

# NEW/ AE ORIENTATION



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 NATIONAL  
ASSOCIATION OF  
REALTORS®

# The Code of Ethics and Professional Standards Enforcement

- *Who is involved in the enforcement of the Code of Ethics and what does that process look like?*
- *What is due process and why is it important?*
- *What are the benefits of using an ombudsman and mediator?*

# First, Association Staff's Role

- *All communication and clerical flow through association staff.*
- *Staff explains process, provides all forms, and files all documents from initial phone call to final notification after hearing. Ensures that established procedures are followed.*
- *Receives and disburses all filing fees and deposits.*
- *Does **not** make determinations regarding merits but assists in ensuring due process afforded.*

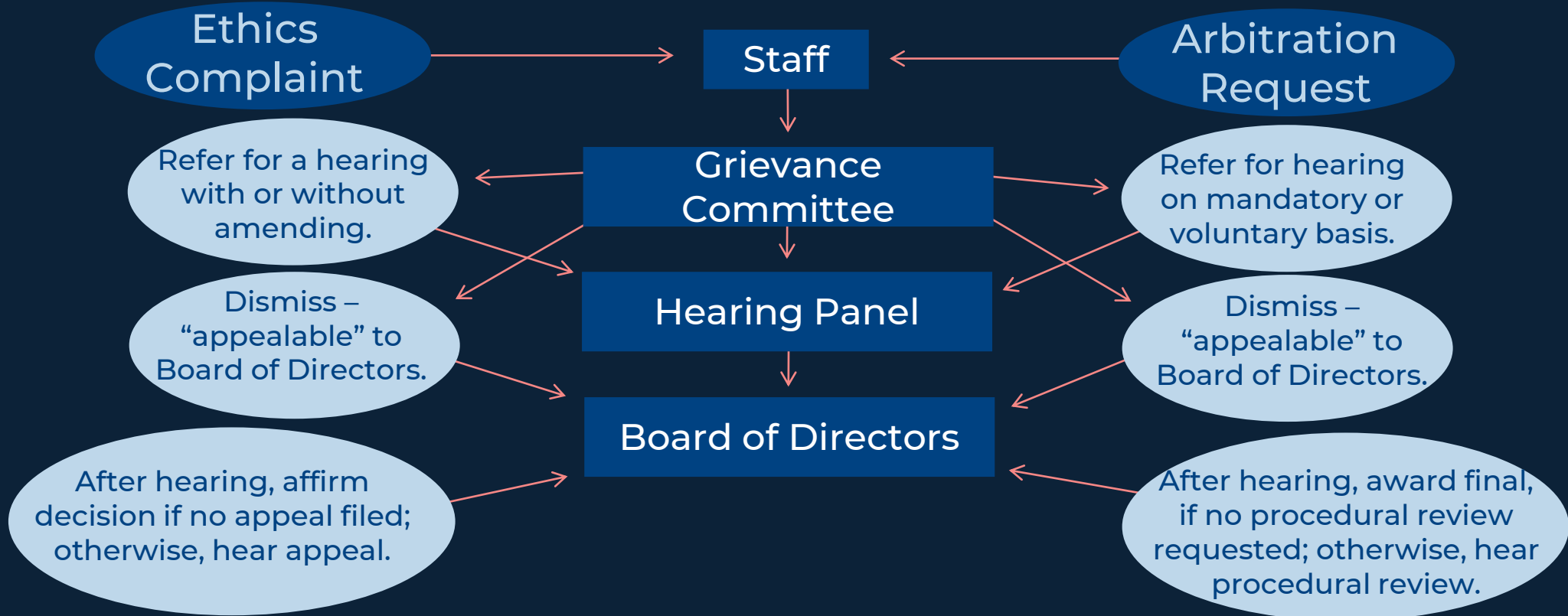
# Association Counsel's Role

- *Provides procedural and legal guidance, as requested by staff and/or panel members*
- *Does **not** question parties or witnesses or swear them in*
- *Does **not** offer opinions or recommendations relating to the merits of an ethics complaint or arbitration request*
- *Communicates concerns that could result in liability to staff, the association, and/or chair*
- *Ensures that due process is afforded the parties*

# Volunteers Involved in the Process

- **Grievance Committee.** *Initial screening body.*
- **Professional Standards Committee** *from which ethics and arbitration hearing panels are formed. Hearing panels decide if an ethics violation occurred or who is entitled to what amount of money.*
- **Board of Directors** *or some subset thereof comprised of at least five directors or a quorum of the board, whichever is less. This tribunal finalizes all ethics decisions and hears procedural review requests subsequent to transmittal of the arbitration award.*

# PROFESSIONAL STANDARDS PROCESS



# Second, What is Due Process and Why is it so Important?

- *Fundamental fairness*
- *Procedurally fair*
- *Ability to self-police*
- *Guards against antitrust liability*

# Elements of Due Process

1. *Timely notice of specific charges*
2. *Adequate time to prepare a defense*
3. *Ability to hear testimony and cross-examine*
4. *Opportunity to tell your story*
5. *Right to counsel*
6. *Impartial hearing panel (right to challenge)*
7. *Appropriate, authorized sanctions*
8. *Availability of appeal / procedural review*



# Due Process

- *Remote testimony allowed at the chair's discretion.*
- *Parties have a right to challenge for cause hearing panelists and appeal / procedural review tribunal members.*
- *Members cannot serve in multiple roles on the same case.*

# Third, Benefits of Ombuds, Mediation

- *The preferred methods for dispute resolution of the NATIONAL ASSOCIATION OF REALTORS®*
- *A voluntary process, unless board mandates mediation of arbitrable disputes.*
- *Vehicle for creating a mutually acceptable resolution to a dispute (rather than imposition of a decision by a hearing panel)*

# Benefits of Ombuds, Mediation

- *An ombuds can get involved at any time.*
- *Mediation must be offered when arbitration request is received and can be offered prior to a formal request being filed.*
- *Disputing parties meet with an ombuds or mediator appointed by the association.*
- *If a resolution is reached, then the parties sign an agreement containing the terms of the settlement, and no ethics or arbitration hearing is held.*

# OMBUDS, MEDIATION, ARBITRATION

Ombuds	Mediation	Arbitration
No cost	Low-cost	Moderate cost
No delay	Little delay	Moderate delay
Maximum flexibility, may open dialogue	Maximum range of solutions	Win/lose/split
Parties control outcome	Parties control outcome	Arbitrators control outcome
Uncertain closure	Uncertain closure	Definite closure
Maintain/improve relationship	Maintain/improve relationship	May harm relationships
Prospective	Prospective	Retrospective
Communicate typically via phone	Mediation usually held in person	Arbitration in person (unless remote)

# THANK YOU.

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