

# COMPLAINT FAQ FOR THE RESPONDENT

*(This document is for information purposes only. Please review MIBOR's Citation Policy and NAR's Code of Ethics and Arbitration Manual for further details).*

## **A COMPLAINT HAS BEEN FILED AGAINST ME. WHAT HAPPENS NEXT?**

The complaint is reviewed by the Grievance Committee. The Grievance Committee does not determine if a member is in violation, rather they conduct a preliminary review to ensure the complaint qualifies for a hearing and determines if the correct Article(s) of the Code of Ethics have been cited. If the committee determines the complaint qualifies for a hearing, their decision is sent to the parties and the respondent is requested to submit a response to the complaint at that time. Any statements or evidence filed by either party is shared with the other party to the complaint. A hearing before a hearing panel will be scheduled to occur typically within 4-8 weeks from the date the Grievance Committee decision is sent.

## **CAN I SUBMIT MY RESPONSE FOR THE GRIEVANCE COMMITTEE TO REVIEW?**

No, the Grievance Committee's role is not to determine if a violation occurred and therefore should only review the allegation to determine, if taken as true, the alleged conduct could constitute a violation of the Code of Ethics.

## **WILL THE GRIEVANCE COMMITTEE OR HEARING PANEL RESEARCH THE COMPLAINT?**

It is not the job of the Grievance Committee, a Hearing Panel, or MIBOR staff to research any allegations, issue or defense. Don't assume that the panel should know or can find something on their own. The Complainant bears the burden of proving a violation of the Code of Ethics has occurred.

## **AFTER I SUBMIT MY RESPONSE DOES THE GRIEVANCE COMMITTEE PERFORM ANOTHER REVIEW?**

No. Their role is to conduct a preliminary review only. Your response and any evidence submitted will be shared with the other party and the hearing panel.

## **WHAT IS EVIDENCE?**

Evidence can include documents, emails, screenshots of text messages, photos, audio or video recordings, written statements, or testimony from parties and witnesses.

## **CAN I SUBMIT EVIDENCE AFTER I FILE MY RESPONSE?**

Yes, but all tangible evidence should be submitted at least 10 days prior to the hearing date. While evidence can be submitted within those 10 days, doing so may delay the hearing or cause it to not be admitted.

## **WHAT HAPPENS IF THE COMPLAINT IS WITHDRAWN?**

If the Complainant withdraws their complaint, the Grievance Committee will conduct further review of the complaint to determine if there is a potential violation of public trust.

## **HOW SHOULD I PREPARE FOR THE HEARING?**

Be sure to review all evidence, prepare witnesses (if applicable) and be able to thoroughly explain why you believe a violation of the Code of Ethics has not occurred. Additionally, due to the pandemic, all hearings are being held remotely through Zoom. You will want to make sure that you and any witnesses you intend to participate have strong Wi-Fi and are familiar with using Zoom. If you would like to schedule a practice session, please contact MIBOR staff.

## **WHO WILL BE AT THE HEARING?**

The parties to the complaint, the respondent's Managing Broker, the Hearing Panelists, MIBOR staff and/or the Board's attorney. Witnesses, REALTOR® Counsel or a REALTOR® Advocate may also be present.

## **CAN I BE REPRESENTED AT THE HEARING?**

Yes, any party may be represented by legal counsel or by a Realtor® Advocate of their choosing (or both) at the hearing. If you intend to be represented at the hearing, you should (at least 15 days prior to the hearing date) notify MIBOR staff and provide the name and contact information for your counsel and/or advocate. MIBOR will provide this information to all other parties.

## **DO I HAVE TO PROVE I DID NOT VIOLATE THE CODE OF ETHICS?**

The complainant bears the burden of proof in an ethics hearing.

## **WHAT IS THE STANDARD OF PROOF IN AN ETHICS HEARING?**

In order for a hearing panel to find a respondent in violation of the Code of Ethics, there must be clear, strong and convincing evidence that the violation occurred.

## **CAN I SUBMIT EVIDENCE AT THE HEARING?**

All tangible evidence should be submitted at least 10 days prior to the hearing date. Any evidence submitted less than 10 days, including at the hearing, may be subject to an objection or the Chairperson making a ruling as to relevancy.

In addition to tangible evidence, every party may have witnesses present at the hearing, though all witnesses (except those who are also parties) will be excused from the hearing except for during their testimony. Any party who intends to call a witness (who is not also a party to the hearing) must provide MIBOR with the names of these witnesses no less than 15 days prior to the hearing. MIBOR will provide the list of witnesses to all other parties.

## WHAT IS THE FLOW OF THE HEARING?

The hearing begins when the Chairperson is ready to begin. The Chairperson will have opening comments, instructions and will read the basis of the complaint into the record. Remote hearing verifications will be confirmed.

The parties and any witnesses are sworn in. If witnesses are participating in the hearing, they are excused from the hearing room except while testifying.

The complainant then presents a narrative of the complaint and witnesses can be called to testify at any time during your presentation. Once you are finished with your presentation, you may be questioned by the Respondent and the hearing panel. Witnesses are questioned directly after their testimony.

The respondent then presents their response to the complaint. They too may call witnesses. Once they are finished with their presentation, they may be questioned by the Complainant and the hearing panel. Witnesses are questioned directly after their testimony.

The Complainant will make a closing statement and then the Respondent will make a closing statement. The Chairperson will then give closing instructions, get affirmations of the parties, and then the hearing is adjourned.

## WILL I KNOW THE RESULTS OF THE HEARING THE SAME DAY?

At the conclusion of the hearing, the parties are excused. The Hearing Panel remains to meet in Executive Session to determine if a violation of the Code of Ethics occurred. If a member is found in violation, the Hearing Panel will determine what discipline to recommend to the Board of Directors. Staff assist in drafting the decision of the Hearing Panel and will transmit it to the parties within 3 business days of the conclusion of the hearing.

## IF I AM FOUND IN VIOLATION, WHAT ARE THE POTENTIAL DISCIPLINES?

- Letter of Warning
- Education Course(s)
- Probation
- Expulsion
- Letter of Reprimand
- Fine up to \$15,000
- Suspension

In addition, a respondent found in violation shall automatically be required to pay an administrative fee authorized by MIBOR's board of directors (currently, that fee is \$250.00).

Members found in violation of the Code of Ethics may be subject to the Publication Policy. The policy can be reviewed at [www.mibor.com/professionalservices](http://www.mibor.com/professionalservices).

## CAN YOU TAKE MY LICENSE AWAY?

No. Any complaint filed against a member's license is addressed by the Indiana Attorney General and the Indiana Real Estate Commission.

*Contact the Professional Services Department for additional information at 317.956.1912, Option 4 or at [professionalservices@mibor.com](mailto:professionalservices@mibor.com)*