

**REALTORS® ASSOCIATION OF NORTHEAST WISCONSIN
PROFESSIONAL STANDARDS POLICIES**

Optional Professional Standards Policies were adopted by RANW March 21, 1996; revised February 24, 2005, February 21, 2008, October, 2009, February 17, 2010, April 14, 2010, and June 23, 2010. The REALTORS® Association of Northeast Wisconsin is governed by the Code of Ethics and Arbitration Manual of the National Association of REALTORS® ("Manual") (2/08).

GENERAL POLICIES related to both Ethics and Arbitration

Board	Where referenced in Manual, "Board" or "Association" means the REALTORS® Association of Northeast Wisconsin.
State	Where referenced in Manual, "State" refers to the Wisconsin REALTORS® Association. "Regulatory agency" or "real estate commission" refers to the WI Department of Regulation and Licensing. Where referenced, Wisconsin is an all-REALTOR® state and references to REALTOR®-Associate shall mean a REALTOR® associated with a Designated REALTOR®.
CEAM	Code of Ethics and Arbitration Manual of the National Association of REALTORS®
Committees	There shall be a Professional Standards Committee of at least 25 REALTOR® members of the Association in good standing, appointed by the President, subject to confirmation by the Board of Directors. <i>Members of the Professional Standards Committee shall be appointed to serve on the Review Panel, (RANW refers to Grievance Committee as Review Committee) Hearing Panels, or as mediation officers, as required. Members shall not serve on both the Review Panel and the Hearing Panel with respect to the same complaint alleging unethical conduct or to a request for arbitration, nor shall they have been the mediation officer. The President, subject to approval by the Board of Directors, shall appoint the Chairman of the Professional Standards Committee. (RANW/WRA</i>
Appointment of Hearing Panels	Hearing Panels will be appointed by the next officer in line in the event the Professional Standards Chairman or President (as applicable) is disqualified. (6/23/10) Voting RANW Officers and Directors shall not regularly serve on the Review, Mediation or Professional Standards Committees of the Association, but if they are needed to serve, shall be excused from any review or appeal of the case in question.
Counsel	The Professional Standards Committee and the EVP have the authority to have Association legal counsel present at Professional Standards hearings in the event a party or parties has legal counsel present, or as they or the Board deem necessary.
Definition of Days	<i>As used herein, the term "days" shall be defined as calendar days. The term "business days" shall be defined as days when the Board/Association office is open for its normal and regular business purposes. (RANW/WRA)</i>
Correspondence/	<i>The CEAM requires, in certain instances, typewritten documents and correspondence. It is not mandatory for any correspondence/documents to be typewritten. (RANW/WRA)</i>
Code/Manual	Ethics complaints shall be subject to the calendar year's Code as was in effect at the time of the conduct leading to the complaint. Both Ethics and Arbitration shall be subject to the Manual in effect at the time of the conduct leading to the Ethics complaint or the request for Arbitration.
Reply	The Review Committee shall review only the Complaint prior to making a recommendation regarding hearing.
Panel Review	The complaint and response (if any) shall be provided to the Hearing Panel members immediately (.5 to 1.5 hours) prior to the hearing.
Documents	No documents, including Legal Hotline Responses, should be removed from the complaint or response. Where evidence is questionable, the Chair should caution committee or panel to weigh the

evidence accordingly.

- Recording The Board or any party may, at his/her own expense, have a court reporter present at an ethics or arbitration hearing, and if transcribed, shall present a copy to the Association. The Association may, but parties may not, mechanically tape record the proceeding. If the Association uses a court reporter the party may not be prohibited from making their own tape recording.
- Review Dismissal The Review Committee will send copies of complaints to the alleged respondents in cases where the complaint is dismissed by Review, along with a copy of their decision. (4/29/2008)
- Failure to Respond *In the event a response is not provided by the Respondent to the Board and to the Complainant, prior to the commencement of the hearing, the Complainant or the Hearing Panel may request a postponement of the hearing to a date not more than 21 days from the date of the original hearing.*
- Written Statements of Proof
In addition to the complaint or request for arbitration and the response, the parties shall present to the Hearing Panel such written statements and proof as they deem necessary to support their claims. *It is recommended that written statements of persons not present at the hearing be verified by affidavit, and the signature(s) of the person(s) providing the statement be notarized.* The parties and witnesses shall be reminded of the penalties for perjury and/or false swearing in arbitration hearings. CEAM Section 4, Section 21(h)
- Retention: See Association Retention policy.

ETHICS

Statements Section

- P 21 Sec11 A REALTOR® principal may be joined in any complaint filed against a REALTOR® non-principal licensed with the REALTOR® or his/her firm, but shall not be joined automatically.
- P22 Sec16 An Administrative Fee shall be assessed to REALTORS® from other Associations who are found in violation of the Code of Ethics through a RANW professional standards hearing in the amount of \$500.00.
- P25 Sec37 Hearing panels may, at their discretion, consider all previous violations and the sanctions imposed, whether by current or by any other Association, in determining appropriate discipline.
- P39 Sec19B Suspension of Ethics Complaints filed with the Association when other matters are pending:

Criminal: If criminal litigation is pending related to the same transaction involving one or more of the same parties, and the same facts and circumstances giving rise to the ethics complaint, the Review Committee shall suspend its considerations and instruct the Association Secretary to hold the file pending (“suspend”) until such time as the criminal litigation is concluded and the Association is notified of the conclusion. A report shall be made to the Association President.

Civil/Regulatory: If civil litigation or any proceeding before the state real estate licensing authority or any other state or federal regulatory or administrative agency is pending related to the same transaction involving the same parties, facts and circumstances giving rise to the ethics complaint, the Review Committee shall instruct the Board Secretary to have Board legal counsel review the complaint filed and advise if any hearing should proceed (presuming the matter would otherwise warrant a hearing), with counsel considering the following:

- (1) similarity of factors giving rise to pending litigation or regulatory or administrative proceeding and the ethics complaint
- (2) degree to which resolution of the pending civil litigation or regulatory or administrative proceeding could make consideration of the ethics complaint unnecessary
- (3) degree to which pending litigation or regulatory or administrative proceeding would delay prompt disposition of the ethics complaint
- (4) the nature of the alleged violation and the extent to which it could impact on cooperation with other Board members
- (5) the assurance of Board legal counsel that consideration of an ethics complaint would not deprive the respondent of due process. (02/17/2010)

Appeal of Review Committee’s Decision to Suspend Ethics Complaint: The Association’s decision to suspend an Ethics Complaint if there is civil litigation or a proceeding before the state real estate licensing authority or any other state or federal regulatory or administrative agency arising out of the same facts and circumstances giving rise to the ethics complaint pursuant to Sections 13 and 19 of the COEM and the policies above, is appealable by the Complainant only to the Board of Directors. There is no appeal of an Association’s decision to suspend an Ethics Complaint if there is criminal litigation arising out of the same facts and circumstances giving rise to the complaint. . (02/17/2010)

P41 Sec20c Director Review of Appeal of Review Committee Dismissal of Complaint:
The President may appoint a panel of Directors, acting on behalf of the Board of Directors to hear the appeal. Any appeal panel so appointed must be composed of at least five (5) Directors or a quorum of the Board of Directors, whichever is less. (Alternatively, the appeal may be heard by the Board’s Executive Committee.) (2/2008)

Part One

P31 Sec4 As used in Ethics, counsel may mean either an attorney at law or a REALTOR®, whether in the same or in another office.

Part Four

P42 Sec20 RANW shall adopt the expedited ethics administration procedure (Sections 20(f)-(q).

P43 Sec21a If an ethics complaint is referred for hearing, the Professional Standards Administrator shall serve a copy of the complaint (*along with the written determination of the Review Panel*) to each named Respondent. CEAM Section 21 Ethics Hearing Section 21(a)

P45 Sec22a Ethics decisions will contain the names of the parties when presented to the Board of Directors.

P46 Sec23c All appeals must be in writing and accompanied by a deposit with the Association in the sum of \$00.

P48 Sec23m Director Review of Request for Rehearing or Appeal of Ethics Hearing Panel Decision:
Appeals to the Board of Directors may be heard by a panel of Directors appointed by the President for that purpose (or, alternatively, by the Board’s Executive Committee). Five (5) Directors or a quorum of the Board of Directors, whichever is less, shall constitute such an appeal panel which shall act on behalf of the Board of Directors.

P48 Sec23n Adoption of the optional procedures to permit publication of the names of Code of Ethics violators shall not be utilized.

Other Complaints throughout a calendar year have a 180-day time limit in which to be filed. Date of conduct determines which year's Code, and which year's Manual, applies to the complaint, regardless of whether the Code has yet been published. (Per NAR)

Ethics Mediation RANW adopts mediation of Ethics complaints in accordance with the provisions of the National Association of REALTORS®, except in cases alleging a violation of the public trust.

Complaints alleging a violation(s) of the Code of Ethics that include a request for voluntary mediation shall go to the Review Committee. If the Review Committee finds that the complaint on its face would constitute a violation of the Code warranting a hearing, the matter may be processed for mediation, if both Complainant and Respondent agree to mediate. If both parties do not agree to mediate, the complaint shall be forwarded on to hearing. (4/2010)

ARBITRATION

Statements Section

P119 Sec3 RANW will provide arbitration under optional, as well as mandatory, provisions outlined in Section 3.

P120 Sec5 Failure to submit a dispute to Arbitration (after the Review Committee determines the matter is arbitrable), shall not be referred to the Review or Professional Standards Committees, but to the Board of Directors, per Section 5 . (See CEAM complete Section 5 statements of Arbitration, Part Ten, Section 49). (WRA legal staff recommends sanction should be in the form of suspension rather than a fine.)

Sec6 Failure to abide by an award rendered in an arbitration hearing should not be referred to the Review Committee as a violation of the Code of Ethics unless such refusal reflects an established pattern or practice of noncompliance with the commitment to arbitrate. Such a refusal to abide by an award should be enforced by the recipient in accordance with CEAM Part 10, Sections 53 as applies and Section 56. (*See also Section 53 below) (2/2008)

Part Seven

P129 Sec29/30 Each party must provide notice of the name, address and phone number of legal counsel, as well as names of any witnesses, not less than 15 days prior to the hearing.

Parts Nine and Ten

P133/137 Sec42/45 The Hearing Panel, as well as the Review Committee, and upon appeal of a dismissal, the Board of Directors can dismiss an arbitration request if the Hearing Panel concludes the matter is not arbitrable (or is too legally complex, or the request for an award too high, etc). RANW adopts a standard of \$1000 as the minimum-amount to arbitrate. (2/2008)(2/2010)

P134 Sec42B5 Suspension of Arbitration Complaints filed with the Association when other matters are pending:

Civil: Section 45(c) COEM: If an otherwise arbitrable matter is the subject of **civil** litigation, arbitration shall not take place unless the litigation is withdrawn or referred to the Board of Directors by the court for arbitration in accordance with Article 17. In instances where the arbitration is mandatory (as defined in Part Ten, Section 44 of this Manual), the failure to arbitrate may result in a charge alleging violation of Article 17.

Criminal or Regulatory: Note: There is no specific provision in NAR policy authorizing a Review Committee's suspension of an arbitration request when **criminal** litigation is pending, or when a proceeding before a state real estate licensing authority or any other state or federal regulatory or administrative agency is pending, on a matter in connection with the transaction. . (02/17/2010)

Appeal of Review Committee's Decision to Suspend Arbitration Complaint:

There is no appeal of an Association's decision to suspend Arbitration if an otherwise arbitrable matter is the subject of civil litigation and the litigation is not withdrawn or referred to the Board of Directors by the court for arbitration in accordance with Article 17. (02/17/2010)

Part Ten

P137 Sec 46 By becoming and/or remaining members of this Board, all members bind themselves and agree to submit to arbitration by the arbitration facilities of the Wisconsin Association of REALTORS® any dispute with a member of any other local Board or Wisconsin Association of REALTORS®, provided: (1) The dispute is a dispute as defined and for which arbitration is required by Article 17 of the Code of Ethics and (2) The Wisconsin Association of REALTORS® has established facilities for such arbitration.

P138/139 Sec47/48 Requests for Arbitration (and Responses) shall be accompanied by a deposit in the amount of \$500. (10/2009).

Should a Respondent named in an Arbitration file a Counter Request for Arbitration, the Counter Request shall be reviewed by the Review Committee prior to proceeding to hearing, and where possible, by the same Review Committee panel who reviewed the original Arbitration, unless a panel member(s) is disqualified. (4/2010)

P139 Sec48 Arbitration procedures shall be in accordance with **Option #1** state arbitration statutes and case law, per section 48 of the National Association of Realtors Manual. Arbitration shall not proceed unless the signed Response and Agreement Form and deposit amount of \$500 have been received from the Respondent. (10/2009)

P140 Sec49 Refusal to Arbitrate (Initial Action by Directors)
If a REALTOR® is charged in an ethics complaint of improperly refusing to submit to arbitration, the complaint shall not be referred to the *Review Panel* or a Hearing Panel, but shall be brought before the Board of Directors at the next regularly scheduled meeting or a special meeting called by the President for that purpose. The procedures for notice, time of notice and hearing prescribed for matters before an arbitration hearing panel shall apply. The matter may be heard by a panel of Directors appointed by the President or the Executive Committee as outlined above under requests for procedural review. (2/2008)

The sole question of fact for the Directors to decide shall be whether the REALTOR® failed to submit an arbitrable matter to arbitration. Because Wisconsin does not allow preliminary judicial determination prior to imposition of discipline/sanction, upon determination that the REALTOR® has refused to arbitrate a properly arbitrable matter, the Directors may direct the imposition of an appropriate sanction, *including suspension of the REALTOR® until such time as he/she abides by the duty to arbitrate. If the Directors have reason to believe that the imposition of sanction will become the basis of litigation, the Directors should delay implementing the sanction until after review by the Board's legal counsel.* See also Statements of Arbitration Section 5 and Appendix III to Part Ten. (2/2008)

Civil Remedies that may be available under Wisconsin law to compel the other party to submit to arbitration may be investigated by the parties with legal counsel should they wish to pursue such legal measures. (WRA legal 02/2008)

P141 Sec53 Findings of Fact. According to National Association of REALTOR'S® change in approval of the Wisconsin policy option, and a subsequent amendment by WRA in 2005, written findings of fact may no longer be included with an arbitration award. Arbitration hearing panels shall, however, during executive session, use written rationale, which will not be distributed to the parties, to assist in the determination of the award. CEAM Section 53 The Award. RANW/WRA

* RANW does NOT adopt optional provisions (c) through (f) of Section 53 (Part Ten of the CEAM) which impose an obligation to deposit disputed arbitration award funds with the Board, and which makes failure to pay an award or failure to deposit disputed funds a potential violation of membership duty subject to disciplinary action (2/2008)

Legal rights as to vacation or modification of arbitration awards in Wisconsin are covered in Chapter 788 of the Wisconsin statutes (Wis.Stat.Ch788) (WRA legal 02/2008)

P142 Sec54 The Board adopts the NAR Code of Ethics and Arbitration Manuals in its Bylaws, which allow for (optional) alternative disposition of arbitration deposits. RANW adopts a policy of returning the deposit to any prevailing party or returning a portion of the deposit to each party should the award rendered be an amount other than that requested by any of the parties, as determined by the arbitrators. (2/2008)

P142 Sec55a A written request for procedural review of an arbitration hearing must be accompanied by a deposit in the sum of \$500. (10/2009)

P143 Sec55c Procedural Review:
The request for procedural review before the Board of Directors may be heard by a panel of Directors appointed by the President for the purpose (or, alternatively, by the Board's Executive Committee). Five (5) Directors, or a quorum of the Board of Directors, whichever is less, shall constitute such panel, which shall act on behalf of the Board of Directors. The decision of the panel (or Executive Committee) shall be final and binding and shall not be subject to further review by the Board of Directors.
See also CEAM Section 33 regarding use of panels in place of the Board of Directors. (2/2008)

Mediation and Other Policies

MEDIATION: Arbitration

P167/169 Opt 2 RANW adopts the mediation of arbitrable matters according to the procedures outlined in NAR Appendix V to Part Ten, Option 2.

Opt 2 Mediation Conferences shall be made available to parties to Arbitration should they desire, without the necessity of review by the Review Committee prior to the Mediation Conference. The Arbitration Request and Response Forms will include a check-off to the statements "I am willing to attend a Mediation Conference" or "I am not willing to attend a Mediation Conference". A mediation agreement form will be included in the packet with reasons why parties should consider mediation with provision for signatures should the parties agree to a mediation conference. A challenge list of mediation officers will be sent, similar to the challenge list for Arbitration/Ethics Professional Standards Committee members, giving parties opportunity to challenge any of the mediation officers. From the names unchallenged, the Executive Officer will select by rotation a mediation officer to facilitate the mediation conference.

IntraOfficeMed RANW will offer (voluntary) mediation of intra-office disputes to Brokers when agents within their company have a business dispute (2000).

MEDIATION: Ethics

RANW adopts Mediation of ethics, except in cases alleging the violation of public trust.

TRAINING

The Professional Standards Committee will remain in effect until the following year's Professional Standard training.

To serve on the Professional Standards Committee, new Members must attend training, and renewing members must attend training every 2 years thereafter (reaffirmed 2002). REALTORS® must attend annual professional standards training provided by RANW or WRA, or any other program approved by the Directors. Officers and Directors are also required to attend annual Professional Standards Training.

MLS COMPLAINTS

MLS complaints should be referred to an MLS Ad Hoc Committee according to the RANW MLS Rules and Regulations.

ADVERTISING COMPLAINTS

When an advertisement is submitted that alleges possible violations of advertising regulations in one or more areas, where the sender is anonymous or unwilling to file a formal complaint), the staff will send a non-judgmental letter (as approved) to the broker/office manager (and agent if applicable) to let them know that concerns have been raised about the ad, in order to give the member an opportunity to ensure compliance if they choose, and to offer resources on advertising requirements under state and federal law, and the REALTOR® Code of Ethics. The letter is to be a courtesy notice only, not a determination that the ad is in violation of any law, regulation or Code of Ethics provision. The responsibility of following up is to be on the complainant, not the Association. (02/17/2010)

COOPERATIVE ENFORCEMENT

RANW has entered into a Cooperative Enforcement Agreement with the Door County Board of REALTORS® and with the Marinette Board of REALTORS®.