

RESPECT FOR THE PUBLIC • RESPECT FOR PROPERTY • RESPECT FOR PEERS

PROFESSIONAL STANDARDS



“ REALTOR®... the best prepared
real estate practitioner with the highest standards ”

PROFESSIONAL STANDARDS NEWSLETTER

December 2021

Save the Date:

The 2022 Professional Standards Workshop at Desert Willow Conference Center will be held on:

Wednesday, February 9, 2022

Registration Begins 8:15 AM

Morning Session Begins 9:00 AM

Lunch 12:00 PM

Afternoon Sessions Begins 1:00 PM

Training Ends 3:00 PM

Registration is open. Please register [here](#).

Wrapping up 2021

2021 has been the busiest year yet! As of December 16, 2021, the 2021 statistics are as follows:

- 205 ethics complaints filed, and 27 arbitration requests filed
- 48 ethics hearings held, and 12 arbitration hearings held
- 6 ethics mediations (6 successful) and 22 arbitration mediations (8 successful)
- 28 ombudsman requests – (18 resolved)

The Code of Ethics

The pandemic brought many changes to the way associations hold mediations and hearings. And the Arizona REALTORS® paved the way with virtual hearings and mediations. For that reason, our very own Marge Lindsay participated on the National Association of REALTORS® (NAR) Virtual Hearing Work Group to discuss and make recommendations for very much needed 2022 updates to NAR's Code of Ethics and Arbitration Manual allowing for virtual hearings. Thank you, Marge, for your service!

Additional 2022 changes effective January 1, 2022:

Article 1, Standard of Practice 1-8 (*Amended*) – only the new verbiage is cited below

Upon written request of the listing broker who submits a counter-offer to the buyer's /tenant's broker, the buyer's /tenant's broker shall provide, as soon as practical, a written affirmation to the listing broker stating that the counter-offer has been submitted to the buyers/tenants, or a written notification that the buyers/tenants have waived the obligation to have the counter-offer presented.

Article 12, Standard of Practice 12-1 (*Amended*)

REALTORS® must not represent that their brokerage services to a client or customer are free or available at no cost to their clients unless the REALTOR® will receive no financial compensation from any source for those services.

After January 1, 2022, you should be able to download, at no cost, a PDF file of the 2022 Code of Ethics and Arbitration Manual (COEAM). To do so, go to: <https://www.nar.realtor/about-nar/governing-documents/the-code-of-ethics> and scroll down the page for the link to the manual. Additionally, as a reminder, case interpretations are no longer included with the COEAM. However, you may find them at the above link.

#

Case Interpretation Updates:

The following new case interpretations have been prepared, offering clarity to Standards of Practice 10-1 and 10-11:

- 10-1: Use of Speech or Ideas Included in Religious Doctrine, adopted
- 10-11: Display of Symbols, adopted

At your convenience, please read these new case interpretations, again using the above link.

#

GRIEVANCE COMMITTEE

We cannot thank you enough for volunteering your time to attend this year's meetings which were exceptionally long due to our record high number of filings.

The Grievance Committee acts as the gatekeeper, ensuring that only those complaints that allege a potential violation of the Code of Ethics are forwarded to a hearing. When reviewing ethics complaints, the Code of Ethics & Arbitration Manual (Manual) provides a list of items the Grievance Committee should consider. Below, are a couple of those considerations:

Are the specific Articles cited in the complaint appropriate in light of the facts provided? Should additional Articles be cited? Should certain Standards of Practice be cited in support of the Articles charged? Are any inappropriate Articles cited?

If the facts alleged in the complaint were taken as true on their face, is it possible that a violation of the Code of Ethics occurred? Complainants are not required to prove their case when initially filing an ethics complaint. A complaint may not be dismissed for lack of evidence if the allegation(s), taken as true on their face, could constitute a violation of the Code of Ethics and the complaint is in an otherwise acceptable form. (Revised 11/15)

Sometimes we make assumptions about respondent's actions outside of the allegations and documents. Please remember to stay focused on complainant's stated allegations and not make assumptions about the events.

HEARING PANEL CHAIRS

When you chair an ethics or arbitration hearing, remember to ensure due process is afforded to the parties. In a nutshell, "due process requires a fair and diligent search for the truth – with an opportunity for all facts to be gathered; all views to be heard; all defenses to be raised and all prejudice or bias to be expunged."

We have seen an increase in appeals filed this year, which are referred to as procedural reviews. If you are chairing an appeal panel, the standard for ethics and arbitration appeals are distinctly different as parties to ethics cases can appeal for more reasons than parties to an arbitration matter. The National Association of REALTORS® Code of Ethics & Arbitration Manual states the following for appeals:

Ethics (Appendix V to Part Four):

(34) Information considered by Directors in an appeal proceeding. An appeal to the Board of Directors shall be determined on the basis of the transcript, recording, or summary of the proceeding by the Hearing Panel Chairperson, and no new evidence shall be considered unless the basis of the appeal is the Hearing Panel's alleged refusal to admit or receive evidence a party feels properly should have been allowed. The parties may appeal to the merits of the Hearing Panel's findings of fact, decision, and recommendation for sanction and may correct the

summary, the transcript, or recording. Only the bases and facts raised in the written appeal may be raised by the appellant at the hearing before the Board of Directors.

Arbitration (Section 55):

(d) The [appeal panel] shall not hear an appeal with respect to the merits of an arbitration award, and shall not, on appeal, review such evidence offered with respect to the merits of that award, except as such evidence may bear upon a claim of deprivation of due process. [] This decision may be to adopt the award of the arbitrators or to overturn the award based on a substantial procedural error in the arbitration hearing process that resulted in a denial of due process or on a determination that the member was otherwise deprived of due process. (Revised 05/15)

(f) If the [appeal panel] determine[s] that a substantial procedural error occurred or a member was otherwise deprived of due process, the [appeal panel] shall invalidate the original arbitration award and direct that the matter be referred to the Professional Standards Committee for a hearing on the merits before a different Hearing Panel, or, alternatively, the [appeal panel] may release the parties from their obligation to arbitrate if the [appeal panel] conclude that the Board will be unable to impanel an impartial Hearing Panel.

HEARING PANEL MEMBERS

Please remember that when you sign up to participate on a hearing panel to block off the whole day. While the majority of hearings do not last longer than 4 hours, we cannot guarantee the length of time each party will need to present their case. In the event a hearing panel member needs to leave early, and we do not have an alternate available, it could result in a postponement and a potentially significant delay. Because hearings are scheduled so far in advance, we try our hardest to ensure the parties are afforded due process and a delay could mean a future appeal.

If you signed up for a hearing but thereafter have a scheduling conflict, please let us know as soon as possible so that we can make the appropriate arrangements.

MEDIATORS & OMBUDSMEN

In November, the National Association of REALTORS® (NAR) passed a motion to amend NAR's Local and State Association Ombudsman Services Policy to authorize ombudsmen and ethics mediators to hear disputes involving an alleged public trust violation. Prior to this change for 2022, ombudsmen and ethics mediators were required to stop the ombudsman request or mediation if a dispute involved a matter of public trust and refer the parties back to the association.

REMINDER: If, at any time you become uncomfortable with a person's behavior or the discussion, you should cease the call or mediation and refer the parties back to the association.

New Professional Standards Administrator



On December 1, 2021, we announced that Michelle Sinclair was offered the position of Professional Standards Administrator and she happily accepted. Michelle has been with the association for almost 8 years and was previously in the Business Technology & Communications department. Michelle is eager and excited for this new opportunity.

THANK YOU, JO!

“Volunteers are the only human beings on the face of the earth who reflect this nation’s compassion, unselfish caring, patience, and just plain loving one another.” – Erma Bombeck

This year, after 20 years of service, Jo Hannifan retired from the Arizona REALTORS® Grievance Committee. The Arizona REALTORS® and its members are fortunate to have benefitted from Jo’s passion, energy, and sense of humor for so many years. We are forever grateful for her contributions and wish Jo and Kerry (Jo’s husband who retired from the Professional Standards Committee last year) well!

Happy Holidays



The Arizona REALTORS® Professional Standards staff wishes you the happiest of holidays and hopes you are able to surround yourselves with family and friends this holiday season and in the coming year. 2020 and 2021 have taken a toll on all of us and we are very grateful for your help with the Professional Standards processes.

May 2022 bring you much joy, happiness, and good health!