

## Changes to this Manual

From time to time C.A.R. updates this Manual to comply with changes in NAR policies or California law. All substantive changes to the Manual from the last edition have been made and shown in red underlined typeface.

Some of the major changes to the Manual for 2019 are as follows:

1. Sections 6(a) and 7(a) were revised to indicate that Letters of Warning and Letters of Reprimand must now be placed in a violator's file for a minimum of three (3) years.

### Section 6. Nature of Discipline Against an Association Member

#### (a) Types of Disciplinary Action.

Disciplinary action may consist of one or more of the following:

- (1) Placement of a Letter of Warning as defined in Section 1(w) in the member's file for a specified period of time lasting at least three (3) years;
- (2) Placement of a Letter of Reprimand as defined in Section 1(p) in the member's file for a specified period of time lasting at least three (3) years;

2. To conform with NAR policy, Section 20(b) has been revised as follows: "A complaint meeting all filing requirements must be filed within one hundred and eighty (180) calendar days after the facts constituting the matter complained of could have been known in the exercise of reasonable diligence or one hundred eighty (180) days after the conclusion of the transaction, or event, whichever is later."

### Section 20. Filing a Complaint

(b) Timing of Filing. A complaint meeting all filing requirements must be filed within one hundred and eighty (180) calendar days after the facts constituting the matter complained of could have been known in the exercise of reasonable diligence or one hundred eighty (180) days after the conclusion of the transaction, or event, whichever is later.

3. Sections 20(c) and 56(d) were revised to clarify that a pre-hearing must take place if there is a dispute as to whether a complaint has been timely filed. After the pre-hearing, the hearing Panel must determine whether to proceed with the hearing or dismiss the complaint for not being timely filed.

### Section 20. Filing a Complaint

(c) Preliminary Review. The Association Executive may conduct a preliminary review of the complaint to determine whether the complaint is subject to disciplinary action by the Association and otherwise complies with the filing requirements of this Manual. The Association Executive shall only conduct such preliminary review as is necessary to make this determination and any decision reached by the Association Executive shall not be considered a decision on the merits of the dispute. In the event there is a dispute as to whether a complaint has been properly filed, the Association Executive shall refer such disputes to the hearing Panel for consideration. Directly before the hearing, both parties will be given the chance to argue before the hearing Panel as to whether the complaint was timely filed, and the hearing Panel will decide whether to proceed with the complaint or dismiss the complaint for not being timely filed.

## **Section 56. Manner of Invoking Arbitration and Submission**

(d) Preliminary Review. The Association Executive shall conduct a preliminary review of the complaint to determine whether the complaint is subject to arbitration by the Association and otherwise complies with the filing requirements of this Manual. The Association Executive shall only conduct such preliminary review as is necessary to make this determination and any decision reached by the Association Executive shall not be considered a decision on the merits of the dispute. In the event there is a dispute as to whether a complaint has been properly filed, the Association Executive shall refer such disputes to the hearing Panel for consideration. Directly before the hearing, both parties will be given the chance to argue before the hearing Panel as to whether the complaint was timely filed, and the hearing Panel will decide whether to proceed with the complaint or dismiss the complaint for not being timely filed.

4. To conform with NAR policy, Section 21(b) was revised to clarify the role that a respondent's Designated REALTOR® may play at a disciplinary hearing

## **Section 21. Designated REALTOR® as a Respondent in an Ethics Hearing**

(b) Notice to Designated REALTOR®; Right to Attend. If a Designated REALTOR® is not named as a respondent, the Designated REALTOR® shall receive notice and a copy of the complaint and all subsequent information regarding the complaint including any decision of a hearing Panel and any final action taken by the Board of Directors. The Designated REALTOR® shall also have the right to attend and be present at any hearing or review regarding the complaint without any requirement to provide notice of attendance. The Designated REALTOR® may make opening and closing statements on behalf of the respondent, examine and cross-examine parties and witnesses, introduce affidavits, documents and other admissible relevant evidence, consult with or testify on behalf of the respondent, and respond directly to questions from the Panel.

5. Sections 29 and 59 were revised to clarify that once evidence has been submitted at a hearing by a party, the party does not have the right to ask the other party or the hearing Panel to return or destroy that evidence.

## **Section 29. Duty to Give Evidence**

When requested by a party to a hearing, giving not less than ten (10) calendar days' notice, or when summoned by any Panel to do so, members, MLS Participants and Subscribers shall appear at the hearing, produce any records or data pertinent to the case and designated by the hearing Panel, and to testify truthfully. It shall be a membership duty and an MLS rules requirement to comply with such requests. Once evidence has been submitted at a hearing by a party, the party does not have the right to ask the other party or the hearing Panel to return or destroy that evidence. All parties who appear (in-person and remotely) at a hearing are required to answer all questions by the Panel and by any other party and are not entitled to advance notice. Refusal of a party to appear at a disciplinary proceeding, to submit him or herself or his or her records to examination or to comply with a request of the hearing Panel for relevant information may be deemed an admission of the truth of the claim against him or her. The Presiding officer of the hearing Panel may allow a party or witness to remotely testify or attend the hearing upon written request, as long as the Panel is satisfied that safeguards are in place to assure the identity of the person testifying or attending and the confidentiality of the hearing.

### **Section 59. Duty to Give Evidence**

When requested by subpoenas, or when summoned by the hearing Panel to do so, members, MLS Participants and Subscribers shall appear at the hearing, produce any records or data pertinent to the case and designated by the hearing Panel, and testify truthfully. It shall be a membership duty and an MLS rules requirement to comply with such requests. Once evidence has been submitted at a hearing by a party, the party does not have the right to ask the other party or the hearing Panel to return or destroy that evidence. All parties who appear (in-person and remotely) at a hearing are required to answer all questions by the Panel and by any other party and are not entitled to advance notice. Refusal of a party to appear at an arbitration hearing, to submit him or herself or his or her records to examination or to comply with a request of the hearing Panel for relevant information may be deemed an admission of the truth of the claim against him or her. The presiding officer of the hearing Panel may allow a party or witness to remotely testify or attend the hearing upon written request, provided the Panel is satisfied that safeguards are in place to assure the identity of the person testifying or attending and the confidentiality of the hearing,