be invalidated and the matter will be referred to a different arbitration Hearing Panel for a new hearing or, alternatively, the Procedural Review Hearing Tribunal may release the parties from their obligation to arbitrate if it concludes that the Board will be unable to impanel an impartial arbitration Hearing Panel.*