

Arizona REALTORS®
RISK MANAGEMENT COMMITTEE
2019 Business Plan

FROM: Risk Management Committee (RMC)
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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 – 5/10/19
- **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 - 10/23/19
- **Forms**
 - Create Commercial Property Owner's Association Addendum
 - Revise Residential Purchase Contract to: (i) add the Solar Addendum to Section 1f; (ii) address smart devices; and (iii) clarify seller concessions.
- **Legal Hotline Support**
 - Continue promotion efforts
- **Regulatory Issues**
 - Continue to work with ADRE
 - ADRE Advisory Board meetings - met on 7/17/19
 - ADRE Partner's meetings – met on 4/18/19
 - 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 – 8/28/19
 - Update Advisories – Revised Buyer Advisory – 8/19

RECOMMENDATIONS

- **Approve for release in February 2020 a Commercial Property Owners Association Addendum**

GROUPS CURRENTLY FORMED

- **Commercial Property Owner’s Association Addendum 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"> • GVC: Prompt review of complaints 	2nd Quarter 2019 Filings Ethics = 31 Arbitration = 6
<ul style="list-style-type: none"> • PSC: Complete ethics cases promptly 	2nd Quarter 2019 Ethics Hearings Held = 11
<ul style="list-style-type: none"> • PSC: Complete arbitrations promptly 	2nd Quarter 2019 Arbitration Hearings Held = 1
<ul style="list-style-type: none"> • Update PS policy adaptations as necessary 	On-Going
<ul style="list-style-type: none"> • Reinforce, on a continuing basis, AAR PS benefits and results 	On-Going

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

Measurable Objectives	Status
<ul style="list-style-type: none"> • Facilitate mediation requests on a timely basis 	2nd Quarter 2019 Mediations Requested = 15 Held = 7 Successful = 5
<ul style="list-style-type: none"> • Receive positive feedback from mediation evaluations 	On-Going
<ul style="list-style-type: none"> • Maintain list of qualified mediators 	21 mediators for 2nd Quarter 2019
<ul style="list-style-type: none"> • Update mediation policies and procedures as necessary 	On-Going

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"> Facilitate ombudsman requests on a timely basis 	2nd Quarter 2019 Ombudsman requests Filed = 16 Out of Scope = 6 Unsuccessful = 4 Successful = 6
<ul style="list-style-type: none"> Receive positive feedback from ombudsman evaluations 	On-Going
<ul style="list-style-type: none"> Maintain list of qualified ombudsmen 	13 Ombudsman for 2nd Quarter 2019
<ul style="list-style-type: none"> Update PS policy adaptations as necessary 	On-Going

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.

Measurable Objectives	Status
<ul style="list-style-type: none"> Offer PS Training for GVC and PS Committee 	Professional Standards Workshop held on February 6, 2019
<ul style="list-style-type: none"> PS Policy & Training Workgroup meeting 	April 24, 2019
<ul style="list-style-type: none"> Offer Mediator training 	October 23, 2019
<ul style="list-style-type: none"> Offer Ombudsman training 	October 23, 2019
<ul style="list-style-type: none"> Offer hearing panel Chair training 	August 12, 2019
<ul style="list-style-type: none"> Publish PS, Mediation and Ombudsman information 	Quarterly Newsletter sent May 10, 2019. Website updated quarterly.
<ul style="list-style-type: none"> PS outreach to members 	On-Going

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.

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

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"> • Workgroups formed as necessary 	<ul style="list-style-type: none"> - Commercial Property Owner's Association Workgroup
<ul style="list-style-type: none"> • Protect our forms copyright 	<p>On-Going</p> <ul style="list-style-type: none"> - Lawsuit settled and we are currently receiving settlement checks from Defendants
<ul style="list-style-type: none"> • Forms drafted or revised for introduction in October 2019 	<ul style="list-style-type: none"> - Commercial Property Owner's Association Addendum - Buyer Pre-Closing Walkthrough - Vacant Land/Lot Purchase Contract - Residential Lease Agreement
<ul style="list-style-type: none"> • Deliver timely forms information/education 	<ul style="list-style-type: none"> - Post articles on aaronline.com, AAR Blog and The Voice - Maintain Short Sale webpage - Maintain Scams and Frauds webpage
<ul style="list-style-type: none"> • Promote and update the educational tool kit for teams and brokers on best practices and guidelines for management of teams 	<p>On-Going</p>
<ul style="list-style-type: none"> • Promote and update a webpage that includes safety education, incident recordation and contemporaneous incident notification via a REALTOR® text alert system (ASAP) 	<p>On-Going</p> <ul style="list-style-type: none"> - ASAP Alert sent 4/25/19 to Sedona and Prescott members

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"> • Promote Hotline usage 	<p>On-Going</p>
<ul style="list-style-type: none"> • Hotline to prepare ten Q&As on current issues/current "hot topics" six times per year for the Arizona REALTOR® Voice and AAR website 	<p>On-Going</p>

<ul style="list-style-type: none"> Hotline to maintain statistics on number and types of calls in cooperation with Arizona REALTORS® staff 	On-Going
<ul style="list-style-type: none"> Hotline attorney to attend Arizona REALTORS® Risk Management Committee or Workgroup meetings as requested 	On-Going
<ul style="list-style-type: none"> Hotline attorney to review new or revised AAR forms and notify AAR of any legal concerns or recommendations 	On-Going
<ul style="list-style-type: none"> Hotline attorney to consult with AAR General Counsel on legal issues as requested 	On-Going
<ul style="list-style-type: none"> Evaluate Hotline program by surveying members 	Completed 7/19
<ul style="list-style-type: none"> Form Hotline Workgroup to evaluate program 	Risk Management Committee to serve in this role

Industry Issues This program involves addressing current industry issues.

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

	<ul style="list-style-type: none"> - Cyber Insurance Guide drafted and released - Purchase Contract Flash Page revised to address wire transfer fraud
<ul style="list-style-type: none"> • Monitor the Americans with Disabilities Act website accessibility issues and keep members informed as the issue evolves 	On-Going
<ul style="list-style-type: none"> • Collaborate with local associations, regional vice presidents and multiple listing services to identify risk management needs for members, associations and regions 	On-Going <ul style="list-style-type: none"> - Feedback solicited from RVPs via monthly “Talking Points” sent to all ExCom members. - Numerous speaking engagements

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

Measurable Objectives	Status
<ul style="list-style-type: none"> • Distribution of time sensitive legal and risk management information and articles 	Articles recently published on: <ul style="list-style-type: none"> - TransactionDesk - Lending to Vets - Revised Affidavit of Disclosure - Updated Wire Fraud Advisory - Pre and Post Possession Agreements - zipForm Licensing Agreement - Homestead Exemption - Protection from Judgment Liens - Do-Not-Call Registry - Eminent Domain and the Takings Clause - Subsidized Housing Vouchers
<ul style="list-style-type: none"> • Deliver Arizona Broker/Manager Quarterly 	On-Going

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

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.

Measurable Objectives	Status
<ul style="list-style-type: none"> Participation in legal and legislative programs 	On-Going

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.

Measurable Objectives	Status
<ul style="list-style-type: none"> Successful outcome in legislation supported and successful defeat of legislation opposed 	<p>Advise on legislation pertaining to:</p> <ul style="list-style-type: none"> - Tax law effects of Prop. 126 - HOA licensing and related HOA issues - Awarding attorneys' fees in construction defect cases - Nicknames on ADRE License - Games of chance - Collection of rent by unlicensed individuals

<ul style="list-style-type: none"> Promote laws (legislative and case law), regulations, and standards of practice that reduce member liability 	On-Going
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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

Measurable Objectives	Status
<ul style="list-style-type: none"> Negotiation of reasonable regulatory rules and policies that are acceptable to AAR members and do not hinder their success 	- Appointed to assist ADRE in drafting Substantive Policy Statement on Teams; Met on January 23, 2019
<ul style="list-style-type: none"> Maintain contact with ADRE Advisory Board 	Met on July 17, 2019

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"> 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 	On-Going

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"> • CEO, state leadership, committees, and local association executives are informed on legal issues and questions satisfactorily answered. 	On-Going

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"> • Successful outcome in litigation and dispute resolution. 	On-Going <ul style="list-style-type: none"> - Copyright Infringement Lawsuit settled and we are currently receiving settlement checks from Defendants - Monitor <i>Moehrl v. NAR</i>, et al.