

APPENDIX 1

Time Frames and Best Practices for Processing Ethics Complaints and Arbitration Requests

Seven Stages of Processing Ethics Complaints and Arbitration Requests	
Stage One:	Pre-Grievance Committee
Stage Two:	Grievance Committee Meets
Stage Three:	Post-Grievance Committee Ethics Complaint Dismissals Arbitration Request Dismissals and Classifications
Stage Four:	Pre-Hearing
Stage Five:	Hearing
Stage Six:	Post-Hearing Ethics Appeals Arbitration Procedural Reviews
Stage Seven:	Professional Standards Records Retention

Checklist: Seven Stages of Processing Ethics Complaints and Arbitration Requests

Stage One: Pre-Grievance Committee	
Time Frame	Steps
<p>Within 24 hours from potential complainant's inquiry</p> <p>Within 24 hours from potential complainant's inquiry</p>	<p>Refer potential complainant to ombudsman.</p> <p>Staff forwards arbitration request forms and/or ethics complaint forms to potential complainant.</p> <p>Ethics Appendix X to Part Four: Before You File an Ethics Complaint Form E-1: Ethics Complaint.</p> <p>Arbitration Appendix II to Part Ten: Arbitration Guidelines and Worksheet Form A-1: Request and Agreement to Arbitrate (Member) or Form A-2: Request and Agreement to Arbitration (Nonmember) [to be used for members of the public or nonmember broker principals]</p> <p>Staff explains the ombudsman process. Staff also explains mediation and sends appropriate mediation forms when complainant has a monetary claim. If association has adopted mediation of potentially unethical conduct or a citation program, staff also provides information regarding those programs.</p>
<p>Within 45 days from receipt of ethics complaint or arbitration request</p>	<p>Staff brings the matter to the grievance committee. If arbitration request filed, offer mediation, at the latest, upon receipt of arbitration request.</p>

Stage Two: Grievance Committee Meets

Stage Three: Post-Grievance Committee	
Time Frame	Steps
<p>Within 5 days from receipt of grievance committee's decision and receipt of response</p> <p>Respondent has 15 days from request for response being transmitted to respond</p> <p>10 days after challenge forms are transmitted to challenge</p> <p>Panel named within 5 days after challenge forms are due</p>	<p>Staff transmits grievance committee's decision and notifies parties of hearing date. Staff also informs parties of their right to challenge hearing panelists and encloses appropriate forms. If an ethics complaint or arbitration request was not previously sent to the respondent and a response was not requested, then staff sends the case to the respondent and solicits a response. When the response is received, staff transmits it to the complainant within 5 days of receipt.</p> <p>Ethics Form E-2: Notice to Respondent (respondent only) Form E-3: Reply (respondent only) Form E-6: Notice of Right to Challenge Tribunal Members (both parties) Form E-7: Challenge to Qualifications by Parties to Ethics Proceeding (both parties)</p> <p>Arbitration Appendix II to Part Ten: Arbitration Guidelines and Worksheet (both parties if complainant has not already received) Form A-4: Response and Agreement to Arbitrate (respondent only; arbitration request sent to respondent also if not previously sent) Form A-5: Grievance Committee Request for Information (respondent only) Form A-7: Notice of Right to Challenge Tribunal Members (both parties) Form A-8: Challenge to Qualifications by Parties to Arbitration Proceeding (both parties)</p>
Ethics Complaint Dismissals	
Time Frame	Procedures
<p>Within 20 days of transmittal of dismissal notice</p> <p>No later than 30 days after receipt of appeal</p> <p>Within 5 days from date of decision</p>	<p>Party may appeal the dismissal to the board of directors (or a subset thereof) but does not have the right to be present at appeal or augment complaint. Form E-22: Appeal of Grievance Committee (or Hearing Panel) Dismissal of Ethics Complaint</p> <p>Directors hear appeal</p> <p>Staff transmits decision</p>

Stage Three: Post-Grievance Committee-[CONTINUED]	
Arbitration Request Dismissals and Classifications	
Time Frame	Procedures
Within 20 days from when dismissal was transmitted	Party may appeal the dismissal to the board of directors (or a subset thereof) but does not have the right to be present at appeal or augment request. Form A-20: Appeal of Grievance Committee (or Hearing Panel) Dismissal or Appeal of Classification of Arbitration Request
Within 20 days from transmittal of grievance committee's decision	Party may appeal the classification (mandatory or voluntary) of the arbitration request to the board of directors (or a subset thereof) but do not have the right to be present during directors' review or augment their request.
No later than 30 days after receipt of appeal	Directors hear appeal
Within 5 days from date of decision	Staff transmits decision

Stage Four: Pre-Hearing	
Time Frame	Steps
Within 10 days from when list of potential hearing panelists' names were transmitted	Staff looks for the parties' challenge forms to be returned to the association. If you do not receive anything back from one or both parties, move forward, confirming the hearing date.
Within 5 days from when challenge forms are due	Appoint hearing panelists.
Not later than 21 days prior to the hearing	Send official hearing notices and procedures to parties. If staff has not previously forwarded the response to the complainant, do so at this time. Ethics Form E-8: Official Notice of Hearing Form E-9: Outline of Procedure for Ethics Hearing Arbitration Form A-9: Official Notice of Hearing Form A-10: Outline of Procedure for Arbitration Hearing Appendix II to Part Ten: Arbitration Guidelines and Arbitration Worksheet (if both not previously sent)
_____ days prior to the hearing	Give panelists a copy of the entire case. This is an option the association must decide upon - - see pages i, ii, and iii of the Manual for all options associations must determine as a matter of policy.
15 days prior to the hearing	Each party is to notify association and the other party about his or her intended witnesses and/or counsel.

Stage Five: Hearing	
Time Frame	Steps
Immediately prior to hearing	Each hearing panelist signs a certificate of qualification. Ethics Form E-10: Certificate of Qualification Arbitration Form A-11: Certificate of Qualification
Outset of hearing	Ethics and Arbitration If either party wishes to challenge the grievance committee's decision that an ethics complaint or arbitration request has been timely filed, he/she may make that argument before the hearing panel at the outset of the hearing or at a pre-hearing meeting, as determined by the chair. Arbitration Only If respondent wishes to challenge the grievance committee's decision that the matter is arbitrable (for example, there is no contractual basis [or specific non-contractual basis as outlined in Standard of Practice 17-4] upon which to render an award), that argument may be made before the hearing panel at the outset of the hearing or at a pre-hearing meeting, as determined by the hearing panel chair.
Immediately following hearing	Hearing panel convenes in executive session to make its decision concerning whether the Code was violated or if arbitration, what amount of money, if any, a party must pay the prevailing party.

Stage Six: Post-Hearing	
Time Frame	Steps
The day of the hearing or no later than 48 hours after ethics or arbitration hearing	Hearing panel files decision/award form with staff. Ethics Form E-11: Decision of Ethics Hearing Panel Arbitration Form A-12: Award of Arbitrators
Not less than 5 days after staff is in receipt of the executed hearing panel decision or award	Staff transmits decision or award to parties with ethics appeal request or arbitration procedural review request form. Ethics Signed Form E-11: Decision of Ethics Hearing Panel Form E-13: Request for Appeal Arbitration Signed Form A-12: Award of Arbitrators Form A-13: Request for Procedural Review
Within 10 days after award transmitted	Non-prevailing party either pays award or deposits monies with association. See Section 53, The Award
Within 20 days after decision or award is transmitted	Parties may request ethics appeal (Form E-13 for appeal) or an arbitration procedural review (Form A-13). If a party does so within the 20-day time frame, then follow the steps for ethics appeal or arbitration procedural review request that follow.

Stage Six: Post-Hearing [CONTINUED]	
Time Frame	Steps
When 20 day appeal period is up and no appeal is filed, board of directors affirms decision at next regularly scheduled meeting no later than 30 days after panel's decision transmitted to parties	<p>Board of directors affirms ethics decision. Arbitration award is final without board of directors' review if no procedural review request is filed.</p> <p>Ethics If no ethics appeal is filed, then the board of directors affirms decision at its next regularly scheduled meeting consistent with Section 23(b), Action of the Board of Directors.</p> <p>Arbitration If no procedural review request is filed, then the award is final. Note: Board of directors only reviews an award when a procedural review request has been filed.</p> <p>Note: If an appeal or procedural review request is filed, then review the information following about ethics appeals and arbitration procedural reviews.</p>
Ethics Appeal and Arbitration Procedural Review Requests	
Time Frame	Procedure
Within 10 days after request for appeal or procedural review was transmitted to the association	President (or designee) reviews the request. If the ethics appeal or arbitration procedural review request is in improper form, then staff sends request from president (or designee) to appellant requesting that amendments be made. See Section 23 (d) for ethics appeal and Section 55 (a) for procedural review.
Within 10 days from date association transmitted request for additional information	<p>Appellant is to provide the amended ethics appeal or arbitration procedural review request to the association.</p> <p>If no clarification is provided, schedule the appeal or procedural review. All appeals and procedural reviews must be heard. No vetoes.</p> <p>If clarification is provided, schedule the ethics appeal (see Section 23 [d through k]) or procedural review (see Section 55 [b through g]).</p>
Within 1 day as originally filed or amended	Transmit appeal or procedural review to other party
Give not less than 10 days' prior notice but no later than 30 days after receipt of appeal/procedural review	<p>Staff schedules appeal or procedural review and sends out notices and challenge forms with procedures to be followed.</p> <p>Ethics Form E-14: Official Notice of Appeal Hearing (Ethics) Form E-6: Notice of Right to Challenge Tribunal Members Form E-7: Challenge to Qualifications by Parties to Ethics Proceeding</p> <p>Arbitration Form A-14: Official Notice of Procedural Review (Arbitration) Form A-7: Notice of Right to Challenge Tribunal Members Form A-8: Challenge to Qualifications by Parties to Arbitration Proceeding</p>
On scheduled date	<p>Ethics appeal hearing or arbitration procedural review is held before the board of directors (or a subset thereof).</p> <p>All tribunal members sign a Certificate of Qualification, Forms E-10 or A-11</p>

Within 5 days of appeal or procedural review hearing	Transmit directors' decision
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Stage Seven: Professional Standards Records Retention – See Question 6 in the CEAM

Time Frame	Procedure
Case file minimally 1 year. Work with counsel to develop your record retention policy.	<p>Ethics Absent a threat of litigation, retain ethics hearing records for at least one year after compliance with any discipline.</p> <p>Arbitration Absent any threat of litigation, retain arbitration hearing records for at least one year after the award has been paid.</p>
Permanently	<p>Ethics Retain all final board of directors' decisions permanently in respondent's membership file.</p> <p>Arbitration Retain awards and directors' decisions, if applicable, permanently in the non-prevailing party's membership file.</p>

Note: Staff and association counsel may attend hearings and/or executive sessions (and appeal or procedural reviews and executive sessions) as an association determines to be appropriate and necessary. However, staff and counsel are not authorized to make decisions relative to the merits of ethics complaints and arbitration requests. As determined locally, staff attends only to provide procedural guidance and counsel attends only to provide legal guidance to the tribunal.