

Professional Standards Agreement Interboard Arbitration Procedures

Agreement between Berkshire County Board of REALTORS®, Cape Cod & Islands Association of REALTORS®, Eastern Middlesex Association of REALTORS®, Franklin-Hampshire County Association of REALTORS®, Greater Boston Association of REALTORS®, Greater Fall River Association of REALTORS®, Greater New Bedford Association of REALTORS®, Greater Newburyport Association of REALTORS®, Greater Springfield Association of REALTORS®, North Bristol County Board of REALTORS®, North Central Massachusetts Association of REALTORS®, Northern Massachusetts Commercial-Investment Association of REALTORS®, North Shore Association of REALTORS®, Northeast Association of REALTORS®, Plymouth & South Shore Association of REALTORS®, Tri-County Board of REALTORS®, and Worcester Regional Association of REALTORS®, for the implementation of professional standards interboard arbitration procedures.

Authority

The authority for the establishment and implementation of these interboard professional standards enforcement procedures shall be established by this Agreement approved by the Boards of Directors of the Berkshire County Board of REALTORS®, Cape Cod & Islands Association of REALTORS®, Eastern Middlesex Association of REALTORS®, Franklin-Hampshire County Association of REALTORS®, Greater Boston Association of REALTORS®, Greater Fall River Association of REALTORS®, Greater New Bedford Association of REALTORS®, Greater Newburyport Association of REALTORS®, Greater Springfield Association of REALTORS®, North Bristol County Board of REALTORS®, North Central Massachusetts Association of REALTORS®, Northern Massachusetts Commercial-Investment Association of REALTORS®, North Shore Association of REALTORS®, Northeast Association of REALTORS®, Plymouth & South Shore Association of REALTORS®, Tri-County Board of REALTORS®, and Worcester Regional Association of REALTORS®.

Purpose

The purpose of this agreement is to establish procedures for the interboard arbitration or mediation of business disputes between REALTOR® members of the above-mentioned Boards/Associations while maintaining all aspects of due process for all involved parties. All procedures regarding complaints of alleged unethical conduct by a REALTOR® member of the undersigned Boards/Associations shall be administered solely by the Board/Association of which the respondent is a member.

Review of Request for Arbitration by Grievance Committee

All requests for arbitration shall be filed with the Board/Association of the complainant and shall be accompanied by the non-refundable interboard filing fee established herein. Said filing fee shall be \$500.00 and shall be levied on each party to the interboard arbitration. Mediation will be offered to the parties only after the Grievance Committee deems the matter arbitrable. If the parties enter into and successfully complete mediation, then each party will be refunded \$400 of the \$500 filing fee paid upon submission of the arbitration paperwork. If the arbitration proceeds to hearing, the prevailing party will receive a refund of \$400 of the filing fee.

The Grievance Committee of the complainant's Board/Association shall review the arbitration request. As a rule, the Grievance committee will not solicit replies to the requests. If deemed arbitrable, the Secretary of the complainant's Board/Association shall forward a copy of the arbitration request to the Board/Association of the respondent as well as provide the respondent's Board/Association with carbon copies of all documents and correspondence for the arbitration. The complainant's Board/Association shall notify the respondent of the request for arbitration, collect said interboard filing fee, and, unless otherwise agreed, shall administer the interboard arbitration process in accordance with Part Eleven of the NAR Ethics & Arbitration Manual and in return shall retain all filing fees collected from the parties.

Composition of Tribunals

The following shall be the procedure for establishing interboard tribunal panels.

- 1) The Tribunal Member Challenge Forms listing members of the Professional Standards Committee from both Boards/Associations shall be provided to each of the parties for their review.
- 2) Each Board/Association's Professional Standards Committee Chairperson shall select, two (2) panel members from those who have not been challenged by any party, to serve on the interboard arbitration panel.
- 3) The fifth panel member, who shall serve as Chairperson for the interboard arbitration panel, shall be chosen from either: 1) the Professional Standards Committee of a third Massachusetts Board/Association of REALTORS® which subscribes to the Code of Ethics and Arbitration Manual of the National Association of REALTORS®, or 2) the members of the Professional Standards Committee of the Massachusetts Association of REALTORS® who are members of neither the respondent's nor complainant's Board/Association.
- 4) All qualifications for tribunal members as stated in the NAR Ethics & Arbitration Manual shall apply.

Interboard Procedural Review Tribunals

Tribunals for the purpose of procedural review of an interboard arbitration hearing shall consist of members of both Boards of Directors appointed by the Board/Association Presidents of the complainant's and respondent's Boards/Associations. The tribunal shall consist of five (5) members. Three members shall be from the Board/Association of the party filing the request for procedural review. The remaining two members shall be from the Board/Association of the other party, one of whom shall serve as Chairperson.

Operation

Professional Standards hearings and the organization and procedures incident thereto shall be governed by the Code of Ethics & Arbitration Manual of the National Association of REALTORS® as amended from time to time and as adapted to conform to the provisions of applicable state law. Any optional provisions adopted by the administering Board/Association shall be applicable to the proceedings. The determination rendered by the interboard Arbitration Panel will be provided to each respective party's Board/Association of original jurisdiction for informational purposes.

In the event a party to an arbitration refuses to pay an award, the Board/Association in which the award recipient holds membership shall advise the award recipient to seek judicial enforcement as set forth in the paragraph entitled "Enforcement" in Part Eleven of the Code of Ethics & Arbitration Manual of the National Association of REALTORS®.

In the event a complainant alleges that the respondent has improperly refused to submit a dispute to arbitration, the allegation shall be brought before a tribunal of five Directors from the Board/Association of the respondent to be appointed by the respondent's Board/Association president. The procedure for notices, and hearing prescribed for matters before a Hearing Panel shall apply. The sole question of fact to decide will be whether the party has refused to submit an arbitrable matter to arbitration in violation of Article 17. Upon determination that the member has refused to arbitrate a properly arbitrable matter, the panel of Directors may direct implementation of an appropriate sanction, including suspension or expulsion of the member from the local Board of REALTORS®. The Directors should, if they believe that the imposition of any sanction will become the basis of litigation and a claim for damages consequent to such sanction, delay the effective date of implementing the sanction to a date following receipt by the Board/Association of a judicial decision in a petition for declaratory relief filed by the Board/Association to confirm the propriety of its actions. The decision of the panel of Directors shall be final and binding and shall not be subject to further review by the State Association or either signatory Board/Association.

Mediation

Mediation shall be made available to all parties requesting arbitration. Mediation will be offered only after the Grievance Committee, referenced above, deems the matter to be arbitrable. Participation shall be voluntary until the implementation of any changes in mediation policy by the National Association of REALTORS®.

Mediation shall be conducted by trained mediator(s) chosen from the Mediation Committees of either or both the respondent's or complainant's Board/Association or from the list of state trained mediation officers and who have not been challenged by either party. The procedures contained in the NAR Ethics & Arbitration Manual regarding the administration of the mediation process shall apply.

Reservation of Rights

It is understood and agreed by the undersigned that each Board/Association reserves to itself all authority, rights, and privileges as have been assigned to it by its Charter and agreement with the National Association of REALTORS®, except as voluntarily modified by this agreement.

It is further understood and agreed that either Board/Association as a signatory to this agreement may withdraw from the Agreement at any time provided the withdrawing Board/Association provides notice to the other Board/Association ninety (90) days in advance of withdrawal.

The effective date of this agreement shall be **JULY 1, 2002** .

Attested By:

<i>Board / Association Name</i>	<i>President</i>	<i>President's Signature</i>	<i>Date</i>
Berkshire County Board of REALTORS®	Sherry Street		/ /
Cape Cod & Islands Association of REALTORS®	Christopher Coy		/ /
Eastern Middlesex Association of REALTORS®	Elaine Hoff		/ /
Franklin-Hampshire County Association of REALTORS®	Linda Walker		/ /
Greater Boston Association of REALTORS®	Nancy Edmond		/ /
Greater Fall River Association of REALTORS®	Norma Brandt		/ /
Greater New Bedford Association of REALTORS®	Thomas Alferes		/ /
Greater Newburyport Association of REALTORS®	Barbara Moynahan		/ /
Greater Springfield Association of REALTORS®	Marilyn Ghedini		/ /
North Bristol County Board of REALTORS®	Donna Kiernan		/ /
North Central Massachusetts Association of REALTORS®	Donna Brooks		/ /
Northern Massachusetts Commercial-Investment Assoc. of REALTORS®	Thomas Carroll		/ /
North Shore Association of REALTORS®	Ronald Huth		/ /
Northeast Association of REALTORS®	Ronald Morrison		/ /
Plymouth & South Shore Association of REALTORS®	Betsy Hines		/ /
Tri-County Board of REALTORS®	Walter Parshley		/ /
Worcester Regional Association of REALTORS®	Carolyn Chodat		/ /