

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

PROFESSIONAL STANDARDS



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

PROFESSIONAL STANDARDS NEWSLETTER

DECEMBER 2020

STAFF CHANGE

Dear Professional Standards Members:

I decided to keep up with the times and since 2020 has presented so many changes, I decided to change too. If you haven't already heard, I've decided to retire effective 12/31/2020. I will explore this thing called retirement and I'll do that here in the desert where retirees come to play in the sun. If retirement is not to my liking, then I'll change again and "do something." Since joining the Arizona REALTORS® in 2003, I've gotten to know, appreciate, and work with such a wonderful group of people – most importantly, you – the volunteer. Thank you for helping me to do my job and learn about real estate and Arizona. Thank you for helping other Arizona REALTORS® to understand the importance of the Code. You are more than enforcers; you are the builders of the standards that strive to make real estate a formidable industry and profession. I wish each of you great health, plentiful happiness, and your dreams to come true.

- Carole Ridley

2020 Emergency Code of Ethics Changes; NAR Reaffirms Commitment to Fair Housing

On November 13th, the NATIONAL ASSOCIATION OF REALTORS® (NAR) Board of Directors approved changes to the REALTOR® Code of Ethics intended to further raise the bar on professionalism and combat discriminatory speech and conduct. The new and amended policies can be grouped into three broad categories:

1. Changes to Policy Statement 29 applicable to a REALTOR®’s activities;
2. A new Standard of Practice under Article 10 prohibiting discriminatory speech and conduct; and,
3. Revisions to the definition of “Public Trust”.

Policy Statement 29: Currently, Policy Statement 29 limits the applicability of the Code to real estate related activities. Theoretically, this means that members can engage in conduct and speech that is discriminatory, but unless it can be tied to real estate activity, the Code of Ethics does not apply. To avoid such a scenario, Policy Statement 29 has been revised as follows:

29. Applicability of the Code of Ethics to non-real estate-related activities

While REALTORS® are encouraged to follow the principles of the Code of Ethics in all of their activities, a REALTOR® shall be subject to disciplinary action under the Code of Ethics only with respect to real-estate-related-all of their activities, and transactions involving the REALTOR®.

Standard of Practice 10-5: Just as NAR previously expanded Article 10 to include additional protected classes before legally being required to do so, the Board of Directors has approved a new Standard of Practice, 10-5, which states:

REALTORS® must not use harassing speech, hate speech, epithets, or slurs based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity.

This revision flows from the requirement that REALTORS® must not deny equal professional services or be parties to a plan to discriminate against protected classes.

Public Trust: The NAR Board of Directors also expanded the definition of “public trust” to include all discrimination against members of the protected classes under Article 10, as well as all fraud.

The definition has therefore been revised as follows:

Public trust is defined as “demonstrated misappropriation of client or customer funds or property, ~~willful-discrimination against the protected classes under the Code of Ethics~~, or fraud ~~resulting in substantial economic harm~~.”

Allegations of a violation of this revised definition will not be considered if the action complained of took place prior to November 13, 2020.

To better understand how these changes came about and how they impact your evaluation of potential ethical violations, please visit these NAR weblinks:

- 11/13/2020 NAR Policies related to Article 10 SOP 10.5: <https://www.nar.realtor/national-leadership/committee-members-liaisons/code-of-ethics-professional-standards-policies>
- REALTOR® Magazine Article: https://magazine.realtor/daily-news/2020/11/13/in-monumental-moment-nar-cracks-down-on-hate-speech?AdobeAnalytics=ed_rid%3D578747%26om_mid%3D3579%7CRealtorMagNews_2020_11_13%26om_nytp%3DREALTOR%20MAG%20NEWS
- FAQs from the Professional Standards Committee: <https://www.nar.realtor/national-leadership/committee-members-liaisons/nar-professional-standards-committee-recommendations>
- 2021 Code of Ethics: <https://www.nar.realtor/about-nar/governing-documents/the-code-of-ethics>

Professional Standards members are additionally encouraged to participate in the many on-line trainings NAR is hosting. All trainings are intended to provide guidance regarding the latest Code of Ethics changes and members can view the trainings live or recorded after the fact. To register, go to: <https://www.nar.realtor/events/breaking-down-the-changes-to-the-code>.

Individual training sessions include the following:

- Uniform Enforcement; December 16th, noon
- Discussion of Harassment, Hate Speech, Epithets and Slurs Under Standard of Practice 10-5; January 14th, 10:00 am
- Applying Revisions to Appendix VII, Sanctioning Guidelines; February 9th, 10:00 am.
- Redefining Public Trust; March 9th, 10:00 am
- Panel Discussion of Commonly Asked Questions on New Professional Standards Policies on Discriminatory Speech; April 6th, 10:00 am

Finally, a replay of the November 30th training session can be viewed via the following weblink: https://realtors.zoom.us/rec/play/aDS7kQmyq8cAcXgpiPCUQwKurGNZYx1puWOJksVmiV8Nfe6dKiqz-hNe9m64YRLH-5HbUZUF3YIB--OT.gzzbKNeETEE-5cTd?continueMode=true&_x_zm_rtaid=2UNraXc8RYuHcEv1IIUPNQ.1606840442595.397ec39a65fc0e92dd27bcb836c503e4&_x_zm_rhtaid=200

PROFESSIONAL STANDARDS POLICY CHANGES

On December 8, 2020 the Professional Standards Policy Workgroup met and recommended changes to the current Arizona REALTORS® Professional Standards policies. To view these changes, go to <https://www.aaronline.com/wp-content/uploads/2020/12/15/January-2021-PS-Policy-redlined-12.15.20.pdf>.

Should you have any concerns regarding these proposed revisions, please contact Nikki Salgat no later than Thursday, December 24th. Nikki can be reached at [nikkisalgat@aaronline.com](mailto:nikkisalगत@aaronline.com).

OTHER CHANGES

As we have done with our online Ombudsman submission form, the Arizona REALTORS® is rolling out the following online fillable forms: (1) Ethics Complaint form; (2) Arbitration Request form; and (3) Mediation Request form. While this new method of submission will result in completed forms being immediately submitted to staff, the information sought on the forms will remain substantially similar to the current form. Despite this change, we will continue to offer downloadable versions of these forms on the website for those that wish to convey their submission by USPS mail. The new online ethics complaint form can be found at: <https://www.aaronline.com/onlineethicscomplaint/>.

We hope that these changes will ultimately result in fewer handwritten complaints, as well as the submission of more detailed complaints based on the convenience of being able to type text in fillable fields. Complainants will additionally be able to attach “pdf” documents to their submission, with attachments limited to file size restrictions.

Parties - Complainants	
Name	Tyron Lannister
Role in the Transaction	• Broker
Affiliated Firm Name	House Targaryen
Email	tyron@dragonslair.com
Phone	(555) 555-5555
Add Additional Complainant?	Yes
Name	Daenerys Targaryen
Email	dany@motherofdragons.com
Affiliated Firm Name	House Targaryen
Role in the Transaction	Buyer

To the left is a sample ethics complaint form that is fillable online. (NOTE- this is not actual size.)

These new forms will eventually result in additional design revisions to the Arizona REALTORS® Professional Standards webpages and we continue to work on new approaches to share information about our various dispute resolution processes.

The Arizona REALTORS® case management database contains enhanced features that we hope to soon take advantage of. Included in these features is the ability to provide hearing panelists and chairs with online access to the information and documents submitted by the parties. As we continue to develop this online repository feature, we may ask several of you to help us beta-test the new features.

GRIEVANCE COMMITTEE

The January 2021 and February 2021 Grievance Committee members will receive complaints in the new online format. Because the electronic submission may limit the file size for documents submitted with the complaint, please keep in mind that you do not need documented evidence to move a complaint forward if the allegations are sufficient. However, if necessary, the Code of Ethics and Arbitration Manual allows the Grievance Committee to ask Complainant for additional information if needed to determine whether a complaint will be referred for a hearing. [CEAM Section 19. – page 39]

Section 19. Grievance Committee’s Review of an Ethics Complaint

A. Initial action upon receipt of an ethics complaint Upon receipt of an ethics complaint from the Professional Standards Administrator, the Chairperson of the Grievance Committee shall review the complaint. Any evidence and documentation attached will be considered only to the extent necessary to determine whether a complaint will be referred for hearing. The Chairperson may assign one or more members of the Grievance Committee to review the complaint and to make any necessary evaluation. The member(s) may, if necessary, gather additional information on the matters complained of from the complainant if additional information is necessary to determine whether a complaint will be referred for hearing...

HEARING PANEL CHAIRS

As both REALTORS® and members of the public become increasingly comfortable with Zoom and other video conferencing platforms, we need to discourage informal behavior on the part of the participants. Obvious multi-tasking or not giving full attention to the hearing should be addressed immediately by issuing warnings. Multi-tasking is not allowed with in-person hearings and should not be allowed in videoconference hearings. The behavior is disruptive and rude.

As the Chair, if you see this behavior you can:

- ask the party if they need a break;
- automatically call for a break;
- remind Complainant that they asked for this process and their attention is required; and
- remind Respondent that you can amend the complaint to add Article 14 for failing to cooperate with the proceeding or continue the hearing in their absence.

Examples of disruptions we have encountered in hearings are:

- A participant periodically paced back and forth, coming in and out of the picture.
 - Resolution: Pause the hearing and ask the participant to stay seated because the pacing is disruptive to the process.
- A participant wearing headphones moved around the house with a laptop computer and looked to be involved with serving lunch.
 - Resolution: Call for a short break to give the Complainant time to take care of tasks, explain the reason for the break, and the fact that once the break is concluded the behavior must stop.
- Complainant #2 sat far away from the camera and behind Complainant #1 when testifying, making it difficult to hear and see them.
 - Resolution: Ask Complainant #2 to change seats with Complainant #1 when testifying.

Did you know that you can exclude counsel from a hearing?

If counsel harasses, intimidates, coerces, or tries to confuse parties or panel members, as Chair you as can call for a break and inquire as to whether the other panelists find the behavior to be disruptive. If the panel agrees that the behavior is disruptive, you reserve the right to exclude counsel, although it is recommended that at least one warning first be issued. This action is not appealable, but the member who is subsequently unrepresented has grounds for a postponement to obtain alternate counsel if the panel feels that the counsel's action was deliberate. *See* Outline of Procedure – “Use of Counsel.”

HEARING PANELISTS

The Google eblasts from staff asking for your availability to serve on a Professional Standards Hearing Panel have been working beautifully. In fact, an eblast was recently transmitted to you. If you are not receiving these emails, please check your SPAM filter or junk email and call staff for assistance.

To confirm your availability to serve on a hearing panel you may be contacted via email or telephone by:

Sam Clah, Professional Standards Coordinator, samclah@aaronline.com and

Jamilla Brandt, Risk Management Coordinator, jamillabrandt@aaronline.com.

MEDIATORS

Zoom mediations in which multiple parties are in the same room and on the same screen can create issues for the mediator. Consider a scenario in which dual agents from the same brokerage are mediating with an individual buyer. If the broker joins the dual agents, the large number of participants on one side, compared to a single participant on the other side, may be viewed as intimidating and inequitable. You will need to go to your mediator bag of tricks to make certain that everyone feels comfortable and understands that each side will receive your full attention.

How will you facilitate this mediation if the buyer wants to speak to one agent at a time? First, both agents will need to agree to individual sessions with the buyer. If an agreement is reached, the other agent, as well as the broker, will need to be moved into a Zoom break out room.

Alternatively, the agent can call on their phone so that you as the mediator can place that agent and the buyer in a separate breakout room. Once completed, all parties will need to be returned to the same room to finalize the mediation.

OMBUDSMEN

Although not as widely used as some of our other dispute resolution programs, we still receive a steady stream of requests for Ombudsman services. Please take a look at our webpage explaining this process: <https://www.aaronline.com/resolve-disputes/ombudsman/>.

Should you have any comments on how we can improve our messaging and further encourage the use of this important program, please don't hesitate to reach out to staff as we welcome your feedback.



The Arizona REALTORS® Professional Standards Staff wishes you a joyous holiday season. 2020 has brought with it many challenges and we are so very grateful for your help with our Professional Standards programs. May 2021 bring you joy, happiness, and good health!

Save the Date: Wednesday, February 10, 2021
2021 Professional Standards Workshop

Join us for an informative and engaging morning
with Alice Martin, RCE, GRI
to review the Code of Ethics and its recent changes.

This event meets the NAR Ethics training requirement.

Wednesday, February 10th 9:00am-12:00pm

- Credit for lunch is included -

(must register by Thursday, February 4th to receive lunch voucher)

Click [here](#) to register.

📺 Live Streamed via Zoom

**Complimentary for Arizona REALTOR® Professional Standards Members,
all others \$30**