

The Professional Standards Committee (PSC)

PHASE 1- Complaint Received by Executive Officer- The Complaint is forwarded by the Executive Officer to the Member and Member's Broker. Upon receipt of the Complaint, the Executive Officer shall:

- (a) Offer mediation between the parties. If mediation does not resolve the issue, the Complaint will be forwarded to the PSC; OR
- (b) Forward the Complaint to the PSC.

PHASE 2- Complaint Received by PSC- Within 10 Days of receipt of the complaint from the Executive Officer, the Committee shall:

- (a) Decide the Complaint is unfounded or does not merit action; the file is closed and the process ends here; OR
- (b) Determine there is a reasonable basis for the Complaint; in determining a reasonable basis for the Complaint, the Committee shall appoint an Investigator.

PHASE 3- Investigation- Within 60 days of Appointment, the Investigator shall prepare a report outlining the Complaint. Upon receipt of the Investigator's Report, the Committee shall:

- (a) Determine no further action is required; the file is closed and the process ends here; OR
- (b) Determine further time is required to determine whether a Charge shall proceed; further time is granted for investigations as such; OR
- (c) Determine the allegation is based on reasonable probable grounds; in determining such, the Committee shall prepare a Charge.

PHASE 4- The Charge- Upon delivery of the Charge to the Member, a 10 day waiting period occurs, during which three possible outcomes may arise:

- (a) The Member does not respond- the Committee shall forward the matter to the Discipline Committee for hearing
- (b) The Member replies to the Report- the Committee shall-
 - (i) Forward the matter to the Discipline Committee for Hearing; OR
 - (ii) Determine that no further action be taken in respect of the Complaint
- (c) The Member admits to the charge in the report and accepts the determination of the Committee- the Committee shall impose a prescribed penalty at its next regular meeting.

Article 9- Professional Standards

9.01	<p>Overview-</p> <p>The Professional Standards Committee (PSC) shall investigate, by its own initiative or pursuant to a complaint, any prospective breach of the Realtor Bylaws, the <i>Real Estate Trading Act</i>, <i>Real Estate Association and Foundation Act</i>, Realtor Code, or any other allegation of misconduct in the Profession.</p>
9.02	<p>Complaint Process Starting Point-</p> <p>Complaints are submitted to the Executive Officer and forwarded to the Member and Member's Broker; no response is required at this time.</p>
9.03	<p>Initial Dispute Resolution Process-</p> <p>(a) The Executive Officer may first offer mediation between the complainant and member before forwarding the complaint to the PSC; If mediation does not solve the problem or the Executive Officer does not believe mediation is an appropriate procedure, the Complaint must be forwarded the PSC.</p> <p>(b) The Executive Officer must maintain a group of Members who will act as mediators; if necessary, the Executive Officer can retain an independent mediator</p>
9.04	<p>Initial Committee Involvement-</p> <p>If the complaint is forwarded to the Committee, the Committee will decide within 10 days one of the following:</p> <ul style="list-style-type: none"> a) <i>No further action is necessary</i> (no misconduct present) b) <i>There is a reasonable basis for the Complaint.</i> Upon deciding there is a reasonable basis for the complaint, the Committee shall appoint an Investigator. The Committee must then personally serve notice containing the duties and powers of the Investigator's appointment to the Member. The Investigator may be a member of the Committee or not, depending on what is appropriate in the situation. The Investigator has the power to require any Member to produce all records and documents within the possession of the Member, save those subject to legal privilege. Failure to produce such records and documents will result in a separate investigation of misconduct. The Investigator must have the written consent of a Member before taking a statement.
9.05	<p>Investigator Appointment and Duties-</p> <p>Within 60 days of appointment, the Investigator will file a report. The report will explain all findings related to the complaint in a full and impartial manner. When the report is received, the Committee may:</p> <ul style="list-style-type: none"> a) <i>Decide no further action is necessary-</i> no reasonable and probable grounds for misconduct; b) <i>Decide more time is required-</i> only when necessary for investigations; or

c) *Decide further action is required-* when there is reasonable and probable grounds for misconduct, the Committee shall prepare a Charge using the appropriate form.

Delivery Required by the Executive Officer-

To Member- Copy of Charge, Report of the Investigator, and a description of the discipline process

To Member's Broker- Copy of the Charge

After delivery, the Member has 10 days to reply. The reply must be in writing, delivered by personal delivery, and addressed to the Chairperson of the PSC.

If no reply is received, the Charge goes to the Discipline Committee for Hearing.

If a reply disputing the Charge is received, the PSC will:

- a) *Forward the matter to the Discipline Committee for Hearing; or*
- b) *Determine that no further action be taken in respect of the Complaint.*

If in replying to the Charge the Member admits to the Charge and is prepared to accept the determination of the PSC, the PSC at its next meeting will impose a penalty- this penalty may include:

- A letter of reprimand;
- A fine;
- Prescribing of educational courses;
- Award of costs;
- Suspension of membership; and/or
- Termination of membership

Delivery Required by the Committee-

TO: Member, Complainant, and Member's Broker- Notice of the decision of the Committee

- What is important to note is that the PSC will not make the final decision regarding the discipline of the Member UNLESS the Member admits to the Charge

THE DISCIPLINARY COMMITTEE

PHASE 1- PRE-HEARING- Upon receipt of a Charge from the Professional Standards Committee, the Disciplinary Committee shall:

- Within 10 days, appoint a Hearing Panel of three disinterested and unbiased Members of the Committee, one of which shall be appointed as a Chairperson;
- Set the date of the pre-hearing no sooner than 30 days from the receipt of the charge; and
- Immediately advise the Professional Standards Committee, Member charged, and Complainant of the date and location of the hearing, in addition to providing each with a copy of the Charge, Complaint and Reply.

PHASE 2- THE HEARING- Upon the date of the hearing, the Disciplinary Committee shall:

- Hear the Professional Standards Committee present the Charge in an impartial manner and evidence supporting the Charge; and
- Hear the Member respond against the Charge, should they so choose to do so.

PHASE 3- THE DECISION- Within 30 days, the Hearing Panel shall serve a written and signed Decision containing reasons for the Decision; the Decision may include:

- (i) a dismissal of the Charge;
- (ii) a reprimand of the Member charged;
- (iii) a suspension of Membership;
- (iv) a fine of not more than \$2,000;
- (v) expulsion of the Member charged from the Association;
- (vi) an order requiring the Member charged to successfully complete any course in any area relevant to the Charge; and/or
- (vii) an award of costs of the hearing against either the Association or the Member charged.

PHASE 4- POST-DECISION- Upon Service of the Decision, there are two possible outcomes, being:

- Upon receipt of the Decision, the Member has 30 days to comply with the Decision; otherwise, the Member shall be terminated and served with Notice of Termination; OR
- Within 30 days, the Professional Standards Committee or the Member charged may appeal the Decision of the Hearing Panel to the Appeal Panel.

ARTICLE 10- DISCIPLINE

10.01	<p>Appointment of Appeal Panel-</p> <p>Within 10 days of receiving a Charge from the PSC, the Disciplinary Committee shall appoint a Hearing Panel. The Hearing Panel composition has the following requirements:</p> <ul style="list-style-type: none">- 3 members, all of whom are disinterested and unbiased members of the Disciplinary Committee- 1 of the 3 will be appointed as Chairperson of the Hearing Panel. <p>The Committee will then set a date for the hearing no sooner than 30 days from the date on which they received the Charge.</p> <p><i>Delivery Required by Disciplinary Committee-</i> TO: Professional Standards Committee, Member charged, and Complainant- Notice of date and place for hearing, copy of the charge, copy of the complaint, copy of the reply.</p>
10.02	<p>Procedure at Hearing-</p> <p>1st to speak- Professional Standards Committee (represented by the Investigator, legal counsel, or another member of the PSC)</p> <ul style="list-style-type: none">- The PSC will <u>present</u> the Charge to the Panel in an <u>impartial</u> manner. The PSC will then make arguments for the Charge with supporting evidence. <p>2nd to speak- Member Charged (represented personally or by counsel of choice)</p> <ul style="list-style-type: none">- The Member will respond to the Charge/ <ul style="list-style-type: none">• NOTE- The Hearing must be transcribed.
10.03	<p>Role of Hearing Panel at the Hearing-</p> <p>(a) The Hearing Panel has all the powers of Arbitrators under the <i>Arbitrator's Act</i>, being:</p> <ul style="list-style-type: none">(a) to administer oaths to the parties and witnesses;(b) to state an award as to the whole or part thereof in the form of a special case for the opinion of the court; and(c) to correct in an award any clerical mistake or error arising from an accidental slip or omission. <p>R.S.P.E.I. 1974, Cap. A-14, s.9.</p> <p>(b) The Hearing Panel will first hear the PSC present the Charge in an informal manner and then present evidence and argument for the Charge. The argument can include witnesses. Any oral argument should be grounded in the investigator's report.</p>

	<p>(c) The Hearing Panel will then hear the Member’s reply and supporting evidence (if they attend). This reply can include evidence by witnesses.</p> <ul style="list-style-type: none"> • Witnesses can be sworn in per the Hearing Panel’s powers under the <i>Arbitrator’s Act</i>.
	<p>(d) Within 30 days (longer if approved by the Board), the Hearing Panel shall provide a written decision. Because a written decision is required to be served immediately upon making the decision, the Hearing Panel should refrain from making an immediate decision at the Hearing. The decision may include any of the following:</p> <ul style="list-style-type: none"> (i) Dismissal of the charge; (ii) A reprimand of the Member charged; (iii) A suspension of the membership charged; (iv) A fine of not more than \$2,000; (v) Expulsion of the Member charged from the Association; (vi) An order requiring the Member charged to successfully complete any course in any area relevant to the charge; and/or (vii) An award of costs of the hearing against either the Association or the Member charged; <p><i>Delivery Required by Hearing Panel-</i> TO: Professional Standards Committee, Complainant, Member charged, and Member’s Broker, <u>immediately upon making decision</u>- a written decision including reasons. The decision is to be signed by the Members of the Panel. A signed copy of any minority decision must also be included.</p>
<p>10.04</p>	<p>Enforcement of Decision-</p> <p>If the Member does not abide by the decision within 30 days of the date of notice of the decision, the Member shall be terminated and served with a Notice of Termination.</p>
<p>10.05</p>	<p>Appeal of Decision-</p> <p>The Professional Standards Committee and Member have 30 days to appeal the decision; when the decision is appealed, any punishment from the decision, including termination, is stayed until the Appeal decision has been made.</p>

APPEAL PROCESS

Upon the Filing of the Notice of Appeal-

- The Executive Officer will appoint the Appeal Committee, being three Members of the Association without interest or bias and who have been members for at least five (5) years;
- The Decision from which the Appeal is brought shall be suspended pending the hearing;
- The Notice of Appeal shall be provided to the Respondent;
- A Response received within 30 days; and
- The Executive Officer shall set a date for the hearing of the Appeal.

Upon the Filing of the Response to Appeal, the Executive Officer shall-

- Immediately provide a copy of the Response to the Appellant; and
- Prepare, serve and file the Appeal Record within 10 days.

The Hearing- At the Hearing, the Appeal Panel shall-

- Receive written and oral arguments of the Appellant against the Disciplinary Committee's decision;
- Receive written and oral arguments of the Respondent in favour of the Disciplinary Committee's decision and against the Appellant's arguments;
- Not receive any evidence other than that grounded in the Appeal Record;
- Transcribe proceedings; and
- Reserve its ruling for preparation in writing.

Post-Hearing- After the hearing, the Appeal Panel shall-

- Provide a written decision for both the majority and minority that includes reasons and may include:
 - (i) dismissal of the appeal;
 - (ii) amendment of the decision appealed;
 - (iii) confirmation of the decision appealed; and
 - (iv) an award of costs of the hearing, including the costs of transcription, against either the Appellant or Respondent.
- Serve the decision on the Appellant and Respondent with a copy of the decision of the Hearing Panel.
- Enforce the decision- the decision of the Appeal Panel is final; any Member failing to abide by a decision of an Appeal Panel after thirty days of the date of service of the award on that Member shall be terminated and shall be served with a Notice of Termination.

Article 11- Appeal Panel

11.01	<p>Notice of Appeal-</p> <p>A Notice of Appeal must be filed within 30 days of receiving Notice of a Decision and can only be filed by:</p> <ul style="list-style-type: none">a) A party in an arbitration (not relevant to disciplinary hearing)b) The Investigator under direction of the PSC;c) A party charged by the PSC and receiving discipline from the Discipline Committee;d) An Applicant refused Membership (not relevant to disciplinary hearing) <ul style="list-style-type: none">• Note- the Complainant in a disciplinary hearing cannot appeal. <p>The Appeal must be filed with the Executive Officer and the required fee paid. The appealing party is known as the Appellant and the opposing party the Respondent. Each party is welcome to its counsel of choice.</p>
11.02	<p>Exception regarding Notice of Dispute under Article 4.03, being arrears of membership fees. This section has its own process and should be reviewed before proceeding in such an Appeal.</p>
11.03	<p>Executive Officer Duties-</p> <p>Upon the Notice of Appeal being filed, the Executive Officer is required to do the following:</p> <ul style="list-style-type: none">1- Appoint an Appeal Panel. Requirements of the Panel are- three members of the Association, all without interest or bias and who have been members for at least five years.2- Suspend the decision of the Discipline Committee.3- Provide the Notice of Appeal to the Respondent, in addition to a Notice that a response must be filed with the Executive Officer within 30 days.4- The Executive Officer shall set a date for the Appeal (no timeline given- an ideal date does not provide undue delay, but also provides the Appeal Panel and parties enough time to prepare accordingly).
11.04	<p>Appeal Record-</p> <p>Upon the Response to the Appeal being filed, the following is required:</p> <ul style="list-style-type: none">1- The Executive Officer shall immediately provide a copy of the Response to the Appeal to the Appellant2- The Executive Officer shall create the Appeal Record. The Appeal Record must be served on the Appellant and Respondent and filed with the Appeal Panel. The Appeal Record contains:<ul style="list-style-type: none">(i) The Notice of Appeal(ii) The Response of the Appeal(iii) The Decision from which the Appeal is brought(iv) The transcript of the Disciplinary Hearing

	<ul style="list-style-type: none"> (v) The Charge and Investigator's report (vi) Any other Notices that have been previously served (vii) Any reasons provided by the Disciplinary Committee for their decision (which may be contained in the Decision itself)
11.05	<p>At the Appeal-</p> <p>The only evidence that may be received at the Appeal must be grounded in the Appeal Record, unless the Appeal Panel makes a specific decision to have the evidence heard; Proceedings are to be transcribed at the Appeal, as with the original Disciplinary Hearing.</p> <p>The Appeal Panel will hear oral submissions from the Appellant first and the Respondent second.</p> <p>The Appeal Panel will not make a decision at the Appeal itself, but rather release its decision afterwards in writing.</p>
11.06	<p>Appeal Decision-</p> <p>Within 30 days, the Appeal Panel shall submit a written decision. The decision may do any of the following:</p> <ul style="list-style-type: none"> (i) Dismiss the Appeal; (ii) Amend the decision appealed; (iii) Confirm the decision appealed; (iv) Award costs of the hearing, including costs of transcription, against either the Appellant or Respondent. <p><i>Delivery Required by Appeal Panel-</i> Serve upon the Appellant and Respondent- A written majority decision including reasons signed by the Members of the panel. Additionally, any minority decision attached and signed in writing.</p>
11.07	<p>Appeal Decision Enforcement-</p> <p>The decision of the Appeal Panel is FINAL. Any Member failing to follow the decision of the Appeal Panel within 30 days of service of the decision shall be terminated and served with a Notice of Termination.</p>