

## AAR Risk Management Committee 2016 Business Plan

**FROM:** Risk Management Committee (RMC)  
**Chairman:** Gerry Russell  
**Vice Chairman:** Evan Fuchs  
**RMC Liaison:** Scott M. Drucker  
**DATE:** March 29, 2016

**REALTOR®... the best prepared real estate professional with the highest standards.**

The following are programs, products, services and activities (PPSA's) with Risk Management Committee oversight.

### CURRENT TOP PRIORITIES

- **Continue Grievance Committee and Professional Standards support**
  - Maintain and enhance Ethics hearing and Arbitration hearing process
  - Quarterly Professional Standards Newsletter, 12/29/15
- **Enhance dispute resolution services**
  - Administer the Buyer/Seller Dispute Resolution Program
  - Administer the Mediation and Ombudsman Programs
  - Professional Standards Workshop held on 2/10/2016
  - Professional Standards Policy & Training Workgroup met on 2/19/15
- **Forms**
  - Revised existing forms to ensure compliance with October 2015 RESPA-TILA rules
- **Legal Hotline Support**
  - Continue promotion efforts
  - Survey sent 8/4/15
  - Legal Hotline Workgroup
- **Regulatory Issues**
  - Continue to work with ADRE
  - Attend ADRE Advisory Board meetings - met on 12/2/15
  - ADRE Partner's meeting – met on 8/25/15, 11/3/15 and 1/20/16
- **Risk management education and information**
  - AZ REALTOR® Voice articles
  - AAR Website articles and blogs
  - Scams & Frauds, Short Sale
  - Arizona Broker/Manager Quarterly, 12/1/15
  - Advisories, Revised Lease Owners and Buyer Advisory

### RECOMMENDATIONS

- To approve for release to all Arizona REALTOR® Designated Brokers staff prepared sample Pre- and Post-Possession contract provisions.

# PROFESSIONAL STANDARDS

## Professional Standards Administration

Processing of ethics complaints and arbitration requests. This program involves:

- **Grievance Committee (GVC):** Process complaints/monthly meetings
- **Professional Standards Committee (PSC):** Schedule and staff hearings
- **Professional Standards Policy and Training Workgroup:** Reviews policies and implements training
- **Mediation Program**
- **Ombudsman Program**

Measurable objectives	Status
<ul style="list-style-type: none"> <li>• GVC: Prompt review of complaints</li> </ul>	<ul style="list-style-type: none"> <li>• <b>4<sup>th</sup> Quarter 2015 Filings</b> Ethics = 21 Arbitration = 5</li> </ul>
<ul style="list-style-type: none"> <li>• PSC: Complete ethics cases promptly</li> </ul>	<ul style="list-style-type: none"> <li>• <b>4<sup>th</sup> Quarter 2015 Ethics Held = 6</b></li> </ul>
<ul style="list-style-type: none"> <li>• PSC: Complete arbitrations promptly</li> </ul>	<ul style="list-style-type: none"> <li>• <b>4<sup>th</sup> Quarter 2015 Arbitrations Held = 4</b></li> </ul>
<ul style="list-style-type: none"> <li>• Update PS policy adaptations as necessary</li> </ul>	<ul style="list-style-type: none"> <li>• <b>On-going</b></li> </ul>
<ul style="list-style-type: none"> <li>• Reinforce, on a continuing basis, AAR PS benefits and results</li> </ul>	<ul style="list-style-type: none"> <li>• <b>On-going</b></li> </ul>

## Mediation Program

This program involves facilitating mediations to resolve ethics complaints and arbitration requests.

Measurable objectives	Status
<ul style="list-style-type: none"> <li>• Facilitate mediation requests on a timely basis</li> </ul>	<ul style="list-style-type: none"> <li>• <b>4<sup>th</sup> Quarter 2015 Mediations Filed = 18</b> Held = 5</li> </ul>
<ul style="list-style-type: none"> <li>• Receive positive feedback from mediation evaluations</li> </ul>	<ul style="list-style-type: none"> <li>• <b>On-going</b></li> </ul>
<ul style="list-style-type: none"> <li>• Maintain list of qualified mediators</li> </ul>	<ul style="list-style-type: none"> <li>• <b>19 Mediators for 2015</b></li> </ul>
<ul style="list-style-type: none"> <li>• Update mediation policies and procedures as necessary</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Policy Workgroup met on 2/19/15</b></li> </ul>

## Ombudsman Program

This program involves taking complaint calls/emails and facilitating Ombudsman contact to attempt resolution.

Measurable objectives	Status
<ul style="list-style-type: none"> <li>• Facilitate ombudsman requests on a timely basis</li> </ul>	<ul style="list-style-type: none"> <li>• <b>4<sup>th</sup> Quarter 2015 Ombudsmen requests:</b> Filed = 13 Out of scope = 5 Unsuccessful = 2 Successful = 6</li> </ul>
<ul style="list-style-type: none"> <li>• Receive positive feedback from ombudsman evaluations</li> </ul>	<ul style="list-style-type: none"> <li>• <b>On-going</b></li> </ul>
<ul style="list-style-type: none"> <li>• Maintain list of qualified ombudsmen</li> </ul>	<ul style="list-style-type: none"> <li>• <b>16 Ombudsmen for 2015</b></li> </ul>

<ul style="list-style-type: none"> <li>• Update PS policy adaptations as necessary</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Policy Workgroup met on 2/19/15</b></li> </ul>
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**Professional Standards, Mediation, and Ombudsman Education and Training**

This program includes training for members of Grievance and Professional Standards Committees and AAR Mediators and Ombudsmen.

Measurable objectives	Status
<ul style="list-style-type: none"> <li>• Offer PS Training for GVC and PS Committee</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Professional Standards Workshop Training – February 10, 2016</b></li> </ul>
<ul style="list-style-type: none"> <li>• PS Policy &amp; Training Workgroup meeting</li> </ul>	<ul style="list-style-type: none"> <li>• February 19, 2015</li> </ul>
<ul style="list-style-type: none"> <li>• Offer Mediator training</li> </ul>	<ul style="list-style-type: none"> <li>• October 22, 2015</li> </ul>
<ul style="list-style-type: none"> <li>• Offer Ombudsman training</li> </ul>	<ul style="list-style-type: none"> <li>• <b>SEVRAR – November 5, 2015</b></li> <li>• <b>AAR – October 22, 2015</b></li> </ul>
<ul style="list-style-type: none"> <li>• Offer hearing panel chair training</li> </ul>	<ul style="list-style-type: none"> <li>• June 17, 2015</li> </ul>
<ul style="list-style-type: none"> <li>• Publish PS, Mediation and Ombudsman information</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Quarterly Newsletter – December 29, 2015</b></li> </ul>
<ul style="list-style-type: none"> <li>• PS outreach to members</li> </ul>	<ul style="list-style-type: none"> <li>• <b>On-going</b></li> </ul>

**Buyer-Seller Dispute Resolution**

This program provides alternative dispute resolution options (mediation or arbitration) for buyers and sellers to resolve disputes or claims arising out of the AAR purchase contract.

Measurable objectives	Status
<ul style="list-style-type: none"> <li>• Offer an effective Buyer-Seller Dispute Resolution program</li> </ul>	<ul style="list-style-type: none"> <li>• <b>On-going</b></li> </ul>
<ul style="list-style-type: none"> <li>• Recruit effective Buyer-Seller Dispute Resolution providers</li> </ul>	<ul style="list-style-type: none"> <li>• <b>On-going</b></li> </ul>
<ul style="list-style-type: none"> <li>• Ensure compliance of Buyer-Seller Dispute providers with program’s directives</li> </ul>	<ul style="list-style-type: none"> <li>• <b>On-going</b></li> </ul>
<ul style="list-style-type: none"> <li>• Receive positive feedback from Buyer-Seller Dispute Resolution program evaluations</li> </ul>	<ul style="list-style-type: none"> <li>• <b>On-going</b></li> </ul>

**RISK MANAGEMENT**

**Forms Development**

This program involves:

**Creation of workgroups**

**Drafting** - Draft new forms as needed and revise current forms

**Education** - Forms information updates on website, emails and other communication vehicles.

Measurable objectives	Status
<ul style="list-style-type: none"> <li>• Workgroups formed as necessary</li> </ul>	<ul style="list-style-type: none"> <li>• <b>On-going</b></li> </ul>
<ul style="list-style-type: none"> <li>• Protect our forms copyright</li> </ul>	<ul style="list-style-type: none"> <li>• <b>On-going</b></li> </ul>
<ul style="list-style-type: none"> <li>• Forms drafted or revised for introduction in February 2016</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Pre-Qualification Form 2/16</b></li> <li>• <b>Property Management Agreement 2/16</b></li> <li>• <b>Residential Purchase Contract 2/16</b></li> </ul>

	<ul style="list-style-type: none"> <li>• Vacant Land/Lot Purchase Contract 2/16</li> <li>• Commercial Purchase Contract</li> <li>• Critical Date List</li> </ul>
<ul style="list-style-type: none"> <li>• Deliver timely forms information/education</li> </ul>	<ul style="list-style-type: none"> <li>• Post articles on aarononline.com, AAR blog and AZR Voice</li> <li>• Maintain Short Sale webpage</li> <li>• Maintain Scams and Frauds webpage</li> <li>• Property Management Trends Webinar 1/13/16</li> <li>• TRID Forms Webinars 8/26/15, 10/20/15 &amp; 11/17/15</li> </ul>
<ul style="list-style-type: none"> <li>• Develop educational kit for teams on best practices and guidelines</li> </ul>	<ul style="list-style-type: none"> <li>• Not yet started</li> </ul>
<ul style="list-style-type: none"> <li>• Develop a customizable broker tool kit for management of teams</li> </ul>	<ul style="list-style-type: none"> <li>• Not yet started</li> </ul>
<ul style="list-style-type: none"> <li>• Create and promote a webpage that includes safety education, incident recordation and contemporaneous incident notification via a REALTOR® text alert system.</li> </ul>	<ul style="list-style-type: none"> <li>• Completed</li> </ul>

### Legal Hotline

This program allows designated brokers/managers to call in to the Hotline attorneys for answers to real estate-related legal questions, and includes:

- Program maintenance and monitoring
- Review of letters of opinion/articles for publication

Measurable objectives	Status
<ul style="list-style-type: none"> <li>• Promote Hotline usage</li> </ul>	<ul style="list-style-type: none"> <li>• <b>On-going</b></li> </ul>
<ul style="list-style-type: none"> <li>• Hotline to prepare ten Q&amp;As on current issues/current “hot topics” six times per year for the Arizona REALTOR® Voice and AAR website</li> </ul>	<ul style="list-style-type: none"> <li>• <b>On-going</b></li> </ul>
<ul style="list-style-type: none"> <li>• Hotline to maintain statistics on number and types of calls in cooperation with AAR staff</li> </ul>	<ul style="list-style-type: none"> <li>• <b>On-going</b></li> </ul>
<ul style="list-style-type: none"> <li>• Hotline attorney to attend AAR Risk Management Committee or Workgroup meetings as requested</li> </ul>	<ul style="list-style-type: none"> <li>• <b>On-going</b></li> </ul>
<ul style="list-style-type: none"> <li>• Hotline attorney to review new or revised AAR forms and notify AAR of any legal concerns or recommendations</li> </ul>	<ul style="list-style-type: none"> <li>• <b>On-going</b></li> </ul>
<ul style="list-style-type: none"> <li>• Hotline attorney to consult with AAR General Counsel on legal issues as requested</li> </ul>	<ul style="list-style-type: none"> <li>• <b>On-going</b></li> </ul>
<ul style="list-style-type: none"> <li>• Evaluate Hotline program by surveying members</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Completed 8/14/15</b></li> </ul>
<ul style="list-style-type: none"> <li>• Form Hotline Workgroup to evaluate program</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Completed</b></li> </ul>

### Industry Issues

This program involves addressing current industry issues.

Measurable objectives	Status
<ul style="list-style-type: none"> <li>• Develop system to maintain claims statistics to identify liability trends</li> </ul>	<ul style="list-style-type: none"> <li>• Broker claims survey completed on 11/13/15</li> </ul>
<ul style="list-style-type: none"> <li>• Foster alliances with defense attorneys and E&amp;O carriers and mediators</li> </ul>	<ul style="list-style-type: none"> <li>• <b>On-going</b></li> </ul>
<ul style="list-style-type: none"> <li>• Monitor medical marijuana legal conflicts and keep members informed as the issue evolves</li> </ul>	<ul style="list-style-type: none"> <li>• <b>On-going</b></li> </ul>
<ul style="list-style-type: none"> <li>• Educate agents on potential ethical and legal liabilities associated with off-market listings and private listing clubs</li> </ul>	<ul style="list-style-type: none"> <li>• <b>On-going</b></li> </ul>
<ul style="list-style-type: none"> <li>• Increase promotion and education of RESPA-TILA changes; respond to changes and monitor</li> </ul>	<ul style="list-style-type: none"> <li>• <b>On-going</b></li> </ul>

### Legal & Industry Publications

This program includes:

- Risk Management articles for AAR publications, ASREB Journal and other publications
- Articles on emerging legal issues for AAR publications, ASREB Journal and other publications
- *Arizona Real Estate: A Professional's Guide to Law and Practice*
- AZ Broker/Manager Quarterly
- Buyer Advisory
- Short Sale Seller Advisory
- Lease Owner's Advisory
- Tenant Advisory
- Legal information and risk management information on website (Short Sales blog, Scams & Frauds webpage)
- Spanish translations
- Risk Management brochures

Measurable objectives	Status
<ul style="list-style-type: none"> <li>• Distribution of time sensitive legal and risk management information and articles</li> </ul>	<p style="text-align: center;"><b>Articles published on:</b></p> <ul style="list-style-type: none"> <li>• <b>FIRPTA Changes</b></li> <li>• <b>2/16 Forms Revisions</b></li> <li>• <b>Proper Use of Section 1D of the RPC</b></li> <li>• <b>The Critical Date List</b></li> <li>• <b>Data Breaches and Cyberfraud</b></li> </ul>
<ul style="list-style-type: none"> <li>• Deliver Arizona Broker/Manager Quarterly</li> </ul>	<ul style="list-style-type: none"> <li>• <b>4<sup>th</sup> Qtr BMQ – 12/1/15</b></li> </ul>
<ul style="list-style-type: none"> <li>• Maintain advisories as necessary : Buyer Advisory, Short Sale Seller Advisory, Lease Owners Advisory, Tenant Advisory</li> </ul>	<p style="text-align: center;"><b>Revisions: All four being reformatted and revised. Posted on AAR website. Will go in zipForm in March or April 2016.</b></p>
<ul style="list-style-type: none"> <li>• Maintain and update legal, risk management, fair housing, and international real estate content on AAR website as necessary</li> </ul>	<ul style="list-style-type: none"> <li>• <b>On-going</b></li> </ul>
<ul style="list-style-type: none"> <li>• Update written publications as necessary</li> </ul>	<ul style="list-style-type: none"> <li>• <b>On-going</b></li> </ul>
<ul style="list-style-type: none"> <li>• Promote use of legal &amp; industry publications</li> </ul>	<ul style="list-style-type: none"> <li>• <b>On-going</b></li> </ul>

<ul style="list-style-type: none"> <li>Promote and continue to develop resources that assist brokers in operating a brokerage that is of value to the public, agents, and the real estate industry (i.e. risk management, legal hotline, etc.).</li> </ul>	<ul style="list-style-type: none"> <li><b>On-going</b></li> </ul>
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**Legal and Legislative Outreach and Education**

This program includes:

- Speaking/teaching at local associations and member firms on legal issues and new legislation.
- Program participant in legal components of Winter Conference, Broker University, Partners Conference, Leadership Conference, educational outreach and other association programs.

<b>Measurable objectives</b>	<b>Status</b>
<ul style="list-style-type: none"> <li>Participation in legal and legislative programs</li> </ul>	<ul style="list-style-type: none"> <li><b>On-going</b></li> </ul>

**Legislative Support**

This program includes:

- Provide input on industry issues
- Assist AAR lobbyist in drafting legislation
- Promote laws that reduce member liability
- Testify at the legislature as needed on legislative issues
- Inform members of legislative issues and changes in conjunction with the Legislative and Political Affairs Committee.

<b>Measurable objectives</b>	<b>Status</b>
<ul style="list-style-type: none"> <li>Successful outcome in legislation supported and successful defeat of legislation opposed</li> </ul>	<ul style="list-style-type: none"> <li><b>Advise on construction defect litigation legislation in regard to attorneys' fees.</b></li> <li><b>Advise on potential Independent Contractor legislation</b></li> <li><b>Advise on Airbnb legislation</b></li> </ul>

**REGULATORY ISSUES**

This plan includes:

- Communicate with ADRE and other administrative agencies such as ADEQ, ADWR, DFI, and BTR on regulatory issues
- Review and make recommendations on proposed administrative rules or policy changes
- Serve on ADRE or other state agency committees, when available and appropriate
- Assist AAR CEO and lobbyist in drafting and testifying on proposed rules

<b>Measurable objectives</b>	<b>Status</b>
<ul style="list-style-type: none"> <li>Negotiation of reasonable regulatory rules and policies that are acceptable to AAR members and do not hinder their success</li> </ul>	<ul style="list-style-type: none"> <li><b>Submitted letter to State Bar regarding proposed unauthorized practice of law rule change on 4/28/15</b></li> <li><b>Attended ADEQ Listening Session 7/7/15</b></li> <li><b>Attended ADRE Partner's Meeting 8/25/15, 11/3/15 and 1/20/16</b></li> </ul>

• Maintain contact with ADRE Advisory Board	• Met on 12/2/15
• Establish a regulatory agency workgroup	• Completed

## General Programs

### Support:

This program includes support programs including:

- Continuing education
- State and County Bar dues
- Resource subscriptions
- Staff attendance at legal, legislative and industry meetings
- Copying and postage

Measurable objectives	Status
<ul style="list-style-type: none"> <li>• All tasks assigned by the Committee are completed, updates and information provided to members after Professional Standards, continuing legal education class or industry meetings. General printing/postage/supply funds provide the tools to accomplish the area's PPSAs</li> </ul>	<ul style="list-style-type: none"> <li>• On-going</li> </ul>

## Related Activities without Direct Committee Oversight

### Legal Counsel

- Provide guidance to leadership and CEO on association legal concerns
- Review and advise on building/tenant issues and related contracts
- Review and advise on affinity agreements
- Prepare memoranda on legal issues as they arise
- Provide limited advice and guidance to local associations
- Respond to member inquires as appropriate

Measurable objectives	Status
<ul style="list-style-type: none"> <li>• CEO, state leadership, committees, and local association executives are informed on legal issues and questions satisfactorily answered.</li> </ul>	<ul style="list-style-type: none"> <li>• On-going</li> </ul>

### Litigation Support

Related activities without direct committee oversight:

- Draft Amicus Briefs and monitor litigation and potential litigation or disputes in which AAR has an interest
- Legal research and evaluation of claims or issues
- Preparation of pleadings, memos and correspondence relating to claims or issues
- Coordinate with outside counsel in the representation of AAR on any claims or issues

Measurable objectives	Status
<ul style="list-style-type: none"> <li>• Successful outcome in litigation and dispute resolution.</li> </ul>	<ul style="list-style-type: none"> <li>• On-going</li> </ul>