

## **Professional Standards Policy & Procedures**

Adopted by  
The REALTOR® Association of Franklin & Southern Gulf Counties  
September 2005  
Amended January 2021

It is the policy of the REALTOR® Association of Franklin & Southern Gulf Counties to enforce the Code of Ethics of the National Association of REALTORS®, as from time to time amended. Such enforcement includes a review of all complaints or requests for arbitration by the Grievance Committee, or upon referral of a complaint or arbitration request by a member board.

The Association shall adhere to the policies and procedures outlined in the Code of Ethics and Arbitration Manual of the National Association of REALTORS® as from time to time amended, and the following provisions have been adopted to conform to local policy and comply with state law.

### **Provisions to the Code of Ethics and Arbitration Manual Statements of Professional Standards Policy Applicable to Ethics Proceedings and Arbitration Proceedings**

For all purposes and throughout the Code of Ethics and Arbitration manual, references to local Association shall be the REALTOR® Association of Franklin and Southern Gulf Counties, references to state Association shall be Florida Association of REALTORS®, and references to national Association shall be National Association of REALTORS®.

Expenses related to the conduct of hearings by a multi-Board or regional Grievance Committee or Professional Standards Committee shall be borne by the Association, Board or Multiple Listing service that refers the complaint for review.

Expenses related to the conduct of hearings referred to the Florida Association of REALTORS® Grievance Committee or Professional Standards Committee shall be borne by the Association, Board or Multiple Listing service that refers the complaint for review.

A panel of Directors, appointed by the President for that purpose, shall consider any and all appeals brought before the Board of Directors. Five (5) Directors shall constitute such a panel, which shall act on behalf of the Board of Directors. The decision of the panel shall be final and binding and shall not be subject to further review by the Board of Directors.

The Association shall not authorize the publication of names of ethics violators, but may publish the number of complaints filed for the given period, the number of complaints

dismissed by the Grievance Committee, the number of violations of particular Articles, The number of cases resulting in violations or, conversely, no violations, the number of cases in which sanctions were imposed, the range of sanctions imposed, and any other appropriate information. With respect to arbitration, such report could include the number of arbitration requests received, the number dismissed without hearing, the number of mediations conducted, the number of hearings held, and other relevant information, provided that no Code Enforcement Activity Report includes the names of individuals or firms.

The Association shall not authorize the publication of names of the Chairperson's, or members, of the Grievance Committee and the Professional Standards Committee.

Cellular phones, two-way radios and other transmitting devices may not be operated during ethics hearings, arbitration hearings, appeal hearings, and procedural reviews absent specific, advance authorization from the panel chair.

Except in extreme circumstances parties and their witnesses will participate in ethics and arbitration hearings in the physical presence of Hearing panels and the respective parties. "Extreme circumstances" in which parties and witnesses to ethics and arbitration hearings may be permitted to participate in those hearings by teleconference or videoconference at the discretion of the Hearing Panel chair are defined as circumstances where (1) postponement or rescheduling of the hearing to permit their participation is not feasible and (2) failure to accept such testimony or permit such participation would deny a party a fair hearing. The cost of "remote" testimony shall be the responsibility of the party requesting the opportunity to participate or offer testimony by teleconference or videoconference. Counsel is permitted to participate in ethics or arbitration hearings only in the physical presence of Hearing Panels.

### **Part One- Ethics General Provisions** **Section 6 Conduct of Hearing**

The Association shall have a court reporter or recorder present at the hearing, or may tape record the proceeding. Transcripts are available if necessary but must be requested in writing by any party to the hearing. The cost associated with providing a hearing transcript is the responsibility of the individual(s) making the request. A copy of the transcript shall be provided to the Association at no cost. The Associations tape recording or transcription shall be considered the official record of the proceeding. Any party to a hearing has a right to obtain a copy of the Associations official tape recording subject to payment of the Associations duplication costs, and any duplication will be conducted under the supervision of the Association. If the Association transcribes its official tape recording, any party to the hearing may obtain a copy of the transcript subject to paying the transcription cost. If a party purchases a copy of the Associations official tape recording and subsequently has it transcribed at his own expense, that party must provide a copy of the transcript to the Association at no cost. The Association, after receiving a copy of the transcript, shall make copies of the transcript available to any

other party subject to their payment of the duplication cost. All parties shall be prohibited from tape recording appeals or limited procedural review proceedings. Tape recordings or transcripts from ethics hearings may be used only by the parties for the purpose of appeals or re-hearings, and may not be introduced into evidence at any subsequent hearing. Any other unauthorized use of the tape recordings or transcripts may be construed as a violation of Article 14, as interpreted by the applicable Standards of Practice, and as a violation of these procedures.

Attendance at any hearing is limited to the parties and the parties' respective counsel and/or witnesses, the Hearing Panel members (including alternates), Association Executive, Association Counsel, and any court reporter, as requested.

**Part Two – Membership Duties and Their Enforcement**  
**Section 14 Nature of Discipline**

In addition to any discipline imposed, the Association shall impose an administrative processing fee of \$250.00 against any respondent found in violation of the Code of Ethics or other Membership duties. This fee will be in addition to, and not part of, any disciplinary sanction imposed. The administrative processing fee shall be due and payable seven days after ratification of the sanction by the Board of Directors.

**Section 15 Selection and Appointment of Grievance Committee**

There will be a standing committee, known as the Grievance Committee, composed of at least five Board Members in good standing, of whom at least a majority shall be REALTORS®. The President shall appoint the members of the committees, subject to confirmation by the Board of Directors, for staggered, three (3) year terms. The committee shall annually select it's own Chairperson and Vice Chairperson.

The Grievance Committee shall meet at the Association Office, on the first Monday of every month, at a time to be designated by the Chairperson.

**Section 16 Selection and Appointment of the Professional Standards Committee**

There shall be a Professional Standards Committee, of at least five Board Members, in good standing, of whom at least a majority shall be REALTORS®. The President shall appoint the members of the committees, subject to confirmation by the Board of Directors, for staggered three (3) year terms. Members of the Committee shall be selected to serve on Hearing Panels as required to hear matters of alleged unethical conduct by Board Members or to provide arbitration as requested. The committee shall annually select it's own Chairperson and Vice Chairperson.

The Professional Standards Committee shall meet at the Association Office, on the last Tuesday of every month, at a time to be designated by the Chairperson.

**Part Three – The Grievance Committee in Ethics Proceedings**

**Section 19 (C)**

If the Grievance Committee dismisses the complaint or deletes an Article or Articles from an ethics complaint, the complainant may appeal the dismissal to the Board of Directors within twenty (20) days from receipt of the dismissal notice using Form #E-22, however, no additional information may be added or attached to the form. A panel of Directors appointed by the President for that purpose, shall consider all appeals from the decision of the Grievance Committee, related to an ethics complaint. The panel shall consider only the information and documents considered by the Grievance Committee with the appeal and render its decision. The decision of the appeal panel shall be final and binding and shall not be subject to any further review by the Board of Directors. The parties are not present at the meeting at which the appeal is considered. If the appeal panel determines that the Grievance Committee improperly dismissed the complaint, they shall refer it to the Professional Standards Committee for a hearing. The Association Executive shall at that time provide a copy of the response to the complainant if one had been submitted to the Grievance Committee for review.

**Part Four – The Ethics Hearing**

**Section 20 (A)**

Any person, whether a member or not, may file a complaint in writing, using Form #E 1, with the Association Executive, dated and signed by complainant, stating the facts on which it is based. The complaint must be filed within one hundred eighty (180) days after the facts constituting the matter could have been known in the exercise of reasonable diligence. The Association Executive shall promptly refer any complaint to the Chairperson of the Grievance Committee. (Amended 1/2010)

**Section 20 (C)**

A panel of Directors shall hear all appeals.

**Section 20 (F-Q)**

Expedited ethics administration procedures (Sections 20 [f-q]), shall not be adopted.

## **Section 21**

(A)

After a complaint alleging a violation of membership duty has been referred to the Association Executive by the Grievance Committee, with instruction to arrange a hearing, the Association executive shall provide a copy of the response (if any) to the complainant. Copies of the complaint and response shall also be provided to the Association President and the Chairperson of the Professional Standards Committee. The complaint, and response, if any, shall be provided to the Hearing Panel Members seven (7) business days prior to the hearing. This time frame shall be adhered to for all hearings.

(C)

Each of the parties shall be mailed a list of the names of members of the Professional Standards Committee, Form #E6, Notice of Right to Challenge Tribunal Members and Form #E7, Challenge to Qualification by Parties to Panel Members. Within fifteen (15) days of the date the forms are mailed, the Chairperson shall appoint, from the names not successfully challenged by either party, three (3) or more members for a Hearing Panel, one of which shall be selected to act as Chairperson for the Hearing Panel. A party will have waived all objections to any person whose name was not challenged. Association Executive shall mail all parties, Form #E8, Official Notice of Hearing.

(E)

Complainants may withdraw their complaints at any time prior to the start of an ethics hearing. If the complainant withdraws a complaint, after the Grievance Committee determines the complaint requires a hearing, it will be referred back to the Grievance Committee to determine whether a potential violation of the public trust (as defined in Article IV, Section 2 of the National Association's Bylaws) may have occurred. Only where the Grievance Committee determines a potential violation of public trust may have occurred may the Grievance Committee proceed as complainant. A complaint so withdrawn shall not be deemed a final determination on the merits.

(F) 1

At any time prior to the hearing, the complainant may file an amended complaint with the Association Executive, excluding amendments to an Article previously dismissed by the Grievance Committee relating to previously charged respondents. If filed prior to the hearing, the respondent shall be notified, given a copy, and the opportunity to file an amended response. The Hearing Panel may disallow the amended complaint. The

Hearing Panel may name the REALTOR® principal as a respondent at any time prior to the hearing of the complaint.

(F) 3

In the event the complaint scheduled for hearing is from a member of the public who refuses or is unable to attend, the complaint shall be referred back to the Grievance Committee. If they determine that there is sufficient information for a Hearing Panel to consider, the complaint shall be amended to name the grievance Committee as complainant and the hearing shall be continued to a new date. The respondent shall be provided with a copy of the amended complaint. If the Grievance Committee determines that there is insufficient information for a Hearing panel to consider, the complaint shall be dismissed.

In the event the complaint scheduled for hearing is from a REALTOR® or REALTOR® Associate of the Board who refuses or is unable to attend, the complainant shall be advised that refusal to participate in the hearing, absent a satisfactory reason, may result in a charge of violation of Article 14's obligation to place all pertinent facts before an appropriate tribunal of the Association. If the REALTOR® or REALTOR® Associate continues to refuse a duly noticed request, or if the complainant is excused by the Hearing Panel, the hearing shall not take place, but rather the complaint shall be referred back to the Grievance Committee. If they determine that there is sufficient information for a Hearing Panel to consider, the complaint shall be amended to name the grievance Committee as complainant and the hearing shall be continued to a new date. The respondent shall be provided with a copy of the amended complaint.

(G)

In the event the respondent fails to appear at a duly noticed hearing without obtaining a continuance or adjournment, the Hearing Panel may proceed with the hearing in the respondent's absence and shall reach its decision based on the evidence available at the hearing. Where an ethics hearing takes place in a respondent's absence, the respondent is still entitled to be represented by counsel. Counsel may not testify to events and facts of which counsel has no first hand knowledge. The Chair should instruct the Hearing panel that counsel's arguments do not constitute testimony.

(H)

The Hearing Panel may require that statements be verified by affidavits or that accuracy of any documents or other papers submitted be verified by affidavits. Each party is responsible for the expense of expert witnesses they call and for the expense of their respective counsel.

## **Section 22**

### **(A)**

The decision of the Hearing Panel shall be by a simple majority vote and in writing on form #E 11. It shall contain findings of fact and a statement of the disciplinary action recommended, if any. Under no circumstances can the Board award money (damages) in an ethics proceeding. The decision shall not be disclosed during the ethics proceeding, or any appeal or rehearing, to any persons except the Board of Directors, the complainant, the respondent, Board legal counsel, and the Association Executive. However failure of confidentiality shall not invalidate the decision.

All decisions of the Hearing panel shall be filed with the Association Executive within ten (10) days after the Hearing panel's decision is final. Any member of the Hearing Panel not voting with the majority may dissent from all or any portion of the findings and may file a dissent in writing with the Association Executive for consideration by the Directors at the same time the decision is considered. The decision shall be considered final only when it is in writing and signed by members of the panel following their personal review and review by the Association's legal counsel. Copies of the decisions disseminated shall be complete and unedited when presented to the Board of Directors for ratification. The dissenting opinion shall also be provided to the parties.

### **(B)**

The Association Executive shall transmit a copy of the decision to the complainant and respondent within five (5) business days after the Association Executive has received the hearing Panel's decision in writing.

### **(C)**

Within twenty (20) business days after the decision has been transmitted, the complainant or the respondent may petition the Hearing Panel for a rehearing, solely on the grounds of newly discovered material evidence which the petitioner could not, with reasonable diligence, have discovered and produced at the original hearing. The petition must be in writing and include: (1) a summary of the new evidence. (2) A statement of what the new evidence is intended to show and how it might affect the Hearing Panel's decision. (3) An explanation of why the petitioner could not have discovered or produced it at the time of the original hearing.

### **(D)**

A petition for rehearing not granted by the Hearing Panel within two (2) weeks of filing, shall be deemed denied and the. Whether granted or denied, the Association Executive shall immediately inform the respondent and complainant. No more than one petition for

rehearing may be filed in the case by each party. Notice of rehearing shall be given not less than twenty-one (21) business days before the rehearing.

**(E)**

Immediately upon the decision becoming final, the Association Executive shall transmit it to the President, or, if no decision is made within two (2) weeks, the Association Executive shall advise the petitioner that the request for rehearing has been denied.

**Section 23**

**(B)**

If no appeal or petition for rehearing is filed, the Directors must adopt the Hearing Panel's recommendation and issue its order accordingly. If concerned with a possible procedural deficiency, the Directors may refer the decision back to the Professional Standards Committee for a new hearing and recommendation by a different Hearing Panel. If the Directors are concerned with appropriateness of sanction, the Directors may impose alternative discipline that does not exceed that recommended by the Hearing Panel, or refer it back to the original Hearing Panel for further consideration and recommendation accompanied by the Director's concerns regarding the proposed discipline. Advice of Association counsel should be requested and considered in such situations.

**(C)**

All appeals must be in writing and must be accompanied by a deposit with the Association Executive in the sum of \$150.00. The appeal should clearly indicate the basis for challenge: (1) misapplication or misinterpretation of an Article(s) of the Code of Ethics; (2) procedural deficiency or any lack of procedural due process; (3) the discipline recommended by the Hearing Panel – and set forth in detail the facts and evidence to support it.

The Board President or the President's designee for the purpose of determining whether the appeal states any legitimate basis for consideration by a panel of the Board of Directors shall review the request. If determined to be insufficient, it shall be returned to the appellant with a request for additional detail to be received by the Board of Directors within ten (10) business days. The appellant in any hearing before the panel of Directors may raise only those issues raised in the written request for appeal.

**(D)**

When a request for appeal is received, the Association Executive shall immediately send a copy to the other party and notify all parties at least ten (10) business days in advance of the time and place of hearing, Forms #E-6 & #E-7, and bring the matter before the panel of Directors for hearing at their next regular meeting. Copies of all information



shall be provided in advance of the hearing to the panel of Directors and they shall be advised that the information is confidential and not to be discussed with others at any time.

**(E)**

The Chairperson of the Hearing panel shall present a transcript of the case, or if there is no transcript, a summary. Either party shall be entitled to offer corrections to the summary and may present reasons why the Hearing Panel's recommendations should be followed or not. No new evidence shall be received, unless it may bear upon a claim of deprivation of due process.

**(F)**

The Panel of Directors shall render their decision promptly. Their decision may be: (1) adopt or modify the recommendation of the Hearing Panel, including the discipline proposed. (2) Dismiss the matter if they conclude the findings of fact do not support the hearing Panel's conclusion as to unethical conduct. If concerned with a possible procedural deficiency, the Directors may refer the decision back to the Professional Standards Committee for a new hearing and recommendation by a different Hearing Panel. If the Directors are concerned with appropriateness of sanction, the Directors may impose alternative discipline that does not exceed that recommended by the Hearing Panel, or refer it back to the original Hearing Panel for further consideration and recommendation accompanied by the Director's concerns regarding the proposed discipline. Advice of Association counsel should be requested and considered in such situations.

**(G)**

If the recommendation of the Hearing Panel is adopted, the money deposited by the appellant shall pass into the general treasury of the Association. If the recommendation is rejected, the deposit shall be returned to the party who made the deposit. If the recommendation is modified, the Association shall determine the disposition of the deposit.

**(H)**

If the recommendation is modified or dismissed, it shall be stated in writing. Any Director not concurring shall be entitled to file a dissenting opinion, which will be provided to both parties and the Hearing panel. Under no circumstances may the discipline exceed that recommended by the Hearing Panel.

**(I)**

Upon final action, the President shall provide notice of the action to the complainant, the respondent, the Board of Directors, the Chairperson and members of the Hearing Panel,

Association legal counsel, the president of any other Board in which the respondent holds membership, and any governmental agency as directed by the Board of Directors. Association legal counsel shall specifically approve the nature, form, content, and extent of the notice prior to dissemination.

**(K)**

Any discipline imposed that requires an action on the part of the disciplined member shall include additional penalties that will be automatically invoked for failure to comply by the date specified. These additional penalties shall be, suspension from membership including all membership rights and privileges, and denial of all Board services, including access to MLS, with no further action required by the Board of Directors until the disciplined member completes the discipline imposed. The party failing to comply with the discipline originally imposed shall have the opportunity to appear before the Board of Directors to explain the failure to comply.

**Section 24**

If the Board of Directors has reason to believe that the imposition of a proposed sanction will become the basis of litigation and a claim for damages, it may state that the discipline shall become effective upon entry of the final judgment of a court of competent jurisdiction in a suit by the Association for declaratory relief, declaring that the discipline proposed violates no rights of the member.

**Part Seven – Arbitration General Provisions**

The Association shall, and any party may, at his own expense, have a court reporter or recorder present at the hearing, or may tape record the proceeding, and, if transcribed, shall present a copy to the Association executive. Transcripts are available if necessary but must be requested in writing by any party to the hearing. The cost associated with providing a hearing transcript is the responsibility of the individual(s) making the request. A copy of the transcript shall be provided to the Association at no cost. The Associations tape recording or transcription shall be considered the official record of the proceeding. Any party to a hearing has a right to obtain a copy of the Associations official tape recording subject to payment of the Associations duplication costs, and any duplication will be conducted under the supervision of Association. If the Association transcribes its official tape recording, any party to the hearing may obtain a copy of the transcript subject to paying the transcription cost. If a party purchases a copy of the Associations official tape recording and subsequently has it transcribed at his own expense, that party must provide a copy of the transcript to the Association at no cost. The Association, after receiving a copy of the transcript, shall make copies of the transcript available to any

other party subject to their payment of the duplication cost. All parties shall be prohibited from tape recording appeals or limited procedural review proceedings. Tape recordings or transcripts from ethics hearings may be used only by the parties for the purpose of appeals or re-hearings, and may not be introduced into evidence at any subsequent hearing. Any other unauthorized use of the tape recordings or transcripts may be construed as a violation of Article 14, as interpreted by the applicable Standards of Practice, and as a violation of these procedures.

Attendance at any hearing is limited to the parties and the parties' respective counsel and/or witnesses, the Hearing Panel members (including alternates), Association Executive, Association Counsel, and any court reporter, as requested.

**Part Eight**  
**Membership Duties and Their Enforcement**  
**Section 39**

There will be a standing committee, known as the Professional Standards Committee, composed of at least five Association Members in good standing, of whom at least a majority shall be REALTORS®. The President shall appoint the members of the committees, subject to confirmation by the Board of Directors, for staggered, three (3) year terms. The committee shall annually select it's own Chairperson and Vice Chairperson.

The Professional Standards Committee shall meet at the Association office, on the first Monday of every month, at a time to be designated by the Chairperson.

**Part Nine**  
**The Grievance Committee in Arbitration Proceedings**  
**Section 42 (A)**

Any person, whether a member or not, may file a complaint in writing, using Form #A-1, with the Association Executive, dated and signed by complainant, stating the facts on which it is based. The complaint must be filed within one hundred eighty (180) days after the facts constituting the matter could have been known in the exercise of reasonable diligence. The Association Executive shall promptly refer any complaint to the Chairperson of the Grievance Committee. (Amended 1/2010)

(C)

If the Grievance Committee determines that a matter should not be arbitrated by the Association, because of the amount involved, the legal complexity, or any other valid reason, the Grievance Committee shall specify that reason in their decision and include it in their written report. The Hearing Panel can also dismiss the arbitration request if they conclude that the matter is not arbitrable. Either of the parties may appeal the decision to the Board of Directors within twenty (20) business days of the date they receive notice of

the decision; however, no additional information may be added or attached to the form. A panel of Directors appointed by the President for that purpose, shall consider all appeals from the decision of the Grievance Committee, or the Hearing Panel related to an arbitration request. Only those materials which were presented to the Grievance Committee when they made their decision, will be presented at the appeal hearing and considered by the panel of Directors. The parties do not have the right to appear at the appeal hearing. If a request for arbitration is dismissed, any deposit submitted by the complainant shall be returned. The decision of the appeal panel is final and not subject to further review by the Board of Directors.

If the panel of Directors determine that the request was improperly dismissed they shall refer it to the Professional Standards Committee for hearing. If the request was improperly classified, they shall reclassify it appropriately.

## **Part Ten Arbitration of Disputes**

### **Section 44**

#### **(A)**

Arbitration facilities shall be provided for Association Members in the types of arbitration described in Section 44, Duty & Privilege to Arbitrate, paragraphs 1, 2 and 3. Voluntary Arbitration as described in Section 44, Duty & Privilege to Arbitrate, paragraphs 4, 5 and 6 shall not be provided.

### **Section 47**

#### **(A)**

Any person authorized by the provisions of Part Ten, Section 44 may request arbitration. The request shall be in writing, must be signed by the complainant, must indicate the nature and amount of the dispute, and must be accompanied by a required deposit of \$500.00.

#### **(B)**

The Association Executive shall promptly refer the request for Arbitration to the Chairperson of the Grievance Committee. The Committee shall determine within ten (10) business days whether the matter is subject to arbitration.

The Grievance Committee shall request the party named as respondent in the request, to provide the Grievance Committee with a written response within fifteen (15) business days. If no response is filed within the time allotted, the Committee shall make its determination based upon the information set forth in the request.

#### **(C)**

If the Grievance Committee finds the matter arbitrable, the Association Executive shall be instructed to arrange a hearing and notify the parties of the decision. The respondent

shall be notified by the Association Executive within five (5) business days of receiving the instructions by mailing a copy of the request for arbitration, the Notice to Respondent, Forms #A-3 and two forms for response, Form #A-4, with directions to complete and return the forms with a deposit of \$500.00 within fifteen (15) business days from the date of mailing to the respondent. Concurrently the Association Executive shall mail to each of the parties Forms #A-7 & #A-8, which must be returned within fifteen (15) business days from the date the names are mailed to the parties.

The Professional Standards Chairperson shall select three (3) or more arbitrators from the names not successfully challenged who will hear the dispute. The Chairperson shall also select one of the panel members to serve as Chairperson of the Hearing Panel who shall possess the powers of the neutral arbitrator within the meaning of the State of Florida arbitration statutes. At least two (2) shall be REALTORS®.

If the Grievance Committee dismisses the request, the decision may be appealed to the Board of Directors within twenty (20) days from the date of notification of the Grievance Committee's decision using form #A 20. However no additional information may be added or attached to the form. Only the information that was presented to the Committee when it made its decision will be presented to the Board of Directors and considered with the appeal. The complainant and the respondent do not have the right to appear at the hearing before the Directors. In the case of a dismissed arbitration request, the deposit shall be returned to the complainant. If the Directors determine that the request was improperly dismissed they shall refer it to the Professional standards Committee for hearing and the Association Executive shall at that time provide a copy of the response to the complainant. If the Directors determine that it was improperly classified, they shall reclassify it appropriately.

(D)

When mediation is offered as a voluntary, preliminary alternative to arbitration, prior to review of an arbitration request by the Grievance Committee, and one or more of the parties declines or the mediation attempt is unsuccessful, the parties will not again be offered mediation. If a party requests a second opportunity to mediate, it can be scheduled at the discretion of the Association.

(E)

Dismissal of an arbitration request by an Association or Board of REALTORS® does not prohibit REALTORS® from exercising other remedies that may be available to them, including litigation.

## **Section 48**

(A)

Submission of a dispute to arbitration shall consist of signing and delivering to the Association Executive either a request or response form provided by the Association, Form #A-1, #A-2 or #a-4, or any other similar writing permitted by law and making the appropriate deposit of \$500.00. Agreements to arbitrate are irrevocable except as otherwise provided under state law.

In the event the respondent fails or refuses to sign the Response and Agreement Form, fails or refuses to make the required deposit, or fails or refuses to take part in the arbitration hearing, the arbitration hearing may be scheduled and conducted in the absence of the respondent. The respondent is however still entitled to legal counsel. If the amount requested by the party initiating the arbitration has been awarded and the respondent has failed to make the specified deposit, the respondent is responsible for making that deposit within ten (10) business days of receipt of notice from the Association requesting the deposit.

#### **Section 49**

If a complaint alleges that a member has improperly refused to submit a dispute to arbitration, it shall be brought before a panel of Directors at a special meeting called by the President for that purpose. All procedures prescribed for matters of a Hearing Panel shall apply and the sole purpose will be to decide if the respondent has failed to submit an arbitrable matter to arbitration in violation of Article 17. There can be no charge until the Grievance Committee has determined that the matter is arbitrable and of a mandatory nature.

#### **Section 50**

If the Association has reason to believe that the imposition of a proposed sanction will become the basis of litigation and acclaim for damages, it may specify that the discipline shall become effective upon entry of the final judgment of a court of competent jurisdiction in a suit by the Association for declaratory relief declaring that the discipline proposed violates no rights of the member.

#### **Section 51**

##### **(A)**

No sooner than fifteen (15) business days or later than twenty-one (21) business days after mailing notice to the respondent of the request for arbitration, the Association Executive shall mail to the complainant a copy of the response and respondent's affirmative claim if any.

**(B)**

The Association Executive shall inform the parties of the date, time, and place of the hearing, Form #A-9, at least twenty-one (21) business days prior to the hearing. Form #A-10 shall accompany the notice of hearing.

The arbitration request and response, if any, shall be provided to Hearing Panel members seven (7) business days prior to the hearing and shall be adhered to for all hearings.

**Section 52**

The parties to arbitration may settle the issue between them by mutual agreement at any time. Upon notification to the Association Executive, the arbitration shall be terminated and the termination shall be recorded in the file.

**Section 53**

**(A)**

The award of the arbitrators, Form #A-12, shall be made as soon as possible. It shall be in writing and signed by the arbitrators, or a majority of them, and shall state only the amount of the award. When signed, and served on each of the parties, it shall be binding and shall not be subject to review or appeal. A party to arbitration may appeal to the Board of Directors only with respect to alleged irregularities in the conduct of the proceeding that may have deprived them of fundamental “due process.”

**(B)**

After the award has been served, they have twenty (20) business days to request a procedural review of the hearing procedure by the Board of Directors. If procedural review is requested, the award is not considered final and binding until after the Board of Directors has concluded that the hearing was conducted consistent with proper procedure and the parties had been afforded due process. If no review is requested, the award becomes final and binding following the twenty (20) day period.

Section 53 (c) – (f) shall not be adopted

**Section 54**

The deposits of the parties shall be used by the Association Executive to cover the costs of arbitration. Any portion not used specifically to cover costs of the arbitration shall go into the general operating funds of the Association. There shall be no alternative disposition of arbitration deposits.

## **Section 55**

### **(A)**

A written request for procedural review of the arbitration hearing procedures must be filed with the President within twenty (20) business days after the award has been served on the parties and accompanied by a deposit of \$150.00. If determined to be insufficient, it will be returned with a request for additional detail to be returned to the Association within ten (10) business days of notice.

### **(B)**

When a request for procedural review is received, the Association Executive shall immediately send a copy to the other party, notify all parties of the time and place of review by the panel of Directors at least ten (10) business days in advance along with challenge forms #A-7 and #A-8. The Association Executive shall provide the panel, in advance, a copy of the request for procedural review or the amended request if any along with the President's correspondence.

## **Section 56**

The judgment of any competent court of record in Florida, state or federal may be rendered upon the award. If a member fails to comply with an award, the recipient to whom the award had been rendered by the arbitration panel shall be advised by the Association to seek judicial enforcement and to request reimbursement of legal fees incurred in seeking enforcement.

## **Appendix IV to Part Ten**

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 Association by the court for arbitration in accordance with Article 17. In instances where the arbitration is mandatory, the failure to arbitrate may result in a charge alleging violation of article 17

## **Appendix V to Part Ten Mediation as a Service**

Mediation shall be provided according to The Code of Ethics and Arbitration Manual Appendix V to Part Ten, with Option 2 under Initiation of Mediation Proceedings being adopted by the Association.