

Outline of Procedure for Ethics Hearing

(To be transmitted in Advance to Both Parties)

Remote Testimony: Although testimony provided in person before a Hearing Panel is preferred, parties and witnesses to ethics hearings may be permitted to participate in hearings by teleconference or videoconference at the discretion of the Hearing Panel Chair.

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 Board shall have a court reporter present at the hearing or shall record the proceeding. Any party may, at the Board'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 Board utilizes a court reporter 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. 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 Board or the parties. *(Revised 5/16)*

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.

Due process procedure: The hearing procedures will be:

- (1) Opening statement by Chairperson- cite authority to hear case and explain reason for hearing.
- (2) The complaint will be read into the record.
- (3) The testimony of all parties and witnesses will be sworn or 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.

Sanctions/Discipline:

Disciplinary action may consist **only** of one or more of the following:

- Letter of Warning with a copy to be placed in member's file;
- Letter of Reprimand with a copy to be placed in member's file;
- Requirement that member attend the ethics portion of the Board Indoctrination Course or other appropriate course or seminar specified by the Hearing Panel which the member could reasonably attend taking into consideration cost, location and duration;
- Appropriate and reasonable fine not to exceed \$15000;
- Membership suspended for a stated period of time not less than thirty (30) days nor more than one (1) year, with automatic reinstatement of membership in good standing at the end of the specified period of suspension;

At the option of the Board of Directors, an assessment in lieu of unconditional suspension, with the assessment not to exceed \$15000. This option may be utilized only once in any three-year period.

- Expulsion from membership with no reinstatement privilege for a specified period of one (1) to three (3) years, with reinstatement of membership to be by application only after the specified period of expulsion, on the merits of the application at the time received; decision should be written clearly articulating all intended consequences, including denial of MLS participatory or access privileges;
- Suspension or termination of MLS rights and privileges may also be utilized. Suspension of MLS services may be no less than thirty (30) days nor more than one (1) year; termination of MLS services shall be for a stated period of one (1) to three (3) years.
- REALTORS® who are not members of a Board from which they purchase the MLS and their users and subscribers remain obligated under the Code of Ethics, the same terms and conditions as REALTORS® of that Board. Discipline imposed on may be the same, but shall not exceed the discipline that may be imposed on our Board's members.
- Requirement to cease or refrain from continued conduct deemed to be in violation of the Code, or to take affirmative steps to ensure compliance with the Code, within a time period to be determined by the hearing panel.

In addition to discipline, a member may be placed on probation for a stated period of time not more than one (1) year; any subsequent violation of the code during the probationary period may, at the discretion of the Board of Directors, result in the imposition of the suspended discipline.

Please note- the discipline/sanctions imposed if someone is found in violation of the Code of Ethics,