

ARIZONA ASSOCIATION OF REALTORS®
PROFESSIONAL STANDARDS POLICIES AND PROCEDURES
REVISED January 2012

ADAPTATIONS TO THE NAR
CODE OF ETHICS AND ARBITRATION MANUAL
FOR THE
ARIZONA ASSOCIATION OF REALTORS®

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The *Code of Ethics and Arbitration Manual* of the NATIONAL ASSOCIATION OF REALTORS® has been made a part of the Bylaws of the Arizona Association of REALTORS® and the following adaptations to the **Manual** are included as a part of the Bylaws and incorporated therein.

NAR POLICIES REQUIRING ACTION

NAR POLICY #3. AAR will provide voluntary arbitration as provided for in Part Ten, Section 44, (4) (5), and (6).

NAR POLICY #25. Expenses related to the conduct of hearings by a multi-Board or Regional Grievance Committee or Professional Standards Committee shall be as established by written agreement between the signatory Boards. The expenses of such hearings shall be borne by the signatory Boards and shall not be supported by fees charged to the parties other than appropriate deposits charged in connection with appeals of ethics decisions or as required with respect to arbitration.

NAR POLICY #33. USE OF PANELS IN PLACE OF BOARDS OF DIRECTORS. Appeals from AAR Grievance Committee, ethics appeals and procedural reviews will be considered by panels of the AAR Professional Standards Committee; final review and consideration of ethics decisions not appealed will be considered by at least five members of the AAR Executive Committee, and any other professional standards matters referencing Boards of Directors will be brought before the AAR Executive Committee. (Refer to part Fourteen, AAR adaptation, for further details.)

NAR POLICY #45. PUBLISHING THE NAMES OF CODE OF ETHICS VIOLATORS. The following procedures have been adopted which authorize the publication of the names of ethics violators (who are direct members of AAR), and members of signatory associations to the Statewide Professional Standards Agreement (SPSA) subject to the following qualifications:

- Publication can only occur after a second violation occurs within three (3) years.
- Publication can only be made in an official communication vehicle of the Association in which the violator holds (held) membership. If the Association (or Associations) in which the violator holds (held) membership does not have an official communication vehicle or for some other reason does not publish the name within ninety (90) days of the decision becoming final, AAR will publish the name of the local association/board member found in violation of the Code of Ethics by way of electronic communication to the members of the association (or associations) in which that individual holds (held) membership. Publication of names of direct members of AAR will be made in the official communication vehicle of AAR.
- The name of the firm the violator is (or was) licensed with cannot be published.
- Publication must be consistent and uniform. This means that publication may not occur selectively but must be used in each instance where a second violation is determined within three (3) years.

- Other than the violator's name, the only additional information that may be published is the Article (or Articles) violated, and the discipline imposed, except that in cases where the violator's name is similar to another member's name, the violator's license number or office address (or both) may also be published.

At least one of the violations must be based on conduct which occurs after the adoption of these procedures. (Re-affirmed 06/07)

PART ONE - GENERAL PROVISIONS

SECTION 1. DEFINITIONS

Paragraph (b): "Board" means this organization, either the (local Board/Association), or the Arizona Association of REALTORS®.

Paragraph (g): "Directors" shall be interpreted by to mean "Executive Committee of the Association" or "an appointed appeal panel from the Professional Standards Committee", substituting for "the Board of Directors of the Board" consistent with NAR Policy Statement #33.

AAR POLICY RELATED TO SECTION 1.

"Receipt, delivery, or service of notices" means the date that the party receives the notice by registered mail or five calendar days after the date the notice is mailed, whichever occurs first. (Approved 07/07)

SECTION 2. QUALIFICATION FOR TRIBUNAL

Paragraph (f): Change the time a party has to file a request to challenge a member of a tribunal from 10 to 20 days from the time of the association's mailing.

SECTION 5. WITNESSES

The parties to ethics and arbitration hearings are primarily responsible for production of witnesses and evidence they intend to present to the Hearing Panel. Any party who intends to present evidence at the hearing must provide the Board and all other parties with copies of the evidence at least fifteen (15) days prior to the hearing. Failure to provide this information within the time specified will constitute a waiver of the right to present the evidence at the hearing, unless the other party agrees to allow its presentation. (Approved 10/08)

If a member, when called as a witness, refuses or is unable to appear at a scheduled hearing, the witness's failure to appear can be the basis for a charge that Article 14 has been violated if it can be shown that the witness had information or evidence relevant to the issue or issues before the Hearing Panel and that there were no extenuating circumstances that would have made the witness's appearance unduly burdensome. Questions regarding a member's obligation to appear as a witness, including questions of relevancy, shall be determined by the Chair of the Hearing Panel either before the hearing commences, if possible, or at the time of the hearing. If a question of whether a witness is required to appear is raised at a hearing and the Chair rules that the witness must appear, the party seeking to compel the appearance of the witness may request that the hearing be recessed until such time as the witness can be advised of the witness's obligation to appear, and the hearing shall be rescheduled. The burden of demonstrating the relevance of the testimony or evidence rests with the party seeking to compel the witness's appearance. (Revised 11/93)

SECTION 6. CONDUCT OF HEARING.

Parties to AAR ethics and arbitration hearings will be allowed to tape record those proceedings (but AAR's transcription will be the official record.)

SECTION 7. NOTICES.

Notices sent by email shall include the association's request that delivery be acknowledged by the intended recipient within twenty-four (24) hours by return email. If receipt of the notice has not been acknowledged by the intended recipient within twenty-four (24) hours, the recipient will be contacted by telephone to confirm receipt and the recipient's confirmation will be noted in the file. If receipt of notices sent by email cannot be confirmed, the notices will be resent via registered or certified mail. (Approved 10/10).

PART TWO - MEMBERSHIP DUTIES AND THEIR ENFORCEMENT

SECTION 13. POWER TO TAKE DISCIPLINARY ACTION

Paragraph (b): Each place a blank appears, insert "Arizona."

Paragraph (d): This section has been revised to add the capitalized language:

In any proceeding where the REALTOR[®] principal is not joined in the complaint as a respondent, the REALTOR[®] principal nonetheless retains the right to be present during the proceeding or may be required by the Hearing Panel to attend the hearing. At the request of the respondent, the REALTOR[®] principal may consult with or testify on behalf of the respondent. In all instances, the REALTOR[®] principal shall receive copies of the complaint and response, be provided with notice of the hearing, may be called by the parties or the Hearing Panel as a witness, and shall receive copies of the Hearing Panel's decision and recommendation for sanction, if any. THE COMPLAINANT'S REALTOR[®] PRINCIPAL, WHETHER A PARTY OR NOT, SHALL ALSO RECEIVE COPIES OF THE COMPLAINT AND THE RESPONSE AND THE HEARING PANEL'S DECISION. If a rehearing or an appeal is required, the REALTOR[®] principal shall receive copies of the request(s), be provided with notice of the hearing, have the opportunity to be present, and receive a copy of the final action by the Directors. Such rights shall accrue to both the former REALTOR[®] principal and the current REALTOR[®] principal if the EITHER THE COMPLAINANT OR respondent REALTOR[®] or REALTOR-ASSOCIATE[®] changes his firm affiliation either before or after a complaint is filed but before the Hearing Panel reaches its decision. (Revised 11/98)

Paragraph (e): If AAR receives notice of a civil or regulatory complaint that was filed after the complaint is forwarded by the Grievance Committee, AAR shall request a copy of the pending complaint and any related documents, which shall be forwarded to the Hearing Panel. The Hearing Panel may hold a Prehearing Meeting at any time before the scheduled hearing to determine whether to place the matter in abeyance until the pending litigation or investigation is completed. (Approved 10/08)

SECTION 14. NATURE OF DISCIPLINE

The Association will impose administrative processing fee of \$250.00 against respondents found in violation of the Code of Ethics or other membership duties. (Revised 06/07)

SECTION 15. SELECTION AND APPOINTMENT OF THE GRIEVANCE COMMITTEE

"There will be a standing committee, known as the Grievance Committee, of at least nine (9) and no more than eighteen (18) REALTORS[®] or REALTOR-ASSOCIATE[®]s, in good standing. The members of the Committee shall be appointed to staggered three-year terms by the chairman of the Risk Management Committee and the Grievance Committee Chairman, with approval of the President. The chairman of the Risk Management Committee shall annually designate the Chairman and Vice Chairman of the Committee, who each shall have served a minimum of two

years on the committee." The terms of committee members shall be from January 31 of each year through January 30 of the following year. (Revised 06/07)

The Grievance Committee may be divided into subcommittees authorized to act on behalf of the full Committee. Subcommittees shall be comprised of five or more members of the Committee. A majority of the members of the subcommittee shall be the quorum necessary for a subcommittee to take action on behalf of the Grievance Committee.

An addition to the CEAM policies and to Section 28 regarding the Grievance Committee was approved in October 2006, as follows:

"The Grievance Committee is authorized to take action telephonically, or electronically, if deemed appropriate by the Chair. Such actions can include, but are not limited to determination of arbitration requests or ethics complaints. Committee members involved in such actions may request by majority vote that any item be referred to the full Committee for their action at the next meeting."

SECTION 16. SELECTION AND APPOINTMENT OF THE PROFESSIONAL STANDARDS COMMITTEE

This section shall be altered to read:

"There shall be a standing committee comprised of a pool of REALTORS[®] referenced in the Statewide Professional Standards Agreement. Members shall be appointed to staggered three-year terms by the chairman of the Risk Management Committee and the Professional Standards Committee Chairman and approval of the President. The chairman of the Risk Management Committee shall annually designate the Chairman and Vice Chairman of the Committee, who shall each have served a minimum of two years on the committee." The terms of committee members shall be from January 31 of each year through January 30 of the following year. (Revised 06/07)

PART THREE - THE GRIEVANCE COMMITTEE

SECTION 17. AUTHORITY

There will be at least 9 and no more than 18 members on the AAR Grievance Committee. (Refer to PART TWO, Section 15).

SECTION 19. REVIEW OF ETHICS COMPLAINT

Paragraph (b): If AAR receives notice of a civil or regulatory complaint that was filed after the complaint is forwarded by the Grievance Committee, AAR shall request a copy of the pending complaint and any related documents, which shall be forwarded to the Hearing Panel. The Hearing Panel may hold a Prehearing Meeting at any time before the scheduled hearing to determine whether to place the matter in abeyance until the pending litigation or investigation is completed.

Paragraph (c): This section shall be amended to read:

If the Grievance Committee dismisses the complaint, the complainant may appeal the dismissal to the Board of Directors within twenty (20) days from the date the dismissal notice is mailed to the complainant, using Form #E-22, Appeal of Grievance Committee of Ethics Complaint. (Revised 10/02)

NOTE: This changes the NAR language from 20 days from the date the notice is received to 20 days from the date the notice is mailed.

The complaint and any attachments to the complaint cannot be revised, modified, or supplemented. The complainant may, however, explain in writing why the complainant disagrees

with the Grievance Committee's conclusion that the complaint should be dismissed. If the Grievance Committee deletes an Article or Articles from an ethics complaint, the complainant may also appeal to the Board of Directors using Form #E-22, Appeal of Grievance Committee Dismissal of Ethics Complaint. The Directors (or a panel of Directors or the Executive Committee) shall consider only the information and documents considered by the Grievance Committee, together with the complainant's rationale for challenging the dismissal and render its decision, which shall be final. The parties are not present at the meeting at which the appeal is considered. (Revised 05/06).

The appeal may be considered via teleconference or video conference provided that the appeal panel receives the appeal information and documents prior to the appeal hearing. (Revised 01/10). The AAR Grievance Committee will not recommend to the Executive Committee that a dismissed ethics complaint be forwarded to a regulatory body. (Revised 01/10).

4. (a) If the respondent was a member at the time of the alleged offense and is not a member at the time the complaint was filed, does the committee want to hold the matter in abeyance for three (3) years or until membership is reactivated, whichever is sooner? (Revised 10/10).

PART FOUR - THE ETHICS HEARING

SECTION 20. INITIATING AN ETHICS HEARING

Paragraph (a): A response from the respondent will not generally be solicited at the Grievance Committee. If it is, the respondent will be requested to respond within 20 days of the mailing of the request.

Paragraph(c): This section shall be amended to read:

Any action by the Grievance Committee dismissing the complaint as unworthy of further consideration may be appealed to the Board of Directors within twenty (20) days from the date the dismissal notice is mailed to the complainant, using Form #E-22, Appeal of Grievance Committee of Ethics Complaint. (Revised 10/02).

NOTE: This changes the NAR language from 20 days from the date the notice is received to 20 days from the date the notice is mailed.

Paragraph (e): This section shall be revised as follows:

If an ethics respondent resigns or otherwise causes membership in the Board to terminate after an ethics complaint is filed but before final action is taken by the Board of Directors, the hearing process shall suspend and the Board Secretary shall cause the complaint to be forwarded to any other Board in which the respondent continues to hold membership. If the respondent does not hold membership in another Board, or if the Board Secretary is unable to determine if the respondent holds membership in another Board, the complaint shall be held in abeyance until such time as the respondent rejoins the Board or it can be determined that the respondent holds membership in another Board. After an ethics complaint has been held in abeyance for three (3) years, the professional standards administrator shall notify the complainant that the case will be closed unless the complainant requests otherwise. (Revised 01/10).

In any instance where a complaint is transferred to another Board, the complainant shall be so advised. (Adopted 05/88).

Paragraph (f-q): The Association will offer expedited hearings as outlined in these paragraphs.

SECTION 21. ETHICS HEARING

Paragraph (c): This section shall be revised as follows:

The Secretary shall, concurrently with the notification that the ethics complaint has been referred for a hearing, mail to each of the parties a list of AT LEAST THIRTY (30) names of members of the Professional Standards Committee.

Paragraph (e): Hearing panels will be provided copies of ethics complaints and arbitration request at the time the hearing notice and related materials are sent to the parties to the hearing (a minimum of 21 days prior to the hearing).

Hearing Panel Member Alternates. Hearing panels will provide for one alternate panel member whenever possible. Alternate panel members may participate in both the hearing and the panel's executive session, but they shall not be entitled to vote unless they have replaced a regular panel member.

SECTION 22. DECISION OF THE HEARING PANEL.

Ethics decisions presented to the Executive Committee for ratification will include the names of the parties.

SECTION 23. ACTION OF THE BOARD OF DIRECTORS

Paragraph (c): Insert "\$500.00" in the blank where stated: An appeal must be accompanied by a deposit with the President in the sum of \$_____ (not to exceed \$500.00). (Revised 03/06).

Paragraph (e): At the hearing before the Directors, the Chairperson of the Hearing Panel shall present a transcript of the case or, if there is no transcript, shall summarize the case. Either party shall be entitled to offer corrections to the summary. Either party may present to the Directors reasons why the Hearing Panel's recommendation should be followed or not, at the hearing or by submission of a written statement at least fifteen (15) days prior to the hearing, (Approved 10/08) but no new evidence shall be received (except such new evidence as may bear upon a claim of deprivation of due process), and the appeal shall be determined on the transcript or summary. (Amended 11/93)

PART FIVE – CONDUCT OF AN ETHICS HEARING

Revise "Permission can be given by the Chairperson" to now read, Permission can be given by the hearing panel chair. (Approved 06/08).

PART SEVEN - GENERAL PROVISIONS RELATING TO ARBITRATION

SECTION 26. DEFINITIONS RELATING TO ARBITRATION

Paragraph (a): "Board" means this organization, either the (local Board/Association), or the Arizona Association of REALTORS®.

Paragraph (g): "Directors" shall be interpreted by to mean "Executive Committee of the Association" or "an appointed appeal panel from the Professional Standards Committee", substituting for "the Board of Directors of the Board," consistent with NAR Policy Statement #33.

AAR POLICY RELATED TO SECTION 26.

"Receipt, delivery, or service of notices" means the date that the party receives the notice by registered mail or five calendar days after the date the notice is mailed, whichever occurs first. (Approved 07/07).

SECTION 27. QUALIFICATION FOR TRIBUNAL

Paragraph (f): Change the time a party has to file a request to challenge a member of a tribunal from 10 to 20 days from the time of the association's mailing.

SECTION 28. DUTY TO GIVE EVIDENCE

The parties to ethics and arbitration hearings are primarily responsible for production of witnesses and evidence they intend to present to the Hearing Panel. Any party who intends to present evidence at the hearing must provide the Board and all other parties with copies of the evidence at least fifteen (15) days prior to the hearing. Failure to provide this information within the time specified will constitute a waiver of the right to present the evidence at the hearing, unless the other party agrees to allow its presentation. (Approved 10/08).

If a member, when called as a witness, refuses or is unable to appear at a scheduled hearing, the witness's failure to appear can be the basis for a charge that Article 14 has been violated if it can be shown that the witness had information or evidence relevant to the issue or issues before the Hearing Panel and that there were no extenuating circumstances that would have made the witness's appearance unduly burdensome. Questions regarding a member's obligation to appear as a witness, including questions of relevancy, shall be determined by the Chair of the Hearing Panel either before the hearing commences, if possible, or at the time of the hearing. If a question of whether a witness is required to appear is raised at a hearing and the Chair rules that the witness must appear, the party seeking to compel the appearance of the witness may request that the hearing be recessed until such time as the witness can be advised of the witness's obligation to appear, and the hearing shall be rescheduled. The burden of demonstrating the relevance of the testimony or evidence rests with the party seeking to compel the witness's appearance. (Revised 11/93).

SECTION 31. CONDUCT OF HEARING.

Parties to AAR ethics and arbitration hearings will be allowed to tape record those proceedings (but AAR's transcription will be the official record.)

SECTION 32. NOTICES.

Notices sent by email shall include the association's request that delivery be acknowledged by the intended recipient within twenty-four (24) hours by return email. If receipt of the notice has not been acknowledged by the intended recipient within twenty-four (24) hours, the recipient will be contacted by telephone to confirm receipt and the recipient's confirmation will be noted in the file. If receipt of notices sent by email cannot be confirmed, the notices will be resent via registered or certified mail. (Approved 10/10).

PART EIGHT - MEMBERSHIP DUTIES AND ENFORCEMENT

SECTION 38. SELECTION AND APPOINTMENT OF THE GRIEVANCE COMMITTEE

This section shall be altered to read:

"There will be a standing committee, known as the Grievance Committee, of at least nine (9) and no more than eighteen (18) REALTORS® or REALTOR-ASSOCIATE®, in good standing. The members of the Committee shall be appointed to staggered three-year terms by the chairman of the Risk Management Committee and the Grievance Committee Chairman, with approval of the

President. The chairman of the Risk Management Committee shall annually designate the Chairman and Vice Chairman of the Committee." The terms of committee members shall be from January 31 of each year through January 30 of the following year. (Revised 06/07).

The Grievance Committee may be divided into subcommittees authorized to act on behalf of the full Committee. Subcommittees shall be comprised of five or more members of the Committee. A majority of the members of the subcommittee shall be the quorum necessary for a subcommittee to take action on behalf of the Grievance Committee.

An addition to the CEAM policies and to Section 28 regarding the Grievance Committee was approved in October 2006, as follows:

"The Grievance Committee is authorized to take action telephonically, or electronically, if deemed appropriate by the Chair. Such actions can include, but are not limited to determination of arbitration requests or ethics complaints. Committee members involved in such actions may request by majority vote that any item be referred to the full Committee for their action at the next meeting."

SECTION 39. SELECTION AND APPOINTMENT OF THE PROFESSIONAL STANDARDS COMMITTEE

This section shall be altered to read:

The Professional Standards Committee shall be comprised of a pool of REALTORS® referenced in the Statewide Professional Standards Agreement. Members shall be appointed to serve staggered three (3)-year terms by the chairman of the Risk Management Committee and the Professional Standards Committee Chairman and approval of the President. The chairman of the Risk Management Committee shall annually designate the Chairman and Vice Chairman of the Committee, who each should have served a minimum of two (2) years on the committee before serving in those capacities. Committee training requirements shall be established in AAR policies and in the Statewide Professional Standards Agreement. The terms of committee members shall be from January 31 of each year through January 30 of the following year. (Revised 06/07).

PART NINE - THE GRIEVANCE COMMITTEE

SECTION 40. AUTHORITY

There will be at least 9 and no more than 18 members on the AAR Grievance Committee. (Refer to PART TWO, Section 15).

SECTION 42. GRIEVANCE COMMITTEE'S REVIEW AND ANALYSIS OF A REQUEST FOR ARBITRATION

Paragraph (c): This section shall be amended to read:

If the Grievance Committee determines that a matter should not be arbitrated by the Board because of the amount involved or the legal complexity, or for any other valid reason specified in the Grievance Committee decision and written report, either of the parties may appeal the decision to the Board of Directors within twenty (20) days of the date of mailing the notice... (Revised 10/02).

NOTE: This changes the NAR language from 20 days from the date the notice is received to 20 days from the date the notice is mailed. The request for arbitration and any attachments cannot be revised, modified, or supplemented. The party appealing the dismissal may, however, explain in writing why they disagree with the Grievance Committee's conclusion that the request for

arbitration should be dismissed. The Hearing Panel can also dismiss the arbitration request if the Hearing Panel concludes the matter is not arbitrable. (Amended 05/07).

The materials which were presented to the Grievance Committee when the Grievance Committee made its decision will be presented to the Board of Directors and considered with the appeal, together with any party's rationale challenging the Grievance Committee's dismissal. The parties to the arbitration (complainant and respondent) do not have the right to appear at the appeal hearing before the Directors. In the event a request for arbitration is dismissed, any deposit submitted by the complainant shall be returned to the complainant. (Revised 05/07).

The appeal may be considered via teleconference or video conference provided that the appeal panel receives the appeal information and documents prior to the appeal hearing. (Revised 01/10).

PART TEN – ARBITRATION OF DISPUTES

SECTION 44. DUTY AND PRIVILEGE TO ARBITRATE

Paragraph (b). AAR will offer voluntary arbitration.

SECTION 45. BOARD'S RIGHT TO DECLINE ARBITRATION

Paragraph (a). This section shall be amended to read:

If either the Grievance Committee or the arbitration panel selected in the manner hereinafter provided determine that because of the amount involved or the legal complexity of the dispute the dispute should not be arbitrated, the arbitration shall automatically terminate unless either of the parties appeals the decision to terminate the proceedings to the Board of Directors in writing within twenty (20) days of mailing the notice that the Grievance Committee or the arbitration panel declined to continue the proceeding . . . (Revised 10/02).

NOTE: This changes the NAR language from 20 days from the date the notice is received to 20 days from the date the notice is mailed.

Paragraph (d). This section shall be amended to read:

If either party to an arbitration request believes that the Grievance Committee has incorrectly classified the issue presented by the request ("mandatory" or "voluntary" arbitration situation), the party has twenty (20) days from the date the Grievance Committee's decision is mailed to file a written appeal . . . (Revised 10/02).

NOTE: This changes the NAR language from 20 days from the date the notice is received to 20 days from the date the notice is mailed.

SECTION 46. DUTY TO ARBITRATE BEFORE THE STATE ASSOCIATION

Insert "Arizona" wherever there is a blank space.

SECTION 47. MANNER OF INVOKING ARBITRATION

Paragraph (a): Insert "500.00, or, in matters referred from local associations, the amount of the arbitration fee established by that local association, whichever is less" in the blank (denoting the amount of deposit required to arbitrate at the State Association).

Paragraph (b): Insert "10" in the first blank (denoting the number of days in which the Secretary shall refer the request to the Grievance Committee for its deliberation). Insert "20" in the second blank (denoting the number of days in which the Respondent is requested to reply to a request from the Grievance Committee). The respondent is directed to complete the written response and return the deposit amount with in twenty (20) days of mailing.

NOTE: this is a change from NATIONAL ASSOCIATION OF REALTORS language of 15 days. (08/03).

Paragraph (c): Insert "\$500.00, or, in matters referred from local associations, the amount of the arbitration fee established by that local association, whichever is less" in the blank (denoting the amount of deposit required). The respondent is directed to complete the written response and designate amount within twenty (20) days of mailing.

NOTE: this is a change from the NAR's language of 15 days. (08/03).

SECTION 48. SUBMISSION TO ARBITRATION

Paragraph (a): Insert \$500, or, in matters referred from local associations, the amount of the arbitration fee established by that local association, whichever is less" in the blank (denoting the amount of deposit required).

Paragraph (b): OPTION #3 shall govern the Association's arbitration procedures.

SECTION 51. ARBITRATION HEARING

Paragraph (a): Insert "Arizona" in the blank.

Paragraph (b): Hearing panels will be provided copies of ethics complaints and arbitration request at the time the hearing notice and related materials are sent to the parties to the hearing (a minimum of 21 days prior to the hearing).

SECTION 53. THE AWARD

Paragraph (b): Add to the end of the following:

"Note, however, that filing an appeal with the Board in no way stays the running of any time requirement for seeking judicial review of the decision." (Per legal counsel, Bylaws change 06/90).

AAR will follow Paragraphs (c)- (f) concerning Escrowing Arbitration Awards [AAR will require the non-prevailing parties in AAR arbitrations to pay the award to the prevailing party or deposit it in escrow at AAR within 10 days following receipt of the notice of the award.] (Adopted 05/94) with the following change:

Paragraph (c): Add the following:

Details surrounding any disciplinary proceedings addressing an alleged violation of a membership duty for a non-prevailing party to comply with Section 53 (c) shall be confidential and not released to anyone other than the party(ies) charged with breaching the duty and AAR Executive Committee memers involved in such a proceeding, staff, and counsel, as appropriate, unless the resulting discipline results in suspension or expulsion from membership, at which time it would be permissible to publish to all members of the sanctioned member's association, pursuant to Section 23 (j) of the Code of Ethics and Arbitration Manual. (Approved 07/07).

Change the time a non-prevailing party has to pay or escrow the award from ten (10) days to twenty (20) days. (Approved 06/08).

Subsection (d) first paragraph...Wherever it says "fifteen (15) days" in the paragraph, it shall be replaced with "30 days". The Group made this change to provide a more reasonable time for the non-prevailing party to file a legal challenge to the award prior to the Association releasing the funds to the prevailing party. Further, the 30 day period shall begin from the time the decision of the procedural review panel is mailed to the parties.

Subsection (d) second paragraph... Change as follows: If the non-prevailing party does not request the Board to conduct a procedural review of the arbitration hearing process during the twenty (20) day period following service of the award, then written notification that a legal challenge has been instituted must be received within thirty (30) days following service of the award. Failure to provide written notification that a suit challenging the validity of the award has been filed within thirty (30) days following service of the award will result in the award being paid from the Board's escrow to the prevailing party. (Revised 07/07).

SECTION 54. COSTS OF ARBITRATION

To help defray costs of the Arbitration, the deposit of the non-prevailing party shall be retained by the Association, unless otherwise directed by the Hearing Panel. The deposit of the prevailing party shall be returned. If there is a split award, the parties may receive a portion of their deposits back as determined by the arbitrators. (See also Part Fourteen. State Association, paragraph 6. Expenses of the Hearing Conducted by the Association.)

SECTION 55. REQUEST FOR PROCEDURAL REVIEW BY DIRECTORS

Paragraph (a): Written request for procedural review of the arbitration hearing procedures must be filed with the President within twenty (20) days after the award has been served on the parties and be accompanied by a deposit of the sum of \$500.00. (Revised 03/06).

Paragraph (c): The request for procedural review may be heard by a panel of Directors appointed by the President for that purpose (or, alternatively, by the Board's Executive Committee). Five (5) Directors or a quorum of the Board of Directors, whichever is less, shall constitute such panel, which shall act on behalf of the Board of Directors. The decision of the panel (or Executive Committee) shall be final and binding and shall not be subject to further review by the Board of Directors. (Revised 11/91).

AAR shall not accept or consider any request for consideration of the decision of the panel (or Executive Committee). (Approved 10/08).

APPENDIX V TO PART TEN

AAR will follow Option 2, wherein mediation will be offered to parties upon receipt of a request for arbitration or as a result of a dispute between a REALTOR® and a client resulting from a buyer broker employment agreement or a listing agreement. (Approved 10/06).

PART TWELVE - CONDUCT OF AN ARBITRATION HEARING

Parties to AAR arbitration hearings will be allowed to tape record those proceedings (but AAR's transcription will be the official record).

Postponement of hearing: Revise "Permission can be given by the Chairperson" to now read, Permission can be given by the hearing panel chair. (Approved 06/08).

PART SIX AND PART THIRTEEN - SPECIMEN FORMS

Forms E-3, E-5 and E-8: will provide for the statement authorizing an administrative fee up to \$500 to be assessed to those found in violation of the Code. AAR's fee will be \$250.00 (Revised 06/07).

Forms E-4 and A-5: AAR's Grievance Committee will not generally request information from the respondents in ethics or arbitration matters. If determined by the AAR Grievance Committee that information is necessary to make a determination, AAR will require respondents who are requested to submit information to the Grievance Committee to submit such information within 20 days of the notice.

Forms E-2, E-4, A-3: Additional copies will not be required.

Forms E-2, E-4, A-3 and A-5: Will be revised to change response due from respondent from 15 days to 20 days. (08/03).

Forms E-6, A-7: ...challenges must be filed with the Board within 20 days from the date the list of names was mailed.

Forms A-1, A-2, A-4: The deposit is \$500.00 (or, in matters referred from local associations, the amount of the arbitration fee established by that local association, whichever is less).

Form A-1: – Add #11. Please attach documentation that demonstrates the transaction involved in the dispute has closed escrow or that a lease has been executed.

Documentation is attached: ___ Yes ___ No

Forms E-8, A-9: Parties must give 15 days prior notice of counsel to be present at the hearing and 15 days prior notice of the witnesses attending the hearing. (Revised 01/98).

Forms E-9, A-10: Parties to AAR ethics and arbitration hearings will be allowed to tape record those proceedings, but AAR's transcription will be the official record.

Form E-11: Parties shall have 20 days in which to file requests for rehearing or appeals from the date it was mailed.

Form E-13: The filing fee for ethics appeals is \$500.00.

Forms E-14, A-14: Parties must give 15 days prior notice of counsel attending the hearing and 10 days in which to challenge panel members. (Revised 01/98).

Form A-12: This form will reflect AAR's adoption of escrowing arbitration awards.

The deposits of the parties shall be used to cover the costs of arbitration or shall go into the general operating funds of THE ASSOCIATION OF REALTORS. In the event the award of the arbitrators is in an amount other than that requested by any of the parties, the disposition of the deposits shall be directed by the arbitrators as follows: _____ . (Revised 01/10).

Form A-13: Filing fee for Procedural Review (Arbitration) will be \$500.00. (Revised 2006).

Chairperson's Procedural Guide: Conduct of an Arbitration Hearing shall be amended to include the definition of procuring cause as written in *Black's Law dictionary* and related text. (Approved in 1997 and ratified in 2002). Optional introductory language is added for chairs to more informally explain the process to the parties.

**PART FOURTEEN OF THE
NAR CODE OF ETHICS AND ARBITRATION MANUAL
AS ADAPTED BY THE
ARIZONA ASSOCIATION OF REALTORS®**

PART FOURTEEN – STATE ASSOCIATION PROFESSIONAL STANDARDS COMMITTEE

Authority and Requirement: The obligation of the State Association concerning the Code of Ethics of the National Association is established in Article IV, Code of Ethics, Sections 1 and 2, Bylaws, National Association:

Section 1. Each Member Board shall adopt the Code of Ethics of the National Association as a part of its governing regulations, for violation of which disciplinary action may be taken."

Section 2. Any Member Board which shall neglect or refuse to maintain and enforce the Code of Ethics with respect to the business activities of its members may, after due notice and opportunity for hearing, be expelled by the Board of Directors from membership in the National Association."

Jurisdiction of State Association:

The following procedures apply to matters which concern members of local associations that are not Signatories to the Statewide Professional Standards Agreement. Signatories to that Agreement have delegated the enforcement of the Code of Ethics, the disciplining of members and the arbitration of disputes and procedures incident thereto to the Arizona Association of REALTORS®. All other matters will be governed by the following:

1. A local Board, prior to referring an ethics complaint or arbitration request for review to the State Association, should exhaust all efforts to impanel an impartial panel to conduct either the original hearing or the appeal or procedural review. These efforts may include the appointment of knowledgeable members of the Board on an ad hoc basis to serve on either a Hearing Panel or on behalf of the Board of Directors. If, because of notoriety, etc., the Board cannot impanel an impartial tribunal, the Board may refer the matter to the State Association, and the State Association may delegate to another Board or a regional enforcement facility, the authority to hear the case on behalf of the State Association. No Board or regional enforcement facility, however, may be required to accept this delegation of authority. If no other entity is amenable to conducting the review, the State Association shall be responsible for conducting the hearing. (Adopted 11/93).
2. Allegations of ethical violations and contractual disputes (and specific non-contractual disputes as defined in Standard of Practice 17-4) between REALTORS® and between REALTORS® and their customers and clients may be submitted to an ethics or arbitration panel at the Arizona Association level under the following circumstances:
 - (a) Allegations of unethical conduct made against a REALTOR® or REALTOR-ASSOCIATE® who is directly a member of the State Association and not a member of any local Board. These complaints shall be referred directly to the Grievance Committee for its determination.
 - (b) Allegations of unethical conduct made against a REALTOR® or REALTOR-ASSOCIATE® in the instance in which the local Board, because of size or other valid reason, determines that it cannot provide a due process hearing of the matter and petitions the Association to conduct a hearing.

The Grievance Committee will decide whether jurisdiction is appropriate prior to determining its disposition.

- (c) Contractual disputes (and specific non-contractual disputes as defined in Standard of Practice 17-4) between REALTORS® who are not members of the same Board where the matter has been referred to the Association by the Respondent's local Board in instances when the complainant files the arbitration request directly with the Respondent's Board. The Grievance Committee will decide whether jurisdiction is appropriate prior to determining its disposition.

If a complainant invokes interboard arbitration by filing an arbitration request at his Board of REALTORS® against a respondent who is not a member of that Board or who does not gain access to that Board's MLS through that Board, interboard arbitration will be held consistent with Part Eleven of the National Association's Code of Ethics and Arbitration Manual. AAR may retain jurisdiction of an interboard arbitration only if both Boards refer the matter to AAR.

- (d) Contractual disputes (and specific non-contractual disputes as defined in Standard of Practice 17-4) between REALTORS® who are directly members of the Association and who are not members of any Board. These disputes will be referred directly to the Grievance Committee directly the Grievance Committee for its determination.
- (e) Contractual disputes (and specific non-contractual disputes as defined in Standard of Practice 17-4) between a REALTOR® who does not hold membership in any Board, but is directly a member of the Association, and a REALTOR® who is a member of a Board. These disputes will be referred directly to the Grievance Committee for its determination.
- (f) Contractual disputes between REALTOR® Members of the same Board where the Board with good and sufficient reason is unable to arbitrate the controversy. (Explanation: This provision is not designed to relieve the local Board of its primary responsibility to resolve differences arising between members of the same Board. This section recognizes that in some Boards with limited membership, usual arbitration procedures may be impossible). The Grievance Committee will decide whether jurisdiction is appropriate prior to determining its disposition.
- (g) Contractual disputes between a customer or a client and a REALTOR® where the Board with good and sufficient reason is unable to arbitrate the dispute or the REALTOR® is a direct member of the State Association.

Ethics and Arbitration Proceedings: Professional Standards hearings and the organization and procedures incident thereto shall be governed by the *Code of Ethics and Arbitration Manual* of the NATIONAL ASSOCIATION OF REALTORS®, as from time to time amended, which by this reference is made a part of these Bylaws. These provisions contained in **PART FOURTEEN** are designed to meet the recommendations by the NATIONAL ASSOCIATION OF REALTORS® to expand the provisions of the *Code of Ethics and Arbitration Manual* as adopted to include more detailed procedures for handling interboard arbitration of business disputes as defined by Article 17 of the Code of Ethics.

The following procedures apply to matters which concern members of local associations that are not Signatories to the Statewide Professional Standards Agreement. Signatories to that Agreement have delegated the enforcement of the Code of Ethics, the disciplining of members and the arbitration of disputes and procedures incident thereto to the Arizona Association of REALTORS®. All other matters will be governed by the following:

In adapting the *Code of Ethics and Arbitration Manual*, the following additional procedures should be followed in the cases of ethics complaints and arbitrations of disputes handled by the Arizona Association of REALTORS® :

1. GEOGRAPHIC DISTRIBUTION OF PROFESSIONAL STANDARDS PANEL MEMBERS:

Inasmuch as disputes may arise between Board Members from different Boards located distant from each other, members of the Association's Professional Standards Committee should be selected from all areas of the state. According to Article XIII, Section 3 of the Association's bylaws, all hearings shall be conducted at the Association's offices, unless unusual circumstances exist where the office is unavailable or, unless the hearing concerns members of associations signatory to the Statewide Professional Standards Agreement, which shall govern the location of the hearings.

2. FURTHER EXTENSION OF AVAILABLE PROFESSIONAL STANDARDS COMMITTEE MEMBERS:

Members of the State Association Professional Standards Committee may be empowered, upon direction from the President of the State Association, to appoint additional members of the Committee from a given district or region of the state to have all the powers of regular members of the Professional Standards Committee and to conduct a hearing as required in that particular district or region of the state.

3. DUTIES OF THE COMMITTEE:

In addition to the descriptions of the duties of the Grievance and Professional Standards Committees defined in the entire *Code of Ethics and Arbitration Manual*, the Bylaws of the Association, specifically Article X, Section 6, refer to duties and structure of the Professional Standards committee and Article X, Section 5, refers to the duties and structure of the Grievance Committee. Job descriptions or plans of action further delineating the duties of the Committees may be assigned by the Association from time to time.

4. COMPLAINTS OF ALLEGED ETHICAL VIOLATIONS OR REQUESTS FOR ARBITRATION:

Jurisdiction of the State Association, Item #2, delineates the situations that may result in ethics complaints or arbitration requests being referred to AAR.

In the cases of ethics or arbitration matters where a Board feels it is unable to provide a due process hearing, a REQUEST FOR ASSOCIATION INTERVENTION form should be completed and signed by the Board President explaining why the Board feels it cannot handle the matter.

In the case of an arbitration between members or MLS-Only Participants of different Boards, the request may first be filed at the Respondent's Board. In the event that the Respondent's Board requests that the dispute be handled by the Association, the Respondent's Board should forward the request and any materials surrounding the dispute with a cover letter from the Board President referring the dispute to AAR. AAR will then obtain any necessary deposits, agreements or any other materials deemed necessary to process the request.

NOTE: Boards are reminded that they are encouraged to process arbitrations between members of different Boards at the Respondent's Board. However, should either of the parties specifically requests the Respondent's Board to refer the arbitration to AAR, the Respondent's Board is encouraged to honor the request.

AAR will take into consideration on a case-by-case basis the reason for the referral and the frequency of requests for intervention from a particular association in order to assess the association's capability to enforce the Code of Ethics.

If a complainant invokes interboard arbitration by filing an arbitration request at his Board of REALTORS® against a respondent who is not a member of that Board or who does not gain access to that Board's MLS through that Board, interboard arbitration will be held consistent with Part Eleven of the National Association's Code of Ethics and Arbitration Manual. AAR may retain jurisdiction of an interboard arbitration only if both Boards refer the matter to AAR.

All other ethics complaints or disputes concerning members of the Association who are not members of a local association may be referred to AAR directly for processing according to the *Code of Ethics and Arbitration Manual*.

AAR may delegate a matter referred to it to another local association or region to handle. See NAR Policy Statement #18 for further details about referrals to the State Association.

- 5. METHOD OF DETERMINING PROPRIETY OF A COMPLAINT OF ALLEGED ETHICAL VIOLATION OR REQUEST FOR ARBITRATION:** Once referred to the Association's Grievance Committee, all ethics complaints or arbitration requests will be processed by the Committee according to appropriate procedures defined elsewhere in the *Code of Ethics and Arbitration Manual*. The Grievance Committee shall be the Committee to examine a complaint of alleged unethical conduct or request for arbitration to determine if it is properly presented by the complainant and has validity and substance to warrant a hearing before the Association's Professional Standards Committee. The Committee may assign a reviewer(s), if deemed necessary, to evaluate the complaint or request, and if so, should consider the member's location to make any review process more convenient.

The Grievance Committee's work is not that of a Hearing Panel of the Professional Standards Committee, but has the special function of determining the propriety of the complaint or request and the propriety of conducting a hearing.

- 6. EXPENSES OF THE HEARING CONDUCTED BY THE ASSOCIATION:** The conduct of hearings by the Association can be less convenient than a local Board hearing. It involves distance, time and costs which can be significantly greater. Consequently, deposits of both parties to arbitration hearings shall be \$500.00, or, in matters referred from local associations, the amount of the arbitration fee established by that local association, whichever is less.

To help defray costs of the Arbitration, the deposit of the non-prevailing party shall be retained by the Association, unless otherwise directed by the Hearing Panel. The deposit of the prevailing party shall be returned. If there is a split award, the parties may receive a portion of their deposits back as determined by the arbitrators.

- 7. COMPOSITION OF HEARING PANELS AND APPELLATE OR REVIEW PANELS:** Members of ethics or arbitration hearing panels shall be selected from the Professional Standards Committee of the Association (unless, according to **PART TEN**, Section 45(b), the President appoints a special panel to hear an arbitration). The hearing panels shall be comprised of at least three (3) members.
- In the case of appeals of Grievance Committee dismissals of ethics complaints or arbitration requests, a panel of at least three (3) Professional Standards Committee members shall be selected to hear the appeal.
 - In the case of appeals of ethics hearing decisions or procedural reviews of arbitration hearings, a panel of at least five (5) Professional Standards Committee members not involved in the original

complaint shall hear the appeal or procedural review. There shall be no further appeal to the Executive Committee or the Board of Directors in such cases.

- In the case of appeals of ethics hearing decisions or procedural reviews of arbitration hearings referred to AAR by a local Board or Association, a hearing panel of at least five (5) members of the AAR Professional Standards Committee shall serve as the appeal body.
- At least five members of the Association's Executive Committee shall be the body to adopt ethics hearing decisions recommended by the Professional Standards Committee.
- Any professional standards matters referenced in the Code of Ethics and Arbitration Manual or the AAR Bylaws and Policies not otherwise assigned shall be handled by the AAR Executive Committee and not the AAR Board of Directors.

8. REFUSALS TO ARBITRATE. In the event a member is alleged to have improperly refused to submit to arbitration, the obligation shall be brought before a panel of five (5) REALTORS[®] or REALTOR-ASSOCIATE[®]s appointed by the President.

OMBUDSMEN PROCEDURES

NOTE: After review and approval of the appropriate association work group(s), these procedures may be modified from time to time to provide for suggested scripts or other guidelines for approved ombudsmen. Any approved scripts or guidelines may be obtained by members by request. **(10/22/02)**.

AAR staff members or REALTORS® may be designated as ombudsmen from time to time by the AAR Professional Standards Committee Chairman. **(03/09)**.

The Association has incorporated the following procedures as part of its Professional Standards Policies:

Associations of REALTORS® are charged with the responsibility of receiving and resolving ethics complaints. This obligation is carried out by local, regional and state grievance committees and professional standards committees.

Many "complaints" received by boards and associations do not expressly allege violations of specific Articles of the Code of Ethics, and many do not detail conduct related to the Code. Some "complaints" are actually transactional, technical, or procedural questions readily responded to.

It is the belief of the Arizona Association's REALTORS® that many ethics complaints might be averted with enhanced communications and initial problem-solving capacity at the local level. These ombudsman procedures, which have been adopted and will be utilized by the Arizona Association of REALTORS®, are intended to provide that capacity.

Role of Ombudsmen

The ombudsman's role is primarily one of communication and conciliation, not adjudication. Ombudsmen do not determine whether ethics violations have occurred, rather they anticipate, identify, and resolve misunderstandings and disagreements before matters ripen into disputes and possible charges of unethical conduct.

Qualification and Criteria for Ombudsmen

At a minimum, ombudsmen should be thoroughly familiar with the Code of Ethics, state real estate regulations, and current real estate practice. Ombudsmen may be REALTORS®, staff members, or others acting on behalf of the local board/association.

Involving the Ombudsman

Ombudsmen can field and respond to a wide variety of inquires and complaints, including general questions about real estate practice, transaction details, ethical practice, and enforcement issues. Ombudsmen can also receive and respond to questions and complaints about members; can contact members to inform them that a client or customer has raised a question or issue; and can contact members to obtain information necessary to provide an informed response.

In cases where an ombudsman believes that a failure of communication is the basis for a question or complaint, the ombudsman can arrange a meeting of the parties and to facilitate a mutually acceptable resolution.

Where a written ethics complaint in the appropriate form is received, it can be initially referred to the

ombudsman who will attempt to resolve the matter, except that complaints alleging violations of the public trust (as defined in Article IV, Section 2 of the NAR Bylaws) may not be referred to an ombudsman.

In the event the ombudsman concludes that a potential violation of the public trust may have occurred, the ombudsman process shall be immediately terminated, and the parties shall be advised of this right to pursue a formal ethics complaint; to pursue a complaint with any appropriate governmental or regulatory body; to pursue litigation; or to pursue any other available remedy.

Right to Decline Ombudsman Services

Persons filing complaints, or inquiring about the process for filing ethics complaints, will be advised that ombudsman services are available to attempt to informally resolve their complaint. Such persons will also be advised that they may decline ombudsman services and can have their complaint referred to ethics mediation (if available), or considered at a formal ethics hearing.

Resolution of Complaints

If a matter complained of is resolved to the mutual satisfaction of all parties through the efforts of an ombudsman, the formal ethics complaint brought initially (if any) will be dismissed.

Failure to Comply with Agreed Upon Resolution

Failure or refusal of a member to comply with the terms of a mutually agreed on resolution shall entitle the complaining party to resubmit the original complaint or, where a formal complaint in the appropriate form had not been filed, to file an ethics complaint. The time the matter was originally brought to the board or association's attention will be considered the filing date for purposes of determining whether an ethics complaint is timely filed.

Referrals to the Grievance Committee or to State Regulatory Bodies

Ombudsmen cannot refer concerns they have regarding the conduct of any party utilizing their services to the Grievance Committee, to the state real estate licensing authority, or to any other regulatory body. The prohibition is intended to ensure impartiality and avoid the possible appearance of bias.

Ombudsmen are, however, authorized to refer concerns that the public trust may have been violated to the Grievance Committee.

Suspension of filing deadlines: If the Board's informal dispute resolution processes (e.g. ombudsman, mediation, etc.) are invoked or initiated by a complainant (or potential complainant) with respect to conduct that becomes the subject of a subsequent ethics complaint, the one hundred eighty (180) day filing deadline shall be suspended beginning with the date of the complainant's (or potential complainant's) request for informal dispute resolution service or assistance and shall resume when the informal dispute resolution procedures are concluded or terminated.

AAR's ombudsmen will record the date of the first contact by the complainant's (or potential complainant's) in a computer file. Such date will be the date the informal dispute resolution began and when the filing deadline is suspended. If informal communication attempts by the ombudsmen or informal mediation is unsuccessful, AAR's ombudsmen will record the date that informal dispute resolution procedures are terminated in the computer file. The AAR ombudsman will notify all parties to the dispute, in writing, of the termination date and that the one hundred eighty (180) day filing deadline countdown shall resume as of the following day. **(Approved 10/01)**.

Questions about when informal dispute resolution began or ended will be determined by the Board President or the President's designee.

Mediation of Potentially Unethical Conduct

Appointment of mediators

The chair of the Professional Standards Committee and/or the Association President will select one or more ethics mediators to act on behalf of the committee. Mediators should be thoroughly familiar with the Code of Ethics, state real estate regulations, and current real estate practice.

Complaints that may be mediated

Complaints brought by the public or by other REALTORS® may be mediated under these procedures. Complaints brought by the Grievance Committee and complaints alleging a violation of the public trust (as defined in Article IV, Section 2 of the NAR Bylaws, as *"demonstrated misappropriation of client or customer funds or property, willful discrimination, or fraud resulting in substantial economic harm"*) may not be mediated.

Initiation of ethics mediation procedures

The ethics mediation process can be initiated in two ways. First, through filing a written ethics complaint. Second, through a personal, telephone, or written inquiry or complaint generally alleging potentially unethical conduct but which (a) is not filed on the appropriate form or (b) is not specific as to which Article(s) may have been violated.

Where a written ethics complaint in the appropriate form is received, ethics mediation will be offered to the complainant. If the complainant is willing to mediate, the respondent will be offered mediation. If mediation is not agreed to at this time, the complaint will be reviewed by the Grievance Committee so a determination can be made whether a possible violation may have occurred or, alternatively, whether the complaint should be dismissed as not requiring a hearing. If the complaint is forwarded by the Grievance Committee for a hearing, ethics mediation will be offered again. Where an informal inquiry or general letter of complaint that does not allege a potential violation of the public trust is received, it will not be reviewed by the Grievance Committee, but will be referred to an ethics mediator.

Participation in ethics mediation is voluntary

Persons inquiring about the process for filing ethics complaints will be advised that ethics mediation is available as an alternative to a formal ethics hearing provided that all parties agree to participate, and also be advised they may decline or withdraw from mediation and have their complaint considered at a formal ethics hearing. Similarly, REALTORS® complained about have the right to decline or withdraw from mediation and to have complaints against them considered at a formal ethics hearing.

Referral of complaints to the mediator

When either a written ethics complaint in the appropriate form is reviewed by the Grievance Committee and the Grievance Committee concludes that a hearing is warranted, or when a general letter of inquiry or complaint is received, and the matter(s) complained of do not involve a possible violation of the "public trust", the materials received will be referred to the ethics mediator who will contact the parties to schedule a meeting at a mutually agreeable time. During the mediation session the mediator will encourage all parties to openly and candidly discuss all issues and concerns giving rise to the inquiry or complaint, and to develop a resolution acceptable to all of the parties. In the event the mediator concludes that a potential violation of the public trust may have occurred, the mediation process shall be immediately terminated, and the parties shall be advised of their right to pursue a formal ethics complaint; to pursue a complaint with any appropriate governmental or regulatory body; to pursue litigation; or to pursue any other available remedy.

Nature of the mediated resolution

The mediator and the parties have considerable latitude in fashioning a mutually acceptable resolution. Resolutions can include, but are not limited to, payment of disputed funds, repairs or restoration of property, written or oral apology, or acknowledgement of a violation of the Code of Ethics. In cases where a REALTOR[®] acknowledges that the Code has been violated, that admission may be sufficient to resolve the matter or, alternatively, the parties may agree that discipline should be imposed. The discipline may, at the agreement of all parties, include any of the forms of discipline established in the *Code of Ethics and Arbitration Manual* and may also include payment of monies to the complainant or to a third party. Also, the parties may agree that the complainant will withdraw a complaint or agree not to file a formal, written ethics complaint in return for the respondent's action or acknowledgement. Again, any discipline imposed must be agreed to by all of the parties.

Referrals to the Grievance Committee or to state regulatory bodies

Ethics mediators cannot refer concerns they have regarding the conduct of any party to mediation to the Grievance Committee, to the state real estate licensing authority or to any other regulatory body. This prohibition is intended to ensure impartiality and avoid the possible appearance of bias.

Refusal to comply with agreed upon discipline

Failure or refusal of a respondent to comply with the terms of any mutually agreed on resolution shall entitle the complaining party to resubmit the original complaint or, where a formal complaint in the appropriate form had not been filed, to file an ethics complaint. The time the matter was originally brought to the board or association's attention shall be considered the filing date for purposes of determining whether an ethics complaint is timely filed.

AAR BYLAWS
Regarding Professional Standards

ARTICLE II

Section 4 a. Membership Applications. The Association will consider the following in determining an applicant's qualifications for REALTOR® membership:

1. All final findings of Code of Ethics violations and violations of other membership duties in any other association within the past three (3) years
2. Pending ethics complaints (or hearings)
3. Unsatisfied discipline pending
4. Pending arbitration requests (or hearings)
5. Unpaid arbitration awards or unpaid financial obligations to any other association or association MLS
6. Any misuse of the term REALTOR® or REALTORS® in the name of the applicant's firm. (Approved by AAR Executive Committee – 06/07 – subject to AAR Board of Directors approval in October 2007).

"Provisional" membership may be granted in instances where ethics complaints or arbitration requests (or hearings) are pending in other associations or where the applicant for membership has unsatisfied discipline pending in another association, provided all other qualifications for membership have been satisfied. Associations may reconsider the membership status of such individuals when all pending ethics and arbitration matters (and related discipline) have been resolved or if such matters are not resolved within six months from the date that provisional membership is approved. Provisional members shall be considered REALTORS® and shall be subject to all of the same privileges and obligations of REALTOR® membership. If a member resigns from another association with an ethics complaint or arbitration request pending, the association may condition membership on the applicant's certification that he/she will submit to the pending ethics or arbitration proceeding (in accordance with the established procedures of the association to which the applicant has made application) and will abide by the decision of the hearing panel.

b. New Member Code of Ethics Orientation: Applicants for REALTOR® membership and provisional REALTOR® members (where applicable) shall complete an orientation program on the Code of Ethics of not less than two hours and thirty minutes of instructional time. This requirement does not apply to applicants for REALTOR® membership or provisional members who have completed comparable orientation in another association, provided that REALTOR® membership has been continuous, or that any break in membership is for one year or less. Failure to satisfy this requirement within 180 days of the date of application (or, alternatively, the date that provisional membership was granted), will result in denial of the membership application or termination of provisional membership.

Note: Orientation programs must meet the learning objectives and minimum criteria established from time to time by the NATIONAL ASSOCIATION OF REALTORS®. (Adopted 01/01).

c. Effective January 1, 2001, through December 31, 2004, and for successive four year periods thereafter, each REALTOR® member of the association shall be required to complete quadrennial ethics training of not less than two hours and thirty minutes of instructional time. This requirement will be satisfied upon presentation of documentation that the member has completed a course of instruction conducted by this or another association, the State Association of REALTORS®, the NATIONAL ASSOCIATION OF REALTORS®, or any other recognized educational institution or provider which meets the learning objectives and minimum criteria established by the NATIONAL ASSOCIATION OF REALTORS® from time to time. REALTOR® members who have completed training

as a requirement of membership in another association and REALTOR® members who have completed the New Member Code of Ethics Orientation during any four year cycle shall not be required to complete additional ethics training until a new four year cycle commences.

Failure to meet the requirement for the second (2005-2008) cycle and subsequent cycles will result in suspension of membership for the first two months of the year (January and February) following the end of any four (4) year cycle or until the requirement is met, whichever is sooner. On March 1 of that year, the membership of a member who is still suspended as of that date will be automatically terminated.

d. Obligation to Arbitrate. If a Member resigns from the Board or otherwise causes membership to terminate with an ethics complaint pending, that Board of Directors may condition the right of the resigning Member to reapply for membership upon the applicant's certification that he/she will submit to the pending ethics proceeding and will abide by the decision of the hearing panel.

If a member resigns or otherwise causes membership to terminate, the duty to submit to arbitration continues in effect even after membership lapses or is terminated, provided that the dispute arose while the former member was a REALTOR®.

ARTICLE X

Section 5. The Grievance Committee shall have at least nine (9) and no more than eighteen (18) members, including a Chairman and Vice Chairman. Members shall be appointed to serve staggered three (3) year terms. The Chairman and Vice Chairman should have each served a minimum of two (2) years on the Committee before serving in those capacities. Committee training requirements shall be established in AAR policies. (Revised 10/08).

Section 6. The Professional Standards Committee shall be comprised of a pool of REALTORS® referenced in the Statewide Professional Standards Agreement. Members shall be appointed to serve staggered three (3) year terms. The Chairman and Vice Chairman should each have served a minimum of two (2) years on the committee before serving in those capacities. Committee training requirements shall be established in AAR policies and in the Statewide Professional Standards Agreement. (Revised 10/01).

ARTICLE XIII.

Section 1. Under certain circumstances, allegations of ethical violations and controversies concerning REALTORS® and REALTOR-ASSOCIATE®s may be submitted to the Association by local associations. These situations shall be processed according to the Code of Ethics and Arbitration Manual of the NATIONAL ASSOCIATION OF REALTORS®. This provision is not designed to relieve the local association of its primary responsibility in enforcing the Code of Ethics but is designed to provide a due process hearing in cases where unusual circumstances exist, unless the local association is a signatory to the Statewide Professional Standards Agreement. In this case the local signatory associations have delegated the enforcement of the Code of Ethics, the disciplining of members and the arbitration of disputes and procedures incident thereof to the Arizona Association of REALTORS®.

Section 2. Professional Standards hearings and the organization and procedures incident thereto shall be governed by the Code of Ethics and Arbitration Manual of the NATIONAL ASSOCIATION OF

REALTORS[®], as from time to time amended by NAR and as adapted by AAR, and, where applicable, the Statewide Professional Standards Enforcement Agreement. (Revised 10/08).

Section 3. Hearings held under the auspices of the Statewide Professional Standards Enforcement Agreement shall be held, when possible, in a geographic area close to the Respondent's association. (Revised 10/08).

Section 4. AAR may take disciplinary action against a member, including, but not limited to, suspending or expelling a member from a local association and/or its MLS for a breach of membership duty resulting from any professional standards matter held under the auspices of AAR, including, but not limited to, failure to pay arbitration fees, procedural review filing fees, ethics appeal fess, and/or failure to either pay the award or escrow the award per AAR policy and Section 53 (c-f) of the Code of Ethics and Arbitration Manual. (Adopted 10/04).

AAR PROFESSIONAL STANDARDS RETENTION POLICIES

1. Grievance Committee Dismissal: Destroy file after twenty day appeal period.
2. Ethics case: If respondent is found not in violation of the Code of Ethics, destroy the file after the decision's adoption by the Executive Committee.
3. Ethics Case: If respondent is found in violation of the Code of Ethics, destroy the file after any and all discipline has been satisfied. (A copy of the decision will remain in the member's personal file at the association office).
4. Arbitration case: Destroy after 20 day review period has been completed and award has been paid.
5. Files of ethics cases withdrawn as a result of an AAR mediation agreement will be retained for one year after the mediation agreement is reached.

AAR's Risk Management Committee (RMC) approved discontinuing the AAR "Certified Ethics Instructor Program" under RMC and recommend that AAR's Professional & Business Development Committee oversee this program under the new AAR Course Certification and AAR Instructor Standards/Certification programs. (August 2010).

AAR POLICY STATEMENTS RELATING TO PROFESSIONAL STANDARDS

POLICY II.1- PROFESSIONAL STANDARDS AND GRIEVANCE COMMITTEE TRAINING

Members who are appointed to the AAR Grievance or Professional Standards Committees must have received training within the past twelve (12) months prior to appointment on either committee and annually while serving on either committee. Any procedures training must be provided by an instructor(s) who has attended an NAR professional standards procedures course and any ethics training must be provided by an AAR Certified Ethics Instructor(s) or nationally recognized expert. AAR committee members must attend AAR's training when at all possible. If an AAR committee member cannot attend, attempts to find alternatives for them will be made. Exceptions to mandatory training must be approved by the leadership of the Grievance and Professional Standards Committees. Requirements for members of these committees will be further guided by the Professional Standards Proficiency and Evaluation Procedures which set out procedures for determining the proficiency of new and continuing members of these committees. Those procedures will be reviewed annually by the Risk Management Committee and all appropriate sub-groups. (Revised 10/97).

NOTE: Current approved proficiency procedures are as follows:

PROFESSIONAL STANDARDS PROFICIENCY AND EVALUATION PROCEDURES

In order to assure the highest quality of individuals who serve on these important committees; provide complete due process to all parties; and reduce potential liability for the Association, the following procedures will be followed.

- A. **Proficiency Testing.** Prior to attending a Grievance Committee meeting or serving on a hearing panel, members of the AAR Grievance and Professional Standards Committees must meet one of the following two criteria:
- 1) Annually attend approved professional standards procedures and/or ethics training (see also AAR Policy II.1) and by taking a test on the role of their respective committee (which will include that year's updates to procedures and the Code of Ethics) and passing it with a minimum score of 80%.
 - 2) Take and pass a test of the role of their respective committee (which will include that year's updates to procedures and the Code of Ethics) and pass it with a minimum score of 90%. The "test-out" option may only be taken every other year, and there will be no retests available to those attempting to test out. (Revised 06/07).

Proficiency tests will be given for Grievance Committee members, professional standards hearing panel members and hearing panel chairmen. Development, revision and evaluation of these tests will be overseen by the Professional Standards Training and Procedures Work Group which shall include at least the chairman or vice chairman of both Grievance and Professional Standards Committees.

Tests described in 1) or 2) will be open book. Committee members attending the annual training will be given the option of taking this test at the end of the training session or within one week after the training session. Members attending the training will be offered one opportunity to retake the test within one week after taking the test, if failing it at their first opportunity. There will be no exceptions to these deadlines. (Revised 06/07).

B. **Evaluation Process.** In order to “constantly improve,” 1) members of Grievance Committees will be evaluated by the Grievance Committee or Subcommittee Chairman, as necessary and 2) hearing panels will be evaluated by respective panel chairs and the chairman of the Professional Standards Committee, as necessary. This evaluation will address both the knowledge and application of professional standards procedures of the individual and will offer opportunities for suggestions for improvement. The Chairman and Vice Chairman of each Committee will determine if additional training or other action is necessary.

POLICY II.3 - PROFESSIONAL STANDARDS POLICY RECOMMENDATIONS PROCESS

The Professional Standards and Grievance Committees are standing committees of the Association and report through the Risk Management Committee. However, any recommendations dealing with Professional Standards, Arbitration or Mediation procedure or policy from any assigned work group must be noticed to the members of the Professional Standards and Grievance Committees for comment prior to consideration by the Risk Management Committee. (Revised 10/97).

POLICY II.4 – REGIONAL PROFESSIONAL STANDARDS EXPENSE REIMBURSEMENT

All expenses related to regional professional standards shall be borne by the signatory associations, except for legal expenses, which may be reimbursed by AAR subject to approval of such expenses by the AAR Professional Standards Committee Chairman prior to any commitment by the region.

The AAR Executive Committee will establish an amount annually from the Special Operating/Legal Reserve for Regional Professional Standards legal reimbursement. If that amount is exceeded in any fiscal year, the Executive Committee must approve any additional expenditures as outlined in Article IV, Section 2.c. of the AAR Bylaws. (Approved 10/98).

POLICY II.5 – ABANDONMENT OF AN ETHICS CASE BY THE COMPLAINANT

If a Complainant fails to respond to AAR, AAR shall send the Complainant written notice that the claim will be subject to dismissal for lack of action if AAR receives no response within 30 days. If there is no response, AAR Shall send a final notice to Complainant that the ethics complaint file will be closed on a specified date which shall be no sooner than 10 days after the date of the final notice unless the Complainant responds. If there is no response, the ethics complaint will be referred back to the Grievance Committee to determine if a possible violation of public trust (as defined in Article IV, Section 2 of the National Association’s Bylaws) has occurred. If the Grievance Committee determines a potential violation of the public trust may have occurred, the Grievance Committee may proceed as the complainant. Otherwise, the Grievance Committee shall dismiss the complaint. (Approved 10/08).

POLICY II.6 – SENDING COPIES OF ETHICS COMPLAINTS TO THE PARTIES’ DESIGNATED BROKERS

When administering an ethics complaint, AAR staff will send copies of party mailings to the complainant’s and the respondent’s brokers, past and current, as applicable. (Adopted 01/10).

**Agreement Between the Arizona Association of REALTORS® (AAR)
and _____ of REALTORS®
to Establish Statewide Professional Standards**

Enforcement Procedures

I. Authority

- A. The authority for the establishment and utilization of statewide professional standards enforcement procedures shall be established by this Agreement approved by the Boards of Directors of AAR and the _____ Association of REALTORS® and confirmed by approval of their respective Boards of Directors, or, if required, by the general membership at a duly called meeting with notice as required by the respective Associations' Bylaws.

II. Geographic Area

- A. The geographic area served by this Agreement shall be the area of the combined territorial jurisdiction assigned by the NATIONAL ASSOCIATION OF REALTORS® to the Associations which are signatories to this Agreement.

III. Purpose

- A. The purpose of this Agreement is to create statewide professional standards enforcement procedures providing for the establishment of a Grievance Committee and a Professional Standards Committee comprised of members from each signatory Association for enforcement of the Code of Ethics, including the mediation of disputes and the conduct of arbitration hearings, involving members of the signatory Associations to ensure impartial and unbiased hearing panels for the conduct of hearings on a basis designed to provide this service and meet the responsibilities of the signatory Associations on an efficient and effective basis to better serve their members. Each local signatory association shall submit all ethics complaints and arbitration requests to AAR for processing under this Agreement.

IV. Composition of Tribunals

- A. This agreement authorizes the creation of a statewide Grievance Committee. New signatory associations shall solicit interested members to serve on this committee based on the criteria recommended by the NATIONAL ASSOCIATION OF REALTORS®. Names for vacancies to the Committee may be solicited from signatory associations each year, if needed. Appointment of Grievance Committee members is subject to approval by the AAR Risk Management Committee and subject to review by the AAR Executive Committee. The AAR President shall appoint the Chair and Vice Chair. There shall be a minimum of nine members on the Committee. Grievance Committee meetings will be held, as required, at AAR. All members must be subject to annual professional standards requirements prior to reviewing ethics complaints or requests for arbitration.
- B. This Agreement also authorizes the establishment of a statewide Professional Standards Committee. New signatory associations shall solicit interested members to serve on this committee based on the criteria recommended by the NATIONAL ASSOCIATION OF REALTORS®. Names for vacancies to the Committee may be solicited from signatory associations each year, if

needed. Appointments to the Committee are subject to approval by the AAR Risk Management Committee and subject to review by the AAR Executive Committee. The AAR President shall appoint the Chair and Vice Chair. All members must be subject to annual professional standards requirements established in AAR Professional Standards Policies prior to and while serving as a Hearing Panel member.

- C. Members of the Grievance Committee and the Professional Standards Committee shall be appointed initially in terms of one (1), two (2), and three (3) years (one-third for each term). New appointments shall be made for three (3) year terms as each term expires.
- D. This Agreement also authorizes the establishment of Ethics Appeal and Procedural Review Panels and Panels to review appeals of Grievance Committee dismissals. These Panels will be comprised of members of the Professional Standards Committee not previously involved in the subject cases.
- E. The AAR Executive Committee or a tribunal of the Executive Committee shall be responsible for review of ethics decisions not appealed. Such decisions and recommendations for sanction, if any, shall be implemented only upon such review and adoption by the Executive Committee. The Executive Committee shall handle all professional standards matters unless otherwise specified in AAR Policies or in this Agreement. The Executive Committee shall receive annual training on this limited aspect of the process.
- F. This agreement also authorizes the appointment by the AAR President of a panel of Mediation Officers. All AAR mediators must attend approved mediation training as required by AAR. Although utilization of the mediation service shall be voluntary and although the process is not defined as a Tribunal, all parties to any requested arbitration shall be provided the opportunity to mediate a controversy arising out of a real estate transaction and their relationship as REALTORS[®] prior to the arbitration of the controversy, and, all parties to an ethics complaint shall also be provided the opportunity to mediate an ethics complaint according to AAR Professional Standards Policy.

V. Operation

- A. Professional Standards Hearings and the organization and procedures incident thereto shall be governed by the *Code of Ethics and Arbitration Manual* of the NATIONAL ASSOCIATION OF REALTORS[®] as amended from time to time, and as adapted to conform to the provisions of applicable state law and AAR approved Professional Standards Policies which are hereby agreed shall be considered as adopted and incorporated into the Bylaws of each Association signatory to this Agreement.
- B. Appeal of an ethics determination rendered by the AAR Professional Standards Committee shall be heard by an AAR Appeal Panel as described in IV (D).
- C. Appeal is not provided from the decision of an arbitration panel except with respect to a claim by a party alleging deprivation of due process. Such a claim shall be heard by a Review Panel as described in IV (D).
- D. AAR has the authority and the responsibility to enforce all discipline rendered by a Hearing Panel of the AAR Professional Standards Committee in matters of alleged unethical conduct. This agreement authorizes AAR to enforce any and all disciplinary action recommended in the hearing

decision, including the right to fine, place on probation, suspend or expel a REALTOR® and/or MLS Only Participant from a signatory Association or from access to their Multiple Listing Service. This agreement also authorizes AAR to take disciplinary action against a member, including, but not limited to, suspension or expulsion of a member for a breach of a membership duty, including failure to pay arbitration fees, failure to escrow an arbitration award per AAR Professional Standards Policy, and Section 53 of the Code of Ethics and Arbitration Manual, or breach of any membership duty [as provided for in AAR's Bylaws, Article XIII, Section 4]. AAR will be responsible for maintaining the files on each complaint and will retain all fines imposed and collected in an ethics proceeding. Copies of final decisions will be provided to the Respondent's association for their information.

Consistent with Professional Standard Policy Statement #45, Publishing the Names of Code of Ethics Violators, each signatory local association expressly grants the Arizona REALTORS® the authority to publish the names of the local association members found in violation of the Code of Ethics subject to the following qualifications:

- Publication can only occur after a second violation occurs within three (3) years;
 - Publication can only be made in an official communication vehicle of the Association in which the violator holds (held) membership. If the Association (or Associations) in which the violator holds (held) membership does not have an official communication vehicle or for some other reason does not publish the name within ninety (90) days of the decision becoming final, AAR will publish the name of the local association/board member found in violation of the Code of Ethics by way of electronic communication to the members of the association (or associations) in which that individual holds (held) membership. Publication of names of direct members of AAR will be made in the official communication vehicle of AAR.
 - The name of the firm the violator is (or was) licensed with cannot be published;
 - Publication must be consistent and uniform. This means that publication may not occur selectively but must be used in each instance where a second violation is determined within three (3) years;
 - Other than the violator's name, the only additional information that may be published is the Article (or Articles) violated, and the discipline imposed, except that in cases where the violator's name is similar to another member's name, the violator's license number or office address (or both) may also be published;
 - At least one of the violations must be based on conduct which occurs after the adoption of these procedures.
- E. In the event a member is alleged to have improperly refused to submit a controversy to arbitration, the allegation shall be brought before a Tribunal of five members of AAR's Professional Standards Committee who did not serve on the original arbitration hearing panel. The procedures for notices, time of notices, and hearing prescribed for matters before a hearing panel shall apply. The sole question of fact to decide will be whether the party has refused to submit an arbitrable matter to arbitration. Upon determination that the member has refused to arbitrate a properly arbitrable matter, the Tribunal may direct implementation of appropriate sanction, including, but not limited to, suspension or expulsion of the member from the local Association of REALTORS® or its MLS. The decision of the Tribunal shall be final and binding and is not subject to further review. Copies of the final decisions will be provided to the parties' associations for their information.

- F. In order to determine the severity of any sanction in an ethics case, this agreement also authorizes AAR to access the respondent's personal files at the appropriate signatory association(s).
- G. All decisions governed by this Agreement are final and are not subject to further review by signatory associations.
- H. Appendix A (Processing an Ethics Complaint) and Appendix B (Processing an Arbitration Request) are incorporated as part of this Agreement.

VI. Reservation of Rights

- A. It is understood and agreed by the Associations signatory to this cooperative Agreement that each Association reserves to itself all authority, rights, and privileges as have been assigned to it by its Charter and agreement with the NATIONAL ASSOCIATION OF REALTORS[®], except as voluntarily modified by this cooperative Agreement.
- B. It is further understood and agreed that any Association signatory to this Agreement may withdraw from the Agreement at any time provided the withdrawing Association shall provide notice to the other signatory Associations ninety (90) days in advance of the date of withdrawal.

IN WITNESS THEREOF, the parties have hereto set their hands and seals on this ____ day of _____, 20____.
 The effective date of the Agreement shall be January 1, 20____.

Attested by

Arizona Association of REALTORS[®]

 (President)

 (Executive Vice President)

Date: _____, 20____

 Association of REALTORS[®]

 President

 (Executive Officer)

Date: _____, 20____

PROCESSING AN ETHICS COMPLAINT (APPENDIX A)

PHONE CALLS: The local and/or state association will receive calls from the public and from members regarding the Code of Ethics and how to file a complaint.

COMPLAINT FORMS: The local and/or state association will send out a uniform REALTOR[®] complaint form, a copy of the Code of Ethics and a cover letter. The complaints will be filed with the state association. Forms will be available online, on AAR's website.

NOTIFICATION OF LOCAL ASSOCIATION: The local association will not be informed about the process unless and until a hearing has been held and a decision has been reached.

NOTIFICATION OF PARTIES: The state association will provide the respondent with a copy of the ethics complaint.

MEDIATION: Ethics mediation may be offered either before the Grievance Committee reviews a complaint and again after complaint is forwarded for a hearing, if appropriate.

GRIEVANCE COMMITTEE: AAR's Grievance Committee will review the complaint to determine if it warrants a hearing before the Professional Standards Committee or whether the complaint should be dismissed.

DISMISSAL OF COMPLAINT: AAR will notify the complainant and the respondent if the complaint has been dismissed or amended.

APPEAL OF THE DISMISSAL: If an appeal is filed, a panel of five members of the Professional Standards Committee will be formed to review such appeals.

COMPLAINT FORWARDED: If the Grievance Committee determines that a hearing is warranted, AAR will make all necessary arrangements for the hearing, including setting the date, arranging for a court reporter, selecting the panel and sending all proper notification to the parties. Hearing panels of five members plus one alternate will be selected from the Professional Standards Committee. Whenever possible, not more than two members from a specific local association will be used on a panel.

CONDUCT OF THE HEARING: AAR will be responsible for conducting the hearing and providing all administrative support. When possible, hearings will be held in a geographic area close to the Respondent's Association. Whenever possible, AAR will use a local association conference room for the hearings.

APPEAL OF HEARING: If an appeal is filed by either party, it will be handled by an Appeal Panel comprised of five members of the Professional Standards Committee not previously involved in the matter. The appeal deposit is \$500. Any retained deposits shall be kept by AAR.

ADOPTION BY THE EXECUTIVE COMMITTEE: If not appealed, the decision and recommendation of the sanction, if any, shall be recommended to the AAR Executive Committee or a Tribunal of the AAR Executive Committee and shall be implemented only upon review and approval by the Executive Committee. A copy of the decision will be furnished to the Local Association to be placed in the REALTOR[®]'s personal file. Personal files for ethics matters will also be kept at AAR.

FILES: AAR will be responsible for maintaining the file on each complaint.

FINES: AAR will retain all fines imposed and collected through an ethics proceeding.

ENFORCEMENT: AAR will be responsible for enforcing any and all disciplinary action imposed by the Hearing Panel. This responsibility of enforcement, including the right to fine, suspend or expel membership, or its MLS, authorized in the agreement duly executed between the local Association and AAR as well as the Bylaws of the local Association.

PROCESSING A REQUEST FOR ARBITRATION (APPENDIX B)

PHONE CALLS: The local and/or state association will receive calls from the public and from members regarding how to file a request for arbitration.

COMPLAINT/REQUEST FORMS: The local and/or state association will send out a uniform REALTOR® Request to Arbitrate form and a cover letter. The request will be filed with the state association.

NOTIFICATION OF LOCAL ASSOCIATION: The local association will not be informed about the process once the case is filed at AAR.

NOTIFICATION OF RESPONDENT: The state association will provide the respondent with a copy of the arbitration request.

MEDIATION: Mediation will be offered by AAR in an effort to resolve the dispute prior to a hearing before the State Professional Standards Committee at the time the request for arbitration is received or as a result of a dispute between a REALTOR® and a client resulting from a buyer broker employment agreement or a listing agreement. Any arbitration deposits made by the parties will be returned if the dispute is successfully mediated. (Revised 10/06).

GRIEVANCE COMMITTEE: AAR's Grievance Committee will review the request to determine if the matter is properly subject to arbitration or whether the request is unworthy of further consideration.

DISMISSAL OF REQUEST: AAR will notify the complainant and the respondent if the request has been dismissed.

APPEAL OF THE DISMISSAL: If an appeal is filed, a panel of five (5) members of the Professional Standards Committee will be formed to hear such appeals.

REQUEST FORWARDED: If it is determined that a hearing is warranted, AAR will make all necessary arrangements for the hearing, including setting the date, arranging for a court reporter, selecting the panel and sending all proper notification to the parties. Hearing panels of five members plus one alternate will be selected from the Professional Standards Committee. Whenever possible, not more than two members from a specific local association will be used on a panel.

CONDUCT OF THE HEARING: AAR will be responsible for conducting the hearing and providing all administrative support. When possible, hearings will be held in a close proximity to the parties' associations. Whenever possible, AAR will use a local association conference room for the hearings.

PROCEDURAL REVIEWS: If a procedural review is filed by either party, it will be handled by an AAR Review Panel comprised of five Professional Standards Committee not previously involved in the matter. The review deposit is \$500.00. Any retained deposits shall be kept by AAR.

FILES: AAR will be responsible for maintaining a file on each case.

FEES: AAR will require each party to pay an arbitration deposit of \$500. Deposits of the non-prevailing party will be retained by the association to offset the administrative costs involved in conducting the hearing and the prevailing party's deposit will be returned. Any arbitration deposits made by the parties will be returned if the dispute is successfully mediated.

PROCESSING MEDIATOR/ARBITRATOR APPLICATIONS (APPENDIX C)

REALTOR® MEDIATION APPLICATION PROCESS:

1. Candidate completes application.
2. Staff reviews application for completeness and makes recommendation to PSC Chairperson and/or Association President.
3. PSC Chairperson and/or Association President reviews application and determines acceptance or denial.
4. Staff conveys decision to candidate.

Minimum Requirements:

1. Familiarity with National Association of REALTORS® Code of Ethics and Arbitration Guidelines, Arizona real estate laws, and current real estate practice
2. Completion of AAR and/or NAR's mediation training program

DISPUTE RESOLUTION SYSTEM (DRS) MEDIATOR/ARBITRATOR APPLICATION PROCESS:

1. Candidate completes application and submits resume.
2. Staff reviews application for completeness and makes recommendation to the RMC Chairperson.
3. The RMC Chairperson considers application and determines acceptance/denial.
4. Staff conveys decision to candidate. If accepted, staff requests that the candidate sign AAR's Agreement for Mediation Services.

Minimum Requirements:

1. Familiarity with Arizona real estate laws, contract law, and current real estate practice
2. Be an Arizona licensed attorney/judge or be employed by a government agency
3. Possess at least 1 year of experience as a mediator/arbitrator

***Appendix C - Application processes were reviewed and approved by the RMC on 4/23/09.
Ams***

PROCESSING OMBUDSMEN APPLICATIONS (APPENDIX D)

REALTOR® OMBUDSMAN APPLICATION PROCESS:

1. Candidate completes application
2. Staff reviews application for completeness and makes recommendation to PS Chairperson and/or Association President.
3. PS Chairperson and/or Association President reviews application and determines acceptance or denial.
4. Staff conveys decision to candidate.

Minimum Requirements:

1. Thoroughly familiar with National Association of REALTORS® Code of Ethics, Arizona real estate regulations, and current real estate practice.
2. Completion of AAR's Annual Ombudsman Training program.

QUESTIONS AND ANSWERS (APPENDIX E)

WITNESS ISSUES

- Q: A party to the dispute would like to have a witness with pertinent first-hand knowledge about the dispute attend the hearing. Can the witness attend the hearing and be accompanied by his/her own counsel?**
- A:** A witness can bring an attorney if the chair allows it. *(DM 3/09)*
- Q: A Managing Broker wants to attend an Arbitration hearing as a principal. How is a Managing Broker's role related to the arbitration request?**
- A:** The opposing party should be properly noticed of the Managing Broker's role so that they know who will be testifying. If the Managing Broker attends the hearing with the principal broker, he/she does not need notice unless he/she intends to testify. If it is necessary to clarify the Managing Broker's role, the Hearing Panel Chair can go on record at the beginning of the hearing asking the opposing party if they need additional time to prepare their defense given the Managing Broker in question is attending on behalf of the firm which would allow him to remain in throughout the hearing and participate on behalf of the firm (not just testify as a typical witness). *(DM 6/10)*

TAPE RECORDING/TRANSCRIPT QUESTIONS

- Q: A respondent prevailed at a hearing and was not found in violation of the code of ethics. The respondent, quoting Section 2 (e) (2) of the CEAM, requested a copy of the hearing's transcript for use in a related civil matter. The respondent was not eligible to request and appeal. Can the AAR release the hearing notes to the complainant?**
- A:** No. Section 2 (e) (1) authorizes dissemination of the decision where necessary to vindicate a member's reputation; it does not provide that the transcript or recording of the hearing can be used for that purpose. The intent of subsection (e) (2) is similar, though the wording is less specific. It does not authorize use of the transcript or recording in other proceedings. *(DM 1/09)*

TIMELINESS

- Q: After the Grievance Committee has forwarded an ethics complaint or an arbitration request, can the Hearing Panel determine that the filing was not timely?**
- A:** Yes. The issue may be considered at a prehearing meeting or at the outset of the actual hearing (to be decided by the hearing panel chair). If the chair determines the issue will be considered at the outset of the hearing, parties will be told that the panel will listen to the parties arguments and that they should come prepared to discuss the issue, if they would like to comment.
- At the hearing, all parties will be sworn in, the parties will have an opportunity to question each other and the panel will be given an opportunity to ask questions of the parties limited to the timely filed issue. Thereafter, the hearing panelists will go into executive session and make their decision.

Regardless of whether a prehearing meeting is held or the matter is reviewed at the outset of the actual hearing, if the hearing panel dismisses the case, the panel's rationale will be shared with the parties and the parties will be given form E-22 or A-20, as appropriate. The parties will have an opportunity to appeal, just like they would if the grievance committee dismissed the case. The parties are not entitled to attend the appeal.

In the event the dismissal is overturned on appeal, the case will be referred back to the same hearing panel for the hearing, absent some compelling reason not to have the same panel hear the merits.

The appeal panel can advise when they rule on the timely filed issue, whether the hearing should be held before the same, or a different panel. *(DM 5/11)*

Appeal provisions **specific to Arbitration (see Section 45 of the CEAM):**

If the dismissal is overturned, the matter will be remanded back to the original Hearing Panel on all cases.

FAILURE TO COOPERATE

Q: What is the Sanction for a complainant's failure to attend a hearing without a valid reason?

A: **ARBITRATION:** If the complainant fails to appear for the arbitration hearing without a valid reason, the panel may dismiss the arbitration and direct that the complainant's deposit be retained by the association.

****ETHICS:**** When the complainant fails or refuses to appear at the hearing and the grievance committee becomes the complainant pursuant to Section 31 (f) (3) of the Code of Ethics and Arbitration Manual, the hearing panel can require the former complainant to appear and place all pertinent facts before the hearing panel as a witness. If the former complainant is a REALTOR® and does not appear when summoned by the hearing panel, then the former complainant may be charged with a violation of Article 14. *(DM 6/10)*

Appendix E - Questions and Answers were reviewed and approved by the RMC on 08/18/11.

AAR OMBUDSMAN RETENTION POLICIES (APPENDIX F)

All Ombudsman Requests and related documents will be destroyed when the Ombudsman efforts have concluded and the case is closed.

In the event:

1. An Ombudsman Request is **dismissed** for falling outside the scope of program:
 - a. Forward a follow up letter to the Complainant with other AAR dispute resolution options and other related agency information.
 - b. Follow up letter will be retained for 180 days from date of letter, then destroyed.
 - c. Destroy the Request and supporting documents received upon closing.

2. An Ombudsman Request is **successful**:
 - a. Record the Request as "successfully closed."
 - b. Destroy the Request and any related documents received upon closing.

3. An Ombudsman Request is **unsuccessful**:
 - a. Record the Request as "unsuccessful – closed."
 - b. Forward a follow up letter to the Complainant with other AAR dispute resolution options and other related agency information.
 - c. Follow up letter will be retained for 180 days from date of letter, then destroyed.
 - d. Destroy the Request and supporting documents received upon closing.

Arizona Association of REALTORS® Ethics Citation Program

I. Preliminary Procedures / Review by Grievance Committee

A. Information about the Ethics Citation program, including the Citation Schedule, will be provided as part of the information sent to all potential complainants who are considering filing complaints through the Statewide Professional Standards Program.

B. When a Grievance Panel receives a complaint, it shall review the complaint to determine if it includes allegations that are covered by the Citation Schedule

1. If the complaint does not include allegations covered by the Citation Schedule, or it includes a mixture of those that are covered by the Citation Schedule and those that are not, the complaint shall be processed according to the usual terms of the Code of Ethics and Arbitration Manual.

2. If the complaint includes only allegations covered by the Citation Schedule, the Grievance Panel will proceed under subsection C., below.

C. If the complaint includes only allegations covered by the Citation Schedule, the Grievance Panel will review the information presented in the complaint and, taking all information in the complaint as true on its face, determine if there is potential violation of the Code of Ethics. If the Grievance Committee determines that the complaint be amended to add or delete Articles and/or Respondents, that are not covered by the citation program, the complaint will then be forwarded to a hearing.

1. If the Grievance Panel determines there is **not** a potential violation, the complaint shall be dismissed according to the usual terms of the CEAM, preserving the complainant's right to appeal the dismissal.

2. If the Grievance Panel determines there **is** a potential violation of the Code of Ethics, it shall **have the option to** issue a citation to the respondent pursuant to Section II., below, which shall include the fine(s) as established by the Citation Schedule.

II. Issuance of Citations

A. The citation will be sent to the respondent, as well as to the REALTOR® principal of the respondent's office. Notice of the citation **will not** be sent to the Complainant until after the citation has been satisfied.

1. A copy of the complaint will be sent the respondent.

B. The respondent will have fifteen (15) days from receipt of the citation to provide notice as to whether the respondent will accept the citation and pay the fine, or whether the respondent requests a full hearing on the complaint.

1. If the respondent does not reply within fifteen (15) days of receiving the citation, the hearing process will automatically be started.

2. Acceptance of the citation by the respondent, including education for the first offense, shall be deemed to be a final resolution of the complaint, which shall not be appealable or

subject to any further review.

3. If the respondent accepts the citation, payment must be received by AAR no later than thirty (30) days after the date of acceptance.

a. The case will be deemed to be closed upon receipt of payment, and notice will be provided to the complainant that the citation(s) has been issued and paid in full.

b. Failure to pay the citation amount within thirty (30) days will result in the suspension of association membership(s) and MLS privileges and access until such time as the citation has been paid in full.

III. Limitations

A. Any individual REALTOR® is limited in the number and type of citations that he/she may receive, according to the following rules:

1. No more than one (1) citation within a consecutive twelve (12) month period, starting with the date the first complaint was filed.

2. No more than three (3) citations within a consecutive thirty-six (36) month period, starting with the date the **first complaint** was filed.

3. No more than three (3) citations for the same violation at any time.

4. No additional citations are permitted where the cumulative fine for the citation, if issued, would be more than \$1750.

B. Should an individual respondent exceed the limits in subsection A., above, any further complaints will be processed as a regular complaint without the opportunity to participate in the citation program. The program Administrator will review the citation history of a respondent to determine eligibility, and if the respondent is not eligible to receive a citation, the complaint will be forwarded to the Grievance Panel with a notation that the complaint is not covered by the Citation Schedule, but the Grievance Panel will not be told any specifics of why it is not eligible.

C. The fact that a respondent has previously been issued a citation for any violation – whether or not it was paid – shall not be admissible in any ethics or arbitration hearing, including a hearing for a complaint where the respondent rejected a citation.

D. Publishing the names of citation violators can occur after a third citation occurs within three (3) years. All other publication guidelines of AAR's adaptations to Section 45 of the CEAM will apply.

E. Citation sanctions will remain with the respondent's file indefinitely.

F. Where a hearing Panel has found a violation of the Code of Ethics after a full hearing, it may consider past citations paid by the respondent in establishing a sanction only if the citation was for the same violation at issue in the hearing. By way of example, if a citation was issued for failure to disclose a dual or variable rate commission under Standard of Practice 34, that citation could not be considered if a Hearing panel later found a violation of Article 3 on some other

grounds. The Hearing Panel shall not be informed of past citations for other violations.

G. The Program Administrator will track the number of citations issued, the number of citations paid, and the violations for which citations were issued. This information may be provided in the aggregate but will not include details about the complaints nor identify the respondents.

IV. Citation Schedule

A. The following violations are covered by the ethics citation program:

1. Article 3
2. Article 4
3. Article 5
4. Article 6
5. Article 12
6. Article 14
7. Article 16

B. Fines for citations to be completed within sixty (60) days shall be as follows:

1. For the first violation \$250 + education commensurate with Article violated
 - a. Class is to be taught by online or live instruction with proof of completion

2. For the second violation \$500

3. For the third violation \$750

4. For any violation that is repetitive of an earlier violation the fine shall be increased by \$250 if it is the second violation, and by \$500 if it is the third.

5. For any violation after the third for which the respondent is eligible to receive a citation, an increase of \$500 from the amount of the third citation issued to the respondent.

- By way of example:

- A first violation of X should be \$250. A second violation this time for Y, would be \$500, and a third violation, this time for Z, would be \$750.

- A first violation of X would be \$250. A second violation, also of X, should be \$750 (\$500 + \$250). A third violation, this time of Y, should be \$750 (because the third is for a different offense).

- A first violation of X would be \$250. A second violation of X would be \$750 (\$500 + \$250). A third violation of X would be \$1250 (\$750 + \$500).