

Outer Banks Association of REALTORS®

Policy Manual, Section B: Professional Standards

Adopted: June 20, 2005 ~ Last Revision: November 9, 2023 ~ Effective January 1, 2024

The purpose of this section of the Policy Manual is to supplement the National Association of REALTORS® Code of Ethics and Arbitration Manual. The Manual allows for the Outer Banks Association of REALTORS® (OBAR) to adapt specified provisions to conform to local policy and comply with state law. This section identifies those provisions and the options or policy adopted by the Board of Directors. All other provisions of the Manual will be followed as written.

1. The NAR Code of Ethics and Arbitration Manual is adopted verbatim, inclusive of the adoption of North Carolina Association of REALTORS® amendments.
2. Complete Arbitration files will be retained for three years after all allowances for Appeal are exhausted and/or the Award is paid.
3. Ethics decisions and files will be retained after all Appeal periods are past.
4. The Professional Standards Administrator for the Association shall be the Executive Officer, who shall be certified by the National Association of REALTORS® according to its requirements.
5. The names of individuals found in violation of the Code of Ethics or other membership duties shall not be published on first offense. (01/24)
6. Copies of the Arbitration and Ethics panel decisions disseminated pursuant to these policies shall be complete and unedited, except that the names of the parties shall not be included. (4/2014)
7. Multi Association Hearings: Expenses related to the administration of a multi-Association Hearing shall be shared by the signatory Associations. If another Association provides a Hearing Panel, court stenographers and/or Professional Standard Administrator for an OBAR case heard at the other Association site, the hosting Association shall be reimbursed for the stenographer fees. Panelists from other Associations required to travel to OBAR to complete a Panel shall be reimbursed for mileage by OBAR.
8. Use of Panels in place of the Board of Directors: Any matter brought before the Board of Directors may be considered by a panel of the members of the Board of Directors appointed by the President for that purpose. Five (5) members of the Board of Directors shall constitute such a panel, which shall act on behalf of the Board of Directors. The decision of the panel shall be final and binding and shall not be subject to further review by the Board of Directors. (9/2007)
9. In appointing panel members, the following recommended criteria will be considered:
 - number of years as a REALTOR®
 - number of years in the real estate business
 - primary and secondary fields of real estate endeavor/expertise
 - participation in post-licensing real estate education
 - training in the Code of Ethics
 - position in firm (principal, non-principal)
 - size of firm
 - common sense
 - open-mindedness
 - familiarity with state(s) laws and regulations
 - receptiveness to instruction/training
 - other relevant professional or procedural training

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Statements of Professional Standards Policy Applicable to Ethics Proceedings

25. Expenses related to conduct of hearings by multi-board or regional Grievance or Professional Standards Committees.

P23:25 “The expenses of such hearings shall be borne and shared equally by the signatory Boards...” (1/2024)

33. Use of panels in place of Committees and the Board of Directors

P24:33

Publishing the names of Code of Ethics violators

P25:45 Adopt Option #1 As written. Do not publish the first offense but, yes, publish additional offense.

Part One – Ethics General Provisions

Section 1. Definitions Relating to Ethics

P29:1b “Association” means this organization, either the Outer Banks (local) Association of REALTORS® or the North Carolina (state) Association of REALTORS®. As used herein, the term “association(s)” refers to board(s) and Association(s) of REALTORS®. (~~07/2018~~)(Revised 11/17)

Section 6. Conduct of Hearing

P32:6 Adopt as Written

Part Two – Membership Duties and Their Enforcement

Section 13. Power to Take Disciplinary Action

P35:13b On a member being convicted, adjudged or otherwise recorded as guilty by a final judgement of any court of competent jurisdiction of a felony or a crime involving moral turpitude; on a member being determined by a court of competent jurisdiction, or official of the State of North Carolina authorized to make the determination, as having violated a provision of the North Carolina real estate law or a regulation of the North Carolina real estate licensing authority:...

Section 14. Nature of Discipline

P37:14 In addition to any discipline imposed, Boards and Associations may, at their discretion, impose administrative processing fees ~~not to exceed~~ \$500 against each respondent...

Section 15. Selection and Appointment of the Grievance Committee

P37:15 There will be a standing committee, known as the Grievance Committee, of at least 12 Board Members, in good standing...It is suggested that, to the extent practical, members of the Grievance Committee not serve simultaneously on the Professional Standards Committee or on the Board of Directors to avoid conflict with the prohibition on serving on more than one (1) tribunal in the same manner. (1/2024)

Section 16. Selection and Appointment of the Professional Standards Committee

P37:16 There shall be a Professional Standards Committee of at least 18 Board Members, in good standing... (1/2024)

Part Three – The Grievance Committee in Ethics Proceedings

Section 17. Authority

P39:17 There will be a standing committee, known as the Grievance Committee, of at least 12 Board Members in good standing...President shall annually designate the Chairperson and Vice Chairperson of the Committee (recommended that Vice Chair move to Chairperson and Vice Chair position be filled by existing Committee Member). (1/2024)

Section 19. Grievance Committee’s Review of an Ethics Complaint

P40:19C *Appeal from the decision of the Grievance Committee related to an ethics complaint* Adopt as written; however, use Panel of Board of Directors appointed by President for appeals of decision of Grievance Committee relating to Ethics Complaint. (1/2024)

Part Four – The Ethics Hearing

Section 20. Initiating an Ethics Hearing

P44:20c Adopt as written using President Appointed Panel of the Board of Directors

P45:20f Adopt as written: Expedited ethics administration procedures (f-q) (1/2024)

Section 21. Ethics Hearing

P47:21e The complaint, and response, if any, shall be provided to Hearing Panel members prior to the hearing. Such time period shall be 5 calendar days (as determined by the Board of Directors) and shall be adhered to for all hearings. (1/2024)

Section 22. Decision of Hearing Panel

P48:22a Copies of the decisions disseminated pursuant to these procedures shall be complete and unedited unless an Association, by affirmative action of its Board of Directors, adopts procedures under which decisions presented to the Board of Directors for ratification will not include the names of the parties on first offense. (1/2024)

Section 23. Action of the Board of Directors

P48:23a Adopt as written (1/2024)

P48:23b Adopt as written (1/2024)

P49:23c All appeals must be in writing and must be accompanied by a deposit with the President in the sum of \$500... (1/2024)

P50:23m Appeals to the Board of Directors may be heard by a panel of Directors appointed by the President for that purpose. (1/2024)

Section 24. Initial Action by Directors

P51:24 Upon determination that the member has refused to arbitrate or mediate a properly arbitrable matter, the President Appointed Panel of (5) Board Members ... (1/2024)

Part Five – Conduct of an Ethics Hearing

Outline of Procedures for Ethics Hearing

P81 Outer Banks Association Board of REALTORS® State of North Carolina

Postponement of hearing

Adopt as written. (1/2024)

Recording the hearing

Adopt as written. (1/2024)

Outline of Procedure for Ethics Hearing Involving a Complaint and a Counter-Complaint

P83 Outer Banks Association Board of REALTORS® State of North Carolina

Recording the hearing. Adopt as written. (1/2024)

Part Six – Specimen Forms

Form E-19

5. Operation

P120:5a Adopt as written. (1/2024)

P120:5f Adopt as written first option “ a tribunal of five (5) members selected from the multi-Board’s 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” ... Upon determination that the member has refused to arbitrate or mediate a properly arbitrable matter, the (Professional Standards tribunal)... The decision of the (Professional Standards tribunal) shall be final and binding and is not subject to further review by the State Association or any Signatory Board. (1/2024)

P121:5g Adopt as written first option a tribunal of five (5) members selected from the multi-Board 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. (1/2024)

ARBITRATION

Statements of Professional Standards Policy Applicable to Arbitration Proceedings

1. Article 17. Code of Ethics

P129:1 Adopt as written, Mandatory mediation (1/2024)

3. Circumstances under which arbitration is contingent upon the REALTOR®’s voluntary participation

P129:3 Adopt as written. (1/2024)

25. Expenses related to conduct of hearings by Multi-Board or regional Grievance or Professional Standards Committees

P132:25 Adopt as written. (1/2024)

33. Use of panels in place of Committees and the Board of Directors

P133:33 Strike (or, alternatively by the Board's Executive Committee). Adopt rest as written. (1/2024)

Part Seven – Arbitration General Provisions

Section 26. Definitions Relating to Arbitration

P137:26b "Association" means this organization, either the Outer Banks (local) Association of REALTORS® or the North Carolina (state) Association of REALTORS®...

Section 31. Conduct of Hearing

P139:31 Adopt as written. (1/2024)

Part Eight – Membership Duties and Their Enforcement

Section 38. Selection and Appointment of the Grievance Committee

P141:38 There will be a standing committee, known as the Grievance Committee, of at least 12 Board Members, in good standing... (1/2024)

Section 39. Selection and Appointment of the Professional Standards Committee

P141:39 There shall be a Professional Standards Committee of at least 18 Board Members, in good standing, of whom at least a majority shall be REALTORS®, appointed by the President, subject to confirmation by the Board of Directors....Elect 2nd option: The President shall annually designate the Chairperson and Vice Chairperson of the committee. (1/2024)

Part Nine – The Grievance Committee in Arbitration Proceedings

Section 40. Authority

P143:40 There will be a standing committee, known as the Grievance Committee, of at least 12 Board Members in good standing... President shall annually designate the Chairperson and Vice Chairperson of the Committee (recommended that Vice Chair move to Chairperson and Vice Chair position be filled by existing Committee Member). (1/2024)

Section 42. Grievance Committee's Review and Analysis of a Request for Arbitration

P144:42C Any party may appeal the decision to the President appointed Panel of Board of Directors within twenty (20) days... (1/2024)

Part Ten – Arbitration of Disputes

Section 44. Duty and Privilege to Arbitrate

P146:44a By becoming and remaining a member and by signing or having signed the agreement to abide by the bylaws of the Board, every member, where consistent with applicable law, binds himself or herself and agrees to submit to arbitration (mediation is required). (1/2024)

P146,147:44b Where mandatory arbitration (mediation required by a Board)...Adopt rest as written. (1/2024)

Section 45. Board's Right to Decline Arbitration

P147:45b The President may appoint a panel of Directors, acting on behalf of the Board of Directors, to hear the appeal. Any appeal panel so appointed must be composed of at least five (5) Directors or a quorum of the Board of Directors, whichever is less and the appeal is final and not subject to further review by the Board of Directors. (1/2024)

Section 46. Duty to Arbitrate Before State Association

P148:46 insert North Carolina (state) (1/2024)

Section 47. Manner of Invoking Arbitration

P148:47 ...Must be signed by the complainant, must indicate the nature of the dispute and the amount in dispute and must be accompanied by the required deposit of \$500. (1/2024)

P148:47b The Professional Standards Administrator shall promptly refer the request for arbitration to the Chairperson of the Grievance Committee for determination by the Committee within 15 days...The Grievance Committee may request the party(ies) named as respondent(s) in the request for arbitration to provide the Grievance Committee with a written response to the request for arbitration within 30 days. (1/2024)

P149:47c ...with directions to complete and return the written response and deposit amount of \$500 within 15 days from the date of transmittal of the request for response to the respondent...The Professional Standards Committee Chairperson shall select the Chairperson of the Hearing Panel, who shall possess the powers of the neutral arbitrator within the meaning of the North Carolina arbitration statutes... (1/2024)

Section 48. Submission to Arbitration

P150:48 ...Any similar writing permitted by law and making the appropriate deposit of \$500... (1/2024)

150:48 to select Option #1, #2, or #3, Board should consult with Board or State Association legal counsel prior to selecting option. **Pending Consult with OBAR Attorney E. Crouse Gray, Jr. of Gray & Lloyd, LLP** (1/2024)

Section 49. Initial Action by Directors

P151:49: Upon determination that the member has refused to arbitrate or mediate a properly arbitrable matter, the President Appointed Panel of Board of Directors may direct the implementation of appropriate sanction... (1/2024)

Section 50. Preliminary Judicial Determination Prior to Imposition of Discipline

P151:50 If the President Appointed Panel of Board of Directors has reason to believe that the imposition of a proposed sanction will become the basis of litigation and a claim for damages... (1/2024)

Section 51. Arbitration Hearing

P151:5b The arbitration request and response, if any, shall be provided to Hearing Panel members prior to the hearing, Such time period shall be 7 days and shall be adhered to for all hearings. (1/2024)

Section 54. Costs of Arbitration

P153: 54 Deposits to be returned to prevailing party. Where parties successfully mediate an otherwise arbitrable dispute, their arbitration filing fees will be refunded. If parties settle the dispute after the hearing begins but before the executive session begins, 50% of the arbitration deposit will be refunded. (1/2024)

Section 55. Request for Procedural Review by Directors

P153:55a: A written request for procedural review of the arbitration hearing procedures must be filled with the President within twenty (2) days after the award has been transmitted to the parties and be accompanied by a deposit in the sum of \$500. (1/2024)

P154:55c: The request for procedural review may be heard by a panel of Directors appointed by the President for that purpose....The decision of the panel shall be final. (1/2024)

Section 56. Enforcement

P154:56: The judgement of any competent court of record in North Carolina (state)...

Appendix I to Part Ten

Non-Arbitrable Issues that Can be Mediated as a Matter of Local Determination: Associations:

P157: OBAR will not provide mediation services for disputes of the type listed above. (1/2024)

Part Eleven – Interboard Arbitration Procedures

Fee deposit and arbitration agreement:

P189: The request for interlard arbitration shall be accompanied by a Deposit of \$500...Boards shall establish a filing fee for interlard arbitration...total cost that may be charged any party, including any filing fee, will be \$500. (1/2024)

Arbitration request and response: Within 10 days after the interboard arbitration panel has been formed, the panel Professional Standards Administrator shall send a copy of the arbitration request to the respondent... (1/2024)

#A-4, Part Thirteen ...a deposit of \$500 which shall go toward costs of such arbitration... (1/2024)

Recordation

P191: Any party may not, at his own expense, have a court reporter present, or may not record the proceeding. (1/2024)

Part Twelve-Conduct of an Arbitration Hearing

Outline of Procedure for Arbitration Hearing

P193: Outer Banks Board of REALTORS® State of North Carolina.

Postponement of hearing: Requests for postponement must be made in writing. Permission can be given by the Chairperson. **Recording of hearing:** The Board shall have a court reporter present at the hearing or shall record the proceeding. Any party may not record the proceeding or utilize a court reporter. (1/2024)

Outline of Procedure for an Arbitration Hearing Involving a Request and a Counter-Request

P195: Outer Banks Board of REALTORS® State of North Carolina.

Recording of the hearing

P195: The Board shall record the proceeding. Any party may not record the proceeding or utilize a court reporter. (1/2024)

Chairperson's Procedural Guide: Conduct of an Arbitration Hearing

P197: Outer Banks Board of REALTORS® State of North Carolina.

Part Thirteen - Specimen Forms

Form #A-19

Operation

P239f: ...the allegation shall be brought before a tribunal of five (5) members selected from the multi-Board's 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. (1/2024)

P239g: Form #A-19 Operation: ...the allegation shall be brought before a tribunal of five (5) members selected from the multi-Board's 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. (1/2024)

Part Fourteen - State Association Professional Standards Committee

Ethics and Arbitration Proceedings

P244: ...procedures incidental thereto shall be governed by the Code of Ethics and Arbitration Manual of the North Carolina (state) of Association...

(6) Expenses of hearings conducted by State Association

(7) Composition of Hearing Panels and appellate or review panels

(8) Refusals to arbitrate

P245-246(6-8) Applies to State Associations: N/A in seeking enforcement. (1/2024)

OBAR Citation Policy (effective January 1, 2016)

2. General Provisions

- 2.1. Information about the Citation Program, including the Citation Schedule, will be provided as part of the information sent to potential complainants considering filing ethics complaints with the association.
- 2.2. Citation Panels comprised of three (3) individuals are appointed as needed by the Executive Officer to review complaints to determine eligibility for the citation program and the appropriate citations. The Citation Panel will be a subset of the association's Professional Standards Committee, and include individual with a high level of experience in hearing professional standards cases.
- 2.3. Complaints must be filed within one hundred eighty (180) days after the facts constituting the matter complained of could have been known in the exercise of reasonable diligence or within one hundred eighty (180) days after the conclusion of the transaction or event, whichever is later.
- 2.4. This OBAR Citation Policy shall conform to the limitations and guidelines for Citation Policies as established by the NAR Board of Directors.

3. Initial Review by Grievance Committee and Citation Panel

- 3.1. When a Grievance Committee receives a written ethics complaint, it will review the complaint consistent with Sections 19 and 20 of the current NAR *Code of Ethics and Arbitration Manual*. The Grievance Committee may add or delete articles or respondents at this stage in the proceedings.
- 3.2. If the Grievance Committee determines that the complaint should be forwarded for a hearing, the Grievance Committee will first forward the complaint to the Association's Citation Panel to determine if it includes allegations covered by the Citation Schedule, i.e., if it is a "citable offense".
 - 3.2.1. If the complaint does not include alleged violations included in the Citation Schedule, or it includes some covered by the Citation Schedule and some that are not, the complaint shall be referred to the Professional Standards Committee for hearing consistent with the policies and procedures set forth in the Code of Ethics and Arbitration Manual for ethics hearings.
 - 3.2.2. If the complaint includes only allegations of violations included in the Citation Schedule, the Citation Panel will issue a citation and impose discipline consistent with the association's Citation Schedule. In the event the members of the Citation Panel determine the conduct described in the complaint is sufficiently egregious to warrant a hearing rather than a citation, the complaint shall be referred to the Professional Standards Committee for hearing consistent with the policies and procedures set forth in the Code of Ethics and Arbitration Manual for ethics hearings.

4. Issuance of Citations

- 4.1. Citations will be sent to respondents. A copy of the citation shall also be sent to the REALTOR® principal of respondents' office. If the respondent changes firms before or after the complaint is filed but before the citation is issued, both the former and current REALTOR® principal will receive a copy of the citation.
 - 4.1.1. Staff will prepare a written summary of the complaint and the summary will be included with the citation to give the respondent sufficient information to understand the basis of the citation.
- 4.2. The respondent will have twenty (20) days from receipt of the citation to request a full due process hearing on the complaint.

- 4.2.1. If the respondent does not reply within ten (10) days of receiving the citation, a notice shall be issued to the respondent reminding the respondent of the deadline for requesting a hearing.
- 4.2.2. If the respondent accepts the citation, or if the respondent does not request a hearing within twenty (20) days of receipt of the citation, this shall be deemed to be a final resolution of the complaint, which shall not be appealable or subject to any further review.
- 4.2.3. If the respondent accepts the citation, or if the respondent does not request a hearing within twenty (20) days of receipt of the citation, payment must be received by the association as a Financial Obligation in accordance with Board Bylaws and Policy.
- 4.2.4. The case will be deemed to be closed upon receipt of payment, and notice will be provided to the complainant that a citation has been issued and paid.
- 4.2.5. Failure to pay the citation as a financial obligation in accordance with bylaws will result in the automatic suspension of membership until the citation is paid.
- 4.3. If the respondent requests a hearing within the time specified, the complaint shall be referred for hearing. The complainant who initially filed the complaint shall be given the option to proceed as the complainant for the purposes of the hearing, and will be afforded all due process rights provided for in the *Code of Ethics and Arbitration Manual*. Should the complainant be a member of the public who refuses or is unable to participate in the hearing, or should the complainant be a REALTOR® member who refuses or is unable to participate in the hearing, the provisions of Section 21(f)(3) in the NAR *Code of Ethics and Arbitration Manual* shall apply.

5. Limitations

- 5.1. Any REALTOR® is limited in the number and type of citations that he/she may receive, according to the following rules:
 - 5.1.1. No more than two (2) citations will be issued to a member within a consecutive twelve (12) month period, starting on the date the first complaint was filed, at the same association.
 - 5.1.2. No more than three (3) citations will be issued to a member within a consecutive thirty-six (36) month period, starting on the date the first complaint was filed, at the same association.
 - 5.1.3. No additional citations are permitted where the cumulative fine for the citations issued would be more than \$5,000 in any three (3) year period at the same association.
- 5.2. As OBAR uses an escalating fine schedule for repeat citations, the citation panel may only consider the past citations for the particular conduct alleged in the complaint.
- 5.3. The fact that a respondent has previously been issued a citation for any violation – whether or not it was paid – shall not be admissible in any ethics or arbitration hearing, including a hearing to consider a complaint where the respondent rejected a citation and requested a hearing. A hearing panel may consider citations previously issued to the respondent for the purpose of determining appropriate discipline as provided below.
- 5.4. Citations will not be considered in any publication of violations should such rules be adopted by the association.
- 5.5. Where a hearing panel finds a violation of the Code of Ethics after a hearing, it may consider past citations in determining an appropriate sanction only if the citation was issued for the same violation at issue in the hearing. By way of example, if a citation was issued for failure to disclose a dual or variable rate commission under Standard of Practice 3-4, that citation could not be considered if a hearing panel later found a violation of Article 3 on some other grounds. Hearing panels will not be informed of past citations for other violations.
- 5.6. Association staff will track the number of citations issued, the number of citations paid, and the violations for which citations were issued. This information may be provided in

the aggregate to the Board of Directors, but will not include details about the complaints, nor identify the complainants or respondents.

6. Escalating Fine Schedule

	1 st Offense	2 nd Offense	3 rd Offense
	\$100 <u>OR</u> Ethics Training*	\$200	\$400
	\$250	\$500	\$1,000
	\$500 <u>AND</u> Ethics Training*	\$1,000	\$2,000

*Ethics Training includes completion of the NAR Online Ethics Course or other course as defined by OBAR. In the case of Level 1 1st Offense, the respondent may choose between the \$100 fine or Ethics Training.

Appendix: OBAR Citation Schedule of Fines

Article 1	Fine
Failure to fully disclose and obtain consent from both parties when representing both the seller/landlord and buyer/tenant in the same transaction (SoP 1-5)	2
Failure to submit offers and counter-offers objectively and as quickly as possible (SoP 1-6)	1
Accessing or using, or allowing others to access or use, a property managed or listed on terms other than those authorized by the owner or seller (SoP 1-16)	3
Article 3	
Failure to communicate a change in compensation for cooperative services prior to the time that REALTOR® submits an offer to purchase/lease the property (SoP 3-2)	1
As a listing broker, attempting to unilaterally modify the offered compensation with respect to a cooperative transaction after a REALTOR® has submitted an offer to purchase or lease that property (SoP 3-2)	3
Failing to disclose existence of dual or variable rate commission arrangements (SoP 3-4)	2
Failure to disclose to cooperating brokers differential that would result in dual or variable rate commission arrangement if sale/lease results through efforts of seller/landlord (SoP 3-4)	2
Failing to disclose existence of accepted offers, including offers with unresolved contingencies, to cooperating brokers (SoP 3-6)	3
Misrepresenting the availability of access to show or inspect a listed property (SoP 3-8)	1
Article 4 - Failing to disclose REALTOR®'s ownership or other interest in writing to the purchaser or their representative (second sentence)	1
Article 5 - Providing professional services without disclosing REALTOR®'s present interest in property (Article 5, limited to present interest, not contemplated)	2
Article 6 - Any violation of Article 6	2
Article 12	
Failing to present a true picture in real estate communications and advertising	1
Failing to disclose status as real estate professional in advertising and other representations	1
Failure to provide all terms governing availability of a "free" product or service in an advertisement or other representation (SoP 12-1)	1
Failure to disclose potential to obtain a benefit from third party when REALTOR® represents their services as "free" or without cost (SoP 12-2)	2

Falsely claiming to have “sold” property (SoP 12-7)	1
Failure to take corrective action when it becomes apparent that information on a REALTOR®’s website is no longer current or accurate (SoP 12-8)	1
Misleading consumers through deceptive framing, manipulating content, deceptively diverting internet traffic, or presenting other’s content without attribution or permission (SoP 12-10)	3
Registering or using of deceptive URL or domain name (SoP 12-12)	3

Appendix: Agreement Between Outer Banks and Albemarle Area Boards of REALTORS® to Establish Multi-Board Professional Standards Enforcement Procedures

(1) Authority

The authority for the establishment and utilization of multi-Board (or regional) professional standards enforcement procedures shall be established by this Agreement approved by the Boards of Directors of Albemarle Area and Outer Banks Associations of REALTORS® and confirmed by approval of the general membership at a duly called meeting with notice as required by the Boards’ bylaws.

(2) 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.

(3) Purpose

The purpose of this Agreement is to create multi-Board (or 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 the 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 signatory Boards on an efficient and effective basis to better serve their members.

(4) Composition of Tribunals

(a) This Agreement authorizes the establishment of a multi-Board (or regional) Grievance Committee. The Grievance Committee shall be composed of at least one (1) member in good standing of each signatory Board.

Members of the Grievance Committee from each signatory 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 (or, alternatively, the Grievance Committee Chairperson shall be selected from members of the Grievance Committee by a majority vote of the Presidents of the Boards which are signatories to this Agreement).

NOTE: There must be at least three (3) individuals serving on the multi-Board Grievance Committee, and it is desirable that the number be greater to provide an adequate number of members to handle the anticipated case load without undue stress.

(b) This Agreement also authorizes the establishment of a multi-Board (or regional) Professional Standards Committee. The Professional Standards Committee shall be composed of at least two (2) members in good standing from each signatory 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 (or, alternatively, the Chairperson shall be selected from members of the Professional Standards Committee by a majority vote of the Presidents of the Boards which are signatories to this Agreement).

NOTE: There shall be at least nine (9) members of the Professional Standards Committee, and more, if feasible, to handle the anticipated case load without undue stress.

- (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 to include at least one (1) such Mediation Officer from each signatory Board. Although utilization of the service of mediation shall be voluntary, unless REALTORS® (principals) are required by the Board which is a signatory to this agreement to mediate otherwise arbitrable disputes pursuant to Article 17,* 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 relationship as REALTORS® prior to the arbitration of the dispute. (Revised 11/11)

(5) 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.

NOTE: Any matters of local Board option should be considered and agreed on in advance as necessary and the signatory Boards should also clarify which Board will be responsible for administering the process. The following is an example of such clarification:

The respondent's local Board, or the Board through which the respondent gains access to and use of the MLS, will be responsible for administering the procedures and all optional provisions (see pages i and ii of the Code of Ethics and Arbitration Manual) of that Board will control.

- (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 Boards of Directors of the signatory Boards to be appointed by the Boards' Presidents. (Adopted 11/96)

Appeal to an ethics determination rendered by the multi-Board (or 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 multi-Board (or 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 multi-Board (or 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 (or to mediation if the respondent's signatory Board requires REALTORS® [principals] who are parties to a dispute to mediate otherwise arbitrable matters pursuant to Article 17), the allegation shall be brought before (choose one: a tribunal of five [5] members selected from the multi-Board's 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, or a tribunal of five [5] member selected from the Board of Directors

of the signatory Boards to be appointed by the Board Presidents). 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 (or mediation if required) in violation of Article 17. Upon determination that the member has refused to arbitrate a properly arbitrable matter, the (specify body—name of 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 (specify body—name of tribunal) shall be final and binding and is not subject to further review by the State Association or any signatory Board. (*Revised 11/11*)

(6) Reservation of Rights

- (a) It is understood and agreed by the Boards signatory to this 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 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 1st day of August, 2000.

The effective date of this Agreement shall be January 1, 2001.

Attested by: Michael Davenport, President, Outer Banks Association of REALTORS®
Debra Perrot, Secretary, Outer Banks Association of REALTORS®
Louise Jordan, President, Albemarle Area Banks Association of REALTORS®
Debbie Sawyer, Secretary, Albemarle Area Banks Association of REALTORS®
Signatures on File