

MEMORANDAM

DATE: August 27, 2021

TO: Tennessee REALTORS® Board of Directors Members

FROM: Alex Bynum, President

For your review and consideration, please find a copy of proposed bylaw change for Tennessee REALTORS® Article XI Professional Standards. As per the bylaws:

ARTICLE XV Amendments

Section 1: These Bylaws may be amended at any meeting of the Directors by a two-thirds vote, provided that a quorum is present, and provided further that written notice of the substance of any proposed amendments shall first have been sent to each Director at least twenty days in advance of the meeting.

The suggested change accommodates the State Administered Professional Standards program by adopting language provided by the National Association of REALTORS. Please do not hesitate to let us know if you have any questions.

The Board of Directors is scheduled to meet on Friday, September 17th at 9:00 a.m. This meeting will be held at the Chattanooga Convention Center, 1 Carter St., Chattanooga, TN. Information regarding the full Board of Directors meeting Agenda will be provided shortly at <https://tnrealtors.com/member-services/association-tools/governing-docs-reports/>.

ARTICLE XI

Professional Standards

~~A local Association, prior to referring an ethics complaint or arbitration request for review to the State Association, should exhaust all efforts to empanel an impartial tribunal to conduct either the original hearing or the appeal or procedural review. These efforts may include the appointment of knowledgeable Members of the local Association on an ad hoc basis to serve on either a Hearing Panel or on behalf of the Board of Directors. If, because of notoriety, etc., the local Association cannot empanel an impartial tribunal, the local Association may refer the matter to the State Association, and the State Association may delegate to another local Association or a regional enforcement facility, the authority to hear the case on behalf of the State Association. No local Association or regional enforcement facility, however, may be required to accept this delegation of authority. If no other entity is amenable to conducting the review, the State Association shall be responsible for conducting the hearing.~~

Section 1. ~~Allegations of ethical violations and contractual disputes (and specific non-contractual disputes as defined in Standard of Practice 17-4) between Realtors® and between Realtors® and their customers or clients may be submitted to an ethics or arbitration panel at the State Association level under the following circumstances:~~

- ~~(a) — Allegations of unethical conduct made against a Realtor® or Realtor-Associate® who is directly a Member of the State Association and not a Member of any local Association.~~
- ~~(b) — Allegations of unethical conduct made against a Realtor® or Realtor-Associate® in the instance in which the local Association, because of size or other valid reason, determines that it cannot provide a due process hearing of the matter and petitions the State Association to conduct a hearing.~~
- ~~(c) — Contractual disputes (and specific non-contractual disputes as defined in Standard of Practice 17-4) between Realtors® who are not Members of the same local Association where the matter has been referred to the State Association by both local Associations.~~
- ~~(d) — Contractual disputes (and specific non-contractual disputes as defined in Standard of Practice 17-4) between Realtors® who are directly Members of the State Association and are not Members of any local Association.~~
- ~~(e) — Contractual disputes (and specific non-contractual disputes as defined in Standard of Practice 17-4) between a Realtor® who does not hold membership in any local Association, but is directly a Member of the State Association, and a Realtor® who is a Member of a local Association.~~
- ~~(f) — Contractual disputes (and specific non-contractual disputes as defined in Standard of Practice 17-4) between Realtor® Members of the same local Association where the local Association with good and sufficient reason is unable to arbitrate the controversy. (Explanation: This provision is not designed to relieve a local Association of its primary responsibility to resolve differences arising between Members of the same local Association. The section recognizes that in some local Associations with a limited membership, usual arbitration procedures may be impossible.)~~
- ~~(g) — Contractual disputes between a customer and a client and a Realtor® where the local Association with good and sufficient reason is unable to arbitrate the dispute or the Realtor® is a direct Member of the State Association.~~

Section 2. ~~Professional Standards hearings and the organization and procedures incident thereto shall be governed by the Code of Ethics and Arbitration Manual of the Tennessee Association of Realtors®, Inc., as from time to time amended, which by this reference is made a part of these Bylaws.~~

Section 3. ~~If a Realtor® Member (as defined in Article II, Section 4 of these Bylaws) resigns from the local Association or otherwise causes membership to terminate with an ethics complaint pending, that Board of Directors may condition the right of the resigning Member to reapply for membership upon the applicant's certification that he/she will submit to the pending ethics proceeding and we abide by the decision of the hearing panel.~~

~~If a Realtor® Member (as defined in Article II, Section 4) resigns or otherwise causes his/her membership to terminate, the duty to submit to arbitration continues in effect even after membership lapses or is terminated, provided that the dispute arose while the former Member was a Realtor®.~~

Enforcement of the Code. The responsibility of the association and of association members relating to the enforcement of the Code of Ethics, the disciplining of members, and the arbitration of disputes, 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, which is by this reference incorporated into these Bylaws, provided, however, that any provision deemed inconsistent with state law shall be deleted or amended to comply with state law.