

**Arizona REALTORS®**  
**RISK MANAGEMENT COMMITTEE**  
**2019 Business Plan**

**FROM:** Risk Management Committee (RMC)  
**Chairman:** Lisa Paffrath  
**Vice Chairman:** Jim Durham  
**RMC Liaison:** Scott M. Drucker  
**DATE:** March 25, 2019

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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 – 12/13/19
- **Enhance dispute resolution services**
  - Administer the Buyer/Seller Dispute Resolution Program
  - Administer the Mediation and Ombudsman Programs
  - Professional Standards Workshop - 2/6/19
  - Professional Standards Mediator and Ombudsman training - 10/25/18
- **Forms**
  - Create Commercial Property Owner's Association Addendum
  - Revise Purchase Contract Flash Page to address wire transfer fraud
  - Create Notice form
- **Legal Hotline Support**
  - Continue promotion efforts
- **Regulatory Issues**
  - Continue to work with ADRE
  - ADRE Advisory Board meetings - met on 1/23/19
  - ADRE Partner's meetings – met on 1/24/19
  - ADRE Real Estate Teams Workgroup – 1/23/19
- **Risk management education and information**
  - AZ REALTOR® Voice articles
  - Arizona REALTORS® website articles and blogs
  - Scams & Frauds, Short Sales
  - Arizona Broker/Manager Quarterly – 11/28/18
  - Update Advisories – Revised Buyer Advisory – 10/18

**RECOMMENDATIONS**

- **Approve for release in June 2019 a newly drafted Notice form**
- **Approve for release in June 2019 a revised Residential Resale Real Estate Purchase Contract Buyer Attachment page (aka “Flash” page)**

- Approve for release in June 2019 a revised short sale Agreement Notice

### GROUPS CURRENTLY FORMED

- Notice Form Loop Review Workgroup

### PROFESSIONAL STANDARDS

**Professional Standards Administration** is the 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>	<b>4<sup>th</sup> Quarter 2018 Filings</b> <b>Ethics = 20</b> <b>Arbitration = 6</b>
<ul style="list-style-type: none"> <li>• PSC: Complete ethics cases promptly</li> </ul>	<b>4<sup>th</sup> Quarter 2018 Ethics Hearings</b> <b>Held = 3</b>
<ul style="list-style-type: none"> <li>• PSC: Complete arbitrations promptly</li> </ul>	<b>4<sup>th</sup> Quarter 2018 Arbitration</b> <b>Hearings Held = 1</b>
<ul style="list-style-type: none"> <li>• Update PS policy adaptations as necessary</li> </ul>	<b>On-Going</b>
<ul style="list-style-type: none"> <li>• Reinforce, on a continuing basis, AAR PS benefits and results</li> </ul>	<b>On-Going</b>

**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>	<b>4<sup>th</sup> Quarter 2018 Mediations</b> <b>Requested = 15</b> <b>Held = 4</b> <b>Successful = 3</b>
<ul style="list-style-type: none"> <li>• Receive positive feedback from mediation evaluations</li> </ul>	<b>On-Going</b>
<ul style="list-style-type: none"> <li>• Maintain list of qualified mediators</li> </ul>	<b>18 mediators for 4<sup>th</sup> Quarter 2018</b>
<ul style="list-style-type: none"> <li>• Update mediation policies and procedures as necessary</li> </ul>	<b>On-Going</b>

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

<b>Measurable Objectives</b>	<b>Status</b>
<ul style="list-style-type: none"> <li>Facilitate ombudsman requests on a timely basis</li> </ul>	<b>4<sup>th</sup> Quarter 2018 Ombudsman requests</b> <b>Filed = 10</b> <b>Out of Scope = 3</b> <b>Unsuccessful = 2</b> <b>Successful = 5</b>
<ul style="list-style-type: none"> <li>Receive positive feedback from ombudsman evaluations</li> </ul>	<b>On-Going</b>
<ul style="list-style-type: none"> <li>Maintain list of qualified ombudsmen</li> </ul>	<b>14 Ombudsman for 4<sup>th</sup> Quarter 2018</b>
<ul style="list-style-type: none"> <li>Update PS policy adaptations as necessary</li> </ul>	<b>On-Going</b>

**Professional Standards, Mediation, and Ombudsman Education and Training**

This program includes training for members of Grievance and Professional Standards Committees and the Arizona REALTORS® Mediators and Ombudsmen.

<b>Measurable Objectives</b>	<b>Status</b>
<ul style="list-style-type: none"> <li>Offer PS Training for GVC and PS Committee</li> </ul>	<b>Professional Standards Workshop held on February 6, 2019</b>
<ul style="list-style-type: none"> <li>PS Policy &amp; Training Workgroup meeting</li> </ul>	<b>Held when needed</b>
<ul style="list-style-type: none"> <li>Offer Mediator training</li> </ul>	<b>October 25, 2018</b>
<ul style="list-style-type: none"> <li>Offer Ombudsman training</li> </ul>	<b>October 25, 2018</b>
<ul style="list-style-type: none"> <li>Offer hearing panel chair training</li> </ul>	<b>April 18, 2018</b>
<ul style="list-style-type: none"> <li>Publish PS, Mediation and Ombudsman information</li> </ul>	<b>Quarterly Newsletter sent December 13, 2018</b>
<ul style="list-style-type: none"> <li>PS outreach to members</li> </ul>	<b>On-Going</b>

**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 Arizona REALTORS® purchase contract.

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

## 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>Notice Form Loop Review Workgroup</b></li> </ul>
<ul style="list-style-type: none"> <li>• Protect our forms copyright</li> </ul>	<p><b>On-Going</b></p> <ul style="list-style-type: none"> <li>- <b>Lawsuit filed 3/2/18</b></li> </ul>
<ul style="list-style-type: none"> <li>• Forms drafted or revised for introduction in February 2019</li> </ul>	<ul style="list-style-type: none"> <li>- <b>Commercial Purchase Contract</b></li> <li>- <b>Short Sale Addendum to the Commercial Purchase Contract</b></li> <li>- <b>Commercial BINSR</b></li> <li>- <b>Residential Lease Agreement</b></li> <li>- <b>Move-In / Move-Out Condition Checklist</b></li> <li>- <b>Cure Period Notice</b></li> </ul>
<ul style="list-style-type: none"> <li>• Deliver timely forms information/education</li> </ul>	<ul style="list-style-type: none"> <li>- <b>Post articles on aaronline.com, AAR Blog and The Voice</b></li> <li>- <b>Maintain Short Sale webpage</b></li> <li>- <b>Maintain Scams and Frauds webpage</b></li> </ul>
<ul style="list-style-type: none"> <li>• Promote and update the educational tool kit for teams and brokers on best practices and guidelines for management of teams</li> </ul>	<p><b>On-Going</b></p>
<ul style="list-style-type: none"> <li>• Promote and update a webpage that includes safety education, incident recordation and contemporaneous incident notification via a REALTOR® text alert system (ASAP)</li> </ul>	<p><b>On-Going</b></p>

**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>	<p><b>On-Going</b></p>
<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>	<p><b>On-Going</b></p>
<ul style="list-style-type: none"> <li>• Hotline to maintain statistics on number and types of calls in cooperation with Arizona REALTORS® staff</li> </ul>	<p><b>On-Going</b></p>

<ul style="list-style-type: none"> <li>Hotline attorney to attend Arizona REALTORS® Risk Management Committee or Workgroup meetings as requested</li> </ul>	<b>On-Going</b>
<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>	<b>On-Going</b>
<ul style="list-style-type: none"> <li>Hotline attorney to consult with AAR General Counsel on legal issues as requested</li> </ul>	<b>On-Going</b>
<ul style="list-style-type: none"> <li>Evaluate Hotline program by surveying members</li> </ul>	<b>To-Do</b>
<ul style="list-style-type: none"> <li>Form Hotline Workgroup to evaluate program</li> </ul>	<b>To-Do</b>

**Industry Issues** This program involves addressing current industry issues.

<b>Measurable Objectives</b>	<b>Status</b>
<ul style="list-style-type: none"> <li>Maintain claims statistics to identify liability trends</li> </ul>	<b>On-Going</b>
<ul style="list-style-type: none"> <li>Foster alliances with defense attorneys and E&amp;O carriers and mediators</li> </ul>	<b>On-Going</b>
<ul style="list-style-type: none"> <li>As of 2018, monitor marijuana legal conflicts, solar, marketing service agreements, and comfort animals - Keep members informed as these issues evolve</li> </ul>	<b>On-Going</b>
<ul style="list-style-type: none"> <li>Educate agents on potential ethical and legal liabilities associated with off-market listings</li> </ul>	<b>On-Going</b>
<ul style="list-style-type: none"> <li>Share with agents the dangers posed by social media</li> </ul>	<b>On-Going</b>
<ul style="list-style-type: none"> <li>Increase promotion and education of federal regulatory changes and enforcement; respond to changes and monitor</li> </ul>	<b>On-Going</b>
<ul style="list-style-type: none"> <li>Monitor cyber-fraud and cyber-security issues and keep members informed of risks, as well as policies and procedures members can implement to mitigate those risks</li> </ul>	<b>On-Going</b> <ul style="list-style-type: none"> <li>- <b>Cyber Security Task Force formed</b></li> <li>- <b>Wire Fraud Advisory drafted and released</b></li> <li>- <b>Cyber Security Broker Policies and Procedures drafted and released</b></li> <li>- <b>Flyer on steps to take if a victim of wire transfer fraud drafted and released</b></li> <li>- <b>Cyber Insurance Guide drafted and released</b></li> <li>- <b>Purchase Contract Flash Page being revised to address wire transfer fraud</b></li> </ul>

<ul style="list-style-type: none"> <li>• Monitor the Americans with Disabilities Act website accessibility issues and keep members informed as the issue evolves</li> </ul>	<p><b>On-Going</b></p>
<ul style="list-style-type: none"> <li>• Collaborate with local associations, regional vice presidents and multiple listing services to identify risk management needs for members, associations and regions</li> </ul>	<p><b>On-Going</b></p> <ul style="list-style-type: none"> <li>- <b>Feedback solicited from RVPs via monthly “Talking Points” sent to all ExCom members.</b></li> <li>- <b>Numerous speaking engagements</b></li> </ul>

**Legal & Industry Publications** This program includes:

- Risk Management articles for The Arizona REALTORS® publications, ASREB Journal and other publications
- Articles on emerging legal issues for The Arizona REALTORS® 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

<b>Measurable Objectives</b>	<b>Status</b>
<ul style="list-style-type: none"> <li>• Distribution of time sensitive legal and risk management information and articles</li> </ul>	<p><b>Articles recently published on:</b></p> <ul style="list-style-type: none"> <li>- <b>Arizona REALTORS® Does Not Sell Your Data to Zillow</b></li> <li>- <b>Who Does What; A Breakdown of AAR, ADRE, and MLS</b></li> <li>- <b>Commercial Purchase Contract FAQs</b></li> <li>- <b>February 1<sup>st</sup> Forms Revision Release</b></li> <li>- <b>Top Code of Ethics Articles Charged in 2018</b></li> <li>- <b>What Every Agent and Broker Should Know About Filing Taxes</b></li> <li>- <b>Advertising Checklist</b></li> <li>- <b>2019 Amendments to the COE</b></li> <li>- <b>TPT Changes Affect Two Arizona Cities</b></li> <li>- <b>New LLC Law Poses Traps for Unwary Members</b></li> <li>- <b>SPDS Facts and Tips</b></li> </ul>
<ul style="list-style-type: none"> <li>• Deliver Arizona Broker/Manager Quarterly</li> </ul>	<p><b>On-Going</b></p>

<ul style="list-style-type: none"> <li>Maintain advisories as necessary: Buyer Advisory, Short Sale Seller Advisory, Lease Owners Advisory, Tenant Advisory</li> </ul>	<b>On-Going</b>
<ul style="list-style-type: none"> <li>Maintain and update legal, risk management, fair housing, and international real estate content on the Arizona REALTORS® website and in publications, as necessary</li> </ul>	<b>On-Going</b>
<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>	<b>On-Going</b>
<ul style="list-style-type: none"> <li>Direct agents to their brokers</li> </ul>	<b>On-Going</b>
<ul style="list-style-type: none"> <li>Direct members to aaronline.com for relevant risk management resources</li> </ul>	<b>On-Going</b>

**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>	<b>On-Going</b>

**Legislative Support** This program includes:

- Provide input on industry issues
- Assist the Arizona REALTORS® 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>	<b>Advise on legislation pertaining to:</b> <ul style="list-style-type: none"> <li>- Tax law effects of Prop. 126</li> <li>- Sign ordinances</li> <li>- HOA licensing and related HOA issues</li> <li>- Awarding attorneys' fees in construction defect cases</li> <li>- Nicknames on ADRE License</li> </ul>
<ul style="list-style-type: none"> <li>Promote laws (legislative and case law), regulations, and standards of practice that reduce member liability</li> </ul>	<b>On-Going</b>

**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 the Arizona REALTORS® 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>	- <b>Appointed to assist ADRE in drafting Substantive Policy Statement on Teams; Met on January 23, 2019</b>
<ul style="list-style-type: none"><li>• Maintain contact with ADRE Advisory Board</li></ul>	<b>Met on January 23, 2019</b>

**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

<b>Measurable Objectives</b>	<b>Status</b>
<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>	<b>On-Going</b>

**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

<b>Measurable Objectives</b>	<b>Status</b>
<ul style="list-style-type: none"><li>• CEO, state leadership, committees, and local association executives are informed on</li></ul>	<b>On-Going</b>

legal issues and questions satisfactorily answered.	
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**Litigation Support** Related activities without direct committee oversight:

- Draft Amicus Briefs and monitor litigation and potential litigation or disputes in which The Arizona REALTORS® 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 the Arizona REALTORS® on any claims or issues

Measurable Objectives	Status
<ul style="list-style-type: none"> <li>• Successful outcome in litigation and dispute resolution.</li> </ul>	<p><b>On-Going</b></p> <ul style="list-style-type: none"> <li>- <b>Copyright infringement lawsuit filed by Arizona REALTORS® on March 2, 2018</b></li> </ul>