

**REALTORS® Association of South Central Wisconsin, Inc.**  
**Filing Ethics Complaints and Arbitration Requests**

The National Association of REALTORS® adopted the Code of Ethics in 1913. Since then, the Code has been continuously amended to reflect changes in laws and practice. REALTORS® everywhere have agreed to meet the Code's high standards.

The professional standards process plays a very important role in a REALTORS® Association. It helps to ensure honorable, faithful and competent service to clients, customers and other members of the public by enforcing the Code of Ethics. It is a means of resolving differences.

The following information has been prepared to help you understand the professional standards process.

**General Information**

Before processing a complaint with a REALTORS® Association, you must first determine if the real estate agent involved is a REALTOR®. Not all real estate agents are REALTORS®. Only those who belong to a REALTORS® Association can use the term REALTOR®.

When joining an Association, all members agree to abide by the Code of Ethics of the National Association of REALTORS® as a continuing condition of membership. It is because of a REALTOR®'s obligation to abide by the Code of Ethics that you can file a complaint at a REALTORS® Association.

You should determine whether your complaint concerns an ethics matter or an arbitration of a dispute.

An *ethics complaint* charges that a REALTOR® violated an Article(s) of the Code of Ethics. *Arbitration* provides a means for resolving a monetary dispute arising out of a real estate transaction that parties have been unable to resolve themselves.

An arbitration request often involves one member in disagreement with another member, usually over a commission dispute. Sometimes, an arbitration concerns a dispute between a customer or client and an Association member.

If your situation concerns both ethics and arbitration, the Association will handle the arbitration portion separately. The Association will consider the ethics complaint only after it has completed the arbitration. The Association always holds arbitration first.

*Ethics complaints* must be filed within 180 days after the facts constituting the matter complained of could have been known in the exercise of reasonable diligence or within 180 days after the conclusion of the transaction, whichever is later. *Requests for arbitration* must be filed within 180 days after the closing of the transaction, if any, or within 180 days after the facts constituting the arbitrable matter could have been known in the exercise of reasonable diligence, whichever is later.

The Association's Professional Standards Committee is responsible for handling ethics complaints and arbitration requests. The committee is made up of REALTOR® members who have been appointed to serve on this committee based on their experience, temperament and objectivity.

**Local Association Limitations**

The Association cannot try an Association member for the violation of the Wisconsin real estate license law or any other alleged violation of the law. Its jurisdiction only covers violations of membership duties. The Wisconsin Department of Safety and Professional Services (DSPS) solely controls the real estate agent's license to sell real estate. If you think a person has violated the license law, you should contact the DSPS at (608) 266-5511. For the same reason, the Association cannot suspend or terminate the license of one of its members.

**See the attached instructions for *Filing an Ethics Complaint* and *Filing a Request for Arbitration*.**

## **Filing an Ethics Complaint**

Any person, whether a member or not, may file a complaint against an Association member alleging a Code of Ethics violation for any of the 17 Articles. The complaint must be filed with the Association having jurisdiction over the individual named in the complaint. Ethics complaints must be filed within 180 days after the facts constituting the matter complained of could have been known in the exercise of reasonable diligence or within 180 days after the conclusion of the transaction, whichever is later.

**Mediation** -- You may ask the Professional Standards Administrator to inquire of each party to a complaint as to whether they would be willing to participate in Mediation. If the parties agree, the matter will be referred to a Mediation Officer. A mutually convenient time and location for the Mediation will be arranged with the parties. Participation in Mediation is voluntary on the part of each party.

The objectives of Mediation are to resolve controversies by promoting friendly, amicable resolutions; to facilitate the repair of business relationships, thereby enhancing the possibility of continuing those relationships thereafter; and to educate the parties as to the obligations of the Code of Ethics.

The Mediation Officer shall have no authoritative decision-making power. The role of the Mediation Officer shall be to assist the parties in voluntarily reaching their own mutually acceptable settlement of the issues in dispute.

In the event the parties reach a mutually agreeable resolution, a written agreement shall be prepared by the Mediation Officer and signed by the parties. In the event the Mediation is unsuccessful, the matter will be processed by the Professional Standards Committee in normal course.

**Written complaint** -- To file a written complaint, take the following steps:

- 1) Complete and sign the complaint form supplied by the REALTORS® Association. This form requests you to name the REALTOR(s)® in question as the Respondent(s).
- 2) You will be provided with a copy of the Code of Ethics. You may list the Article(s) of the Code that you think the REALTOR(s)® violated, but you are not required to.
- 3) Attach copies of any and all pertinent documents such as listing agreements, purchase and sales agreements, addenda, etc. If you have affidavits notarized from witnesses, include those also.
- 4) Send the entire package, keeping a copy for yourself, to the Professional Standards Administrator, REALTORS® Association of South Central Wisconsin, 4801 Forest Run Road, Suite 101, Madison, WI 53704.

**Review Panel** -- A Review Panel made up of three members of the Association's Professional Standards Committee will review your written complaint. Based on the assumption that your complaint is true, the Panel will determine if the allegations could constitute a violation of the Code of Ethics and therefore warrant further consideration. The Review Panel does not determine guilt or innocence.

After reviewing the complaint, the Review Panel will either:

- 1) forward the case for a hearing if the facts alleged, taken as true, could constitute a violation of the Code;
- 2) dismiss it, if the complaint is determined to be frivolous, harassing or unfounded (i.e., the facts alleged, even if true, do not constitute a violation of the code); or
- 3) postpone its decision to get more information or to determine that the case may be more appropriately considered for arbitration.

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If the Panel dismisses your complaint, you have the right to appeal the dismissal to the Board of Directors. In the case of an appeal, the Directors review only the materials submitted to the Review Panel. The Directors can then either uphold or overturn the Review Panel's decision.

If the complaint merits further consideration, it will be sent to an Ethics Hearing Panel for a hearing.

***Ethics Hearing*** -- If a Review Panel refers your ethics complaint to a hearing, you will be notified of the hearing date, time and place. An ethics hearing provides an opportunity for the Complainant and the Respondent to explain "his or her side of the story" by presenting testimony, evidence and witnesses, if any.

Once all the facts have been presented, an Ethics Hearing Panel, consisting of members of the Professional Standards Committee, will determine whether the Code of Ethics has been violated. If a panel determines that the Code has been violated, it can recommend to the Board of Directors that disciplinary action be taken. The Association can use one or more of the following ways to discipline a member:

- Letter of Warning with a copy to be placed in the member's file for a specified period of time;
- Letter of Reprimand with a copy to be placed in the member's file for a specified period of time;
- Requirement that the member attend the ethics portion of the Association Indoctrination Course or other appropriate course or seminar specified by the Hearing Panel which the member could reasonably attend taking into consideration cost, location and duration;
- Appropriate and reasonable fine not to exceed \$5,000.
- Member placed on probation for a stated period of time not less than thirty (30) days nor more than one (1) year;
- Membership suspended for a stated period of time not less than thirty (30) days nor more than one (1) year, with automatic reinstatement of membership in good standing at the end of the specified period of suspension;
- Expulsion from membership with no reinstatement privilege for a specified period of one (1) to three (3) years, with reinstatement of membership to be by application only after the specified period of expulsion, on the merits of the application at the time received;
- Suspension or termination of MLS rights and privileges may also be utilized. Suspension of MLS services may be no less than thirty (30) days nor more than one (1) year; termination of MLS services shall be for a stated period of one (1) to three (3) years;
- An administrative processing fee of \$350 will be assessed against Respondents found in violation of the Code of Ethics. This fee is in addition to and not part of any sanction that may be imposed.
- At the option of the Board of Directors, an assessment in lieu of suspension, with the assessment not to exceed \$5,000 may be offered. This option may be utilized only once in any three-year period.

An ethics proceeding may not include money damages.

The Association will inform you about each step of this process as it occurs. The Association will also give you instructions about hearing procedures prior to the hearing.

If you have questions relating to filing an ethics complaint, please call the REALTORS® Association of South Central Wisconsin at (608) 240-2800.

## **Filing a Request for Arbitration**

The following individuals may file an arbitration request with a REALTORS® Association:

- 1) REALTOR® members who are principal brokers.
- 2) REALTOR® members who are not principals, provided his or her principal broker joins in the request.
- 3) Clients or customers of the REALTOR®.

*Note: Disputes involving clients or customers require that they sign an agreement to arbitrate and to be bound by the arbitration. The Association's Professional Standards Committee will determine whether the Complainant is a client or a customer and if the dispute is one that the Association can process.*

The Association provides arbitration facilities as a service to its members. Arbitration is not a disciplinary proceeding nor does it award damages. By becoming and remaining a member of the REALTORS® Association, each REALTOR® binds him or herself to arbitrate certain disputes.

Not every situation may be arbitrated by the Association. Conditions and limitations exist which you must consider. The Association will explain these conditions and limitations to you.

Requests for arbitration must be filed within 180 days after the closing of the transaction, if any, or within 180 days after the facts constituting the arbitrable matter could have been known in the exercise of reasonable diligence, whichever is later.

To submit an arbitration request to the Association, take the following steps:

- 1) Complete and sign the request and agreement to arbitrate form (*supplied by the REALTORS® Association*). Name the REALTOR(s)® and/or the firm(s) in question as the Respondent(s).
- 2) Indicate the amount in dispute.
- 3) Include an explanation of the situation. State why you feel you are entitled to an award of some kind. (*Do not include unethical allegations in your argument. If you think the REALTORS(s)® violated the Code of Ethics, the Association can handle this separately through an ethics complaint.*)
- 4) Attach copies of any and all pertinent documents such as listing agreements, purchase and sales agreements, closing statements, etc. Also include any notarized affidavits you may have from witnesses.
- 5) You must include a \$350 deposit (*customers and clients exempt from this fee*) with your arbitration request.
- 6) When you sign the request and agreement to arbitrate, this indicates your commitment to abide by the decision of the Hearing Panel.
- 7) Send the entire package, keeping a copy for yourself, to the Professional Standards Administrator, REALTORS® Association of South Central Wisconsin, 4801 Forest Run Road, Suite 101, Madison, WI 53704.

It is not unusual for an Association to receive an ethics complaint and an arbitration request surrounding the same set of circumstances. If you think the REALTOR(s)® violated the Code of Ethics and you have a monetary dispute with that person, you must complete both an ethics complaint form and an arbitration request form.

**Mediation Proceedings** -- Upon receipt of a written request for arbitration, the Professional Standards Administrator will inquire of each party as to whether they are willing to participate in Mediation. If all parties agree, the matter will be referred to a Mediation Officer. A mutually convenient time and location for the Mediation will be arranged with the parties. Participation in Mediation is voluntary on the part of each party.

The objectives of Mediation are to resolve controversies by promoting friendly, amicable resolutions and to facilitate the repair of business relationships, thereby enhancing the possibility of continuing those relationships thereafter.

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The Mediation Officer shall have no authoritative decision-making power. The role of the Mediation Officer shall be to assist the parties in voluntarily reaching their own mutually acceptable settlement of the issues in dispute.

In the event the parties reach a mutually agreeable resolution, a written agreement shall be prepared by the Mediation Officer, signed by the parties, and the arbitration request shall be dismissed with the arbitration filing fees being returned to each party. In the event Mediation is unsuccessful, the matter shall be referred for an arbitration hearing.

**Review Panel** -- A Review Panel made up of three members of the Association's Professional Standards Committee may review your arbitration request. A preliminary investigation to determine whether the matter is subject to Association arbitration will be made. Arbitration is sometimes a duty and sometimes a privilege. It will be determined whether your situation fits into the "duty" or the "privilege" category.

To determine which category an arbitration fits into, the following four points are considered:

- 1) whether you are authorized, under the rules, to invoke arbitration;
- 2) whether the controversy described is an arbitrable matter;
- 3) whether the arbitration is mandatory or voluntary to the people involved (*this simply means whether arbitrating the dispute is compulsory or not*);
- 4) whether either the amount in dispute is too small or too large, or the matter is too legally complex for the Association to consider.

Such a review could result in releasing Association members from their obligation to arbitrate. This would free you to seek other recourse in order to resolve the dispute.

You may appeal a dismissal of an arbitration request to the Board of Directors. The Directors review only the materials submitted to the Review Panel and can uphold or overturn the Panel's dismissal.

**Arbitration Hearing** -- If a Review Panel refers your arbitration request to a hearing, you will be notified of the hearing date, time and place. An arbitration hearing provides an opportunity for the Complainant and the Respondent to explain "his or her side of the story" by presenting testimony, evidence and witnesses, if any.

Once all the facts have been presented, an Arbitration Hearing Panel, consisting of members of the Professional Standards Committee, will determine how the dispute should be settled. An arbitration award may not be more than the amount in dispute. In no circumstances will the Association award 'punitive' damages.

The Association will inform you about each step of this process as it occurs. The Association will also give you instructions about hearing procedures prior to the hearing.

If you have questions relating to filing an arbitration request, please call the REALTORS® Association of South Central Wisconsin at (608) 240-2800.