

MINNESOTA ASSOCIATION OF REALTORS®
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Outline of Procedure for Ethics Appeal

Remote Testimony: Although testimony provided in person before a Hearing Panel is preferred, parties to ethics hearings may be permitted to participate in hearings by teleconference or video conference at the discretion of the Hearing Panel Chair. (*Adopted 11/15*)

Postponement of hearing: Postponement may be granted if there are extenuating circumstances. Parties' requests for continuances shall only be granted when all parties mutually agree to a subsequent specified 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 Board or the parties.

Method and objective of procedure: The Appeal Tribunal is not dealing with questions of law and shall not be bound by the rules of evidence applicable in a court of law. All parties and their representatives to these proceedings will be allowed a full opportunity to be heard on the matters relevant to this issue. 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. The Appeal Tribunal may rule at any time during the 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 will proceed as follows:

1. Opening statement by Appeal Tribunal Chair – Chair cites authority to hear case and explains reason for hearing.
2. The basis of the appeal will be read into the record.
3. The testimony of all parties will be affirmed.
4. The Chair or representative of the original Ethics Hearing Panel will summarize the case, unless the sole basis for appeal is a deprivation of due process (in which case the Chair will address that basis of appeal only).
5. 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.
6. 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.
7. The Chair or representative of the original Hearing Panel will then be given an opportunity to explain why the original Ethics Hearing Panel's decision should be upheld.
8. The Appeal Tribunal members may ask questions of either party and the Chair or representative of the original Hearing Panel at any time during the proceeding.
9. 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).
10. Each party and the Chair or representative of the original Hearing Panel will have an opportunity to make closing statements.
11. The Chair will then make closing statements and adjourn the appeal hearing.
12. The Appeal Tribunal will go into executive session to render a decision.

Findings in 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 this Manual.

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 counsel: A party may be represented in any ethics hearing 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 panel except on grounds of self-incrimination, or on other grounds deemed by the panel to be appropriate. In this connection, the panel need not accept the statements of counsel as being the statements of counsel's client if the panel 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 panel members or any party to the proceedings, or any action by counsel which is viewed by the panel 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 the result of a majority vote of the members of the panel and shall be nonappealable. In the event counsel is excluded, the hearing shall be postponed to a date 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 panel 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.