



Statewide Professional Standards Cooperative Policies and Procedures

Participation

- A. An Association will either be a “Participating Local” or a “Non-Participating Local” based on whether it has joined the Statewide Professional Standards Cooperative. Participating Locals authorize the Statewide Cooperative to administer all Professional Standards cases (ethics and arbitration) that would ordinarily be in the jurisdiction of that association.
- B. During 2012, OAR will establish an initial enrollment period for local associations to join the Statewide Cooperative, with an anticipated launch of July 1, 2012. The enrollment period will conclude on June 15, 2012 to allow sufficient time to prepare for the launch date. Beginning in 2013, there will be an enrollment period from July 1 – September 30 of each year, during which Non-Participating Locals may join the cooperative, and Participating Locals may withdraw. OAR may allow additional enrollments and withdrawals at other times on terms determined at its sole discretion.
- C. Joining the Statewide Cooperative will be voluntary. Local associations who are not competently enforcing the Code of Ethics as required by NAR Bylaws (e.g. associations without a qualified administrator, without local cooperative agreements, or without appropriately trained committees) will be strongly encouraged to either join the Statewide Cooperative or to outsource those responsibilities to a competent neighboring association. NAR may elect to address that issue through its organizational standards process.
- D. OAR will establish a single set of statewide Policies and Procedures for the Statewide Cooperative, which may include a Cooperative Agreement, OAR Amendments to the Code of Ethics and Arbitration Manual (CEAM), and additional policies and procedures as necessary. Participating Locals agree to abide by all policies, rules and procedures as a condition of participation.
- E. OAR will continue to offer services to Non-Participating Locals that need assistance in individual cases. Those services will be provided pursuant to the

policies and procedures applicable to the Statewide Cooperative and may involve fees that are different than those paid by Participating Locals.

- F. Participating Locals are encouraged to maintain one or more local committees for the purpose of monitoring the Statewide Cooperative and serving as an informational resource on professional standards issues for the local association.

II. Program Administration

- A. The Statewide Cooperative program will be operated by one or more staff members employed by OAR. All staff participating in these efforts will collectively be known as the Program Administrator and will have the proper training required by NAR.
- B. The Program Administrator will be the point of contact for all consumer and member calls regarding potential ethics complaints and arbitration requests.
 - 1) Participating Locals receiving requests regarding potential ethics or arbitration cases will forward them to the Program Administrator, unless a staff member of that local association has been appointed. In that case, the staff member may discuss the issue and, if requested, may act as the ombudsman.
 - 2) A local staff person acting in this capacity will maintain records of those contacts (call logs, etc.) similar to the records maintained by the Program Administrator.
- C. Participating Locals will be expected to provide reasonable assistance in support of the Statewide Cooperative by providing no-cost access to their association meeting rooms and related support services (e.g., room setup and teardown; access to existing onsite technology) necessary for the operations of Grievance Panels, Hearing Panels, Review Panels, Mediation and Ombudsman services.
- D. The Program Administrator will provide professional administrative support for each panel meeting/hearing.
- E. OAR will determine, at its discretion, whether and how to provide legal support for activities of the Statewide Cooperative. Options may include in-house support, retained local counsel or statewide counsel. Legal support in any instance may be provided in person or via telephone or video conference. It is not anticipated that legal counsel will regularly attend hearings, and when legal support is necessary it is likely to be delivered remotely. In the event a Participating Local wishes counsel to be present in a case where the Program Administrator has determined counsel is not required, the Participating Local shall pay for the additional costs of attendance. .

- F. OAR will maintain records of the activity of the Statewide Cooperative, including those records of activity permitted by the CEAM. OAR will share these records with Participating Locals to the extent permitted by the CEAM without violating the confidentiality or due process rights of any parties.

III. **Fees**

- A. A yearly Participation Fee will be assessed based on the number of primary members in a Participating Local. The fee will be based on the number of primary members stated in the OAR membership database on October 31st of the prior year, and will be payable to Oklahoma Association of REALTORS® no later than March 31st of the year in which services are being provided. No Participation Fee will be prorated except at the sole discretion of OAR, with consideration to the financial resources necessary to sufficiently fund the program.
 - 1) The Participation Fee for the first year will be pro-rated for the enrollment period only.
 - 2) The Participation Fee for each year will be established as part of the yearly OAR budget and will be adjusted each year based on the prior year's expenses and anticipated program budget for the upcoming year. Once established, the Participation Fee will be published as soon as reasonably possible after the program budget is approved by the OAR Finance Committee, but in no case later than October 31.
 - 3) For program year 2012, Participating Locals will be charged \$2.00 per member, based on the total number of members in Participating Locals as of October 31, 2011. All associations will be charged the same fee per member, with the following exceptions:
 - a. All Participating Locals will be charged a one-time set-up fee of \$100.00.
 - b. The Participation Fee will be capped at a maximum of \$7,500 for any association.
- B. A member found in violation of the Code of Ethics will automatically be assessed an Administrative Processing Fee of \$300 per hearing (not per violation) in addition to any sanction imposed by a Hearing Panel. The Administrative Processing Fee will not apply to any citations issued through the Ethics Citation Program.
- C. Members involved in a request for arbitration as either the complainant or respondent shall be required to post a deposit of \$250 each.
 - 1) If the arbitration request is resolved through mediation prior to review by the Hearing Panel, all deposits will be fully refunded.

- 2) If the Hearing Panel issues an award, the prevailing party in the award shall have all of its deposit returned, and the deposit of the non-prevailing party will be retained in full.
 - 3) In the event of a split decision in which there is no single prevailing party, the Hearing Panel shall determine whether to return any portion of the deposits to either party. This decision shall be made after considering the policy rationale for the return of deposits as laid out in this section.
- D. A party that appeals an ethics determination or requests a procedural review of an arbitration award shall post a deposit of \$250. If the original decision is overturned in its entirety the requesting party shall have its deposit returned. If the decision is partially overturned or changed, the Review Panel shall determine whether to return any portion of the deposits to either party. This decision shall be made after considering the policy rationale for the return of deposits as laid out in this section.
- E. Non-Participating Locals will be offered services based on the actual costs of the services being provided, but with a minimum fee of \$500 for any case in which an ethics or arbitration hearing is scheduled, and a minimum fee of \$250 for any other service (e.g., Grievance Committee, Review Panel, etc.).

IV. **Committee Appointments**

- A. OAR will establish a Grievance Committee and a Professional Standards Committee, with members of the committees to be appointed as stated below. All committee appointments will be for a three (3) year term, with members appointed annually in such numbers and in such manner to create staggered terms of members.
- B. Appointments by Participating Locals
- 1) Each Participating Local may appoint one (1) local member to the Grievance Committee plus three (3) additional members for each 500 primary members (or portion thereof) of the Participating Local after the first 500 primary members as stated in the OAR membership records as of October 31 of the prior year.
 - 2) Each Participating Local may appoint one (1) local member to the Professional Standards Committee plus three (3) additional members for each 500 primary members (or portion thereof) of the Participating Local after the first 500 primary members as stated in the OAR membership records as of October 31 of the prior year.
- C. Appointments by OAR

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- 1) OAR reserves the right to appoint additional members to either committee as deemed necessary to ensure that it has a sufficient number of members to perform its assigned tasks.
 - 2) OAR's president will appoint the chair and vice-chair of each committee.
 - 3) Appointments will be made in the same manner as other OAR committee appointments, subject to the minimum requirements established for committee membership.
 - 4) Committee appointments will be limited to members from Participating Locals unless the OAR president, at his/her discretion, determines it is necessary to appoint willing members from non-participating locals in order to ensure that either committee is capable of performing its appointed tasks.
- D. Additional Appointments
- 1) OAR shall appoint ombudsmen from among the members of the Grievance and Professional Standards Committees. This designation shall not be considered as a separate committee. In addition, OAR may designate local staff members from Participating Locals to serve as ombudsmen with the consent of the local association.
 - 2) OAR shall appoint certain members of each committee to be eligible to serve as panel chairpersons.
 - 3) OAR shall appoint Review Panelists from among the members of the OAR Board of Directors for the purpose of reviewing ethics decisions and appeals, and reviewing requests for procedural review in arbitration cases. Review Panelists may also serve on the Grievance Committee or Professional Standards Committee, though in no instance shall a member serve on a Review Panel if that member has been involved in the case in any other way. In the event there are not a sufficient number of qualified Appeal Panelists among the members of the OAR Board of Directors, the OAR president may appoint Appeal Panelists from among the existing members of the Professional Standards Committee.
- E. Qualifications for Appointment
- 1) Grievance Committee appointees must be members in good standing of the Participating Local and have been members of the REALTOR® organization for at least five (5) prior years.
 - 2) Professional Standards Committee appointees must be a member in good standing of the Participating Local and have been members of the REALTOR® organization for at least five (5) prior years.
 - 3) Appointees to either committee shall not have any outstanding discipline or unpaid arbitration awards and shall not have been found in violation of the Code of Ethics either by a Hearing Panel or through the

Ethics Citation Program during the two (2) calendar years prior to the start of their term of service.

- a) Any current committee member found in violation of the Code of Ethics during his or her term of service shall have the option of resigning from the committee or becoming inactive and ineligible to serve on any panel.
 - b) To protect the confidentiality of the process, where a potential appointee is deemed to be ineligible to serve for any of the reasons stated in subparagraph (E) (3) above, the appointing body (either OAR or the Participating Local) will be informed by the Program Administrator that the member is ineligible, but will not be provided with any specific information about the reason for the ineligibility. Decisions on eligibility may not be challenged or appealed.
- 4) Each year, all appointees to the Grievance Committee and Professional Standards Committee must complete education/training requirements approved by OAR before becoming eligible to serve on any panel. Failure to complete the training by the date established by OAR will result in automatic removal from the committee for that year. In the event the training is not offered until after the start of the year of service, committee members who had successfully completed training the prior year shall be eligible for panel appointments.
- 5) Other appointees (ombudsmen, review panelists, and any others) must also complete certain education/training requirements as established by OAR. These additional requirements may be more or less than once per year and will be in addition to any requirements imposed by virtue of serving on either committee.

V. Panel Selection

A. Grievance Panels

- 1) A Grievance Panel will include a minimum of five (5) members of the Grievance Committee. Each Grievance Panel will be selected by the Program Administrator, with approval of the Chair of the Grievance Committee, and shall include as much as possible a diverse group of panelists, including diversity in geography and experience.
- 2) Grievance Panels will be scheduled to meet no less than once per month (unless there are no complaints to review), but may meet more often if necessary for efficient operation of the statewide cooperative.
- 3) Grievance Panels may meet in-person, or via any technology that allows for real-time exchange of information, including, but not limited to, telephone conference or video conference. All Grievance Panelists will be expected to observe reasonable precautions to maintain the confidentiality of the process.
- 4) In the event a decision of a Grievance Panel is properly appealed by a party, a Grievance Appeal Panel of no fewer than five members of the

EXHIBIT A

Grievance Committee will be appointed to hear the appeal. That panel may be specially selected for this purpose, or may consist of the members of a regular Grievance Panel that has already scheduled to meet, but in no case will involve any member who was involved with the original decision.

B. Hearing Panels

- 1) A Hearing Panel will include three (3) or five (5) members of the Professional Standards Committee, selected from among the pool of potential panel members not legitimately challenged by the parties.
- 2) Where possible, each Hearing Panel will also have an alternate member.
- 3) Reasonable efforts will be made to select Hearing Panel members who are geographically close to the parties and anticipated witnesses in any case. There shall be no requirement to select panelists who hold membership in the same local association(s) as the parties.
- 4) Where possible, a Hearing Panel Chair will be selected from among those members appointed as potential chairpersons at the beginning of each year. In the event this is not feasible, the Chair shall be selected from among the other members of the Professional Standards Committee based on the suggested criteria included in the NAR Code of Ethics and Arbitration Manual.

VI. Alternative Dispute Resolution

A. Ombudsman

- 1) OAR will encourage use of an informal ombudsman process for resolving disputes. Ombudsman services may be requested prior to the filing of a formal ethics complaint or arbitration request by filing appropriate forms (to be developed by the Program Administrator) that identify the parties, describe the issue, and indicate a desired resolution. No filing fees will be required to start the ombudsman process.
- 2) Ombudsman services are not available after the formal filing of an ethics complaint or arbitration request. This does not prevent the parties from contacting each other to resolve their issues prior to a hearing.

B. Mediation

- 1) After the filing of an arbitration request, the Program Administrator will offer mediation to the parties both before and after the request has been heard by the Grievance Committee, regardless of whether the request has been forwarded for a hearing. If the parties agree to mediation, there is no charge to the parties beyond their original deposits, regardless of whether they settle the dispute.
- 2) If the parties settle the dispute through mediation, their deposits will be refunded as stated in the Fees section of these Policies and Procedures, or in other program rules and regulations as amended from time to time.
- 3) In the event the request is not forwarded by the Grievance Committee (i.e., the arbitration request is deemed to be non-arbitratable), mediation services will be provided if both parties voluntarily agree to mediate the dispute. All mediation procedures will be forwarded to the

Oklahoma Mediation Early Settlement Services. To initiate mediation, each party must pay the processing charge as required by Oklahoma statute. There is no other charge for this.

4) No mediation services will be provided for ethics complaints.

C. Ethics Citation Program

- 1) OAR will adopt an Ethics Citation Program as part of the Statewide Cooperative, the rules of which are attached as Exhibit C, and may be amended from time to time.
- 2) The rules of the Ethics Citation Program will be drafted to protect the due process rights of respondents by limiting citations to specified offenses and by providing respondents the opportunity to demand a full hearing on any complaint.

VII. NAR Administrative Options

The following NAR options from the CEAM will be adopted and amended as necessary to be in compliance with the NAR CEAM.

1. Parties involved will not record the proceeding. OAR will have a court reporter at each hearing and, if necessary, will have the transcripts printed.
2. OAR will not publish violators' names in any of the Association publications after hearing but does reserve the right to share these records with Participating Locals to the extent permitted by the CEAM without violating the confidentiality or due process rights of any parties.
3. OAR Grievance Committee will review all complaints that pertain to Ethics and Arbitration and will not handle MLS Rules and Regulation complaints. If forwarded a complaint from a member of the public regarding an MLS Rules and Regulation infraction, OAR staff will forward the complaint to the appropriate local board/association.
4. OAR will allow the Complainant to amend their complaint once it is filed up to the time of the Grievance Committee meeting.
5. In the event the respondent fails or refuses to sign the Response & Agreement Form, fails or refuses to make the required deposit, or fails or refuses to take part in the arbitration hearing, the hearing may be scheduled and conducted in the absence of the respondent. In the event the respondent fails to appear at a duly noticed ethics hearing without first obtaining a continuance or adjournment thereof, the Hearing Panel may proceed with the hearing in the respondent's absence and shall reach its decision based on the evidence made available at the time of the hearing, per the NAR Code of Ethics & Arbitration Manual.
6. All fine sanctions will be due within ten (10) days from notice, per the NAR Code of Ethics and Arbitration Manual.