

MINNESOTA ASSOCIATION OF REALTORS®  
5750 Lincoln Drive, Edina, Minnesota 55436-1697

**Outline of Procedure for Ethics Appeal**

**Remote Testimony:** Although testimony provided in person before Hearing Panel is preferred, parties and witnesses to ethics hearings may be permitted to participate in hearings by teleconference or video conference at the discretion of the Hearing Panel Chair.

**Postponement of Hearing:** Postponement may be granted if these are extenuating circumstances. Parties' requests for continuances shall only be granted when all parties mutually agree to a subsequent date, or when the Hearing Panel Chair determines that denying the continuance would deny the requestor a fair hearing. Requests for postponement must be made in writing. Requests are reviewed by the Hearing Panel Chair. If the request is approved by the Chair, all parties shall be advised of the date of the rescheduled hearing.

**No Recording of Ethics Appeal Hearing:** Ethics appeals are not to be recorded neither by the Association or the parties

**Method and objective of procedure:** The Appeal Tribunal is not dealing with questions of law and is not governed by the technical rules of evidence which may apply in courts. The Appeal Tribunal will seek to determine all ascertainable and relevant facts pertaining to the matter under consideration to arrive at a peer judgment and decision by the Appeal Tribunal that is fair to all of the parties. The decision will be based solely upon the testimony offered during this appeal hearing. All parties or their representatives to these proceedings will be allowed a full opportunity to be heard on the matters relevant to this issue. This Appeal Tribunal may rule at any time during this Appeal Hearing on the relevance of testimony being given, or may exclude any question ruled to be irrelevant or argumentative at any time within the following procedure.

**Due process procedure.** The hearing procedures will be:

1. Opening statement by Appeal Chairperson – Citation of authority to hear the case and explanation of the basis of this procedure, introduction of the Appeal Tribunal, parties, and Chair or other representative of the original Hearing Panel.
2. The testimony of all parties will be sworn.
3. The original Chair/representative of the original Hearing Panel will summarize the case and explain the decision.
4. The Appellant will have an opportunity to offer corrections or modifications to the summary of the case and then to explain the bases for the appeal.
5. The Nonappellant, if present, will have an opportunity to offer corrections or modifications to the summary of the case and then to explain why the original Ethics Hearing Panel's decision should be upheld.
6. The Chair/representative of the original Hearing Panel will then be given an opportunity for rebuttal.
7. The Appeal Tribunal may ask questions of either party and the Chair/representative of the original Hearing Panel.
8. Parties have no right: (a) of cross-examination; (b) to call witnesses; (c) to present new evidence (except such new evidence as may bear upon a claim of deprivation of due process).
9. Each party and the Chair/representative of the original Hearing Panel will have an opportunity to make closing statements.
10. Adjournment of appeal hearing.
11. Following the appeal hearing, the Appeal Tribunal will go into executive session to render a decision.

**Findings of an Ethics Hearing:** The written decision of the Appeal Tribunal shall be transmitted to the parties in accordance with the procedure of Part Four, Section 23 of the NAR Code of Ethics and Arbitration Manual as adapted by the Minnesota Association of REALTORS®.

**Testimony:** Any testimony relating to the character or general reputation of either party shall not be permitted unless the Hearing Panel finds that such testimony has a direct bearing on the case. The Chair may exclude any question which he or she deems irrelevant or argumentative.

**Use of legal counsel:** A party may be represented in any ethics proceeding by legal counsel or by a REALTOR® of their choosing (or both). However, parties may not refuse to directly respond to requests for information or questions addressed to them by members of the Appeal Tribunal except on the grounds of self-incrimination, or on other grounds deemed by the Appeal Tribunal to be appropriate. In this connection, the Appeal Tribunal need not accept the statements of counsel as being the statements of counsel's client if the Appeal Tribunal desires direct testimony. Parties shall be held responsible for the conduct of their counsel. Any effort by counsel to harass, intimidate, coerce, or confuse the Appeal Tribunal members or any party to the proceedings, or any action by counsel which is viewed by the Appeal Tribunal as disruptive of the proceedings, shall be grounds for exclusion of counsel. The decision to exclude counsel for any of the foregoing reasons shall be a result of a majority vote of the members of the Appeal Tribunal and shall not be appealable. In the event counsel is excluded, the hearing shall be postponed to a date certain not less than fifteen (15) nor more than thirty (30) days from the date of adjournment to enable the party to obtain alternate counsel provided, however, that such postponement shall not be authorized if it appears to members of the Appeal Tribunal that the action of counsel has been undertaken by counsel to obtain a postponement or delay of the hearing.

**Confidential:** Be advised all matters discussed are strictly confidential.