

Amendments to the Code of Ethics and Arbitration Manual Defining Local Board Options.

Pg.	Code Manual asks for local boards to determine...	Current Actions/Policies	First Approval
*	Name the Berkshire County Board of REALTORS in Section 1(b) and 26(b), Definitions, Section 13(b), Power to Take Disciplinary Action, Section 46, Duty to Arbitrate Before the State Association, Section 56, Enforcement	Not specifically defined in adopted policy.	None
23	Inter-board Arbitration agreements should be in place... written not necessary, but fees might prove helpful	Written agreements are not in place, but hearing expenses will be determined and agreed upon in writing between interboards at the time of the filing.	Approved 2002
24 44 50 127 141	Determine who should hear matters brought before the Board of Directors (primarily appeals): A) the entire Board of Directors B) a five member panel of the Board of Directors, appointed by the President C) the Executive Committee	Appeals shall be heard by a five member panel of the Board of Directors, appointed by the President	Approved 2006
25	Boards may publish names of ethics violators, within the guidelines set in Section 45 of the Code of Ethics Manual	The Berkshire County Board of REALTORS shall not publish names of violators of the Code of Ethics.	Approved 2006; Reconfirmed 2014
26	Adopt orientation policy to require a minimum Code of Ethics training session of 2 hours 30 minutes. Mandated by NAR to begin 1/1/01	Adopt policy as stated in Section 47 of the Code of Ethics Manual	Approved 2001
26	Quadrennial Realtor ethics training – 1/1/01 – 12/31/04 – every REALTOR must have 2 hours 30 minutes of training during that four year period and again every four years following.	Adopt policy as stated in Section 48 of the Code of Ethics Manual	Approved 2001: Amended 2008
32	Determine if a party to a hearing is allowed to have a court reporter and/or recorder present at their own expense at their hearing.	Allow the presence of a recorder and enforce compliance with transcription policy as outlined in Part 1, Section 6 of the Code of Ethics Manual	Approved 2006
32	Indicates where licensees are subject to further disciplinary action should the state find him/her guilty of a crime or local, state or federal law	Massachusetts	Approved 2006

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37 39 135 137	Adopt the minimum number of Grievance Members required	Confirm the current practice of 5	Approved 2014
37 135	Determine who selects the Chair and Vice Chair of the Grievance Committee; the committee members or the President.	Confirm current practice of the President	Approved 2014
37 135	Adopt the minimum number of Professional Standards Members required for panel pool	Adopt policy of 15	None (currently 38 w/BOD)
37	Determine any additional administration processing fees (under \$500) to apply uniformly against a member in violation of the code. Determine what circumstances said fee should be imposed.	\$300	Approved 2009: Amended 2014
43	Grievance may request a copy of a response to a complaint before making their determination.	Grievance may request a copy of a response to a complaint before making a determination, if it is determined necessary. The role of rendering a decision shall be left to the hearing panel.	Approved 2006: Amended 2014
44	Adoption of an expedited ethics administrative process allowing a member (who has not violated the code in the past 3 years) to “plead guilty” and waive their right to a hearing and move directly to sentencing	Adopt policy for this expedited process, Sections 20 [f-g]	Approved 2014
46 58 145	Determine the number of days prior to a hearing that the panel must be provided with the hearing material.	Adopt policy of no less than 7 days to coincide with attorney/witness notices	Approved 2006: Amended 2014
47	Copies of Ethics decisions can be redacted when ratified by the Board of Directors	Staff shall not redact the names of the parties to a hearing when presenting a decision for ratification.	Approved 2006

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48	Determine the sum required (less than \$250) for ethics appeal deposit.	\$150 filing fee for each party, prevailing party is refunded	Approved 2006: Amended 2014
63	Must have a least 1 cooperative agreement by 1/1/02 and a 350 Primary aggregate member draw	Agreement established as outlined in Code Manual with MAR. Agreement 12/23/2002 and in force until (90) days written withdrawal by either party	Approved 2002
123	Determine the Boards' scope of arbitration facilities.. i.e.: mandatory arbitration facilitation is required, voluntary arbitration facilitation is at the Board's option	The Board will facilitate both mandatory and voluntary whenever possible.	Approved 2006
129	Determine amount of mediation fee (not to exceed arbitration fees) and the fee retention policy of the Association.	Mediation is at no cost to the members	Approved 2006
142	Name State Association handling arbitration	Massachusetts	Approved 2006
142 143 144 146 147	Determine the required arbitration deposit amount and the fee-retention policy of the Association. (131)	Arbitration fee for members who attempted mediation \$150 Arbitration fee for Members who refused mediation \$500. Refund prevailing party.	Approved 2009: Chg Approved 2014
142	Determine the number of days allowed for the Grievance Committee to reach a determination about an arbitrable issue, upon complaint / request receipt.	Adopt a 20 day policy for review by Grievance, upon receipt of complaint or request for arbitration	Approved 2006
143	Determine the sum required (less than \$500) for Arbitration Procedural review deposit.	Initiate \$150 deposit by appellant, with return of deposit if prevailing	Approved 2009; Amended 2014

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142	Determine how many days a written response must be submitted to the Grievance Committee, if requested	Fifteen (15) Days (same as if it went to hearing)	None
142	Determine the responsible party for appointing individual hearing panel chairs (Professional Standards Chair or Board President)	Professional Standards Chair, with the assistance of the staff, shall appoint hearing panels. The president shall assume this duty if the Professional Standards chair is unable to.	Approved 2006
142	Name of state	Massachusetts	None
144	Select option for arbitration procedures: (1) Signed form and fee must be received (2) Signed form and fee is not required for valid award (3) Signed form, fee and presence is not required for a valid award	Signed form, fee and presence is not required for a valid award	Approved 2006: Amended 2014
146	Determine if award must be paid to the Board escrow account if an procedural review is to be filed	No funds are required until after procedural review is completed	None
146	Determine the amount of the required arbitration appeal deposit and the fee retention policy of the Association.	Initiate \$100 deposit by appellant, with return of deposit if prevailing	Approved 2006
147	Determine if mediation services are desired (1) upon receipt of arbitration request (2) after review by Grievance and determination that the matter is arbitrable.	For timeliness, offer before Grievance. If not accepted, then re-offer after Grievance determines the issue to be arbitrable.	Approved 2006
172	Establish a mediation committee. Mediation must be offered by a local board by 1/1/02. Mediators can be Realtors, Association staff, or others whose services a Board chooses to utilize.	Establish a standing committee of Realtor Members, with a minimum of 6 members (2 from each county) and adopt all provisions for said committee from manual.	Approved 2002

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	Staff shall redact the respondent's name when providing copies to the Grievance copy for review	Staff shall redact the name	Approved 2014
	Every association must provide mediation services and may also offer ombudsman services, "citation" enforcement policy and/or hearing officers.	In addition to Mediation Services, provide Ombudsman (strike 4th bullet of procedural manual) and Expedited Ethics Admin Process	Approved 2014

Additional recording policies shall be adopted as indicated below. These are consistent with current Policy and the NAR Member Policy department has approved these modifications.

Every hearing concerning an Ethics Complaint (the "Ethics Hearing") must be recorded. The panel conducting the hearing (the "Hearing Panel") will take appropriate steps to ensure that the Ethics Hearing is being recorded including testing the recording device at every hearing ("Testing 1, 2, 3 – playback, listen.") Should an Ethics Hearing fail to be recorded, such as due to mechanical error, (hereinafter referred to as a "recording failure") a party aggrieved by the recording failure may raise the recording failure as an allegation of procedural deficiency in its appeal of the Hearing Panel's final decision pursuant to Section 23 of the Code of Ethics and Arbitration Manual. The appeal based on the recording failure shall specify how the recording failure deprived the aggrieved party of the opportunity for a full and fair hearing. The Board of Directors, in deciding whether a recording failure warrants a referral of the decision back to the Professional Standards Committee for a new hearing and recommendation by a different Hearing Panel pursuant to Section 23(f), may consider such factors as, without limitation, the scope and nature of the alleged recording failure, the existence of non-testimonial evidence supporting the Hearing Panel's final decision, and/or whether holding a rehearing would be an undue burden or expense on any of the parties.

Additional Panel Composition shall reflect the following change to policy, above and beyond the NAR policy. The NAR Member Policy department has approved these modifications.

Requests to participate as a member of a hearing panel will include a statement which reads: "If you have ever had a professional license revoked due to a formal finding of an ethical violation, you may not serve as a member of the hearing panel." However, the failure of a panel member to disclose a prior revocation shall not necessitate a re-hearing absent a showing of a nexus between the prior license revocation and the ethical issue heard by the panel and that the participation of the panel member who was subject to the prior license revocation affected the outcome of the hearing.