

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, June 23, 2010, June 29, 2011, February 23, 2012, September 26, 2012, March 5, 2013, and March 27, 2014. REALTORS® Association of Northeast Wisconsin is governed by the Code of Ethics and Arbitration Manual of the National Association of REALTORS® ("Manual") (2/08). (2014) (NAR 2015) RANW (2.2021)(6.2021)(8.2021)

RANW GENERAL POLICIES related to both Ethics and Arbitration as provided for in the NAR Code of Ethics and Arbitration Manual and NAR Policy

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 Grievance Committee (aka Grievance Review Committee or Review Committee), Hearing Panels, or as Mediation Officers or Ombudsmen, as required. Members shall not serve on both a Grievance Review Panel and a 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 or ombudsman. The President, subject to approval by the Board of Directors, shall appoint the Chairman of the Professional Standards Committee. (RANW/WRA 02/23/2012 (RANW 2021)).</i> Voting RANW Officers and Directors shall not regularly serve on the Grievance 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	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)
Correspondence	The CEAM requires, in certain instances, typewritten documents and correspondence. It is not mandatory for any correspondence/documents to be typewritten. (RANW/WRA)
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, regardless of whether the Code has yet been published (Per NAR). Complaints throughout a calendar year have a 180-day time limit in which to be filed.
Reply	The Grievance Review Committee will send copies of complaints to the alleged respondents in cases where the complaint is mediated. The Grievance Review Committee shall review only the Complaint prior to making a recommendation regarding hearing.
Panel Review	The complaint and response (if any) will be provided to the Hearing Panel members immediately prior to the hearing, or up to two weeks in advance depending on the volume of materials and the number of respondents. The same timeframe to apply to Grievance and Appeals Panels (6.2021, 8.2021)
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 <u>not</u> , mechanically tape record the proceeding. If the Association uses a court reporter the party may not be prohibited from making their own tape recording.

Grievance Dismissal The Grievance Committee will send copies of complaints to the alleged respondents in cases where the complaint is dismissed by the Grievance Review Committee, 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, or as provided for in the CEAM.

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 claim. CEAM Section 4, Section 21(h). *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.* (2021)

Retention: See Association Retention policy.

Virtual Format: If circumstances warrant not holding Grievance Committee meetings or Hearings in person, they may be conducted “virtually” in accordance with NAR policies. RANW hearings to be held virtually until further notice. An addendum will accompany the NAR Outline of Procedure to address virtual protocol. (2021)

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 will no longer 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. (3/27/14)
- P25 Sec37 Hearing panels will consider all previous violations and the sanctions imposed, whether by current or by any other Association, in determining appropriate discipline. (2021)

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 (NAR).

P40 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 Grievance 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 Grievance Review Committee shall instruct the Professional Standards Administrator 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)

- P44 Sec20c Director Review of Appeal of Grievance Committee Dismissal of Complaint or Article:
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, subject to NAR policy. (Alternatively, the appeal may be heard by the Board's Executive Committee or as otherwise provided for in NAR policy.) (2/2008) (2021)

Part Four

- P45 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 Grievance Review Panel*) to each named Respondent. CEAM Section 21 Ethics Hearing Section 21(a)
- P48 Sec22a Ethics decisions will contain the names of the parties when presented to the Board of Directors.
- P48 Sec23c All Ethics appeals must be in writing and accompanied by a deposit with the Association in the sum of \$0.
- P50 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. 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, subject to NAR policy. (Alternatively, the appeal may be heard by the Board's Executive Committee, or as otherwise provided for in NAR policy.) 2021
- P50 Sec23 Adoption of the optional procedures to permit publication of the names of Code of Ethics violators shall not be utilized.

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. *See Mediation and other Policies section.*

Complaints alleging a violation(s) of the Code of Ethics that include a request for voluntary mediation shall go to the Grievance Committee. If the Grievance 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

- P129 Sec3 RANW will provide arbitration under optional, as well as mandatory, provisions outlined in Section 3.
- P130 Sec5 Failure to submit a dispute to Arbitration (after the Grievance Committee determines the matter is arbitrable), shall not be referred to the Grievance 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.)
- P130 Sec6 Failure to abide by an award rendered in an arbitration hearing should not be referred to the Grievance 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 (P152) and Section 56 (P154). (*See also Section 53 below) (2/2008)

Part Seven

- P139 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

- P144/147 Sec42/45 The Hearing Panel, as well as the Grievance 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)

RANW has administrative authority to dismiss an Arbitration Request that is received for an amount below \$1000. Mediation of Arbitration Requests is offered for all Arbitration Requests, regardless of the dollar amount. (3/5/13)

P144 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 Grievance 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)

P144 Sec42C **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

P146 Sec 44 RANW elects to offer Voluntary arbitration facilities for the additional types of arbitration described in the preceding paragraphs (4), (5), and (6). However, Member Boards shall not establish any mandatory requirements of its Board Members to arbitrate in the circumstances described in paragraphs (4), (5), and (6). (06/29/2011).

P148 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.

P148/150 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 Grievance Review Committee panel who reviewed the original Arbitration, unless a panel member(s) is disqualified. (4/2010)

P150 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)

P151 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 Grievance *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)

- P152 Sec53 Findings of Fact. According to National Association of REALTORS® 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
- Sec53b Section 53 (Part Ten of the CEAM) imposes an obligation to pay the arbitration award or deposit disputed arbitration award funds with the Board. Failure to pay an award or failure to deposit disputed funds may be considered a violation of membership duty and may subject the member to disciplinary action at the discretion of the Board of Directors (2/2008) (NAR revised 5/2015)
- 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)
- P153 Sec54 The Board adopts the NAR Code of Ethics and Arbitration Manuals in its Bylaws. The Code of Ethics and Arbitration Manual allows 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)
- P153 Sec55a A written request for procedural review of an arbitration hearing must be accompanied by a deposit in the sum of \$500. (10/2009)
- P154 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

- P178 ApxVI RANW offers the mediation of arbitrable matters according to the procedures outlined in NAR Appendix VI to Part Ten and Section 58 of the Code of Ethics and Arbitration Manual.
- P179 Apx VI RANW will offer disputing parties an opportunity for mediation prior to an Arbitration Request being filed.
- P179 Apx VI The Association does not mandate that disputes be mediated, prior to proceeding with a hearing.
- P136 Sec. 58 The Board will offer mediation, and REALTORS® may voluntarily participate in mediation, where disputing parties voluntarily request mediation. The circumstances under which voluntary mediation may occur include:
- (1) disputes between REALTORS® associated with the different firms where no arbitration request has been filed
 - (2) disputes between REALTORS® and their clients where no arbitration request has been filed
 - (3) disputes between REALTORS® who are or were affiliated with the same firm when the dispute arose
 - (4) disputes between REALTORS® and non-member brokers
 - (5) disputes between REALTORS® and their customers (NAR Adopted 5/11) (RANW 9/26/12)
- IntraOfficeMed RANW will offer (voluntary) mediation of intra-office disputes to Brokers when agents within their company have a business dispute (2000).

MEDIATION: Ethics

- P76 Apx XI RANW adopts Mediation of Ethics, except in cases alleging the violation of public trust.
- The ethics mediation process can be initiated in two ways. First, through filing a written ethics complaint. Second, through a personal, telephone, or written inquiry or complaint generally alleging potentially unethical conduct but which (a) is not filed on the appropriate form or (b) is not specific as to which Article(s) may have been violated.
- Where a written ethics complaint in the appropriate form is received, it will be reviewed by the Grievance Committee so a determination can be made whether a possible violation may have occurred or, alternatively, whether the complaint should be dismissed as not requiring a hearing. Where an informal inquiry or general letter of complaint that does not allege a potential violation of the public trust is received, it will not be reviewed by the Grievance Review Committee, but will be referred to an ethics mediator. (RANW 9/26/12)

MISCELLANEOUS

PROFESSIONAL STANDARDS 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) or as determined by the Board of Directors. 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 Professional Standards Training the first year of each 3-year term on the Board, as determined by the RANW Board. (09/26/2012) (2020).

MLS COMPLAINTS

MLS complaints should be referred to an MLS Ad Hoc Committee or as provided otherwise in accordance with 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 may 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 the Marinette Board of REALTORS®; and with the Manitowoc County Board of REALTORS® (2015)