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| Slide 1 |  |  |
| Slide 2 |  | **Instructor:**  **Who:** There must be an individual complainant.  **What:** A complaint form, a statement of what happened, and in the case of an arbitration – the association may require a deposit.  **Where:** Typically will be at the local association where the individual is a member  **When:** Within 180 days of the time that the alleged offense and facts relating to it could have been known by the complainant in the exercise of reasonable diligence or within 180 days after the conclusion of the transaction or event, whichever is later.  We often hear from people that they do not want to file because it is a long, complicated process, but that is not necessarily the case! |
| Slide 3 |  | **Instructor:**  Both ethics and arbitration complaints follow a very similar process. The complainant files the complaint, it goes to the Grievance Committee for a preliminary review. If it is forwarded to the Hearing Panel, the parties will have the opportunity to present their case for a determination on the merits.  Finally, the parties have the opportunity to appeal the determination of the Hearing Panel in certain circumstances. |
| Slide 4 |  | **Instructor:** Before we get too far into the process, let’s really clarify our understanding of ethics disputes versus arbitration disputes. *Read slide*. Typically arbitration requests are dealing with competing claims over an amount of money.  Now, arbitration requests can be mandatory or voluntary. Let’s learn about the difference. |
| Slide 5 |  | **Instructor:** Arbitration can be mandatory – meaning both sides must participate – or voluntary – meaning both sides have to agree to the process. *Read chart.*  Now that we understand the difference between the types of the complaints – let’s take a look back to the process that complaints follow. |
| Slide 6 |  | **Instructor:** Remember, we were talking about what happens after a complainant files a complaint. First, the complainant needs to file within the appropriate deadline.  For both arbitration and ethics claims, the filing deadline is 180 days (so about 6 months) after either the closing of the transaction or the realizing that a dispute existed – whichever is later.  Why do we think this is the case?  It makes sense that people may not want to actively enter into a dispute process while still trying to close a deal. |
| Slide 7 |  | **Instructor:** Upon filing, the complaint goes to the Grievance Committee to for preliminary review.  The Grievance Committee can forward the complaint to a Hearing Panel, amend the complaint, or dismiss the complaint.  During their review, the Grievance Committee will evaluate whether the complaint was filed within the proper timeframe and whether the respondent is a member. Most importantly, it will look to whether the Code of Ethics applies.  For example, if someone alleges that the agent was not nice or fair, that behavior on its own is not a violation of the Code of Ethics. Alternatively, if someone alleges that an agent was dishonest….then there is a potential violation of the Code of Ethics. Again, it doesn’t matter whether the claim is or is not true, just that the complaint alleges behavior that if true could be a violation of the Code of Ethics. |
| Slide 8 |  | **Instructor:** The hearings for ethics and arbitration are full hearings, including sworn testimony, and even the right to have an attorney. Hearing Panels are made up of members who have been trained in the Professional Standards process and who can be fair, unbiased, and impartial.  The Hearing Panel determines whether a violation of the Code of Ethics occurred or to whom an award should be issued in the case of an arbitration request. They base their decision on the evidence and testimony that is presented during the hearing. |
| Slide 9 |  | The standard of proof is the measurement by which a hearing panel makes its determination about a case.  “Clear, strong, and convincing” shall be the standard of proof by which alleged violations of all membership duties, including violations of the Code of Ethics, are determined. Clear, strong, and convincing shall be defined as that measure or degree of proof which will produce a firm belief or conviction as to the allegations sought to be established.  For an arbitration case: The standard of proof on which an arbitration hearing decision is based shall be a “preponderance of the evidence.” Preponderance of the evidence shall be defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the facts sought to be proved are more probable than not. |
| Slide 10 |  | **Instructor**: In an ethics complaint, if a Hearing Panel determines that the respondent did violate the Code of Ethics, they can then determine the appropriate discipline for the violation.  Discipline must correspond to the offense and severity of the REALTORS®’ actions. The National Association of REALTOR® sets the parameters for discipline in the Code of Ethics and Arbitration Manual. The discipline can range from *[read slide].* |
| Slide 11 |  | **Instructor:**  In an arbitration hearing, the Hearing Panel determines who gets the monetary amount in dispute. They cannot award more than what was requested, but it can be less. |
| Slide 12 |  | **Instructor:** After the Hearing, for an Ethics complaint, the BOD needs to approve the outcome before the decision is final. However, for an arbitration complaint there is no BOD approval.  In general, the parties do have limited appeal rights. For an arbitration case, the parties can appeal on a basis of procedural deficiencies only. For an ethics case, the parties can appeal based on misapplication of the Code of Ethics, the severity of discipline, or on the basis of procedural deficiencies.  When we say “procedural deficiencies” that means that the process wasn’t followed or there was something unfair about the hearing. |
| Slide 13 |  |  |