

## **SECTION VI: REGIONAL PROFESSIONAL STANDARDS**

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# REGIONAL PROFESSIONAL STANDARDS TRAINERS

## TRAINED INSTRUCTORS IN PROFESSIONAL STANDARDS:

- LuVerne Boes, Black Hills Association of REALTORS®
- Bruce Curington, Black Hills Association of REALTORS®
- Joan Cota, REALTOR® Association of the Sioux Empire, Inc.
- Julie Job, REALTOR® Association of the Sioux Empire, Inc.
- Al Johnson, REALTOR® Association of the Sioux Empire, Inc.

## TRAINED MEDIATORS FOR PROFESSIONAL STANDARDS:

- Patricia Kisely, Huron Board of REALTORS®
- Al Johnson, REALTOR® Association of the Sioux Empire, Inc.
- Mary Maxwell, REALTOR® Association of the Sioux Empire, Inc.

## TRAINED ADMINISTRATORS IN PROFESSIONAL STANDARDS

- Amy Bochman, AE, Black Hills Association of REALTORS®
- Michelle Ahrens, Executive Assistant, REALTOR® Association of the Sioux Empire
- Michelle Kleven, EVP, South Dakota Association of REALTORS®

# REGIONAL PROFESSIONAL STANDARDS COOPERATIVE ENFORCEMENT AGREEMENT

## Form #E-19

Agreement Between South Dakota Association of REALTORS® and \_\_\_\_\_ Board of REALTORS®  
to Establish Regional Professional Standards Enforcement Procedures

### I. Authority

The authority for the establishment and utilization of regional professional standards enforcement procedures shall be established by this Agreement approved by the Boards of Directors of South Dakota Association of REALTORS® and \_\_\_\_\_ Board of REALTORS® and confirmed by approval of the general membership at a duly called meeting with notice as required by the Boards' Bylaws.

### II. Geographic Area

The geographic area served by this Agreement shall be the area of the combined territorial jurisdiction assigned by the National Association of REALTORS® to the Boards which are signatories to this Agreement.

### III. Purpose

The purpose of this Agreement is to create regional professional standards enforcement procedures providing for the appointment of Mediation Officers and the establishment of a joint Grievance Committee, Professional Standards Committee, and an Appeal Panel comprising members from each signatory Board for enforcement of the Code of Ethics, including mediation of disputes and the conduct of arbitration hearings, involving members of the signatory Boards to ensure impartial and unbiased Hearing Panels for the conduct of hearings on a basis designed to provide this service and meet the responsibilities of the Local Boards on an efficient and effective basis to better serve their members.

### IV Composition of Tribunals

- A) This Agreement authorizes the establishment of a regional Grievance Committee. The Grievance Committee shall be composed of at least one (1) member in good standing of each signatory Local Board. Members of the Grievance Committee from each signatory Local Board shall be appointed by the Presidents of the respective Boards, subject to confirmation by the respective Boards of Directors, provided that the Presidents shall have the power to appoint, on a timely basis, and without necessity of confirmation by the Boards of Directors, a substitute member to the Committee for any member from their respective Boards who may be unable to serve for any reason. The Grievance Committee shall select its own Chairperson.

**NOTE:** There must be at least eleven (11) individuals serving on the regional Grievance Committee.

- B) This Agreement also authorizes the establishment of a regional Professional Standards Committee. The Professional Standards Committee shall be composed of at least two (2) members in good standing from each signatory Local Board. The members of the Professional Standards Committee shall be appointed by the Presidents of the respective Boards, subject to confirmation by the respective Boards of Directors, provided that the Presidents shall have the power to appoint, on a timely basis, and without necessity of confirmation by the Boards of Directors, a substitute member to the Committee for any member from their respective Boards who may be disqualified for any valid reason from hearing a particular matter. The Professional Standards Committee shall select its own Chairperson.

**NOTE:** There shall be at least twenty-two (22) members of the Professional Standards Committee.

- C) Members of the Grievance Committee and the Professional Standards Committee shall be appointed initially in terms of one (1), two (2), and three (3) years (one-third for each term). New appointments shall be made for three- (3) year terms as each term expires. Members of the committees shall be eligible for reappointment.
- D) This agreement also authorizes the appointment of a panel of Mediation Officers. Although utilization of the service of mediation shall be voluntary, and although the process is not defined as a tribunal, all parties to any requested arbitration shall be provided the opportunity to mediate a dispute arising out of a real estate transaction and their relationships as REALTORS® prior to the arbitration of the dispute.

## V. Operation

- A) Professional standards hearings and the organization and procedures incident thereto shall be governed by the Code of Ethics and 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, and which is hereby agreed shall be considered as adopted and incorporated into the Bylaws of each Board signatory to this Agreement.
- B) Appeals of the Grievance Committee's dismissal of an ethics complaint or arbitration request (or challenges to the classification of arbitration requests) shall be heard by those members of the Committee who did not serve on the original tribunal. If panels of the Grievance Committee are not used, any appeal of the Grievance Committee's dismissal (or challenge to an arbitration request classification) shall be heard by a tribunal of five (5) members selected from the Board of Directors of the signatory Boards to be appointed by the Boards' Presidents. (Adopted 11/96) Appeal to an ethics determination rendered by the regional Professional Standards Committee shall be heard by those members of the Committee who did not constitute the original Hearing Panel. (For this reason, there should be an adequate number of members appointed to the Committee to provide an Appeal Panel of at least five (5) members.)
- C) Appeal is not provided from the decision of an arbitration panel established under this Agreement, except with respect to a claim by a party alleging deprivation of due process. Such a claim shall be heard by an Appeal Panel as described in the second paragraph of (B) above.
- D) In matters of alleged unethical conduct, any determination rendered by a Hearing Panel of the regional Professional Standards Committee that has not been appealed, or as finally determined if

appealed, will be provided to the Respondent's Board of original jurisdiction for ratification or implementation, as appropriate.

- E) In matters involving arbitration, any determination rendered by a Hearing Panel of the regional Professional Standards Committee will be provided to each respective party's Board of original jurisdiction for informational purposes. In the event a party to an arbitration refuses to pay an award in arbitration, the Board in which the award recipient holds membership shall advise the award recipient to seek judicial enforcement as set forth in Section 56, **Part Ten**, and in Appendix III, **Part Ten** of the *Code of Ethics and Arbitration Manual*.
- F) 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 (5) members selected from the Regional Professional Standards Committee to be appointed by the Committee's Chairperson and chosen from the individuals who were not selected to serve on the original Arbitration Hearing Panel. The procedures for notices, time of 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 Regional Professional Standards Tribunal may direct implementation of appropriate sanction, including suspension or expulsion of the member from the local Board of REALTORS® and/or its MLS. The decision of the Regional Professional Standards Tribunal shall be final and binding and is not subject to further review by the State Association or any signatory Board. (Adopted 11/95)

**VI. Reservation of Rights**

- A) It is understood and agreed by the Boards signatory to this cooperative Agreement that each Board 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 cooperative Agreement.
- B) It is further understood and agreed that any Board signatory to this Agreement may withdraw from the Agreement at any time provided the withdrawing Board shall provide notice to the other signatory Boards ninety (90) days in advance of the date of withdrawal.

IN WITNESS THEREOF, the parties have hereto set their hands and seals on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_. The effective date of this Agreement shall be \_\_\_\_\_, 20\_\_\_\_\_.

Attested by

**South Dakota Association of REALTORS®**

\_\_\_\_\_  
(Type/Print President's Name)

\_\_\_\_\_  
(President's Signature)

\_\_\_\_\_  
(Type/Print Secretary's Name)

\_\_\_\_\_  
(Executive Officer's or Secretary's Signature)

Date: \_\_\_\_\_, 20\_\_\_\_\_

**(Insert Name ) Board/Association of REALTORS®**

\_\_\_\_\_  
(Type/Print President's Name)

\_\_\_\_\_  
(President's Signature)

\_\_\_\_\_  
(Type/Print Executive Officer or Secretary's Name)

\_\_\_\_\_  
(Executive Officer's or Secretary's Signature)

Date: \_\_\_\_\_, 20\_\_\_\_\_

# MEMBERS OF THE REGIONAL PROFESSIONAL STANDARDS COMMITTEE

2011-2013 Professional Standards and Grievance Committee Members

The following people have agreed to serve on the Regional Professional Standards and Grievance Committees:

## **Regional Professional Standards Committee:**

<u>NAME</u>	<u>BOARD NAME</u>	<u>TERM EXPIRES</u>
1. Nancy Jark	Aberdeen	November, 2013
2. Peggy Thorpe	Aberdeen	November, 2012
3. Bruce Curington	Black Hills	November, 2012
4. LuVerne Boes	Black Hills	November, 2013
5. Pat Harding	Central	November, 2013
6. Pamela Cronin	Central	November, 2011
7. Jennifer Hyde	East Central	November, 2013
8. Anita Thomas	East Central	November, 2011
9. Dick Shelton	Huron	November, 2013
10. Sue Gubbrud	Huron	November, 2012
11. Nikki Peters	Lewis & Clark	November, 2011
12. Tom Goddard	Lewis & Clark	November, 2013
13. Ellie Everson	Mitchell	November, 2013
14. Lisa DiRose	Northeast	November, 2012
15. Rick Evans	Northeast	November, 2011
16. Ben Mahoney	Northern Black Hills	November, 2012
17. David McDowall	Northern Black Hills	November, 2013
18. Joan Cota	REALTOR® Assn Sioux Empire	November, 2011
19. Julie Job	REALTOR® Assn Sioux Empire	November, 2012
20. Shawn Lewis	Southern Black Hills	November, 2011

## **Regional Grievance Committee:**

<u>NAME</u>	<u>BOARD NAME</u>	<u>TERM EXPIRES</u>
1. Dar Burgard	Aberdeen	November, 2012
2. Gene Hensley	Black Hills	November, 2011
3. Don Davisson	Central	November, 2012
4. Dawna Kuck	East Central	November, 2012
5. Phelan Stahl	Huron	November, 2013
6. Deb Specht	Lewis & Clark	November, 2012
7. Elaine Robinson	Mitchell	November, 2011
8. Joe Bjerke	Northeast	November, 2013
9. Sue Cramer	Northern Black Hills	November, 2011
10. Jim Dunham	REALTOR® Assn Sioux Empire	November, 2013
11. Jim Bultsma	Southern Black Hills	November, 2013

# PROCESSING AN ETHICS COMPLAINT

Revised 10/2/2003

## PHONE CALLS:

- The Local Board/Association will receive calls from the public and from members regarding alleged violations of the REALTORS® Code of Ethics.

## COMPLAINT FORMS:

- The Local Executive Officer may send out a uniform REALTOR® complaint form (#E-1), and a copy of the Code of Ethics. The complaint form must be returned to the local Board/Association. (Local Board, at their option, may refer complainant to SDAR for all processing of the complaint)

## NOTIFICATION OF RESPONDENT:

- The Local Executive Officer may at the request of the Grievance Committee notify the respondent of the ethics complaint and include a uniform REALTOR® Ethics Reply form (#E-3). The respondent will have fifteen days in which to file his response, which will be sent to the Local Board/Association. The Local Association will then forward both the complaint and reply to the State Association.

## COMMITTEE SELECTION PROCESS:

- The Local Association will solicit volunteers each year, based on SDAR established criteria, to serve on both the Grievance and Professional Standards Committee of the South Dakota Association of REALTORS®. The names of these volunteers will be forwarded to SDAR each August 1. The State Association will also solicit volunteers to serve on these committees and all qualified volunteers will be assigned to the committee, *subject to attending any SDAR required annual training seminar. All members who serve on the SDAR Grievance and Professional Standards committee must complete a minimum of six (6) hours of training and education every two (2) years. This training may be taken at the Professional Standards seminars offered by SDAR each fall or by attending the SDAR GRI 203 course, Professional Conduct. Other courses taken by a committee member may be considered on request. Local Board indoctrination courses are excluded. (6/03)*

## ASSISTANCE:

- In accordance with the *Code of Ethics and Arbitration Manual*, if a complaint is vague or does not allege violations of specific articles, the Local Board Executive Officer may assist the complainant in preparing the complaint in proper form. A REALTOR® providing such assistance shall not participate in any considerations or deliberations of the Grievance Committee with respect to the matter.

## GRIEVANCE COMMITTEE:

- The State Association's Grievance Committee will review the complaint by a conference call to determine if it warrants further investigation before a Hearing Panel or whether or not the complaint should be dismissed.

## DISMISSAL OF COMPLAINT:

- The State Association will notify the complainant and respondent if the complaint has been dismissed. Notice will be sent to the Local Executive Officer in the event a complaint is dismissed.

## APPEAL OF THE DISMISSAL:

- If the complainant disagrees with the dismissal of the complaint, they may appeal the Grievance Committee's decision to the State Association. A special Appeal Panel will be formed to hear such appeals.

## COMPLAINT PASSED ON:

- If the Grievance Committee determines that a hearing is warranted, the State Association will make all necessary arrangements for the hearing, including setting the date, selecting the panel and sending all proper notification to the parties.

#### CONDUCTING THE HEARING:

- The State Association will be responsible for conducting the hearing and providing all administrative support. When possible, hearings will be held in a close geographic area to where the parties are from. Whenever possible, the State Association will use a Local Association conference room for the hearings.

#### ADMINISTRATIVE PROCESSING FEE:

- The Board of Directors of the South Dakota Association of REALTORS® has implemented and will assess a \$500 administrative processing fee should a respondent be found in violation of the Code of Ethics or other membership duty. This policy will be uniformly and consistently applied to all Ethics proceedings of the Statewide Regional Professional Standards Committee. (9/99)

#### APPEAL OF HEARING:

- If an appeal is filed by either party, it will be handled by the State Association's Appeal Panel. The appeal cost is \$250 (9/99). If the Appellant is successful in the appeal the appeal cost will be refunded.

#### RATIFICATION:

- The decision and recommendation of the sanction, if any, shall be a recommendation to the Executive Committee of the South Dakota Association of REALTORS®, acting on behalf of the Board of Directors of the South Dakota Association of REALTORS® and shall be implemented only upon review and approval by the Tribunal. However, it is subject to certain rights of both the Complainant and the Respondent. A copy of the decision will be furnished to the Local Executive Officer to be placed in the REALTOR® membership file.

#### FILES:

- The State Association will be responsible for maintaining the file on each complaint.

#### FINES:

- The State Association and Local Boards according to allocation of expenses will share all fines imposed and collected through an ethics proceeding.

#### ENFORCEMENT:

- The State Association will be responsible for enforcing any and all disciplinary action handed down by the Hearing Panel. This responsibility of enforcement, including the right to fine, suspend or expel membership, is authorized in the agreement duly executed between the local Board/Association and the South Dakota Association of REALTORS® as well as the Bylaws of the local Board/Association. The Local Board's attorney, if used, will be paid by the Local Board.

#### TRAINING:

- The State Association will be responsible for conducting any and all training of Grievance Committee and Professional Standards Committee members. Committee members must attend any required training seminar to be eligible to serve on a hearing panel, an appeal panel or on the Grievance Committee. A minimum of three hours of training will be offered annually.

#### TIME SCHEDULE - ETHICS PROCEEDINGS

- **FILING DEADLINES** - Complaint must be filed within 180 days of knowledge of facts leading to complaint.
  - Local Board Executive Officer may send at the request of the Grievance Committee completed written complaint form #E-1 to respondent requesting the filing of a written response on form #E-3 (Local Board, at their option, may refer complainant to SDAR for all processing of the complaint).
  - Respondent must file written response to the appropriate Administrator within 15 days.
  - Upon receipt, the written complaint and response are forwarded to SDAR office by the Local Board.
  - SDAR sends copies of written complaint and response to the SDAR Grievance Committee, and schedules telephone conference.

- **GRIEVANCE APPEAL** - Complainant may appeal Grievance Committee's decision within 20 days of receipt of the notice of dismissal of complaint.
- **HEARING** - If complaint is scheduled for hearing by the Grievance Committee, SDAR sends Hearing Notice (form #E-8), Outline of Procedures (form #E-9), Notice of Right to Challenge Tribunal Members (form #E-6), Challenge to Qualifications by Parties (form #E-7), and copies of written complaint and response to both parties with a minimum of 21 days notice prior to hearing.
- **CHALLENGE** - Parties must inform SDAR of Challenge to any Committee Member(s) within 10 days of mailing of Committee list.
- **WITNESSES (Members)** - Members must be given at least 15 days notice in writing if summoned to appear at hearing or give evidence.
- **NOTICE FOR WITNESSES AT HEARING** - Parties to the hearing must inform SDAR and the other party who their witnesses will be at least 15 days prior to the hearing.
- **COUNSEL** - Party must notify other party and panel of intention to have counsel present minimum of 15 days prior to hearing. (may need to "continue" hearing in order to comply).
- **AMENDMENT OF COMPLAINT** - if complaint is amended at the hearing, the hearing may proceed with Respondent's waiver or can be postponed not less than 15 days nor more than 30.
- **DECISION** - After Panel files decision, must be filed with SDAR within 10 days of their decision.
  - Copies to parties - SDAR to transmit copy of decision to parties within 5 business days of receiving written decision.
- **RE-HEARING** - parties may petition Panel for re-hearing within 20 days after decision is mailed.
  - Petition for re-hearing not granted, within 2 weeks, automatically denied.
  - Parties may file for appeal within 10 days of re-hearing denial.
- **DECISION APPEAL** - Parties may appeal from decision of panel. Filed with President within 20 days of decision.
- **APPEAL HEARING NOTICE** - if an appeal is filed, at least 10 days prior to notice of the time and place of hearing by the Directors is required.
- **IF NO APPEAL** - If petition for re-hearing or appeal not received, SDAR Executive Committee on behalf of the Board of Directors must adopt decision of panel and discipline is imposed if a violation is found (form#E-21).

## **PROCESSING A REQUEST FOR ARBITRATION**

Revised 10/2/2003

### PHONE CALLS:

- The Local Board/Association will receive calls from the public and from members regarding a dispute as defined in Article 17 of the Code of Ethics.

### COMPLAINT FORMS:

- The Local Executive Officer may send out a uniform REALTOR® Request to Arbitrate Form (#A1) to any complainant. The request must be filed with the Local Board/Association. (Local Board, at their option, may refer complainant to SDAR for all processing of the request to arbitrate)



#### NOTIFICATION OF RESPONDENT:

The Local Board/Association may at the request of the Grievance Committee notify the respondent (Form #A3) of the arbitration request and include a uniform REALTOR® Response and Agreement to Arbitrate Form (#A4). The respondent will have fifteen days in which to file their response, which will be sent to the Local Association. The Local Association will then forward both the arbitration request and response, as well as the arbitration deposits, to the State Association.

#### MEDIATION:

The Local Board/Association may offer mediation services to the parties involved in an arbitration in an effort to resolve the dispute prior to a filing before the State Professional Standards Committee.

#### COMMITTEE SELECTION PROCESS:

The Local Board/Association will solicit volunteers each year, based on SDAR established criteria, to serve on both the Grievance and Professional Standards Committee of the South Dakota Association of REALTORS®. The names of these volunteers will be forwarded to SDAR each September 1<sup>st</sup>. The State Association will also solicit volunteers to serve on these committees and all qualified volunteers will be assigned to the committee, subject to attending any required training seminar.

#### GRIEVANCE COMMITTEE:

The State Association's Grievance Committee will review the request to determine if the matter is properly subject to arbitration or whether the request is unworthy of further consideration.

#### DISMISSAL OF COMPLAINT:

The State Association will notify the complainant and respondent if the complaint has been dismissed.

#### APPEAL OF THE DISMISSAL:

If the complainant disagrees with the dismissal of the arbitration, or either party disagrees with the classification of the issue, they may appeal the decision to the State Association. A special Appeal Panel will be formed to hear such appeals.

#### REQUEST PASSED ON:

If it is determined that a hearing is warranted, the State Association will make all necessary arrangements for the hearing, including setting the date, selecting the panel and sending all proper notification to the parties.

#### CONDUCTING THE HEARING:

The State Association will be responsible for conducting the hearing and providing all administrative support. When possible, hearings will be held in a close proximity to the parties. Whenever possible, the State Association will use a Local Association conference room for the hearings.

#### REQUEST FOR PROCEDURAL REVIEW:

A written request for procedural review of the arbitration hearing procedures must be filed with the President within twenty (20) days after the award has been served on the parties and be accompanied by a deposit in the sum of \$250.

#### FILES:

The State Association will be responsible for maintaining a file on each complaint.

#### FEES:

The State Association will require each party to pay an arbitration filing deposit of \$500 (2/99). This deposit will be used to offset the administrative costs involved in conducting the hearing. The arbitration deposit will be reviewed each year.

## TRAINING:

The State Association will be responsible for conducting any and all training of Grievance Committee and SDAR Professional Standards Committee members. Committee members must attend any required training seminar to be eligible to serve on a hearing panel, an appeal panel or on the Grievance Committee. In arbitratable matters the SDAR Hearing Panel will use the latest NAR guidelines.

## TIME SCHEDULE - ARBITRATION PROCEEDINGS

- **FILING DEADLINES** - Request must be filed with SDAR within 180 days of knowledge of facts leading to complaint or closing of transaction.
  - Local Board Executive Officer may send at the request of the Grievance Committee completed written Request to Arbitrate form #A-1 to respondent requesting the filing of a written response on form #A-3 and Agreement to Arbitrate form #A-4. (Local Board, at their option, may refer complainant to SDAR for all processing of the request to Arbitrate)
  - Respondent must file written response to Local Board Office within 15 days by the Local Board.
  - Upon receipt, the written complaint and response are forwarded to SDAR office.
  - SDAR sends copies of written complaint and response to the SDAR Grievance Committee, and schedules telephone conference.
- **GRIEVANCE APPEAL** - Complainant may appeal Grievance Committee's decision within 20 days of receipt of the notice of dismissal of request to arbitrate.
- **HEARING** - If request is scheduled for hearing by the Grievance Committee, SDAR sends Hearing Notice (form #A-9), Outline of Procedures (form #A-10), Notice of Right to Challenge Tribunal Members (form #A-7), Challenge to Qualifications by Parties (form #A-8), and copies of written request and response to both parties with a minimum of 21 days notice prior to hearing.
- **CHALLENGE** - Parties must inform SDAR of Challenge to any Committee Member(s) within 10 days of mailing of Committee list.
- **WITNESSES (Members)** - Members must be given at least 15 days notice in writing if summoned to appear at hearing or give evidence.
- **NOTICE FOR WITNESSES AT HEARING** - Parties to the hearing must inform SDAR and the other party who their witnesses will be at least 15 days prior to the hearing.
- **COUNSEL** - Party must notify other party and panel of intention to have counsel present minimum of 15 days prior to hearing. (may need to "continue" hearing in order to comply).
- **AWARD** - Award shall be made as soon as possible after the evidence is presented.
- **PROCEDURAL REVIEW** - Arbitration Award not appealable except for alleged deprivation of the process - must be filed within 20 days of decisions mailing.
- **PROCEDURAL REVIEW REQUEST** - If a request for Procedural Review is deemed insufficient, the party has 10 days in which to respond to a request for additional detail.
- **PROCEDURAL REVIEW HEARING** - if a hearing is to be held, at least 10 days prior notice of the time and place of the procedural review by the SDAR Executive Committee on behalf of the Board of Directors is required.