

# Ethics Hearing Procedures

## **POSTPONEMENT OF HEARING:**

Postponement may be granted if there are extenuating circumstances. Requests for postponement must be made in writing. Permission can be given by the Chairman. All parties shall be advised of the date of the rescheduled hearing.

## **RECORDING THE HEARING:**

The Board will tape record the proceeding and will provide a copy (at cost) to hearing participant upon request.

## **METHOD AND OBJECTIVE OF PROCEDURE:**

The Hearing Panel shall not be bound by the rules of evidence applicable in courts of law, but shall afford all parties a full opportunity to be heard, present witnesses, and offer evidence, subject to its judgment as to relevance.

## **DUE PROCESS PROCEDURE:**

The hearing will be:

1. Opening statement by Chairman - Cite authority to hear case and explain reason for hearing.
2. The complaint will be read into the record.
3. The testimony of all parties and witnesses will be sworn or affirmed. All witnesses will be excused from the hearing except while testifying.
4. Presentation by the Complainant - complainant will state their case and present any evidence and/or witnesses they desire. (All witnesses and evidence should have been sent to ABoR in advance of the hearing)
5. Cross examination by Respondent (in the form of questions dealing with the evidence and statements made in the Complainant's presentation)
6. Questions from the panel members.
7. Presentation by the Respondent - respondent will state their case and present any evidence and/or witnesses they desire. (All witnesses and evidence should have been sent to ABoR in advance of the hearing)
8. Cross examination by Complainant (in the form of questions dealing with the evidence and statements made in the Respondent's presentation)
9. Questions from the panel members.
10. Chairman may exclude any question ruled to be irrelevant or argumentative by either side.
11. Each side may make a closing statement. The complainant will make the first closing statement and the respondent will make the final closing statement.
12. Complainant and Respondent will be asked if they believe the hearing was held in a fair manner.
13. Hearing adjourned.
14. The Hearing Panel will go into executive session to decide the case.

## **FINDING IN ETHICS HEARING:**

The finding and recommendation for discipline, if any, shall be reduced to writing by the Hearing Panel and submitted to the Board of Directors in accordance with the procedure of PART FOUR, Sections 22 and 23 of the Code of Ethics and Arbitration Manual.

## **USE OF LEGAL COUNSEL:**

A party may be represented in any ethics hearing by legal counsel or by a REALTOR® of their choosing (or both). However, parties may not refuse to directly respond to requests for information or questions addressed to them by members of the panel except on grounds of self-incrimination, or on other grounds deemed by the panel to be appropriate. In this connection, the panel need not accept the statements of counsel as being the statements of counsel's client if the panel desires direct testimony. Parties shall be held responsible for the conduct of their counsel. Any effort by counsel to harass, intimidate, coerce, or confuse the panel members or any party to the proceedings or any action by counsel which is viewed by the panel as disruptive of the proceedings, shall be grounds for exclusion of counsel. The decision to exclude counsel for any of the foregoing reasons shall be the result of a majority vote of the members of the panel and shall be non-appealable. In the event counsel is excluded, the hearing shall be postponed to a date certain not less than fifteen (15) nor more than thirty (30) days from date of adjournment to enable the party to obtain counsel provided, however, that such postponement shall not be authorized if it appears to members of the panel that the action of counsel has been undertaken by counsel to obtain a postponement or delay of the hearing.

Be advised that all matters are strictly confidential.