

## **MAAR's Optional Provisions & Addendums to NAR's Code of Ethics and Arbitration Manual**

*Revised August 2011*

NAR's *Code of Ethics and Arbitration Manual* (COEAM) contains certain recommended optional provisions to allow the COEAM to be adapted to local policy. Under Article XVI, Section 1 (g) of the MAAR Bylaws, the COEAM may be amended by the Directors to conform with any provisions of the COEAM recommended by NAR. The following locally adopted provisions serve as an addendum to the COEAM:

1. MAAR shall have one Grievance Committee with a reasonable number of members and a chairperson. The members of the committee shall be selected based on the criteria listed in the COEAM. The chairperson of the committee shall be selected by the president. A reasonable effort shall be made to appoint committee members to staggered three- (3-) year terms, after which a member shall be eligible for reappointment after a period of one (1) year.
2. MAAR shall have one Professional Standards Committee with a reasonable number of members. The chairperson and hearing panel chairpersons shall be selected by the president. The members of the committee shall be selected based on the criteria listed in the COEAM. Based on need, individual hearing panels will be convened and comprised of five (5) members selected from the committee plus a panel chairperson. The members of the committee shall have served previously on the Grievance Committee. A reasonable effort shall be made to appoint members to staggered four- (4-) year terms, after which a member shall be eligible for reappointment after a period of one (1) year.
3. A member serving on the Grievance Committee, Professional Standards Committee, or the Board of Directors shall recuse himself from any meeting or hearing in which the firm with which he is affiliated is the same as that of the Complainant(s) or Respondent(s).
4. A reasonable effort shall be made to provide to the members of the Grievance Committee and those selected to serve on a hearing panel no later than five (5) working days prior to the scheduled meeting or hearing.
5. The Grievance Committee will request one copy of a response from any Respondent(s) named in an ethics complaint or arbitration request. The Respondent(s) shall be asked to submit the response within fifteen (15) working days from receipt of the request. A copy of the written response shall be provided to the Complainant(s) upon the Grievance Committee's decision to move the matter forward to an ethics or arbitration hearing.
6. The fee to accompany an arbitration request shall be \$100. The fee is nonrefundable, with the exception of requests that are withdrawn in writing or resolved through mediation prior to the Grievance Committee's meeting to review the request. Following the Grievance Committee's determination that a matter is properly arbitrable, consideration

for refunding the fee shall be given to a request that is withdrawn due to extreme circumstances that prevent the Complainant(s) from pursuing the request. The Respondent to the arbitration request is not charged a fee.

7. Mediation of arbitrable matters will be provided by MAAR upon mutual agreement of the parties. Parties will be notified of this member service upon MAAR's receipt of an arbitration request and again after the Grievance Committee determines the matter is an arbitrable one.
8. MAAR shall not have a policy that requires an ethics complaint or arbitration request to be held in abeyance automatically, should the ethics complaint or arbitration request indicate the circumstances giving rise to the filing are involved in civil litigation or are involved in any proceeding before the state real estate licensing authority or other state or federal regulatory or administrative agency. With the advice of legal counsel and upon the Grievance Committee's motion, a matter may be held in abeyance and shall follow the guidelines in the COEAM.
9. MAAR will allow expedited hearings as detailed in Section 20 (f-q) of the COEAM.
10. MAAR shall require any party to an ethics or arbitration hearing, or appeal of any professional standards matter, to give notice to the Association of counsel and/or witnesses within ten (10) working days of receipt of the hearing notice.
11. MAAR shall require any party to an ethics or arbitration hearing, or appeal of any professional standards matter, seeking to challenge the qualifications of any panel member to give the Association notice of such challenge within ten (10) working days of receipt of the hearing notice.
12. Parties may not tape record or have a court reporter present at any professional standards proceeding. MAAR's tape recording of the proceeding may be used by any party only for the purpose of procedural review requests, and may not be introduced into evidence at any subsequent hearing. Unauthorized use of the tape recording may be construed as a violation of Article 14 of the Code of Ethics.
13. Parties to an ethics hearing shall have twenty (20) working days from receipt of the hearing panel decision to file a request for rehearing or appeal of the decision.
14. There shall be no fee charged to file a procedural review request of an arbitration or to appeal the decision of an ethics hearing panel.
15. The optional provisions regarding the administration of an arbitration Award shall be followed as stated in Section 53(c-f) of the COEAM.
16. Any professional standards matter brought before the Board of Directors may be considered by a panel of directors. The panel will consist of five (5) directors comprised of the Executive Committee and one other director. If conflicts of interest prevent any

member of the Executive Committee from serving on the panel, an alternate director will be selected to serve.

17. Ethics decisions presented to the Board of Directors for ratification will include the names of the parties.
18. A \$150 Administrative Processing Fee will be charged to any member found in violation of the Code of Ethics or other membership duty. Said fee shall be paid to Memphis Area Association of REALTORS<sup>®</sup> within thirty (30) days following affirmation of the Ethics Decision by the Board of Directors. If the fee is not timely paid as stated, the Respondent shall be suspended from membership, including MLS rights and privileges, until he remits the \$150 Administrative Processing Fee to the Association.
19. The names of Code of Ethics respondents will be published by MAAR if they are found to have violated the Code of Ethics twice in a three- (3-) year period. Publication will follow procedures as detailed in the COEAM.
20. Voluntary Arbitration will be provided as a MAAR service subject to requirements stated in the COEAM.
21. If an Interboard Arbitration is requested, the participating boards shall jointly decide fees and appropriate procedure.
22. MAAR shall consider an ethics complaints/arbitration request to be filed only when the Association is in receipt of the ethics complaint/arbitration request. The COEAM provides the following policies regarding the one hundred eighty (180) days within which an ethics complaint/arbitration request must be filed:

*An ethics 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 or within one hundred eighty (180) days after the conclusion of the transaction, whichever is later.*

*An arbitration request must be filed within one hundred eighty (180) days after the closing of the transaction, if any, or within one hundred eighty (180) days after the facts constituting the arbitrable matter could have been known in the exercise of reasonable diligence, whichever is later.*