ITSO

INFORMATION TECHNOLOGY SYSTEMS ONTARIO

PROFESSIONAL STANDARDS

REALTOR® MANUAL

Helping you to understand the Professional Standards Complaint Policy and when to file an incident report

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INTRODUCTION

As a REALTOR® that belongs to a ITSO Member Association, you are able to use the ITSO MLS® System. This gives you access to the best tools and technology, which enables you to provide superior solutions to your clients. The ITSO MLS® System is more than just a database of listing information though.

The definition of an MLS® System is this:

> A member-to-member cooperative selling system for the purchase, sale, or lease of real estate that is wholly owned and controlled by one or more associations, includes an inventory of listings of participating REALTORS®, and ***ensures a certain level of accuracy of information, professionalism, and cooperation amongst REALTORS®***.

That last part is what makes an MLS® System more than just technology. The level of professionalism associated with a particular MLS® System is entirely dependent on how professional its users are. It is the REALTORS® participating in an MLS® System that are responsible for the accuracy of the information. They are the ones that must be professional in all their dealings and must cooperate with other REALTORS®.

You are a REALTOR®, which means you are more than just a real estate registrant. You are a member of organized real estate who complies with the REALTOR® Code. And ITSO takes this seriously. ITSO holds all REALTORS® participating in their MLS® System accountable to their responsibilities under the REALTOR® Code. There will be situations where REALTORS® do not act professionally or do not comply with the ITSO MLS® Rules. In those instances, an incident report may be filed with ITSO or a Member Association.

This manual will explain the PSC policy and help you understand whether you might be in a position to file an incident report. It will also set out what to expect if you are involved in a discipline process.

THE PSC POLICY AND PROCESS

Application of Policy

The PSC Policy sets out the process that will be followed for incidents involving alleged breaches of the ITSO MLS® Rules and alleged breaches of the REBBA Code or REALTOR® Code.

It is important to point out that an incident can be filed with ITSO if the alleged rule breach does not involve Basic MLS® Rules. The Basic MLS® Rules are detailed in ITSO's MLS® Rules. Your Association will contact you if there are issues regarding compliance with the Basic MLS® Rules.

The other important thing to point out is that not all alleged breaches of the REALTOR® Code are processed by ITSO. In Ontario all real estate registrants are required to comply with the Trust in Real Estate Services Act 2002 (TRESA) and the associated regulations, which includes a code of ethics. TRESA and the associated code of ethics are enforced by the Real Estate Council of Ontario (RECO). If you are involved in an incident that falls under RECO's jurisdiction, then ITSO may refer the Complainant to RECO. On the other hand, if the incident falls under the Articles and Interpretations of the REALTOR® Code that ITSO enforces, then the incident will be handled pursuant to the PSC Policy.

It should also be noted that the policy applies to all users of the ITSO MLS® System - not just REALTORS® that belong to your Association. So if you observed an incident that involved any other REALTOR® that is using the ITSO MLS® System, then it can be submitted to ITSO for resolution pursuant to this policy.

Policy Overview

The PSC Policy starts with an intake process where the Professional Standards Manager at ITSO receives the incident report and determines the jurisdiction. If it is determined that ITSO has jurisdiction then the incident will be researched and a report will be provided to the Professional Standards Committee.

The Professional Standards Committee will then review the incident report and the report from the Professional Standards Manager to determine if the incident amounts to a possible breach of the REALTOR® Code or the MLS® Rules. If the committee decides that there is enough evidence to support a possible breach, then the incident will proceed to the Charge stage.

When a Respondent receives a Charge they have the option of admitting to the allegations and entering into a Consent Agreement to resolve the incident. The Discipline Committee will be involved in determining the penalty for a Consent Agreement if the allegations involve a breach of the REALTOR® Code.

If the Respondent chooses not to enter into a Consent Agreement and instead files a Reply, then the Professional Standards Committee will review the Reply and then decide if the matter should proceed to a hearing. If it proceeds to a hearing then the matter will be referred to the Discipline Committee.

The Chair of the Discipline Committee will choose committee members to sit on a hearing panel. The PSC Policy then sets out the procedures for the hearing and issuing a decision. If the Respondent chooses to appeal the decision then the policy sets out that the Chair of the Discipline Committee will choose a new, impartial panel for the appeal hearing. The policy sets out the procedures for the appeal and issuing the decision.

A full copy of the PSC Policy is attached as Appendix 1 to this Manual.

Filing an Incident Report

Incidents and Jurisdiction

Maybe you have been involved in an incident or observed conduct that you think is unprofessional. In those cases you might be wondering if you could file an incident report with ITSO.

Think about what conduct was involved in the incident. If ITSO receives an Incident Report describing conduct that relates to the following topics then the Professional Standards Manager will refer the matter to RECO:

Informed of Essential Facts
Disclosure of Role Agency
Primary Duty to Client
Discovery of Facts
Written Service Agreements
Written Transaction Agreements
Expenses Related to the Transaction
Disclosure of Benefits to Clients
Disclosure of Benefits to Customers
Outside Professional Advice
Disclosing Personal Interest in Property
Skilled and Conscientious Service
Respecting Contractual Relationships
Principal (Broker) Responsibility

If the Incident Report describes conduct that the Professional Standards Manager determines falls under the following categories then it will be processed by ITSO:

Advertising – Content/Accuracy
Advertising Listings of Other REALTORS®
Advertising Claims (performance or compensation)
Discrimination
Compliance with Association Bylaws
Compliance with Statutory Requirements
Discrediting another Registrant
Conduct Unbecoming
Cooperation with Association
Arbitration
Inter-Board and Inter-provincial Arbitration
Avoid Controversies
CREA Trademarks
Intellectual Property Rights of Others
REALTOR® Acting as Principal
Duty of Cooperation

The full text of these REALTOR® Code Articles and Interpretations is attached to the PSC Policy, which is a schedule to this Manual.

ITSO will also process incident reports that describe conduct that breaches the ITSO MLS® Rules.

If you are ever unsure about jurisdiction for a incident, then you may file an incident report with ITSO. The Professional Standards Manager at ITSO will review the report and will inform you of the appropriate jurisdiction for your concerns. ITSO will do this in a timely manner and you could avoid involving the regulator. On the other hand, if you file a complaint with RECO, it could take a long time to get a response and the complaint may go unaddressed.

Submitting an Incident Report

The PSC Policy provides that an Incident Report must be filed with ITSO no more than 180 days following the date upon which the circumstances giving rise to the incident arose. This should be kept in mind if you are thinking of filing a report. It is better not to delay, since filing the report when the incident is fresh in your mind will make it easier to do, and will ensure you fall within the required timeframe.

The PSC Policy requires incident reports to include a few things: your name, brokerage name, and sufficient detail about the nature of the incident and the timeline. Remember, these details are important because the Professional Standards Manager is going to make a determination on jurisdiction based on what is in the incident report.

Advertising incident reports cannot be filed anonymously pursuant to CREA's Bylaws and Rules, however, if the advertisement was public and the evidence submitted does not require explanation or interpretation, ITSO does not need to disclose the Complainant's identity to the Respondent. A specific Advertising Incident Report form can be accessed on ITSO's website.

An Incident report form can be obtained from your Association or from ITSO's website. Incident reports can be sent to: incidents@itsorealestate.ca.

What Happens After You File an Incident Report

Once an incident report has been submitted it will be reviewed by the Professional Standards Manager. If the incident should be filed with RECO then the Professional Standards Manager will direct you to contact that organization. If the matter is being investigated by ITSO then you may be contacted for more information. You may also be required to testify as a witness if the matter proceeds to a hearing.

You will also be informed once the matter is resolved, which might be because the Respondent enters into a Consent Agreement, because the matter goes to a hearing, or if the Professional Standards Committee chooses not to pursue the incident for any other reason.

The time it takes to resolve an incident will vary from incident to incident and will depend on if a Respondent chooses the fast track or regular track. That said, ITSO strives to resolve most incidents within 90 days.

When you are the Subject of an Incident Report

Responding to a Charge

If you are notified by the Professional Standards Manager at ITSO that you are the subject of an incident report, you will likely want to familiarize yourself with the processes set out in the PSC Policy. An overview of the policy is set out above, but there are a few key sections and time limits in the policy that you should be aware of if you find yourself on the receiving end of a Charge.

If you receive a Charge then you have a choice to make. When you admit to the actions alleged in the Charge, you have the option to enter into a Consent Agreement to resolve the matter. This will result in the matter being concluded much earlier than if you went to a hearing, and you will have the option to accept the penalty or alternatively proceed to a discipline hearing.

If you deny the allegations set out in the Charge, then you'll need to file a Reply. A Reply has to include a statement of the allegations in the Charge which are admitted, those which are denied, and those of which you have no knowledge. You also need to explain the facts relied on to support your Reply. Include as much detail as you can, as the Professional Standards Committee will be reviewing the Reply and deciding whether the matter should proceed to a hearing, or whether the file should be closed.

Regardless of your decision to enter into a Consent Agreement or file a Reply, you will need to respond to the Professional Standards Manager within 10 days of receiving the Charge.

Preparing for a Hearing

If you filed a Reply and the Professional Standards Committee decides to proceed to a hearing then you will be given at least 30 days notice of the date of the hearing. The Notice of Hearing will include a number of things that you will need to review:

i. The date and time of the hearing;
ii. The location of the hearing;
iii. The names of the people sitting on the Hearing Panel;
iv. The Charge;
v. The Reply if there is one; and
vi. Copies of relevant policies and procedures or links to where they may be found.

Make sure you review the list of members of the hearing panel. If you wish to object to any of those panel members because you have a specific reason to believe one or all of them would be biased in the case against you, then you will need to notify the Professional Standards Manager within 5 days of receiving the Notice of Hearing.

You will want to plan your case to present at the hearing. You'll be able to testify to provide oral evidence and introduce documentary evidence. You may also want to call witnesses to help prove your case. If you choose to call witnesses, then it is your responsibility to ensure they are aware of the date and time of the hearing and that they are able to attend.

If the date of the hearing does not work for you because you are unable to attend or one of your witnesses is unable to attend, then you must notify the Professional Standards Manager as soon as possible.

You'll have 10 days after receiving the Notice of Hearing to provide the names of your witnesses, if any, and all documentary evidence to the Professional Standards Manager that you wish to introduce at the hearing. This will likely be all the documents you relied on when filing your Reply. You'll receive the hearing package at least 7 days before the hearing, which will include all the documentary evidence that will be introduced by the Professional Standards Committee as well as the names of the witnesses. Make sure you review the package so that you can prepare your arguments for the hearing.

Once you have done that, you'll need to decide if you want to be represented at the hearing by a lawyer or someone else that you trust to advance your position, such as your broker of record or another member of the brokerage management team. If you are going to be represented by a lawyer, notice of the lawyer's attendance at the hearing must be provided to the Professional Standards Manager at least 5 days before the hearing.

The Hearing

The hearing will proceed in the following order:

a) Chair makes opening remarks;
b) Introduction of the Hearing Panel and confirmation of no conflicts;
c) Swearing in of Parties and witnesses;
d) Witnesses leave room;
e) Professional Standards Committee representative presents evidence and calls witnesses if any;
f) Cross examination from Respondent;
g) Respondent presents evidence and calls witnesses if any;
h) Cross examination from the Professional Standards Committee representative;
i) Questions from Hearing Panel;
j) Closing statement from Professional Standards Committee representative;
k) Closing statement from Respondent.

The Professional Standards Committee will go first as the committee members must prove to the hearing panel that you have breached an MLS® Rules and/or the REALTOR® Code. They have to introduce clear, convincing evidence of this fact.

You'll get the opportunity to cross examine the Professional Standards Committee representative and their witnesses if they have any. Remember to be polite, but that is your opportunity to cast doubt on any of the evidence they introduce.

Then it will be your opportunity to present your case through your testimony and any witnesses that you call. Be sure to introduce your documentary evidence and refer to the page numbers in the hearing package where the documents can be found. If you are questioning a witness that you called, you are not permitted to ask leading questions (i.e., isn't it true that I showed you the property in question?). Try to ask open ended questions that allow witnesses to tell their story (e.g., tell me what happened on the day you saw the property).

Another thing to keep in mind is the restriction on hearsay evidence, which is something that you do not have first hand knowledge of (e.g., my neighbour told me they saw a black cat). Hearing panels are not bound by the rules of evidence, but hearsay evidence does not give the other party at a hearing the chance to question the person who actually saw or said the thing being introduced. The PSC Policy prohibits hearsay evidence for that reason.

You are entitled to request an adjournment during the hearing if you need a break or a few minutes to collect your thoughts. Just keep in mind that it is up to the hearing panel to decide whether to allow the adjournment. If you are asking for an adjournment for a frivolous reason that will simply prolong the proceedings, then the panel might not allow your request.

Once the hearing is over you, the representative from the Professional Standards Committee, and any witnesses that testified will all be excused. The hearing panel will stay to deliberate and a copy of their decision will be provided to you by the Professional Standards Manager as soon as possible.

Appeal Applications

Once you receive the hearing panel decision you'll need to decide whether or not you want to appeal. There are only three acceptable grounds for appeal, which are:

i. That the ITSO MLS® Rules or REALTOR® Code were interpreted and applied incorrectly;
ii. That the penalties imposed by the Hearing Panel were inappropriate; or
iii. That there was a lack of procedural fairness.

The facts as determined by a hearing panel are assumed to be true. You cannot file an appeal based on an error of fact. Further, if you do choose to file an appeal application, keep in mind that you will not be permitted to introduce new evidence at the appeal hearing. The appeal panel will determine if the ground of appeal is made out based on your oral arguments only.

If you decide that you have grounds to appeal, then you'll need to submit your appeal application to the Professional Standards Manager within 10 days of receiving the hearing panel's decision. The appeal application will need to include the following:

i. The grounds on which they are appealing the Hearing Panel decision;
ii. A brief explanation of why they are appealing; and
iii. A filing fee determined by ITSO.

Preparing for the Appeal Hearing

After you file an appeal application you will receive a Notice of Appeal, which will be provided to you at least 30 days before the date of the appeal hearing. The Notice of Appeal will include:

i. The date and time of the appeal hearing;
ii. The location of the appeal hearing;
iii. The names of the people on the Appeal Panel; and
iv. Copies of relevant policies and procedures or links to where they may be found.

Just like when you were preparing for the hearing, you'll have the opportunity to ask for a postponement or object to any of the appeal panel members. Make sure you do this as soon as possible after receiving the Notice of Appeal Hearing, but no later than 5 days after receiving the notice.

You'll receive the appeal package at least 7 days prior to the appeal hearing. This will essentially be a record of everything that has happened up till that time including a transcript from the hearing.

Finally, you'll need to decide if you are going to be represented at the appeal hearing. If you are going to be represented by a lawyer, then you need to notify the Professional Standards Manager at least 5 days prior to the appeal hearing.

Appeal Hearing

If you are appealing a decision from a hearing panel then the onus is on you to prove to the appeal panel that the ground of appeal is made out. The order or the appeal hearing will be as follows:

a) Chair makes opening remarks;
b) Introduction of the Appeal Panel and confirmation of no conflicts;
c) Swearing in of Appellant;
d) Appellant's statement;
e) Questions from Appeal Panel;
f) Closing statement from Appellant.

Just like during a hearing, you will be able to make reasonable requests for adjournments. At the conclusion of the appeal hearing you will be excused and the appeal panel will deliberate to arrive at a decision. This decision is final and binding and will be communicated to you as soon as possible after the appeal hearing.

Summary of Important Time Frames

Incident Report and Reply

- Incident Report must be filed no more than 180 days following the date upon which the circumstances giving rise to the incident arose
- File Reply or admit facts within 10 days after receiving Charge

Hearing

- Object to hearing panel member or request hearing postponement no more than 5 days after receiving notice of hearing
- Provide documentary evidence and names of witnesses to Professional Standards Manager within 10 days of receiving notice of hearing
- Notify Professional Standards Manager that you will be represented by a lawyer at least 5 days prior to hearing

Appeal

- File appeal application no more than 10 days after receiving the hearing panel decision
- Object to appeal panel member or request appeal hearing postponement no more than 5 days after receiving notice of appeal
- Notify Professional Standards Manager that you will be represented by a lawyer at least 5 days prior to appeal hearing

Appendix 1: ITSO Professional Standards Complaints Policy

ITSO PROFESSIONAL STANDARDS COMPLAINTS POLICY

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I. General Sections

1. Application of Policy

a) This Policy applies to all users of the ITSO MLS® System including REALTORS® belonging to member associations and REALTORS® belonging to non-member associations who have agreed to the ITSO End User License Agreement (EULA).

b) This Policy will set out the process followed in response to complaints about:
   i. Breaches of the ITSO MLS® Rules; and
   ii. Unethical conduct that may breach the REALTOR® Code or the TRESA Code.

c) All Member Associations must either:
   i. Forward Complainants to ITSO if they are contacted regarding an alleged breach of the REALTOR® Code, the TRESA Code, or the ITSO MLS® Rules other than the Basic MLS® Rules; or
   ii. Handle incidents at their Association using the procedures substantially similar to the ones set out in this Policy.

d) Regardless of whether Member Associations are forwarding Complainants to ITSO or handling complaints at their Association, all Member Associations must follow the procedures in their bylaws to address alleged breaches of the Basic MLS® Rules.

2. Definitions

a) "Appellant" means the Respondent once an Appeal Application has been filed.

b) "Basic MLS® Rules" means of the Rules defined as Basic MLS® Rules in the ITSO MLS® Rules and MLS® Policies.

c) "Charge" means a written statement containing the specific allegations of misconduct of the Respondent.

d) "Member Association" means all Associations participating in ITSO who have entered into the MLS® Services Agreement.

e) "Complainant" means the person that files an incident report with ITSO.

f) "in writing" means on paper or by email.

g) "days" means business days, which excludes Saturdays, Sundays, and days which are statutory holidays in the Province of Ontario.

h) "ITSO MLS® Rules" means the MLS® rules that Member Associations must follow pursuant to the MLS® Services Agreement.

i) "Parties" means the Respondent and the Chair of the Professional Standards Committee, or another member of the Professional Standards Committee appointed by the Chair to represent the committee at a hearing.

j) "Professional Standards Manager" means the person designated by ITSO to oversee execution of this Professional Standards Complaint Policy.

k) "TRESA Code" means the code of ethics in regulation 567/05 under the Trust in Real Estate Services Act 2002, S.O. 2002, c. 30, Sched. C (TRESA 2002) as amended from time to time and any successor legislation.

l) "RECO" means the Real Estate Council of Ontario.

m) "Reply" means the written statement of the Respondent filed in response to a Charge.

n) "Respondent" means the person who is the subject of an incident report.

o) "User" means a REALTOR® that belongs to a Member Association or a REALTOR® that belongs to a non-Member Association but is bound by this Policy as a result of using the ITSO MLS® System and agreeing to the ITSO EULA.

II. Incidents

1. Filing an Incident Report

a) An incident report may come from:
   i. Any User;
   ii. A member of the public;
   iii. The ITSO PSC Committee;
   iv. RECO; or
   v. A Member Association.

b) Incident reports must be in writing and cannot be filed anonymously.

c) All incident reports must include:
   i. Sufficient detail about the nature of the incident and the timeline; and
   ii. The Complainant's name and brokerage's name.

d) Incident reports must be submitted to the Professional Standards Manager no more than 180 days following the date upon which the circumstances giving rise to the incident arose.

2. Determining Jurisdiction of Incidents

a) The Professional Standards Manager will review the incident report and all relevant facts to determine, in their sole discretion, whether the incident falls under the ITSO MLS® Rules or one of the Articles or Interpretations of the REALTOR® Code set out in Schedule A not including the Basic MLS® Rules, the REALTOR® Code, or the TRESA Code.

b) If the Professional Standards Manager determines that the incident does not fall under the ITSO MLS® Rules, not including the Basic MLS® Rules, or one of the Articles or Interpretations of the REALTOR® Code set out in Schedule A then they will:
   i. Refer the Complainant to RECO if the incident involves an alleged breach of the TRESA Code;

ii. Refer the Complainant to the appropriate Member Association if the incident involves an alleged breach of the Basic MLS® Rules or a Member Association's bylaws; or
iii. Take no further action and close the file if there is no jurisdiction at all.

c) If the Professional Standards Manager determines that the incident falls under the ITSO MLS® Rules other than the Basic MLS® Rules, or one of the Articles or Interpretations of the REALTOR® Code set out in Schedule A then the Professional Standards Manager will either:
i. Take the incident to the Professional Standards Committee for further consideration; or
ii. Refer the Complainant to RECO to address part of the complaint as well as take the incident to the Professional Standards Committee for further consideration.

d) The Professional Standards Manager will notify the Complainant, the Respondent, and RECO, if applicable, of any decision made regarding jurisdiction within 5 days of making the decision. If the incident is being referred to the Professional Standards Committee then a copy of the incident report will be provided to the Respondent and to the Respondent's managing broker or broker of record.

e) The decision of the Professional Standards Manager regarding how to proceed with an incident will be final and shall not be subject to review or appeal.

3. Researching and Reporting of the Incident

a) If the incident is being referred to the Professional Standards Committee, the Professional Standards Manager will work with the Chair of the Professional Standards Committee, or another committee member appointed by the Chair of the Professional Standards Committee, to research the incident and prepare a report for the Professional Standards Committee.

b) In the process of carrying out this research, the Professional Standards Manager and Professional Standards Committee shall have the power to require any Member Association or User to produce, subject to any legal objection, all records, documents and writings or other things within the possession of the Member Association or User that may be required as part of the Research.

c) If a User fails or refuses to produce the information requested when an incident is being researched (i.e., after the Professional Standards Manager has confirmed jurisdiction but before the incident is presented to the PSC Committee to determine whether or not to lay Charges), such failure or refusal shall be deemed to be a breach of this Policy as well as a breach of Articles 17 and 23 of the REALTOR® Code and will be dealt with by the Professional Standards Committee.

d) Upon completion of the research, the Professional Standards Manager shall file a written report with the chair of the Professional Standards Committee, which will include copies of all records, documents, or writings obtained in the course of the research including information regarding any past ITSO MLS® Rule breaches and penalties issued, if any, within the year preceding the date of the incident report.

III. Professional Standards Committee

1. Composition of the Professional Standards Committee

a) The Professional Standards Committee shall consist of 15 to 20 Users.

b) All committee members must have belonged to an Ontario real estate association for at least 3 years.

c) All committee members must complete the training sessions required by ITSO.

2. Review and Disposition of Research

a) The Professional Standards Committee shall review the report from the Professional Standards Manager and shall determine whether the information contained in the report shows sufficient evidence to support a Charge.

b) If the Professional Standards Committee determines that there is not sufficient evidence to support a Charge it shall take no further action in respect of the incident and close the file.

c) All decisions of the Professional Standards Committee whether or not to proceed with an incident shall be made in its sole and absolute discretion of the committee and shall not be subject to review or appeal.

d) The Professional Standards Committee may decide, in its sole and absolute discretion, not to proceed with an incident at any time after receiving a report, even if the incident has already proceeded to a Charge, and such decision shall not be subject to review or appeal.

e) Where the Professional Standards Committee feels an incident report was frivolous and completely without merit they may conclude the filing of that incident report was conduct unbecoming of a REALTOR®, which is then grounds for an incident report against the Complainant under Article 21 of the REALTOR® Code.

3. The Charge

a) If the Professional Standards Committee determines there is sufficient evidence in the report to support a Charge, the Charge will be prepared by the Professional Standards Manager.

b) The Charge will set out:
   i. The specific misconduct or omission which the Respondent is alleged to have done or omitted to do; and
   ii. The relevant Articles and/or Interpretations of the REALTOR® Code and/or ITSO MLS® Rules.

c) The Professional Standards Manager will deliver the Charge to the Respondent within 10 days of the Professional Standard Committee's decision to proceed.

4. The Reply

a) Upon receiving the Charge, the Respondent may choose to either:
   i. Admit to the facts set out in the Charge and enter into a Consent Agreement; or

   ii. File a Reply.

b) The Respondent must respond to the Professional Standards Manager within 10 days of receiving the Charge.

c) A Reply must be in writing, signed by the Respondent, and include:
   i. A statement of those allegations in the Charge which are admitted, those which are denied, and those of which the Respondent has no knowledge; and
   ii. An explanation of the facts relied on by the Respondent to support the Reply.

d) If the Respondent files a Reply, the Professional Standards Committee will review the Reply and decide to either:
   i. Take no further action and close the file; or
   ii. Refer the matter to the Discipline Committee for a hearing.

e) If the matter is referred to the Discipline Committee, the Professional Standards Manager will prepare a referral document for the Hearing Panel and send it to the Chair of the Discipline Committee, which will include:
   i. The incident report;
   ii. The Charge; and
   iii. The Reply if there is one.

f) Failure of the Respondent to respond to the Charge within the 10 day period shall not prevent the Professional Standards Committee from continuing with the process and deciding whether or not to refer the matter to the Discipline Committee. If the matter proceeds to a hearing, such failure of the Respondent shall not prevent the Hearing Panel from proceeding with the matter and shall also not prevent the Respondent from attending and presenting their case at the hearing.

g) Decisions of the Professional Standards Committee shall not be subject to review or appeal.

IV. Discipline Committee

1. Composition of the Discipline Committee

a) The Discipline Committee shall consist of 15 to 20 Users.

b) All committee members must have:
   i. Belonged to an Ontario real estate association for at least 5 years;
   ii. Served on a professional standards committee for at least 2 years at a real estate association in Ontario; and
   iii. Are not currently a member of the ITSO Professional Standards Committee.

c) All committee members must complete the training sessions required by ITSO.

2. Consent Agreement

a) If the Respondent has admitted to the facts in the Charge and agreed to enter into a Consent Agreement, the Professional Standards Manager will prepare the agreement.

b) For breaches of the ITSO MLS® Rules, the Consent Agreement will set out a fine determined as follows:
   i. $250 per Rule for first offense;
   ii. $500 per Rule for a second breach of the same Rule within a 12 month period;
   iii. $750 per Rule for a third breach of the same Rule within a 12 month period, etc.

c) For breaches of the REALTOR® Code, a subset of the Discipline Committee appointed by the Chair of the Discipline Committee, will determine the appropriate penalty to be set out in the Consent Agreement, which can be one or more of the following:
   i. A reprimand;
   ii. A fine of no more than $40,000;
   iii. A suspension of the services provided by ITSO;
   iv. A permanent ban from services provided by ITSO;
   v. An order to complete educational courses; or
   vi. Any other penalty that the Discipline Committee deems reasonable.

d) The Consent Agreement will be provided to the Respondent for execution within 10 days of the penalty being determined by the Discipline Committee.

e) If the Respondent does not sign the Consent Agreement the matter will be referred to the Discipline Committee for a hearing.

3. Hearing Panel

a) If the Professional Standards Committee refers a matter to the Discipline Committee for a hearing then the Chair of the Discipline Committee shall appoint a Hearing Panel.

b) The Hearing Panel will consist of 3 members of the Discipline Committee, one of which will be appointed the Hearing Panel Chair.

c) The committee members on the Hearing Panel must not:
   i. Have participated in any discussions regarding the incident prior to the hearing;
   ii. Be related to the Respondent or any officer, director, shareholder, partner, or employee of the Respondent through blood, marriage, common law partnership, or adoption;
   iii. Belong to the same brokerage as the Respondent; or
   iv. Be involved in any other circumstance that could give rise to a reasonable apprehension of bias.

4. Notice of Hearing and Hearing Package

a) The Professional Standards Manager will coordinate with the Hearing Panel Chair to determine a date for the hearing.

b) The Professional Standards Manager will prepare the Notice of Hearing and provide it to the Parties at least 30 days prior to the date of the hearing.

c) The Notice of Hearing will include:
   i. The date and time of the hearing;
   ii. The location of the hearing;

iii. The names of the people sitting on the Hearing Panel;
iv. The Charge;
v. The Reply if there is one; and
vi. Copies of relevant policies and procedures or links to where they may be found.

d) The Respondent may object to the composition of the Hearing Panel within 5 days of receiving the Notice of Hearing. The objection must be provided to the Professional Standards Manager in writing and provide reasons for the objection. The Professional Standards Manager will coordinate with the Discipline Committee Chair, who will have the right to:
   i. Accept the objection;
   ii. Reject the objection; or
   iii. Appoint another committee member to the Hearing Panel.

e) The Respondent may request a postponement of hearing due to:
   i. Illness, incapacity, or inability of the Respondent to attend on the date set for some reasonable cause beyond the control of the Respondent;
   ii. Inability of an essential witness to attend on the date set;
   iii. Some other reasonable factor which would prevent the Respondent from presenting its case fully and completely.

f) If the Respondent wishes to seek a postponement they must notify the Professional Standards Manager as soon as possible, who will take the request to the Hearing Panel Chair. The Hearing Panel Chair will decide whether or not to set a new date.

g) The Parties will have 10 days after receiving the Notice of Hearing to provide documentary evidence and the names of any witnesses they plan to call to the Professional Standards Manager to include in the Hearing Package. All documentary evidence the Parties plan to introduce at the hearing must be provided during this 10 day period.

h) The Hearing Package will include the Notice of Hearing, the names of witnesses, and all evidence provided by the Parties.

i) The Professional Standards Manager will provide the Hearing Package to the Parties and to the Discipline Hearing Panel at least 7 days prior to the hearing.

5. Hearing Procedures

a) The Parties may be represented at the hearing. If either Party will be represented by a lawyer they must notify the Professional Standards Manager at least 5 days prior to the hearing, which will be communicated to the other Party and to the Hearing Panel.

b) The Hearing Panel may also have a lawyer at the hearing to advise them on legal matters or procedure only. The Hearing Panel lawyer will not be permitted to participate in the deliberations or decision making process.

c) Hearings may be held in person or electronically.

d) The Parties and their witnesses may testify to provide oral evidence in addition to relying on the evidence in the Hearing Package.

e) The Hearing Panel will follow the procedures set out in Schedule B of this Policy.

f) Failure of the Respondent to attend the hearing shall not prevent the Hearing Panel from holding the hearing and making a determination on the matter.

6. Hearing Decision

a) At the conclusion of the hearing the Hearing Panel will deliberate to arrive at a decision. If there is not a majority decision from the Hearing Panel the decision of the Chair of the Hearing Panel shall govern.

b) The Hearing Panel may decide:
   i. The evidence does not support a breach of the REALTOR® Code or the ITSO MLS® Rules and therefore the file should be closed;
   ii. Additional information is required and the matter should be remitted back to the Professional Standards Committee for reconsideration;
   iii. The evidence supports a breach of the REALTOR® Code and/or the ITSO MLS® Rules.

c) If the Hearing Panel decides there is a breach of the REALTOR® Code and/or the ITSO MLS® Rules they can choose from the following penalties:
   i. A reprimand;
   ii. A fine of no more than $40,000;
   iii. A suspension of the services provided by ITSO;
   iv. A permanent ban from services provided by ITSO;
   v. An order to successfully complete educational courses;
   vi. An order to pay the costs of the hearing;
   vii. Any other penalty that the Hearing Panel deems reasonable.

d) The Professional Standards Manager will provide the Hearing Panel decision to the Respondent as soon as reasonably possible after the hearing, which will:
   i. Be in writing;
   ii. Signed by the Hearing Panel Chair;
   iii. Contain the reasons for the decision; and
   iv. Specify the penalties and fees imposed if any.

e) The decision of the Hearing Panel shall be binding upon the Respondent and shall be considered effective as of the date of the decision unless otherwise set out in the decision.

7. Appeal Application

a) The Respondent may choose to appeal the Hearing Panel decision, after which they will be referred to as the Appellant.

b) The only acceptable grounds for appeal are:
   i. That the ITSO MLS® Rules or REALTOR® Code were interpreted and applied incorrectly;
   ii. That the penalties imposed by the Hearing Panel were inappropriate; or
   iii. That there was a lack of procedural fairness.

c) The Appellant must file the Appeal Application with the Professional Standards Manager within 10 days of receiving the Hearing Panel's decision.

d) The Appeal Application must be in writing and include:
   i. The grounds on which they are appealing the Hearing Panel decision;
   ii. A brief explanation of why they are appealing; and
   iii. A filing fee determined by ITSO.

e) The decision of the Hearing Panel will be stayed pending the appeal.

8. Appeal Panel

a) The Chair of the Discipline Committee shall appoint an Appeal Panel consisting of 3 members of the Discipline Committee, one of which must be a director of ITSO. If there are no ITSO directors that are impartial and meet the requirements set out below, then the Chair of the Discipline Committee may appoint another committee member instead of an ITSO director.

b) The committee members on the Appeal Panel must not:
   i. Have sat on the Hearing Panel of the original hearing or have any knowledge of the proceedings up to this point;
   ii. Be related to the Respondent or any officer, director, shareholder, partner, or employee of the Respondent through blood, marriage, common law partnership, or adoption;
   iii. Belong to the same brokerage as the Appellant; or
   iv. Be involved in any other circumstance that could give rise to a reasonable apprehension of bias.

c) The Discipline Committee Chair will appoint an Appeal Panel Chair.

9. Notice of Appeal and Appeal Package

a) The Professional Standards Manager will coordinate with the Appeal Panel Chair to determine a date for the appeal hearing.

b) The Professional Standards Manager will prepare the Notice of Appeal and provide it to the Appellant at least 30 days prior to the date of the appeal hearing.

c) The Notice of Appeal will include:
   i. The date and time of the appeal hearing;
   ii. The location of the appeal hearing;
   iii. The names of the people on the Appeal Panel; and
   iv. Copies of relevant policies and procedures or links to where they may be found.

d) The Appellant may object to the composition of the Appeal Panel within 5 days of receiving the Notice of Appeal. The objection must be provided to the Professional Standards Manager in writing and provide reasons for the objection. The Professional Standards Manager will coordinate with the Discipline Committee Chair, who will have the right to:
   i. Accept the objection;
   ii. Reject the objection;
   iii. Appoint another committee member to the Appeal Panel.

e) The Appellant may request a postponement of appeal hearing due to:

i. Illness, incapacity or inability of the Appellant to attend on the date set for some reasonable cause beyond the control of the Appellant;
ii. Some other reasonable factor which would prevent the Appellant from presenting its case fully and completely.

f) If the Appellant wishes to seek a postponement they must notify the Professional Standards Manager as soon as possible, who will take the request to the Appeal Panel Chair. The Appeal Panel Chair will decide whether or not to set a new date.

g) The Professional Standards Manager will prepare an Appeal Package, which will include:
i. The Notice of Appeal;
ii. The Hearing Panel decision;
iii. The Appeal Application;
iv. The Hearing Package;
v. A transcript from the hearing.

h) The Professional Standards Manager will provide the Appeal Package to the Respondent and to the Appeal Panel at least 7 days prior to the Appeal Hearing.

10. Appeal Procedures

a) The Appellant may be represented at the Appeal. If the Appellant will be represented by a lawyer they must notify the Professional Standards Manager at least 5 days prior to the appeal hearing, which will be communicated to the Appeal Panel.

b) The Appeal Panel may also have a lawyer at the appeal hearing to advise them on legal matters or procedure only. The Appeal Panel lawyer will not be permitted to participate in the deliberations or decision making process.

c) The appeal hearing may be conducted in person or electronically.

d) The Appeal Panel will follow the procedures set out in Schedule C of this Policy.

e) No new evidence may be introduced at the appeal hearing.

f) If the Appellant does not attend the appeal hearing, the appeal will be dismissed and there will be no further right to appeal.

11. Appeal Decision

a) At the conclusion of the appeal hearing the Appeal Panel will deliberate to arrive at a decision. If there is not a majority decision from the Appeal Panel the decision of the Chair of the Appeal Panel shall govern.

b) The Appeal Panel may decide to:
i. Dismiss the appeal and uphold the Hearing Panel decision;
ii. Grant the appeal and close the file;
iii. Amend the decision of the Hearing Panel as the Appeal Panel deems appropriate;
iv. Remit the matter back to the Discipline Committee for a new hearing in whole or in part, and at their discretion by a differently constituted Hearing Panel;

v. Impose any penalties that were available to the Hearing Panel;
vi. Order the Appellant to pay the costs of the appeal.

c) The Professional Standards Manager will provide the Appeal Panel decision to the Appellant as soon as reasonably possible after the appeal hearing, which will:
   i. Be in writing;
   ii. Signed by the Appeal Panel Chair;
   iii. Contain the reasons for the decision; and
   iv. Specify the penalties and fees imposed if any.

d) The decision of the Appeal Panel shall be final and binding upon the Appellant and shall be considered effective as of the date of the decision unless otherwise set out in the decision.

V. Miscellaneous

1. Cooperation with RECO

a) The Professional Standards Committee and Discipline Committee will cooperate with any requests from RECO, which may involve:
   i. Deferring the investigation and/or discipline process until after RECO has dealt with the incident; and
   ii. Providing RECO with copies of any materials collected by the Professional Standards Manager, the Professional Standards Committee, and the Discipline Committee.

b) All communication with RECO regarding such requests will go through the Professional Standards Manager.

c) The Professional Standards Manager will notify the Complainant and the Respondent if the matter is deferred at the request of RECO within 5 days of receiving the request from RECO.

2. Communication of Decisions

a) The Professional Standards Manager will send the Respondent’s managing broker or broker of record a copy of the decision from a Hearing Panel and Appeal Panel if there is an appeal.

b) The Professional Standards Manager will notify a Member Association if a Hearing Panel or Appeal Panel issues a decision involving a User that belongs to their Association.

c) If a Member Association is handling incidents at their Association then they must communicate the outcome of those incidents to ITSO.

d) The decisions of Hearing Panels and Appeal Panels may be communicated to all Users. Such communication will not take place until the Appeal is finished, if there is one, or the window for filing an appeal application has closed.

3. Failure to Comply with Decision

a) Failure to comply with the decision of a Hearing Panel or Appeal Panel is a breach of this policy.

b) If a User fails to comply with the decision of a Hearing Panel or an Appeal Panel by the date specified in the decision, ITSO may, without any further proceedings, suspend the User's access to the ITSO MLS® System.

c) In addition to suspending a User's access to the MLS® System for failing to comply with the decision of a Hearing Panel or Appeal Panel, the ITSO board of directors may, without any further proceedings, impose additional penalties including, but not limited to, suspending the User's access to all ITSO services or permanently banning the User from accessing ITSO services.

d) All Member Associations must cooperate with ITSO and take any steps that are necessary to uphold decisions of Hearing Panels and Appeal Panels that affect Users belonging to their Association.

4. Discontinuing Proceedings

a) If a Respondent either resigns or is terminated from their Association at any time during professional standards proceedings, and consequently does not belong to any Member Association, the Professional Standards Committee may:
   i. Hold the incident and process in abeyance until the User re-joins a Member Association, at which time the process can resume; or
   ii. Close the file.

b) If a Respondent resigns or is terminated from their Association but belongs to another Member Association, or joins another Member Association immediately after leaving the other Association, then the proceedings will continue.

c) If a Respondent resigns their membership or has their membership terminated from all Member Associations after a hearing decision but before an Appeal Application is filed, or at any time during the appeal process, the Respondent shall be deemed to have waived all rights of appeal.

5. Documents and Correspondence

a) All letters, notices, or other documents required to be sent to a User will be sent via email unless the User indicates they would rather receive correspondence by personal delivery, courier, or registered mail.

b) All files, documents, correspondence, reports and records pertaining to an incident and/or investigation shall be in the custody, care and control of the Professional Standards Manager on behalf of the Professional Standards Committee and Discipline Committee and shall be considered confidential, not subject to access by any persons except as necessary to carry out proceedings set out in this Policy or if requested by RECO.

6. Indemnity

No action or proceeding, either at law or in equity, may be brought by any Member Association or User against ITSO, any ITSO director, or any Professional Standards Committee or Discipline Committee member for any act or omission in relation to the administration or enforcement of this Policy. This section may be pleaded as, and shall constitute, an absolute defence to any such claim or action.

Schedule A: Articles and Interpretations of the REALTOR® Code Enforced by ITSO

Article 13. Advertising - Content/Accuracy

All Advertising and promotion of properties shall accurately reflect property and other details and prominently display the name of the brokerage and any additional information required by provincial regulation.

Interpretation

13.1 REALTORS® shall not advertise or permit any person employed by them or otherwise affiliated with them to advertise real estate services or property without disclosing the name of the REALTOR®'s brokerage in a readily apparent fashion. If disclosing the name of the REALTOR®'s brokerage is impractical because of the nature of the display (e.g. text message, tweet, etc…) then no such disclosure is required, provided there is a link to a display that includes all of the required disclosures.

13.2 The Internet website of a REALTOR® is an Advertising vehicle. In the event of a multiple page website, every page is an Advertising vehicle. All properties displayed and all representations made on a website must comply with the REALTOR® Code as well as applicable provincial, federal and any other requirements regarding Advertising.

13.3 The advertised or offered price shall not be other than that which was agreed upon in writing with the Seller.

14. Advertising Listings of Other REALTORS®

REALTORS® may only advertise a property if such Advertising has not been restricted at the request of the Seller and is in accordance with provincial and federal regulations.

14.1 Listing brokerages may permit the Advertising of their properties by other brokerages when authorized in writing by the Seller to do so.

14.2 Virtual Office Websites (VOWs), Internet Data Exchange Websites (IDXs) and any other similar sites or technologies which display properties of other REALTORS® shall be subject to all applicable laws, and be operated in accordance with the rules established by the appropriate real estate board(s) for such sites.

14.3 Interpretation 13.1 also applies to Article 14, unless otherwise agreed upon in writing.

15. Advertising Claims

Claims or offerings in Advertising must be accurate, clear and understandable.

15.1 Advertising of Compensation shall include the details of services provided and whether any additional charges may apply. If the services to be provided for the advertised Compensation do not include listing on a Board's MLS® System, a statement to that effect must be included.

15.2 Representations of performance (e.g. “#1,” “top-selling,” etc.) must include the geographical area referred to, the relevant time-frame (e.g. January-June 2004) and the source or basis on which the claim is based (e.g. based on the number of sales on the MLS® system of the relevant Board for the specified time period).

15.3 Advertising of programs, initiatives or guarantees (e.g. “Buy a house with 0% down, ”If I don’t sell your house, I will buy it from you,”) must clearly set out all significant details of how the program works, including, but not limited to, exceptions and time frames.

15.4 Significant conditions, restrictions, limitations and additional charges shall be fully and prominently displayed in the body of the advertisement near the claim or offering in easily readable form and shall comply with all applicable laws.

15.5 A condition, restriction, limitation or additional charge shall be considered “significant” if it would likely affect a consumer’s decision to retain the REALTOR®/brokerage.

15.6 Any claims or offerings in advertising must also comply with all applicable laws, including the Competition Act.

15.7 Interpretation 13.2 Applies to Article 15.

16. Discrimination

The REALTOR® shall not deny professional services to or be a party to any plan to discriminate against any Person for reasons of race, national or ethnic origin, religion, colour, sex, family status, age, gender identity, or sexual orientation, marital status or disability.

16.1 REALTORS® must comply with applicable human rights legislation.

17. Compliance with Board/ Association Bylaws

The REALTOR® shall abide by the By-Laws, Rules, Regulations and policies established by the REALTOR®’s Real Estate Board, Provincial/Territorial Association, and The Canadian Real Estate Association (CREA).

18. Compliance with Statutory Requirements

The business of a REALTOR® shall be conducted in strict accordance with all statutory and regulatory requirements.

18.1 A board may only charge a REALTOR® under this Article once he or she has been found to have violated a statute or regulation by the body duly authorized to make such a determination.

18.2 A certificate of conviction or other proof of non-compliance issued by a duly authorized body may be relied on by a board as evidence of non-compliance with this Article.

18.3 Nothing in this Article prevents a board from initiating discipline proceedings where the conduct which is the subject of charges under other statutes or regulations may also constitute a violation of the REALTOR® Code.

19. Discrediting another Registrant

The REALTOR® shall never publicly discredit any other Registrant. If the REALTOR®'s opinion is sought, it should be rendered with strict professional integrity and courtesy.

19.1 The REALTOR® shall not comment in a derogatory manner in any communication or medium, including social media, as to the capacity, integrity, or competence of any other Registrant.

19.2 Where any REALTOR® is asked to comment on a specific transaction or the business practices of another Registrant, such comments should be given with strict professional integrity, objectivity and courtesy.

19.3 This Article does not apply to truthful Advertising by REALTORS®. Any Advertising by a REALTOR® which contains seemingly derogatory statements about other Registrants or competitors, their businesses or their business practices may form the basis of an ethics charge only if such statements are false or misleading within the meaning of the Competition Act, or are otherwise prohibited by law.

21. Conduct Unbecoming

A REALTOR® shall not engage in conduct that is disgraceful, unprofessional or unbecoming of a REALTOR®.

21.1 This Article is intended to deal with conduct that, having regard to all of the circumstances, is egregious in nature and goes beyond simple error.

21.2 "Conduct" in this Article is not restricted to conduct in the course of providing real estate services.

22. Principal (Broker) Responsibility

NOTE: ITSO's jurisdiction over this Article is limited to situations where a broker of record or managing broker of a brokerage has allegedly breached the Article with respect to a Respondent that has gone through, or is going through, the ITSO PSC process.

The principal of a brokerage is required to supervise and control the activities of the REALTOR® and other personnel for whom he/she is responsible.

22.1 "Principal" means the individual designated as the representative of the firm, either for the purposes of the provincial real estate licensing legislation or with regard to the relationship between the brokerage and the local real estate Board/Association.

22.2 In determining the adequacy of supervision, all relevant factors may be considered, including, but not limited to:

(a) whether the brokerage had established written policies and procedures which were provided to all REALTORS® and other personnel;

(b) whether office activities were regularly reviewed and updated to ensure that the policies and procedures were current and were being properly implemented;

(c) whether the principal had undertaken all reasonable steps to ensure compliance by all REALTORS® and other personnel;

(d) whether each transaction was reviewed by the principal, including trust deposits, sales record sheets, Listing and sales contracts;

(e) whether the principal took remedial action when a violation by a REALTOR® or other personnel was discovered; and

(f) whether the brokerage regularly informed or updated the firm REALTORS® and other personnel on changes in legislation, rules and regulations or other relevant issues.

23. Cooperation with Board/Association

Should a REALTOR® be asked to co-operate in any way in connection with a disciplinary investigation or proceeding, the REALTOR® shall place all pertinent facts before the proper Committee of whichever real estate board or association is conducting the investigation or proceeding.

23.1 A REALTOR® who is being investigated for alleged unethical conduct should provide the appropriate Committee, upon request, with all materials and information in the REALTOR®'s possession in connection with the matter being investigated.

23.2 Where a REALTOR® is asked to assist the appropriate Committee in connection with a disciplinary investigation or proceeding involving another REALTOR®, the REALTOR® should provide all relevant materials and information in that REALTOR®'s possession, and be prepared to testify at any hearing of the matter. Such assistance should not be deemed a "controversy" within the meaning and intent of Article 26.

23.3 Where a REALTOR® has reasonable and probable grounds to believe:
(a) that another REALTOR® has apparently breached the REALTOR® Code, and
(b) that a person will likely suffer serious damage as a consequence of the apparent breach, the REALTOR® should immediately report the apparent breach to the appropriate Board in writing with the reporting REALTOR®'s name, address and telephone number. The report should be made bona fide without malice or ulterior motive.

24. Arbitration

In the event of a dispute between REALTORS® associated with different brokerages of the same local Board/Association regarding the Compensation earned or to be earned in connection with a real estate transaction, the dispute shall be submitted for arbitration in accordance with the By-Laws, Rules and Regulations of their local Board/Association.

24.1 A dispute between REALTORS® which is properly submitted for arbitration pursuant to this Article should not be deemed a "controversy" within the meaning and intent of Article 26.

24.2 Where a REALTOR® fails to submit a dispute to arbitration in accordance with the applicable By-Laws and Rules and Regulations, this Article may be pleaded as a defence in any other action or proceeding.

24.3 This Article does not require REALTORS® to arbitrate when all parties to the dispute advise their Board/Association in writing that they choose not to arbitrate before the Board/Association.

25. Inter-Board and Inter-provincial Arbitration

In the event of a dispute between REALTORS® associated with different brokerages and belonging to different local Boards/Associations, regarding the Compensation earned or to be earned in connection with a real estate transaction, the dispute shall be submitted to arbitration in accordance with the By-Laws and Rules and Regulations of the appropriate Provincial/Territorial Association. Should the REALTORS® belong to different Provincial/Territorial Associations, the dispute shall be arbitrated in accordance with the By-Laws and Rules and Regulations of The Canadian Real Estate Association.

25.1 Interpretations 24.1, 24.2 and 24.3 also apply to Article 25.

26. Avoid Controversies

The business of a REALTOR® shall be conducted so as to avoid controversies with other REALTORS®.

26.1 Any REALTOR® who is aware of or involved in a controversy with another REALTOR®, resulting from the alleged misconduct or impropriety of that other REALTOR®, should place such matters before the appropriate Committee for resolution in order that the matter may be resolved in accordance with the Rules and Regulations of the Board, Association, Society or Council to which the REALTOR® belongs.

26.2 “Controversies,” as used in this Article, does not include aggressive or innovative business practices, which are otherwise ethical and disputes over Compensation or the division of commissions/fees.

26.3 A REALTOR® should not disrupt or obstruct a disciplinary investigation or proceeding relating to the alleged misconduct of another REALTOR®.

26.4 A REALTOR® should not make any unauthorized disclosure or dissemination of allegations, findings or a decision in connection with a disciplinary investigation, hearing or appeal.

26.5 A REALTOR® should not intentionally impede a disciplinary investigation or proceeding by filing multiple complaints based on the same event or transaction.

27. CREA Trademarks

A REALTOR® shall only use the trademarks of The Canadian Real Estate Association in accordance with CREA’s rules, regulations and policies.

27.1 A REALTOR® shall not challenge the validity of CREA’s Trademarks.

27.2 A REALTOR® shall not use any of CREA's Trademarks in domain names or e-mail addresses unless specifically authorized to do so by CREA policies.

27.3 A REALTOR® shall not use, display, or attempt to register as trademarks any word, phrase, term, initials or design marks that incorporate, or are confusingly similar to, any trademark of CREA.

27.4 REALTORS® are responsible for ensuring that buyers and sellers, for whom they are providing any service, as well as any other third parties in any way involved in transactions, do not use CREA's Trademarks in any unauthorized manner. This obligation includes the requirement to contractually protect CREA's Trademarks as set out in CREA's Policies.

28. Intellectual Property Rights of Boards/ Associations

REALTORS® shall respect the intellectual property and other ownership rights of other REALTORS®, Boards, Provincial/Territorial Associations and CREA.

28.1 REALTORS® shall only access and use the websites and other databases of Boards, Associations, CREA and other REALTORS® in accordance with the policies for use established by the owner of the site.

28.2 REALTORS® should not infringe the copyright or other ownership interest of another REALTOR® in his/her Listing.

28.3 A REALTOR® shall not use the trade names or trademarks or confusingly similar trade names or trademarks of any firm, franchise, or other organization other than those with which the REALTOR® is affiliated or otherwise authorized in writing to use. This restriction includes but is not limited to, unauthorized Internet uses such as domain names, e-mail addresses and metatags.

29. REALTOR® Acting as Principal

A REALTOR®, when acting as a principal in a real estate transaction, remains obligated by the duties imposed by the REALTOR® Code.

29.1 A REALTOR® is acting as a principal when he or she is buying or selling or attempting to buy or sell an interest in the property either directly, on his or her own behalf or through any entity which the REALTOR® holds any direct or indirect interest.

30. Duty of Cooperation

MLS® Systems are member-to-member cooperative selling systems that benefit REALTORS® and their Buyers and Sellers. A REALTOR® has an obligation to cooperate with other REALTORS® in the provision of professional real estate services.

30.1 REALTORS® commit to participate in member-to-member cooperative selling on behalf of their Buyers and Sellers.

30.2: A REALTOR® who engages in public marketing of a property for sale shall abide by the CREA REALTOR® Cooperation Policy.

Schedule B: Hearing Procedures

1. Hearing Procedure

The hearing will proceed in the following order:

a) Chair makes opening remarks;
b) Introduction of the Hearing Panel and confirmation of no conflicts;
c) Swearing in of Parties and witnesses;
d) Witnesses leave room;
e) Professional Standards Committee representative presents evidence and calls witnesses if any;
f) Cross examination from Respondent;
g) Respondent presents evidence and calls witnesses if any;
h) Cross examination from the Professional Standards Committee representative;
i) Questions from Hearing Panel;
j) Closing statement from Professional Standards Committee representative;
k) Closing statement from Respondent.

2. Recording of Hearing

The hearing will be recorded by any means deemed appropriate by ITSO, which may include but is not limited to audio recording or video recording. Recording of the hearing by either Party is not permitted.

3. Witnesses and Evidence

a) The Parties may call anyone as a witness including people who do not belong to a Member Association.

b) Hearsay evidence is not permitted.

c) The Hearing Panel is not bound by the rules of evidence or any other legal rules, but shall consider the best evidence available.

4. Representation

If the Respondent will be represented at the hearing then the Hearing Panel may require all communication to come from the representative other than when the Respondent is testifying to give oral evidence.

5. Adjournments

The Hearing Panel may adjourn any hearing from time to time.

Schedule C: Appeal Process

1. Appeal Procedure

The appeal will proceed in the following order:

a) Chair makes opening remarks;
b) Introduction of the Appeal Panel and confirmation of no conflicts;
c) Swearing in of Appellant;
d) Appellant's statement;
e) Questions from Appeal Panel;
f) Closing statement from Appellant.

2. Recording of Appeal

The appeal may be recorded by any means deemed appropriate by ITSO, which may include but is not limited to audio recording or video recording. Recoding of the appeal hearing by the Appellant is not permitted.

3. Evidence

New evidence may not be introduced at the appeal.

4. Representation

If the Respondent will be represented at the appeal hearing then the Hearing Panel may require all communication to come from the representative.

5. Adjournments

The Appeal Panel may adjourn any hearing from time to time.