*Areas of the Code of Ethics and Arbitration Manual Requiring Board/Association Action*

The table that appears below is a handy resource to assist associations when considering and adopting optional provisions and policies that are included in the Code of Ethics and Arbitration Manual. This table corresponds to [optional provisions and policies found on pages i, ii, and iii](http://www.realtor.org/code-of-ethics-and-arbitration-manual/supporting-material/areas-of-the-manual-requiring-board/association-action) of the Code of Ethics and Arbitration Manual and arranges the information into a grid that includes helpful suggestions to P.S. administrators for implementation of the policies. Areas where associations need to make choices are found throughout the CEAM marked by this symbol .

This resource was developed by the New Jersey REALTORS®, in consultation with REALTOR® Diane Disbrow, and other associations may find it useful.

The optional provisions and policies listed below **must** be adopted by the board/association’s board of directors in order to efficiently administer the PS process.

Policies and pages are taken from the 2017 NAR *Code of Ethics and Arbitration Manual*.

It is recommended that the local board/association review the policies requiring action each year to ensure no new policies have been added by the National Association of REALTORS®.

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| PAGE | STATE-MENT # | POLICY | ACTION REQUIRED | ADDITIONAL CONSIDERATIONS | PS COMMITTEE ACTION | DATE | BOD ACTION | DATE |
| 23 | 25 | Expenses related to conduct of hearings by Multi-Board or regional Grievance or Professional Standards Committees***(Applies to ethics and arbitration)*** | Establish written agreement with another signatory Board for the conduct of hearings by a multi-Board or regional Grievance Committee, Professional Standards Committee, or Board of Directors. Determine in this agreement if the expenses will be shared and, if so, how.  | This would only apply to agreements a local board has with another local board.  |  |  |  |  |
| 24 | 33 | Use of panels in place of Committees and the Board of Directors***(Applies to ethics and arbitration)*** | Establish if the board/association will use panels in place of the full board of directors. If so specify the composition of the panel (minimum of 5).Establish whether panels will be used in place of a full Grievance or Professional Standards Committee that can act on behalf of those committees (minimum of 3). Establish whether alternative communication technologies will be used for meetings (other than hearings or appeals/procedural reviews). | May also adopt to have the matter heard by the Board’s Executive Committee. |  |  |  |  |
| 25 | 45 | Publishing the names of Code of Ethics violators***(Applies to ethics)*** | Establish yes or no. | If yes, qualifications are listed in the CEAM. |  |  |  |  |
| 127 | 1 | Article 17, Code of Ethics***(Applies to arbitration)*** | Determine whether the board will require REALTORS® (principals) to mediate otherwise arbitrable disputes pursuant to Article 17.  | Requiring REALTORS® to mediate otherwise arbitrable disputes requires establishment of an affirmative obligation in the Board’s governing documents. Enabling model bylaw provisions can be found at REALTOR.org (see Model Bylaws). |  |  |  |  |
| 127 | 3(a-c) | Circumstances under which arbitration is contingent upon the REALTORS® voluntary participation***(Applies to arbitration)*** | Establish whether voluntary arbitration will or will not be provided as a service. |  |  |  |  |  |

**Part One-Ethics General Provisions**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| PAGE | SECTION # | POLICY | ACTION REQUIRED | ADDITIONAL CONSIDERATIONS | PS COMMITTEE ACTION | DATE | BOD ACTION | DATE |
| 29 | 1(b) | Definitions relating to ethics***(Applies to ethics)*** | Insert board/ association name and location. |  |  |  |  |  |
| 32 | 6 | Conduct of Hearing***(Applies to ethics and arbitration)*** | Determine if board/association will or will not allow a party, at his/her own expense, to have a court reporter present, or to record the proceeding and, if transcribed, to furnish a transcript to the panel.*Note:* If the board utilizes a court reporter, in lieu of a recording, the parties may not be prohibited from making their own recording.  |  |  |  |  |  |

**Part Two- Membership Duties and Their Enforcement**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| PAGE | SECTION # | POLICY | ACTION REQUIRED | ADDITIONAL CONSIDERATIONS | PS COMMITTEE ACTION | DATE | BOD ACTION | DATE |
| 35 | 13(b) | Power to Take Disciplinary Action | Insert state. |  |  |  |  |  |
| 35-36 | 13(a-e) | Power to Take Disciplinary Action***(Applies to ethics)*** | Establish if the board/association will use panels in place of the full board of directors to take disciplinary action against any member as specified Section 13(a-e). If so, specify the composition of the panel (minimum of 5). | May also adopt to have the matter heard by the Board’s executive committee |  |  |  |  |
| 36 | 14 | Nature of Discipline***(Applies to ethics)*** | Determine if board/association will impose an administrative processing fee against respondents found in violation of the Code of Ethics and/or other membership duties. | If yes, determine amount. Cannot exceed $500.00. |  |  |  |  |
| 37 | 15 | Selection and Appointment of the Grievance Committee***(Applies to ethics and arbitration)*** | Insert minimum number of Grievance Committee members. | Take into consideration recommended criteria. |  |  |  |  |
| 38 | 16 | Selection and Appointment of the Professional Standards Committee***(Applies to ethics and arbitration)*** | Insert minimum number of Professional Standards Committee members. | Take into consideration recommended criteria. |  |  |  |  |

**Part Three- The Grievance Committee in Ethics Proceedings**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| PAGE | SECTION # | POLICY | ACTION REQUIRED | ADDITIONAL CONSIDERATIONS | PS COMMITTEE ACTION | DATE | BOD ACTION | DATE |
| 39 | 17 | Authority***(Applies to ethics)*** | Insert number of committee members. |  |  |  |  |  |
| 39 | 17 | Authority***(Applies to ethics and arbitration)*** | Insert the minimum number of Grievance Committee members.\* Specify how the Grievance Committee Chairperson will be selected. |  |  |  |  |  |
| 40 | 19(c) | Grievance Committee’s Review of an Ethics Complaint | Establish if the board/association will use panels in place of the full board of directors to review the appeal of the Grievance Committee’s dismissal of an ethics complaint. If so specify the composition of the panel (minimum of 5). | May also adopt to have the matter heard by the Board’s executive committee |  |  |  |  |

*\*Minimum Number of Grievance Committee members should match what was adopted in Part 2 Section 15.*

**Part Four-The Ethics Hearing**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| PAGE | SECTION # | POLICY | ACTION REQUIRED | ADDITIONAL CONSIDERATIONS | PS COMMITTEE ACTION | DATE | BOD ACTION | DATE |
| 44 | 20(c and d) | Initiating an Ethics Hearing ***(Applies to ethics)*** | Establish if the board/association will use panels in place of the full board of directors to review the appeal of the Grievance Committee’s dismissal of an ethics complaint. If so specify the composition of the panel (minimum of 5).\* | May also adopt to have the matter heard by the Board’s executive committee. |  |  |  |  |
| 44 | 20(f-q) | Initiating an Ethics Hearing ***(Applies to ethics)*** | Determine if the board/association will adopt expedited ethics administration procedures. |  |  |  |  |  |
| 46 | 21(e) | Ethics Hearing ***(Applies to ethics)*** | Determine the number of days prior to a hearing that the complaint and response, if any, will be provided to the hearing panel.  | Once adopted, this policy shall be adhered to for all ethics hearings. |  |  |  |  |
| 48 | 22(a) | Decision of Hearing Panel***(Applies to ethics)*** | Determine if ethics decisions presented to the directors for ratification will or will not include the names of the parties. |  |  |  |  |  |
| 48 and 50 | 23(b and m) | Action of the Board of Directors***(Applies to Ethics)*** | Establish if the board/association will use panels in place of the full board of directors to review, ratify or dismiss the decision of an ethics hearing panel. If so specify the composition of the panel (minimum of 5).\* | May also adopt to have the matter heard by the Board’s executive committee |  |  |  |  |
| 48 | 23(c) | Action of the Board of Directors***(Applies to ethics)*** | Determine if board/association will require a deposit to accompany a request for an appeal (ethics), and decide if panels will act on behalf of the Board of Directors. | If yes, determine amount (not to exceed $500.00). |  |  |  |  |
|  |  |  |  |  |  |  |  |  |

*\*Should match policy adopted for Section 19(c) above.*

**Part Four-The Ethics Hearing (continued)**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| PAGE | SECTION # | POLICY | ACTION REQUIRED | ADDITIONAL CONSIDERATIONS | PS COMMITTEE ACTION | DATE | BOD ACTION | DATE |
| 50 | 23(n) | Action of the Board of Directors***(Applies to Ethics)*** | Determine if names will be published if respondent violates the Code of Ethics twice within three years. | Adoption of this procedure is at the discretion of each Member Board. These procedures may **Not** be utilized unless the member board has adopted them.  |  |  |  |  |
| 50 | 24 | Initial Action by Directors***(Applies to Ethics)*** | Establish if the board/association will use panels in place of the full board of directors to review an allegation that a member has refused to arbitrate or mediate a properly arbitrable matter. If so, specify the composition of the panel (minimum of 5). | May also adopt to have the matter heard by the Board’s executive committee.Allegations of a violation of Article 17 for failure to mediate can only be utilized if the board/association has adopted mandatory mediation. If mandatory mediation is adopted, this requires establishment of an affirmative obligation in the Board’s governing documents. Enabling model bylaw provisions can be found at REALTOR.org (see Model Bylaws). |  |  |  |  |
| 51 | 25 | Preliminary Judicial Determination Prior to Imposition of Discipline***(Applies to Ethics)*** | Establish if the board/association will use panels in place of the full board of directors to specify that the discipline shall become effective upon entry of the final judgment of a court of competent jurisdiction in a suit by the Board for declaratory relief declaring that the discipline proposed violates no rights of the member. If so, specify the composition of the panel (minimum of 5). | May also adopt to have the matter heard by the Board’s executive committee. |  |  |  |  |

**Part Five- Conduct of an Ethics Hearing**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| PAGE | SECTION # | POLICY | ACTION REQUIRED | ADDITIONAL CONSIDERATIONS | PS COMMITTEE ACTION | DATE | BOD ACTION | DATE |
| 79 | N/A | Outline of Procedures for Ethics Hearing***(Applies to ethics)*** | Insert board/association.Insert state. |  |  |  |  |  |
| 79 | N/A | Outline of Procedures for Ethics Hearing- Postponement of the hearing***(Applies to ethics)*** | Determine if the hearing panel chair or the Professional Standards Committee chair will rule on postponement requests. |  |  |  |  |  |

**Part Five- Conduct of an Ethics Hearing (continued)**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| PAGE | SECTION # | POLICY | ACTION REQUIRED | ADDITIONAL CONSIDERATIONS | PS COMMITTEE ACTION | DATE | BOD ACTION | DATE |
| 79 | N/A | Outline of Procedures for Ethics Hearing-Recording the hearing***(Applies to ethics)*** | Determine if board/association permits or prohibits, any party, at his/her own expense, from having a court reporter present, or to record the proceeding and, if transcribed, to furnish a transcript to the panel.*Note:* If the Board utilizes a court reporter in lieu of a recording, the parties may not be prohibited from making their own recording. |  |  |  |  |  |
| 81 | N/A | Outline of Procedures for Ethics Hearing Involving a Complaint and a Counter- Complaint***(Applies to ethics)*** | Insert board/association.Insert state. |  |  |  |  |  |
| 81 | N/A | Outline of Procedures for Ethics Hearing Involving a Complaint and a Counter- Complaint-Postponement of the hearing***(Applies to ethics)*** | Determine if the hearing panel chair or the Professional Standards Committee chair will rule on postponement requests. | Recommended to stay the same as above for consistency purposes. |  |  |  |  |
| 81 | N/A | Outline of Procedures for Ethics Hearing Involving a Complaint and a Counter- Complaint-Recording the hearing***(Applies to ethics)*** | Determine if board/association permits or prohibits, any party, at his/her own expense, from having a court reporter present, or to record the proceeding, and if transcribed, to furnish a transcript to the panel. | Recommended to stay the same as above for consistency purposes. |  |  |  |  |

**Part Seven- Arbitration General Provisions**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| PAGE | SECTION # | POLICY | ACTION REQUIRED | ADDITIONAL CONSIDERATIONS | PS COMMITTEE ACTION | DATE | BOD ACTION | DATE |
| 135 | 26(b) | Definitions Relating to Arbitration | Insert board/association.Insert state. |  |  |  |  |  |
| 137 | 31 | Conduct of Hearing***(Applies to arbitration)*** | Determine if board/association permits or prohibits, any party, at his/her own expense, from having a court reporter present, or to record the proceeding, and if transcribed, to furnish a transcript to the panel.*Note:* If the Board utilizes a court reporter in lieu of a recording, the parties may not be prohibited from making their own recording. |  |  |  |  |  |

**Part Eight- Membership Duties and Their Enforcement**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| PAGE | SECTION # | POLICY | ACTION REQUIRED | ADDITIONAL CONSIDERATIONS | PS COMMITTEE ACTION | DATE | BOD ACTION | DATE |
| 139 | 38 | Selection and Appointment of the Grievance Committee\****(Applies to ethics and arbitration)*** | Insert minimum number of Grievance Committee members. | Take into consideration recommended criteria. |  |  |  |  |
| 139 | 39 | Selection and Appointment of the Professional Standards Committee\****(Applies to ethics and arbitration)*** | Insert minimum number of Professional Standards Committee members. | Take into consideration recommended criteria. |  |  |  |  |

*\*The above two provisions should match what was adopted in Part Two, Section 15 and 16*

**Part Nine- The Grievance Committee in Arbitration Proceedings**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| PAGE | SECTION # | POLICY | ACTION REQUIRED | ADDITIONAL CONSIDERATIONS | PS COMMITTEE ACTION | DATE | BOD ACTION | DATE |
| 141 | 40 | Authority***(Applies to ethics and arbitration)*** | Insert the minimum number of Grievance Committee members.\* Specify how the Grievance Committee chairperson will be selected. | Take into consideration recommended criteria. |  |  |  |  |
| 142 | 42(c) | Grievance Committee’s Review and Analysis of a Request for Arbitration***(Applies to arbitration)*** | Establish if the board/association will use panels in place of the full board of directors to review an appeal of the Grievance Committee’s dismissal or classification of an arbitration request. If so specify the composition of the panel (minimum of 5). | May also adopt to have the matter heard by the Board’s executive committee. |  |  |  |  |

*\*Minimum Number of Grievance Committee members should match what was adopted in Part 2 Section 15.The process of how the Grievance Committee Chairperson Is selected should match Part 3, Section 17.*

**Part Ten- Arbitration of Disputes**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| PAGE | SECTION # | POLICY | ACTION REQUIRED | ADDITIONAL CONSIDERATIONS | PS COMMITTEE ACTION | DATE | BOD ACTION | DATE |
| 144-145 | 44(a) | Duty and Privilege to Arbitrate***(Applies to arbitration)*** | Establish whether voluntary arbitration will or will not be provided as a service. Specify whether voluntary arbitration will be provided in 4, 5, and 6.\* |  |  |  |  |  |
| 145 | 44(b) | Duty and Privilege to Arbitrate***(Applies to arbitration)*** | If board has adopted mandatory mediation, determine if voluntary mediation will be offered in voluntary arbitration circumstances provided in 4, 5, and 6 of this section. | Reminder: If mandatory mediation is adopted, this requires establishment of an affirmative obligation in the Board’s governing documents. Enabling model bylaw provisions can be found at REALTOR.org (see Model Bylaws). |  |  |  |  |
| 145 | 45(b) | Board’s Right to Decline Arbitration***(Applies to arbitration)*** | Establish if the board/association will use panels in place of the full board of directors to review an appeal of the Grievance Committee’s or hearing panel’s dismissal or classification of an arbitration request. If so specify the composition of the panel (minimum of 5). \*\* | May also adopt to have the matter heard by the Board’s executive committee. |  |  |  |  |
| 146 | 46 | Duty to Arbitrate Before the State Association | Insert state. |  |  |  |  |  |
| 146 | 47(a) | Manner of Invoking Arbitration***(Applies to arbitration)*** | Determine if board/association will require a deposit amount to accompany the request and agreement to arbitrate. | If yes, specify amount (not to exceed $500.00). |  |  |  |  |
| 146 | 47(b) | Manner of Invoking Arbitration***(Applies to arbitration)*** | Determine the number of days the Grievance Committee has to review and make a determination as to whether the matter is subject to arbitration. |  |  |  |  |  |

*\*Should match what was previously adopted for Statement of Professional Standards Policy #3- Circumstances under which arbitration is contingent upon the REALTORS®’s voluntary participation*

*\*\*Should match policy adopted for Part Nine- Section 42(c)*

**Part Ten- Arbitration of Disputes (continued)**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| PAGE | SECTION # | POLICY | ACTION REQUIRED | ADDITIONAL CONSIDERATIONS | PS COMMITTEE ACTION | DATE | BOD ACTION | DATE |
| 147-148 | 47(c) | Manner of Invoking Arbitration***(Applies to arbitration)*** | Determine if board/association will require a deposit amount to accompany a response and agreement to arbitrate. | If yes, specify amount (not to exceed $500.00). |  |  |  |  |
| 147 | 47(c) | Manner of Invoking Arbitration***(Applies to Arbitration)*** | Insert state. |  |  |  |  |  |
| 147-148 | 47(c) | Manner of Invoking Arbitration***(Applies to arbitration)*** | Establish if the board/association will use panels in place of the full board of directors to review an appeal of the Grievance Committee’s dismissal or classification of an arbitration request. If so specify the composition of the panel (minimum of 5).\* | May also adopt to have the matter heard by the Board’s executive committee. |  |  |  |  |
| 148 | 48(a) | Submission to Arbitration***(Applies to arbitration)*** | Determine if board/association will require a deposit amount to accompany a request and agreement to arbitrate and a response and agreement to arbitrate. \*\* | If yes, specify amount (not to exceed $500.00). |  |  |  |  |
| 148-149 | 48(b) | Submission to Arbitration***(Applies to arbitration)*** | Board/association should consult with legal counsel and select the appropriate procedure from those listed as Options #1, #2, and #3.  | The circumstances under which Member Boards may conduct arbitration will vary based upon state arbitration statutes and case law. |  |  |  |  |
| 149 | 49 | Initial Action by Directors***(Applies to arbitration)*** | Establish if the board/association will use panels in place of the full board of directors to review an allegation that a member has refused to arbitrate or mediate a properly arbitrable matter. If so specify the composition of the panel (minimum of 5). | May also adopt to have the matter heard by the Board’s executive committee.Allegations of a violation of Article 17 for failure to mediate can only be utilized if the board/association has adopted mandatory mediation. If mandatory mediation is adopted, this requires establishment of an affirmative obligation in the Board’s governing documents. Enabling model bylaw provisions can be found at REALTOR.org (see Model Bylaws). |  |  |  |  |
|  |  |  |  |  |  |  |  |  |

\*Should match policy adopted for Part Nine- Section 42(c) and the policy adopted for Part 10-Section 44(b)

\*\*Must match policy adopted for Part Ten-Section 47(a)

**Part Ten- Arbitration of Disputes (continued)**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| PAGE | SECTION # | POLICY | ACTION REQUIRED | ADDITIONAL CONSIDERATIONS | PS COMMITTEE ACTION | DATE | BOD ACTION | DATE |
| 149 | 50 | Preliminary Judicial Determination Prior to Imposition of Discipline***(Applies to arbitration)*** | Establish if the board/association will use panels in place of the full board of directors to specify that the discipline shall become effective upon entry of the final judgment of a court of competent jurisdiction in a suit by the Board for declaratory relief declaring that the discipline proposed violates no rights of the member. If so, specify the composition of the panel (minimum of 5).\* | May also adopt to have the matter heard by the Board’s executive committee. | . |  |  |  |
| 150-151 | 51(b) | Arbitration Hearing***(Applies to arbitration)*** | Determine the number of days prior to a hearing that the arbitration request and response, if any, will be provided to the hearing panel.  |  |  |  |  |  |
| 151 | 54 | Cost of Arbitration***(Applies to arbitration)*** | Determine if the arbitration filing fee of the prevailing party is to be returned and, if there is a split award, if the parties may receive a portion of their deposits back as determined by the arbitrators.Determine whether the association will refund all or part of parties’ arbitration filing deposits if the dispute is resolved through mediation.If parties settle the dispute after a hearing begins but before the executive session begins, determine the disposition of the arbitration deposits. Also, decide if the association will offer the parties an additional opportunity to settle prior to the hearing panel entering executive session. | Split awards are the exception not the norm (check with counsel to determine if an award can be split in your state). |  |  |  |  |
| 151 | 55(a) | Request for Procedural Review by Directors***(Applies to arbitration)*** | Determine if board/association will require a deposit amount to accompany a request for a procedural review | If yes, specify amount (not to exceed $500.00). |  |  |  |  |
| 151 | 55(c) | Request for Procedural Review by Directors***(Applies to arbitration)*** | Establish if the board/association will use panels in place of the full board of directors to serve as a procedural review tribunal to review a request for procedural review. If so specify the composition of the panel (minimum of 5). | May also adopt to have the matter heard by the Board’s executive committee. |  |  |  |  |
| 152 | 56 | Enforcement***(Applies to arbitration)*** | Insert state. |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |

\*Must match policy adopted for Part Four-Section 24

**Part Eleven- Interboard Arbitration Procedures**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| PAGE | SECTION # | POLICY | ACTION REQUIRED | ADDITIONAL CONSIDERATIONS | PS COMMITTEE ACTION | DATE | BOD ACTION | DATE |
| 187 | N/A | Fee deposit and arbitration agreement  ***(Applies to arbitration)*** | Determine if board/association will require a fee deposit to accompany a request for Interboard Arbitration to go towards the costs of the arbitration as determined by the panel.  | If yes, specify the amount (not to exceed $500.00). If yes, determine which board/association will retain the filing fees.  |  |  |  |  |
| 189 | N/A | Recordation***(Applies to arbitration)*** | Determine if board/association permits or prohibits, any party, at his/her own expense, from having a court reporter present, or to record the proceeding, and if transcribed, to furnish a transcript to the panel. |  |  |  |  |  |
| 189 | N/A | Costs of arbitration***(Applies to arbitration)*** | Agree in advance and specify how costs of an interboard arbitration will be borne between both boards/associations involved.  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |

**Part Twelve-Conduct of an Arbitration Hearing**

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| PAGE | SECTION # | POLICY | ACTION REQUIRED | ADDITIONAL CONSIDERATIONS | PS COMMITTEE ACTION | DATE | BOD ACTION | DATE |
| 191 | N/A | Outline of Procedure for Arbitration Hearing***(Applies to arbitration)*** | Insert board/association.Insert state. |  |  |  |  |  |
| 191 | N/A | Outline of Procedure for Arbitration Hearing-Postponement of hearing***(Applies to arbitration)*** | Determine if the hearing panel chair or the Professional Standards Committee chair will rule on postponement requests. |  |  |  |  |  |
| 189 | N/A | Outline of Procedure for Arbitration Hearing-Recording the hearing***(Applies to arbitration)*** | Determine if board/association permits or prohibits, any party, at his/her own expense, from having a court reporter present, or to record the proceeding, and if transcribed, to furnish a transcript to the panel. |  |  |  |  |  |
| 193 | N/A | Outline of Procedure for Arbitration Hearing involving a Request and Counter Request***(Applies to arbitration)*** | Insert board/association.Insert state. |  |  |  |  |  |
| 193 | N/A | Outline of Procedure for Arbitration Hearing involving a Request and Counter Request***(Applies to arbitration)*** | Determine if the hearing panel chair or the Professional Standards Committee chair will rule on postponement requests. |  |  |  |  |  |
| 193 | N/A | Outline of Procedure for Arbitration Hearing involving a Request and Counter Request***(Applies to arbitration)*** | Determine if board/association permits or prohibits, any party, at his/her own expense, from having a court reporter present, or to record the proceeding, and if transcribed, to furnish a transcript to the panel. |  |  |  |  |  |

**Part Fourteen-State Association Professional Standards Committee**

*To be adopted by state associations*

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| PAGE | SECTION # | POLICY | ACTION REQUIRED | ADDITIONAL CONSIDERATIONS | PS COMMITTEE ACTION | DATE | BOD ACTION |
| 240 | N/A | Ethics and Arbitration Proceedings***(Applies to ethics and arbitration)*** | Insert state association. |  |  |  |  |
| 241 | N/A | Expenses of hearings conducted by the State Association***(Applies to ethics and arbitration)*** | State association should specify, to the extent possible, the appropriate allocation of costs of any hearing conducted by the state association.  |  |  |  |  |
| 241 | N/A | Expenses of hearings conducted by the State Association***(Applies to arbitration)*** | Determine if board/association will require a fee deposit to accompany a request and response for arbitration to be retained by the state association and to go towards the costs of the arbitration.  | If yes, specify the amount (not to exceed $500.00). If yes, determine whether the deposits of both parties will be retained or if only the deposit of the non-prevailing party will be retained.  |  |  |  |
| 241 | N/A | Expenses of hearings conducted by the State Association***(Applies to arbitration)*** | Specify if the award of the arbitrators will include any of the costs incurred by the prevailing party. |  |  |  |  |
| 241 | N/A | Expenses of hearings conducted by the State Association ***(Applies to Arbitration)*** | Specify if the state association will bear all or part of the costs involved or whether the costs are to be borne entirely by the parties.  | If partial costs are involved, the procedure should delineate which costs are to be borne by the parties and which, if any, by the state association. *\*Note:* Under no circumstances should a party to an ethics proceeding be responsible for another party’s costs or that state association’s costs.  |  |  |  |
| 241 | N/A | Expenses of hearings conducted by the State Association ***(Applies to Arbitration)*** | Determine if state association will require a deposit amount to accompany a request for a procedural review | If yes, specify amount (not to exceed $500.00). |  |  |  |

**Part Fourteen-State Association Professional Standards Committee (continued)**

*To be adopted by state associations*

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| PAGE | SECTION # | POLICY | ACTION REQUIRED | ADDITIONAL CONSIDERATIONS | PS COMMITTEE ACTION | DATE | BOD ACTION |
| 241 | N/A | Expenses of hearings conducted by the State Association ***(Applies to ethics and arbitration)*** | Determine if state association will require a deposit amount to accompany a request for an appeal of an ethics hearing panel’s determination. | If yes, specify amount (not to exceed $500.00). |  |  |  |
| 241 | N/A | Composition of Hearing Panels and appellate or review panels | Specify the composition of hearing panels, ethics appeal tribunals, and procedural review tribunals for the state association. | May also adopt to have the matter heard by the Board’s executive committee. |  |  |  |
| 241 | N/A | Composition of Hearing Panels and appellate or review panels***(Applies to arbitration)*** | Establish if the state association will use panels in place of the full board of directors to review and/or ratify the decision of a hearing panel. If so specify the composition of the panel (minimum of 5). | May also adopt to have the matter heard by the Board’s executive committee. |  |  |  |
| 241 | N/A | Refusal to arbitrate***(Applies to arbitration)*** | Establish if the state association will use panels in place of the full board of directors to review an allegation that a member has refused to arbitrate or mediate a properly arbitrable matter. If so specify the composition of the panel (minimum of 5). | May also adopt to have the matter heard by the Board’s executive committee.Allegations of a violation of Article 17 for failure to mediate can only be utilized if the board/association has adopted mandatory mediation. If mandatory mediation is adopted, this requires establishment of an affirmative obligation in the Board’s governing documents. Enabling model bylaw provisions can be found at REALTOR.org (see Model Bylaws). |  |  |  |
| 242 | N/A | Duty to arbitrate before State Association***(Applies to arbitration)*** | Insert state. |  |  |  |  |

**Ethics Specimen Forms**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| PAGE | FORM # | FORM NAME | ACTION REQUIRED | ADDITIONAL CONSIDERATIONS | PS COMMITTEE ACTION | DATE | BOD ACTION |
| 90 | E-1 | Ethics Complaint | Insert board/association and address. |  |  |  |  |
| 91 | E-2 | Notice to Respondents (Ethics) | Insert board/association and address.Specify number of copies to be submitted by respondent. |  |  |  |  |
| 92 | E-3 | Reply (Ethics) | Insert board/association and address.Insert amount the respondent will be assessed for an administrative processing fee if found in violation of the NAR Code of Ethics. | Amount must match policy adopted in Part Two, Section 14-Nature of the Discipline.May not exceed $500.00. |  |  |  |
| 93 | E-4 | Grievance Committee Request for Information (Ethics Complaint) | Insert board/association and addressInsert # of copies. Required.  |  |  |  |  |
| 94 | E-5 | Response to the Grievance Committee Request for Information (Ethics Complaint) | Insert board/association and addressInsert amount of administration processingfee (if any), not to exceed $500 |  |  |  |  |
| 95 | E-5.1 | Grievance Committee Report Form | Insert board/association name. |  |  |  |  |
| 96 | E-6 | Notice of Right to Challenge Tribunal Members | Insert board/association name and address. | To be used for challenges for ethics hearing panels and/or board of directors appeal tribunals. |  |  |  |
| 97 | E-7 | Challenge to Qualifications by Parties to Ethics Proceedings | Insert board/association name and address. | To be used for challenges for ethics hearing panels and/or board of directors appeal tribunals. |  |  |  |
| 98 | E-8 | Official Notice of Hearing | Insert board/association and address.Insert amount the respondent will be assessed for an administrative processing fee if found in violation of the NAR Code of Ethics. | Amount must match policy adopted in Part Two, Section 14-Nature of the Discipline.May not exceed $500.00. |  |  |  |
| 99 | E-9 | Outline of Procedure for Ethics Hearing | Insert board/association and address.Specify adopted policies on postponement of hearing and recordation of the hearing. | Policies included on this form should match what was adopted in Part Five-Conduct of the Hearing.This form must be mailed in advance to both parties. |  |  |  |
| 100 | E-9a | Outline of Procedure for Ethics Hearing Involving a Complaint and Counter-Complaint | Insert board/association and address.Specify adopted policies on postponement of hearing and recordation of the hearing. | Policies included on this form should match what was adopted in Part Five-Conduct of the Hearing.This form must be mailed in advance to both parties. |  |  |  |
| 102 | E-10 | Certificate of Qualification | Insert board/association and address. | To be used for hearing panel and/or board of directors tribunal. |  |  |  |

**Ethics Specimen Forms (Continued)**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| PAGE | FORM # | FORM NAME | ACTION REQUIRED | ADDITIONAL CONSIDERATIONS | PS COMMITTEE ACTION | DATE | BOD ACTION |
| 103 | E-11 | Decision of Ethics Hearing Panel of the Professional Standards Committee | Insert board/association and address. |  |  |  |  |
| 106-107 | E-12 | Action of the Board of Directors (Ethics Hearing)-first page of form | Insert board/association and address. | To be used by board of directors if no appeal has been filed to the hearing panel’s decision. |  |  |  |
| 106-107 | E-12 | Action of the Board of Directors (Ethics Hearing)-second page of form | Insert board/association and address. | To be used by board of directors if appeal is held. |  |  |  |
| 108 | E-13 | Request for Appeal (Ethics) | Insert board/association and address.If required, specify the deposit to accompany a request for an appeal (Ethics).  | Must match policy adopted in Part Four- The Ethics Hearing, Section 23(c).Not to exceed $500.00. |  |  |  |
| 109 | E-14 | Official Notice of Hearing (Ethics) | Insert board/association and address. |  |  |  |  |
| 115 | E-18 | Outline of Content of Petition for Declaratory Relief | Insert board/association name. Insert state.  |  |  |  |  |
| 116 | E-19 | Sample Format of Agreement Between Board of REALTORS® to Establish Multi-Board (or Regional) Professional Standards Enforcement Procedures | Insert Board names.Clarify in advance and include in agreement which signatory board will be responsible for administering the process. Specify how review tribunal will be comprised when hearing an allegation of an Article 17 violation. Specify how tribunal will be comprised when party neglects to pay an award or deposit monies within (ten) 10 days. | Allegations of a violation of Article 17 for failure to mediate can only be utilized if the board/association has adopted mandatory mediation. If mandatory mediation is adopted, this requires establishment of an affirmative obligation in the Board’s governing documents. Enabling model bylaw provisions can be found at REALTOR.org (see Model Bylaws).This form can be adjusted as the signatory boards choose. (See Appendix VI to Part Four, Cooperative Enforcement of the Code of Ethics). |  |  |  |

**Ethics Specimen Forms (Continued)**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| PAGE | FORM # | FORM NAME | ACTION REQUIRED | ADDITIONAL CONSIDERATIONS | PS COMMITTEE ACTION | DATE | BOD ACTION |
| 119-120 | E-20 | Notice to Respondent (Ethics) and Optional Waiver of Right to Hearing.  | Insert board/association and address. | Can only be utilized if board/association previously adopted Part Four-The Ethics Hearing, Section 20(f-q) |  |  |  |
| 121 | E-21 | Sample Letter of Reprimand/ Letter of Warning | Insert board/association and address. | This is a sample. Can be modified. |  |  |  |
| 122 | E-22 | Appeal of Grievance Committee or Hearing Panel Dismissal of Ethics Complaint | Insert board/association and address. | Hearing panels that find a matter not timely filed should transmit their decision via correspondence (not Form E-11, Decision of Ethics Hearing Panel of the Professional Standards Committee). Appellants appealing a hearing panel's dismissal should use this form. |  |  |  |
| 123 | E-23 | Action of the Appeal Hearing Tribunal (Ethics Complaint) | Insert board/association and address. | To be used for the decision of the Grievance Committee or Hearing Panel to dismiss an ethics complaint. |  |  |  |

**Arbitration Specimen Forms**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| PAGE | FORM # | FORM NAME | ACTION REQUIRED | ADDITIONAL CONSIDERATIONS | PS COMMITTEE ACTION | DATE | BOD ACTION |
| 208-209 | A-1 | Request and Agreement to Arbitrate | Insert board/association and address.If required, specify the deposit amount to accompany the request and agreement to arbitrate. | Not to exceed $500.00.Must match policy adopted in Part Ten-Arbitration of Disputes, Section 47(a). |  |  |  |
| 210-211 | A-2 | Request and Agreement to Arbitrate (Nonmember) | Insert board/association and address.If required, specify the deposit amount to accompany the request and agreement to arbitrate. | Not to exceed $500.00.Must match policy adopted in Part Ten-Arbitration of Disputes, Section 47(a). |  |  |  |
| 212 | A-3 | Notice to Respondent (Arbitration) | Insert board/association and address.Specify number of copies to be submitted by respondent. |  |  |  |  |
| 213-214 | A4 | Response and Agreement to Arbitrate | Insert board/association and address.If required, specify the deposit amount to accompany the response and agreement to arbitrate. | Not to exceed $500.00.Must match policy adopted in Part Ten-Arbitration of Disputes, Section 47(c) |  |  |  |
| 215 | A-5 | Grievance Committee Request for Information (Arbitration Request) | Insert board/association and address. |  |  |  |  |
| 216 | A-6 | Response to Grievance Committee Request for Information | Insert board/association and address. |  |  |  |  |

**Arbitration Specimen Forms (Continued)**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| PAGE | FORM # | FORM NAME | ACTION REQUIRED | ADDITIONAL CONSIDERATIONS | PS COMMITTEE ACTION | DATE | BOD ACTION |
| 217 | A-7 | Notice of Right to Challenge Tribunal Members | Insert board/association name and address. | To be used for challenges for arbitration hearing panels and/or board of directors procedural review tribunals. |  |  |  |
| 218 | A-8 | Challenge to Qualifications by Parties to Arbitration Proceedings | Insert board/association name and address. | To be used for challenges for arbitration hearing panels and/or board of directors procedural review tribunals. |  |  |  |
| 219 | A-9 | Official Notice of Hearing (Arbitration) | Insert board/association name and address. |  |  |  |  |
| 220 | A-10 | Outline of Procedure for Arbitration Hearing | Insert board/association and address.Specify adopted policies on postponement of hearing and recordation of the hearing. | Policies included on this form should match what was adopted in Part Twelve-Conduct of an Arbitration Hearing.This form must be transmitted in advance to both parties along with the Arbitration Guidelines and Worksheet. |  |  |  |
| 221-222 | A-10a | Outline of Procedure for Arbitration Hearing Involving a Complaint and Counter-Complaint | Insert board/association and address.Specify adopted policies on postponement of hearing and recordation of the hearing. | Policies included on this form should match what was adopted in Part Twelve-Conduct of an Arbitration Hearing.This form must be transmitted in advance to both parties along with the Arbitration Guidelines and Worksheet. |  |  |  |
| 223 | A-11 | Certificate of Qualification | Insert board/association and address. |  |  |  |  |
| 224 | A-12 | Award of the Arbitrators | Insert board/association and address. | The deposits of the parties shall be used to cover the costs of arbitration or shall go into the general operating funds of the Association of REALTORS®. In the event the award of the arbitrators is in an amount other than that requested by any of the parties (which is only allowed in some states), the disposition of the deposits shall be directed by the arbitrators. |  |  |  |

**Arbitration Specimen Forms (Continued)**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| PAGE | FORM # | FORM NAME | ACTION REQUIRED | ADDITIONAL CONSIDERATIONS | PS COMMITTEE ACTION | DATE | BOD ACTION |
| 225 | A-13 | Request for a Procedural Review (Arbitration) | Insert board/association and address.If required, specify the deposit amount to accompany the Request for Procedural Review. | Not to exceed $500.00.Must match policy adopted in Part Ten-Arbitration of Disputes, Section 55(a) |  |  |  |
| 226 | A-14 | Official Notice of Procedural Review (Arbitration) | Insert board/association and address.Adopt and specify the number of days board/association will require each party to give notice to the board and other party via written notice of an intention to have counsel present at the procedural review.Insert ten (10) day requirement for members to supply board with written request for disqualification of tribunal member(s). | Policy is ten (10) days for parties to request for disqualification of tribunal member(s).  |  |  |  |
| 227  | A-14a | Decision of the Procedural Review Tribunal | Insert board/association and address. |  |  |  |  |
| 236 | A-20 | Appeal of Grievance Committee Dismissal or Classification (or Hearing Panel Dismissal) of Arbitration Request | Insert board/association and address. |  |  |  |  |
| 237 | A-21 | Action of the Appeal Hearing Tribunal (Arbitration Request) | Insert board/association and address.  |  |  |  |  |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Page | SECTION # | POLICY | ACTION REQUIRED | ADDITIONAL CONSIDERATIONS | PS COMMITTEE ACTION | DATE | BOD ACTION |
| 155 | N/A | Non-Arbitrable Issues that Can be Mediated as a Matter of Local Determination | Decide which, if any, of the non-arbitrable issue the board/association will mediate. |  |  |  |  |

**Appendix I to Part 10-Arbitratble Issues**

**Appendix VI to Part 10-Mediation as a Service of Member Boards**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| PAGE | SECTION # | POLICY | ACTION REQUIRED | ADDITIONAL CONSIDERATIONS | PS COMMITTEE ACTION | DATE | BOD ACTION |
| 176 | N/A | Mediation as a Service of Member Boards | Determine whether the board will require REALTORS® (principals) to mediate otherwise arbitrable disputes pursuant to Article 17. Requiring REALTORS® to mediate otherwise arbitrable disputes requires establishment of an affirmative obligation in the board’s governing documents. Enabling model bylaw provisions can be found at REALTOR.org (see Model Bylaws).Also decide if the board will offer disputing parties an opportunity to mediate prior to an arbitration request being filed. |  |  |  |  |
| 178-186 |  | Mediation Specimen Forms | Insert board/association and address where applicable.Insert state where applicable. | Forms may be revised to reflect that mediation of otherwise arbitrable disputes is mandatory if adopted by the board/association. If mandatory mediation is adopted, this requires establishment of an affirmative obligation in the board’s governing documents. Enabling model bylaw provisions can be found at REALTOR.org (see Model Bylaws). |  |  |  |

**Ombuds Procedures:**

Many ethics complaints and arbitration requests might be averted with enhanced communications and initial problem-solving capacity at the local level. A motion was approved by the National Association of REALTORS® Board of Directors on November 10, 2014 that “Every local and state association of REALTORS® be required to offer, either directly or as a part of a cooperative enforcement agreement (consistent with Professional Standards Statement #40, Cooperative Enforcement Agreements), ombudsman services to members, clients, and consumers on or before January 1, 2016.

The ombudsman’s role is primarily one of communication and conciliation, not adjudication. Ombuds do not determine whether ethics violations have occurred, rather they anticipate, identify, and resolve misunderstandings and disagreements before matters ripen into disputes and possible charges of unethical conduct.

Enhanced ombuds resources are also available online: <http://www.nar.realtor/ae/manage-your-association/local-and-state-association-ombudsman-services>

Please note, prior to offering this program, it will require adoption by the local board’s/association’s board of directors.

**Mediation of Potential Unethical Conduct**

Associations interested in providing parties with an additional, more formal, way of resolving disagreements, may adopt ethics mediation. For more information go to: <http://www.nar.realtor/code-of-ethics-and-arbitration-manual/ethics/part-4-appendix-xi-ethics-mediation>

**Citation Policy Procedures**

Associations interested in adopting a citation policy, a citation schedule of potential violations, and specific fines that apply to those violations may view the National Associations Model Citation Policy online: <http://www.nar.realtor/policy/nar-model-citation-policy-and-schedule-of-fines>

Please note, prior to offering this program, it will require adoption by the local board’s/association’s board of directors.

**“Fast Track” administration:**

Associations interested in adopting an optional “fast track” process for receipt, consideration, and resolution of ethics complaints may view an on-line supplement to the*Code of Ethics and Arbitration Manual* at Realtor.org. Search “fast track”.

Please note: Associations can adopt some of the “fast track” provisions provided board policy is established and consistent.

**Professional Standards Administrators:**

Staff primarily responsible for administration of professional standards processes must successfully complete training consistent with Professional Standards Policy Statement #49. If staff has not successfully completed such training, they must do so before becoming primarily responsible for the administration of professional standards processes. If staff has previously completed such training, they have until December 31, 2018 to complete another training. Once staff completes their training, they have four years from that specific date to complete their next training.

**Note:** Initially developed by the New Jersey REALTORS® in consultation with REALTOR® Diane Disbrow.

Updated: January 2017 by Diane Mosley, National Association of REALTORS®