

Pending Risk Management Approval on January 7, 2021

RECOMMENDATION TO THE EXECUTIVE COMMITTEE

FROM:

Risk Management Committee

RECOMMENDATION:

Approval of the attached revisions to the Arizona REALTORS® Adaptations to the NAR Code of Ethics and Arbitration Manual.

BACKGROUND:

On December 8, 2020 the Professional Standards Policy Workgroup met and recommended changes to the current Arizona REALTORS® Professional Standards policies.

On January 7, 2021, the Risk Management Committee voted to approve a revised version of Arizona REALTORS® Adaptations to the NAR Code of Ethics and Arbitration Manual to reflect the changes set forth in Exhibit A.

BUDGET IMPACT:

None

MOTION:

TO APPROVE THE REVISIONS TO ARIZONA REALTORS® ADAPTATIONS TO THE NAR CODE OF ETHICS AND ARBITRATION MANUAL SET FORTH IN EXHIBIT A.

FOR MORE INFORMATION CONTACT:

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EXHIBIT A

Revise Arizona REALTORS® Adaptations to the NAR Code of Ethics and Arbitration Manual

Update Arizona REALTORS® (AAR) Adaptations to the NAR Code of Ethics and Arbitration Manual (Manual) to be compliant with the National Association of REALTORS® (NAR) Code of Ethics and Arbitration Manual (COEM).

1. SECTION 2. Qualification for Tribunal

AAR previously changed the timeframe for a party to challenge a tribunal member from 10 days to 20 days. Because filings and documents are mostly communicated electronically and not first class mail, 10 days is sufficient timing to challenge a tribunal member and the original timeline should therefore be restored.

RECOMMENDATION: Remove AAR’s revision from the Manual and follow the COEM timeframe to challenge a tribunal member.

2. SECTION 6. Conduct of Hearing

Parties to Arizona REALTORS® ethics and arbitration hearings will be allowed to tape record those proceedings (but Arizona REALTORS® transcription will be the official record.)

RECOMMENDATION: Remove “tape” to allow any type of recording.

3. SECTION 21. Ethics Hearing

Paragraph (c) requires mailing each party a list of AT LEAST THIRTY (30) names of members of the Professional Standards Committee.

RECOMMENDATION: Remove the current language and replace it with the language in the COEM which states a “list of names” will be provided.

Paragraph (e) states that the hearing panel will be provided copies of ethics complaints and arbitration requests at the time the hearing notice and related materials are sent to the parties to the hearing which is a minimum of 21 days prior to the hearing. *See also Section 51. Arbitration Hearing, paragraph (b).*

RECOMMENDATION: Decrease the timeframe from 21 days to 10 days. Parties are still allowed to submit documentation up to 15 days before a hearing. Accordingly, if documents are provided to the hearing panel 21 days before the hearing, an incomplete submission is provided and staff is required to provide additional documentation at a later date which is not efficient. Additionally, documents are sent by way of share file to the hearing panel and not mailed. As such, the hearing panel receives documents in a timely manner. [This would also apply to Section 51. Arbitration Hearing, paragraph (b).]

4. **Appendix XI to Part Four – Ethics Mediation**

Effective January 1, 2021, NAR revised the definition of “public trust.”

RECOMMENDATION: Remove the definition of “public trust” as it is unnecessarily duplicative in that the Manual already provides the location of where to find the definition in NAR’s Bylaws.

Update – housekeeping

1. Remove those portions included in the Manual which are duplicative of COEM. For example, NAR updated the COEM which now includes:
 - a. Contacting recipients of notices that have not acknowledged receipt of the notice; and
 - b. Date of transmission instead of “mail.”
2. Removing the definition of “Board” to mirror the change made previously by NAR.
3. Remove unnecessary explanation verbiage for a policy change.
4. Update Internal Policy A and B, Processing an Ethics Complaint and Request for Arbitration, respectively, to include on-line complaints, on-line recordings, use of a video conference platform and three-member hearing panels.
5. Update all verbiage that references “mail” to from date of transmittal.
6. Update all forms to match changes included herein.
7. Update Administrative Time Frames to match policies.