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PROFESSIONAL STANDARDS NEWSLETTER

September 2025

"We ourselves feel that what we are doing is just a drop in the ocean. But the ocean would be less because of that missing drop." - Mother Theresa

2025 SECOND QUARTER STATISTICS

- In the second quarter of 2025:
 - **56** ethics complaints were filed, with **21** forwarded for a hearing.
 - **4** arbitration requests were filed, with **2** forwarded for mandatory arbitration.
 - **11** ethics hearings were held.
- Our Ombudsman Program Received:
 - **4** Requests. Of those **4**, **3** were in the scope of the program and all 3 were successfully resolved.
- Our Mediation Program received:
 - **6** mediation requests, **4** of which were refused by a party. **2** mediations were held, and both were successfully resolved.

CHAIR TIPS

When a Hearing Panel Chair Should Consult Association General Counsel

Serving as the Hearing Panel Chair is a critical responsibility that involves ensuring that the Code of Ethics hearing process is fair, impartial, and in compliance with NAR policy.

Occasionally, situations may arise during a hearing or executive session where the Hearing Panel encounters uncertainty regarding a legal issue, procedural question, the interpretation of a specific Article or Standard of Practice, or matters that may fall outside the appropriate scope of guidance from the Professional Standards Manager. In these moments, it is entirely appropriate, and sometimes necessary, for the Chair to request guidance from the Association's General Counsel.

When Should the Chair Involve the General Counsel?

As Chair, you are entrusted with leading the panel and maintaining procedural integrity. However, **you are not expected to interpret legal questions** or resolve complex procedural dilemmas alone.

You should request to speak with General Counsel in situations such as:

- Uncertainty about the scope or application of the Code of Ethics regarding certain actions taken by the Respondent.
- Legal implications of a potential ruling or recommendation.
- Clarification on whether certain evidence or testimony is admissible.
- Ethical concerns that intersect with legal obligations (e.g., confidentiality, defamation, contractual disputes).

Example: If the panel is unsure whether a particular Article of the Code has been properly supported by the facts presented, or if there's confusion about whether a case should be dismissed or amended based on legal considerations, the Chair may pause the hearing or executive session and request legal input.

The Proper Way to Request Legal Guidance

When such a need arises, the Chair should:

- Call for a recess or pause in the hearing.
- Privately request staff to contact the Association's General Counsel.
- Avoid engaging in legal interpretation independently or encouraging the panel to speculate on legal matters.

This process ensures that the panel receives accurate legal guidance while upholding proper hearing procedure.

If the General Counsel is not available, staff will contact an alternate staff member that can appropriately provide guidance.

HEARING PANEL TIPS

Adding an Additional Article During an Ethics Hearing

Occasionally, while reviewing evidence prior to a hearing or listening to testimony during the hearing, the Hearing Panel may determine that the Respondent's conduct could potentially violate an additional Article of the Code of Ethics that was not originally cited in the complaint nor added by the Grievance Committee.

When this occurs, and a majority of the Panel agrees, the Hearing Panel may amend the complaint to include the additional Article(s). However, it is crucial that the parties are then given a fair opportunity to respond to the amended complaint, and the hearing must proceed in a way that protects the integrity and fairness of the process.

To ensure due process is preserved, the following procedures should be followed:

If the Additional Article is Identified Before the Hearing:

1. Discuss Privately in Executive Session:

The panel should meet privately in executive session to determine whether it is appropriate to add the additional Article based on the existing facts and allegations.

2. Notify the Parties:

If the panel decides to proceed with the amendment, both parties must be informed that an additional Article is being added to the complaint.

3. Offer the Right to Postpone:

The parties must be given the opportunity to postpone the hearing to allow adequate time to prepare a response to the amended complaint.

4. Allow Panel Challenges:

The parties must also be advised of their right to challenge the qualifications of Panel Members or request a new Hearing Panel, consistent with existing procedures.

If the Additional Article is Identified During the Hearing:

1. The Chair should call for an executive session to allow the Panel to privately discuss the matter.
2. The hearing should be paused while the Panel considers whether the complaint should be amended.
3. If the Panel votes to add the Article, the hearing should not proceed immediately. Instead, the panel must follow the same due process steps:
 - Notify the parties of the amended complaint,
 - Offer the opportunity to postpone the hearing,
 - Provide the option to challenge Panelists or request a new Panel.

MEDIATOR TIPS

Tips and Best Practices for Guiding Parties Toward Resolution

As a mediator, you serve a vital role in helping parties resolve disputes efficiently and respectfully. Mediation provides an opportunity for the parties to be heard and understood, while allowing them to create their own resolution.

Here are some key tips and best practices to enhance your effectiveness and increase the chances of a successful outcome for all parties involved.

1. Establish Trust and Neutrality from the Start – Read your Mediator Opening Statement to the Parties

- Introduce yourself as a neutral facilitator, not a judge or decision-maker.
- Assure all parties of your impartiality and the confidential nature of the process.
- Emphasize civility and respectful communication with no interruptions, personal attacks, or raising voices.

Tip: A calm, respectful tone sets the stage for cooperative conversation. Simple courtesies like using names and being a patient listener go a long way.

2. Let the Parties Tell Their Story

Determine whether parties should be separated immediately or remain in joint session until after they have each had an opportunity to explain their position.

- Invite each party to explain their view of the dispute without interruption.
- Focus on active listening, paraphrase, reflect, and ask clarifying questions.
- Look for underlying interests behind the positions each side takes.

Tip: Emotion often masks the real issue. Listen for concerns about fairness, communication breakdowns, or unmet expectations.

3. Reframe the Issues Neutrally

- Help the parties reframe personal grievances into **neutral, solvable issues**.
- Avoid assigning blame.
- Guide focus toward shared concerns or mutual misunderstandings.

4. Keep the Focus on Resolution, Not Right or Wrong

- Remind the parties that mediation is about finding an agreement they both can live with, not about winning.
- Emphasize practical solutions over emotional vindication.

- Highlight the benefits of settlement: time savings, preserving relationships, and avoiding formal ethics or arbitration hearings.

5. Clarify That Staff Will Assist with the Written Settlement Agreement

- If the parties reach a resolution, Association staff will assist in drafting the written settlement agreement.
- As the mediator, you may help the parties arrive at the terms of the resolution, but the final documentation will be handled by staff to ensure it is properly recorded and formatted.
- Encourage the parties to be clear about what they've agreed to so staff can accurately reflect it in the written agreement.

6. Know When to Step Back

- If tempers flare or parties become stuck, offer a break or end the mediation.
- Mediation doesn't always end in resolution—and that's okay.
- Sometimes just airing grievances helps narrow the issues for the hearing or may even encourage resolution after formal mediation ends.

Tip: Stay neutral, even if you feel one side is more reasonable. The mediator's role is to facilitate, not persuade.

OMBUDSMAN TIPS

Ombudsmen play a key role in helping resolve issues before they escalate into formal ethics complaints. But what happens when a complaint has already been filed, and you're referred to assist?

Rest assured that staff review each case beforehand to confirm that ombudsman intervention is appropriate. When reaching out to the complainant, it's helpful to clarify that while you cannot offer an opinion on whether a violation has occurred, you may be able to help reach a more practical and mutually beneficial resolution.

As in many areas of life, communication is key. Ombudsmen have the unique ability to not only address concerns at a critical stage, even after a complaint is filed, but also to guide parties toward meaningful outcomes that support both resolution and understanding.

GRIEVANCE TIPS

As part of your role on the Grievance Committee, you are assigned specific cases to review and summarize. For each assigned case, please prepare a brief written summary that includes a clear and concise statement of what you believe the allegations are. Assuming the allegations are true, your summary should also reflect whether you believe there may be a potential violation of the Code of Ethics.

While written summaries are only required for your assigned cases, all members are encouraged to review the full set of case materials prior to each meeting. Even a general familiarity with the non-assigned cases helps ensure more productive and focused discussions.

With the high volume of cases we're handling, advance review really helps us use our meeting time efficiently and keep things moving forward. If you ever need clarification ahead of a meeting, please don't hesitate to reach out to a fellow reviewer or Sam.

Thank you, as always, for your time, thoughtful input, and dedication to this important work.