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PROFESSIONAL STANDARDS



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

PROFESSIONAL STANDARDS NEWSLETTER

September 2022

“Volunteers do not necessarily have the time; they just have the heart.” – Elizabeth Andrew

2022 SECOND QUARTER STATISTICS

- In the second quarter of 2022, there was a total of:
 - 53 ethics complaints filed, with 16 forwarded.
 - 7 arbitration requests filed, with all 7 forwarded for mandatory mediation.
 - 14 ethics hearings and 1 arbitration hearing were held.
- Our Ombudsman Program Received:
 - 12 Requests. Of those 12, 4 were in the scope of the program, and all 4 were successfully resolved.
- Our Mediation Program received:
 - 7 mediation requests. 2 mediations were held, all of which were successful.

PROFESSIONAL STANDARDS

Mary Lee Greason Award

Every year, the Arizona REALTORS® Professional Standards Committee awards a committee member who exhibits a passion for professional standards through exceptional service, commitment, preparation, and leadership, with the Mary Lee Greason Excellence in Professional Standards Award.

Nominations for the 2023 Mary Lee Greason Excellence in Professional Standards Award are due by November 1, 2022. Specific factors for nomination include, but are not limited to, length of service, roles in leadership positions, diversity of roles within the Professional Standards Committee, and contributions made.

If *YOU* or someone you know is worthy of receiving this award, please email your nomination to NikkiSalgat@aaronline.com prior to November 1, 2022, including an explanation as to why the applicant should be considered. The winner will be selected by the current Chairs of the Professional Standards Committee and the Risk Management Committee with the award being presented at the 2023 Arizona REALTORS® Professional Standards Workshop!

CHAIR TIPS

Cross-examination frequently reveals facts and details that may not yet have been provided in testimony or evidence. It is therefore an important part of any hearing. However, cross-examination can also prove difficult for a Hearing Panel Chair as the parties' emotions are often heightened.

In an effort to facilitate calm, orderly and productive cross-examination, it is important for a Hearing Panel Chair to listen intently, not just to what is being asked, but the manner in which the questions are posed. Is the questioning party's tone appropriate or overly argumentative? Are the questions irrelevant or repetitive in nature?

Generally, parties should be given latitude to pose questions to the opposing party. But it is the job of the Hearing Panel Chair to maintain order and ensure that the questions are productive and appropriate for the hearing.

When the questioning party begins asking questions that are not relevant, a Hearing Panel Chair may ask the party to establish the relevance of the question. If the party is able to establish the relevance, they may proceed with their questioning, otherwise, they should be asked to move on to their next question.

If the questioning party's tone becomes inappropriate or they become argumentative, a Hearing Panel Chair should remind the party of the behavior that is expected during a hearing. A break may also be necessary to allow the party to compose themselves.

HEARING PANEL TIPS

Clear, Strong, and Convincing Evidence is Key!

In an ethics hearing, keep in mind that the complainant has the burden of proof to present "clear, strong, and convincing evidence" to support their allegation that the respondent violated the Code of Ethics. In other words, for the respondent to be found in violation, the evidence presented must clearly, strongly, and convincingly demonstrate that the conduct alleged in the complaint did take place and violates one or more Articles of the Code of Ethics. If the complainant did not present clear, strong, and convincing evidence, please do not use speculation to form a decision.

That's Not a Violation?

Being rude is not a violation of the Code of Ethics. When you encounter a complaint where the responding party acted in an unprofessional manner or was rude, you may want to find that individual in violation solely based on their behavior. Let's say you are serving on a panel where the complainant has alleged that the respondent violated Article 1. After reviewing the evidence and listening to testimony, the panel determines that the respondent did protect and promote the interest of their client and treated all parties honestly. However, the respondent was short with their client on several occasions and sloppy throughout the transaction. REALTORS® are encouraged to have respect for the public, respect for property, and respect for peers but if these professional courtesies set forth in the [Pathways to Professionalism](#) are not followed, it is not a basis for a complaint or violation of the Code of Ethics.

The Value of an Alternate.

If you have been selected to serve on a panel as an alternate, please know that your role is very important. Hearing Panels are selected approximately 2 months in advance; however, a panelist's schedule may change which prevents the panelist from serving. When this occurs, the alternate serves as a panelist, allowing the hearing to proceed without interruption.

In prior hearings, we have experienced technical issues such as a panel member not being able to connect to the Zoom hearing, in which case the alternate is appointed to serve on the hearing panel. Emergency situations have also occurred while hearings are in progress and the alternates have been readily available to take the place of a panelist, allowing for the hearing to resume.

Schedules change, issues occur, and emergencies happen. We thank you for sacrificing your time to serve. Without our alternates, many hearings would have been postponed after the parties had already waited many months to present their case.

MEDIATOR TIPS

Role of Questioning in Mediation

Effective questioning serves many functions in mediation, such as:

- gathering information
- clarifying or understanding
- refocusing a wandering speaker
- stimulating thinking
- opening up a position
- closing in on a decision

Note: The goals and type of questioning may vary, depending on whether the mediator uses a facilitative, evaluative, or transformative approach.

Types of Questions:

Open

Open questions help obtain information and help a party to open up. Some open questions (and statements) include the following.

- “Tell me more about this . . .”
- “How does this affect you?”
- “What was your understanding of the situation?”
- “Can you describe . . .”

Use open-ended questions/statements early in the mediation to:

- gain an understanding of the problem
- allow parties to vent
- establish rapport

Closed

Closed questions, such as those listed below, require a one-word or two-word answer, often a “yes”, or a “no”.

- Did you tell her . . .?
- Did you call him . . .?
- Where were you when . . .?

Use closed questions to:

- re-focus a rambler
- direct a party to an issue
- check details
- get a quick response

Role of Summarizing in Mediation

Summarizing is a mediator’s compass helping to keep everyone on the same track. Summarizing involves reflecting back to a speaker the essence of the communication. In order to summarize, a mediator must focus carefully on the message.

Reasons to Summarize:

- Allow parties to feel heard
- Transition to new topic
- Identify underlying emotions/concerns
- Focus parties on problem solving
- Encourage parties that progress has been made

- Point out different views
- Keep track of the deal

Summarization Tips:

- Be concise
- Choose your words carefully
- Move beyond words
- Omit blame
- Leave your judgment out of the summary, be neutral
- Ask if you are correct

Key Phrases for Summarizing:

- “As I hear you . . .”
- “Let’s see where we are . . .”
- “I’ve heard you say . . .”
- “We’ve resolved these issues . . .”
- “You’ve agreed on . . .”
- “We are still left with the issues of . . .”
- “What you are saying is . . .”

OMBUDSMAN TIPS

Ombudsman can assist on a variety of inquiries ranging from general real estate practices to professional standards options but is there a time limitation on such inquiries? In short, no. While ethics complaints and arbitration requests have a 180-day filing period, an ombudsman request does not. An individual could therefore submit an ombudsman request in 2022 that inquiries about a situation that occurred in 2020 if the question is about general real estate practices or a procedural question regarding real estate transactions.

GRIEVANCE TIPS

Part of your role as the Grievance Committee is to ensure the named respondent(s) in an ethics complaint or arbitration request are REALTOR® members. How do you determine this? Well, Sam! Remember to review the “**Prior Action Taken**” segment on the agenda as Sam has not only determined the membership status of the named respondent(s) but has also included case updates, if applicable, to assist you in your decision.

Another important part of the Grievance Committee is to read your assigned cases then submit your written review and recommendations to Sam. Your review should include but is not limited to the following:

- A synopsis of what the complaint is about.

- Your recommendation to forward the case to a hearing, dismiss the case, add/dismiss articles, add/dismiss respondent(s) or hold a case in abeyance.
- Any questions you wish to address at the meeting.

Remember each case has a primary and secondary reviewer so you may find it helpful to discuss the case with your fellow reviewer!

Reminder!

**Annual Mediator/Ombudsman
Training: Thursday, October 20th**

255 East Osborn Road, Meeting Room 1

Phoenix, AZ 85012

Registration and light breakfast

will begin at 9:00 am

**Please RSVP to Michelle Sinclair if you
plan to attend in person.**

We are in need of mediators! If you are interested in becoming a mediator, please contact Michelle Sinclair at michellesinclair@aaronline.com by October 10, 2022 so that you may be included in the Mediator/Ombudsman Training held on October 20, 2022.

Save the Date:

The annual Professional Standards Workshop will be held on Wednesday, February 22, 2022, at the Desert Willow Conference Center.