

IF YOU STILL NEED TO FILE A COMPLAINT

- 1 Complete, sign and date the Ethics Complaint Form, which you may download and print from this website. (Ethics complaints must be filed with the Association within 180 days of the time the complainant knew-- or reasonably should have known—that potentially unethical conduct took place).
- 2 Check the Article(s) of the Code of Ethics believed violated. The articles are illustrated through Standards of Practice, but the Standard of Practice may only be used as support for the Article(s) being charged. The Article number(s) must be cited.
- 3 Include a narrative description of the circumstances and facts surrounding the complaint, being as specific as possible.
- 4 Attach copies of all relevant documents such as listing and sales contracts, letters etc. labeling these as Exhibit 1, etc.
- 5 Make 12 copies of the complaint package and forward it to the Association Executive who is Professional Standards Coordinator of the Association which has jurisdiction over the complainant. You may reach the Association Executive at 661-822-7652 or taar@tehachapiaor.com

BEFORE THE HEARING

Your complaint will be referred to the Association's Grievance Committee. It does not determine innocence or guilt. The committee's job is to review ethics complaints to determine if the allegations made and taken as true might support a violation of the Article(s) cited in the complaint.

- If the Grievance Committee dismisses your complaint, it does not mean they don't believe you. Rather it means that they do not feel that your allegations would support a hearing panel's conclusion that the Article(s) cited in the complaint.
- If the Grievance Committee forwards your complaint for hearing, that does not mean they have decided the Code of Ethics has been violated. Rather it means they feel that if what you allege in your complaint is found to have occurred by the hearing panel, that panel may have reason to find that a violation of the Code of Ethics occurred.
- In the event the Grievance Committee dismisses the entire complaint or deletes Articles(s), the Complainant may request that the Directors of the Association review the Committee's decision. The Directors may either uphold or overturn the Grievance Committee's decision. The Complainant does not have the right to be present at the Directors' review. There is no other type of review of the Grievance Committee's decision.
- If the complaint is referred to a disciplinary hearing, the Respondent(s) will be mailed a copy of the Complaint. A response is due within fifteen (15) days of the date the complaint is mailed. Complainant(s) will be mailed a copy of the response. Complainant(s) and Respondent(s) are given a list of potential panelists and may challenge the qualifications of any potential member for cause.
- Panel members may be excused for any of the following reasons: a) is related by blood or marriage to either Complainant(s) or Respondent(s); b) is an employer, partner, employee or in any way associated in business with either party; c) is a party; or d) knows of any reason which may prevent them from rendering an impartial decision.
- Complainant(s) and Respondent(s) will be notified in writing at least twenty-one (21) days in advance of the time, date and place of the hearing. Once a hearing date is set, it will not be rescheduled unless the complainant or the respondent (parties to the disciplinary hearing) requesting a new date files a written request for a continuance and can demonstrate good cause for granting the continuance. The fee for the first request for continuance of a hearing is \$75 and the fee for a second continuance to the same party will be \$200.

THE HEARING

It is the ultimate responsibility of the complainant to provide "clear, strong and convincing" proof of a violation of the Code of Ethics in a hearing. Be sure that you have all the documents and other evidence that you need to present your case. Organize your presentation in advance and be prepared to demonstrate what happened (or didn't happen but should have happened) as it relates to how you believe the Article(s) of the Code of Ethics were violated. And appreciate that panel members are trained, unpaid volunteers with active real estate careers giving their time to determine in a fair, unbiased and impartial manner whether the evidence and testimony presented support a finding of a violation. They, as well as the parties involved, are sworn to confidentiality regarding the facts surrounding this complaint and hearing.

- Either party may be represented by legal counsel, provided that written notice of intention to do so, including name, address and telephone number of the attorney, is transmitted to the Association not less than fifteen (15) calendar days prior to the date of the hearing.
- Each party shall arrange to make available sufficient numbers of all evidence and exhibits prior to the hearing for distribution.
- Each party shall arrange for his/her witnesses to be present at the time and place designated for the hearing.
- The hearing will be conducted in the English language. Interpreters are allowed to assist any party or witness at the hearing. Arrangements for having an interpreter is the responsibility of the party requiring such services and the cost for same shall be paid by that party. Notification of interpreter presence shall be transmitted to the association no less than 15 (calendar) days prior to the hearing date.
- In accordance with the Professional Standards rules and procedures for disciplinary hearing matters, a Hearing Officer will conduct the hearing proceedings. In addition to presiding at the hearing, the presiding officer will rule on the admission and exclusion of evidence and questions of hearing procedures.
- The complaint will be read into the record.
- The testimony of all parties and witnesses will be sworn or affirmed. All witnesses will be excused from the hearing except while testifying.
- Each party or the party's attorney shall be given the opportunity of making an opening statement.
- The parties will be given an opportunity to present evidence and testimony on their behalf and they may call witnesses.
- The parties and their counsel will be afforded an opportunity to examine and cross-examine all witnesses and parties.
- Members of the hearing panel may ask questions at any time during the proceedings.
- The Hearing Officer may exclude any questions ruled to be irrelevant or argumentative.
- Each side may make a closing statement. The complainant will make the first closing statement and the respondent will make the final closing statement.
- The Hearing Panel will go into executive session to decide the case.
- The hearing will be taped and DVD copies will be available at a cost of \$50 per DVD to any of the parties, only for the purposes of requesting an appeal of the findings and discipline recommended by the Hearing Panel.

AFTER THE HEARING

- You will receive a "Recommendations of Hearing Panel" and "Findings of Fact", the conclusions of the panel members based on the evidence and testimony presented during the hearing. Findings of fact may not be appealed
- If you feel that the hearing process did not afford you a full and fair hearing, there are appellate procedures available. The finding of no violation is not a basis for appeal.
- The Association will send you information regarding the bases and time limits for appealing decisions or requesting a rehearing.
- Petitions for a rehearing must be based solely on newly discovered evidence that a party could not, with reasonable diligence, have discovered or presented at the hearing.
- Requests for review brought by ethics respondents must be based on (1) misapplication or misinterpretation of one or more Articles of the Code of Ethics or membership duties (2) procedural deficiency or failure of due process and (3) unwarranted discipline by the hearing panel. Ethics complainants may only appeal based on procedural deficiencies or failures of due process.

ROLE OF ASSOCIATION STAFF

The Association's paid professional staff members are not licensed REALTORS® or lawyers. The Professional Standards Coordinator is responsible for ensuring that the professional standards process of paperwork administration, notifications, correspondence, and maintenance of the confidential case files is done in a timely and efficient manner according to the policies and procedures set forth in the California and National Association of REALTORS® Professional Standards manuals. The staff is not allowed to dispense legal advice or counsel you on your case.

If you have procedural question about filing a complaint, please contact Carol Lawhon, Association Executive at 661-822-7652 or taar@tehachapiaor.com