**APPENDIX 1**

**Time Frames and Best Practices for Processing**

**Ethics Complaints and Arbitration Requests**

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| **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**

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| **Stage One: Pre-Grievance Committee** | |
| **Time Frame** | **Steps** |
| Within 24 hours from potential complainant’s inquiry  Within 24 hours from potential complainant’s inquiry | Refer potential complainant to ombudsman.  Staff forwards arbitration request forms and/or ethics complaint forms to potential complainant.  **Ethics**  Appendix X to Part Four: Before You File an Ethics Complaint  Form E-1: Ethics Complaint.  **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]  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. |
| Within 45 days from receipt of ethics complaint or arbitration request | Staff brings the matter to the grievance committee. If arbitration request filed, offer mediation, at the latest, upon receipt of arbitration request. |

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| **Stage Two: Grievance Committee Meets** |

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| **Stage Three: Post-Grievance Committee** | |
| **Time Frame** | **Steps** |
| Within 5 days from receipt of grievance committee’s decision  and receipt of response  Respondent has 15 days from request for response being transmitted to respond  10 days after challenge forms are transmitted to challenge  Panel named within 5 days after challenge forms are due | 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.  **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)  **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) |
| **Ethics Complaint Dismissals** | |
| **Time Frame** | **Procedures** |
| Within 20 days of transmittal of dismissal notice  No later than 30 days after receipt of appeal  Within 5 days from date of decision | 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  Directors hear appeal  Staff transmits decision |

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| **Stage Three: Post-Grievance Committee-**[continued] | |
| **Arbitration Request Dismissals and Classifications** | |
| **Time Frame** | **Procedures** |
| Within 20 days from when dismissal was transmitted  Within 20 days from transmittal of grievance committee’s decision  No later than 30 days after receipt of appeal  Within 5 days from date of decision | 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  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.  Directors hear appeal  Staff transmits decision |

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| **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. |

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| **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. |

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| **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  Within 10 days after award transmitted | | | 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  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 | | | Board of directors affirms ethics decision. Arbitration award is final without board of directors’ review if no procedural review request is filed.  **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.  **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.  **Note:** If an appeal or procedural review request is filed, then review the information following about ethics appeals and arbitration procedural reviews. | |
| **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 | | Appellant is to provide the amended ethics appeal or arbitration procedural review request to the association.  If no clarification is provided, schedule the appeal or procedural review. All appeals and procedural reviews must be heard. No vetoes.  If clarification is provided, schedule the ethics appeal (see Section 23 [d through k] or procedural review (see Section 55 [b through g]). | | |
| 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 | | Staff schedules appeal or procedural review and sends out notices and challenge forms with procedures to be followed.  **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  **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 | | |
| On scheduled date | | Ethics appeal hearing or arbitration procedural review is held before the board of directors (or a subset thereof).  All tribunal members sign a Certificate of Qualification, Forms E-10 or A-11 | | |
| Within 5 days of appeal or procedural review hearing | | Transmit directors’ decision | | |
| **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. | **Ethics**  Absent a threat of litigation, retain ethics hearing records for at least one year after compliance with any discipline.  **Arbitration**  Absent any threat of litigation, retain arbitration hearing records for at least one year after the award has been paid. | | |
| Permanently | **Ethics**  Retain all final board of directors’ decisions permanently in respondent’s membership file.  **Arbitration**  Retain awards and directors’ decisions, if applicable, permanently in the non-prevailing party’s membership file. | | |

**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.