

Q&A:

HOW TO RESOLVE CODE OF ETHICS AND/OR MLS RULE VIOLATIONS

Q: What kinds of programs are available to PWR members to resolve Code of Ethics and/or MLS Rules concerns, including possible violations?

A: PWR has numerous programs and actions that can be taken to assist with resolution:

- Rapid Ethics Delivery (RED)
- Ombudsman
- Ethics Advocate
- Anonymous Complaint
- Formal Disciplinary Complaint
- MLS (CARETS) Citation Policy
- MLS Disciplinary Complaints (non-citable matters)

Q: Is there a cost to use any of these programs.

A. No.

RAPID ETHICS DELIVERY (RED)

Q: What is Rapid Ethics Delivery (RED)?

A: RED is PWR's newest Professional Standards program, intended to quickly address and resolve potential Code of Ethics (COE) and MLS Rules violations.

If you believe that a PWR member has acted inappropriately and may be in violation of a COE and/or MLS Rule, prior to filing a Formal Disciplinary Complaint you, (the "Reporting Party"), can report the matter to PWR and that member (the "Offending Party") may be put on notice. RED does not impose any formal fines or charges unless certain criteria are met.

Q: Why was it created?

A: In response to an ever-increasing concern about ethical behavior in the industry, the lack of reporting, and the need for a flexible and expedited program to deal with problems as they arise.

Q: How do you report a violation?

A: To report a violation, the Reporting Party completes the RED Questionnaire found on PWR's website. [Download – RED Questionnaire Form](#)

Q: What will PWR do with the report?

A: When PWR receives a completed RED Questionnaire, the Professional Standards Department may contact the Offending Party and his or her broker to let them know that there is reason to believe the Offending Party is in violation of the COE and/or MLS Rules.

Q: How may the Offending Party respond or defend itself?

A: When contacted by PWR, the Offending Party will have the opportunity to submit a written response to the alleged violations. The response will tell the Offending Party's version of what took place or may indicate how the issue has been handled.

Q: What if the Offending Party doesn't respond, either satisfactorily or at all?

A: If the Offending Party doesn't respond satisfactorily or at all, PWR will strongly encourage the Reporting Party to file a Formal Disciplinary Complaint. If appropriate, PWR may refer the matter to PWR's Grievance Committee, who may file a Formal Disciplinary Complaint.

Q: What if the Responding Party wants to file a Formal Disciplinary Complaint anonymously?

A: The Reporting Party may remain anonymous if the facts of the alleged violation meet certain criteria (see "Anonymous Complaint Program" below). If they do, PWR may ask the Grievance Committee to act as the Complainant in a Formal Disciplinary Complaint.

Q: Will violations be tracked?

A: PWR will track all reported violations through the RED Program. If there is a pattern of potential violations, the complaints may be sent to the Grievance Committee to file a Formal Disciplinary Complaint.

OMBUDSMAN PROGRAM

Q: What is the Ombudsman Program?

A: The Ombudsman Program is a voluntary program that allows Reporting Parties and Offending Parties an opportunity to resolve their disputes prior to filing a Formal Disciplinary Complaint. An Ombudsman may also be used after a Formal Disciplinary Complaint has been filed but before the actual hearing takes place.

Q: What is an Ombudsman?

A: An Ombudsman is a trained member of the Professional Standards Committee who acts as a go-between for the Reporting Party and Offending Party. The Ombudsman does not determine if a violation has occurred, but facilitates communication and conciliation between parties.

Q: When is an Ombudsman used?

A: The parties can agree to meet with an Ombudsman to attempt to resolve the Reporting Party's complaints either before or after a Formal Disciplinary Complaint is filed.

Q: When isn't an Ombudsman used?

A: If the Ombudsman hears the facts of the case and believes that a potential violation of public trust may have occurred, the services of the Ombudsman are terminated. The parties may pursue a Formal Disciplinary Complaint, a complaint with an appropriate governmental or regulatory body, litigation, or another available remedy. An Ombudsman cannot attempt to resolve issues involving public trust. Public trust is defined as "...demonstrated misappropriation of client or customer funds or property, willful discrimination, or fraud resulting in substantial economic harm." (Section 38(e) of the *California Code of Ethics and Arbitration Manual*.)

Q: What happens if the parties reach a resolution using the Ombudsman?

A: If a resolution is reached, the original Formal Disciplinary Complaint, if any, will most likely be dismissed.

Q: What if a resolution is reached, but a party refuses or fails to comply?

A: If a party refuses or fails to comply, the Reporting Party is entitled to either submit or resubmit his or her Formal Disciplinary Complaint.

ETHICS ADVOCATE PROGRAM

Q: What is the Ethics Advocate Program?

A: The Ethics Advocate Program utilizes Ethics Advocates (EAs) to assist parties with preparation for a Formal Disciplinary Complaint and hearing. An EA helps parties with any part of the filing, responding, or hearing process that they do not feel comfortable handling alone.

Q: What is an Ethics Advocate (EA)?

A: An Ethics Advocate is a trained REALTOR® member on the Professional Standards Committee.

Q: What kind of assistance does an EA offer?

A: An EA can assist either the Reporting Party or Offending Party with:

- Filing a Formal Disciplinary Complaint;
- Responding to a Formal Disciplinary Complaint;
- Assembling evidence;
- Representation at the hearing, including:

- Making opening and closing statements;
- Examining and cross-examining witnesses;
- Introducing evidence.

The EA can also advise a party on the merits of his or her Complaint or Response and possible resolutions.

Q: What doesn't an EA do?

A: An EA cannot testify as a witness at the hearing and cannot assist with arbitration issues, due to legal constraints.

Q: Is an EA an attorney?

A: No, an EA is not an attorney. However, a party can have both an EA and an attorney represent them.

Q: How do I get an EA?

A: An EA is requested when the Complaint or Response is filed. Either a Complainant or a Respondent can request an EA.

ANONYMOUS COMPLAINT PROGRAM

Q: What is an anonymous complaint?

A: An anonymous complaint is filed on behalf of a Reporting Party by the Professional Standards Grievance Committee. The Grievance Committee acts as the "Complainant" rather than the Reporting Party.

Q: Why would I file an anonymous complaint?

A: Many REALTOR® members or members of the public do not feel comfortable filing a complaint with their names on it. An anonymous complaint limits the amount of involvement of the Reporting Party, although a REALTOR® is required to give evidence when requested, pursuant to Article 14 of the Code of Ethics.

Q: What are the requirements for filing an anonymous complaint?

A: In order to file an anonymous complaint, the Complaint (Grievance Committee) must be able to "stand on its own."

Q: What does it mean for a Complaint to "stand on its own"?

A: Since the Reporting Party cannot be counted on to provide testimony to support his or her allegations, the allegations in the Complaint must be proven by tangible evidence (sight, touch, or feeling). The Grievance Committee can do its own investigations, but the facts surrounding the allegations must be readily apparent (e.g., false, written advertising).

Q: How do I file an anonymous complaint?

A: A Reporting Party can either complete an anonymous disciplinary questionnaire, which is available on PWR's website, or call PWR's Professional Standards Department. The Reporting Party will be asked to provide as much information regarding the allegations as possible, but he or she does not have to reveal his or her identity.

Q: What happens with the Offending Party?

A: After reviewing the Complaint, a panel from the Grievance Committee can contact the Offending Party prior to filing a Formal Disciplinary Complaint. The Offending Party can then either fix the violation to the panel's satisfaction or refuse to correct the violation. If the Offending Party refuses, the Grievance Committee may file a Formal Disciplinary Complaint.

FORMAL DISCIPLINARY COMPLAINT

Q: What happens when I file a Formal Disciplinary Complaint?

A: A Formal Disciplinary Complaint is sent to the Grievance Committee for review. If the Committee decides a hearing is necessary, the Offending Party, (now the Respondent), is notified and given 20 days to file a Response. A Panel of three (3) Professional Standards members will be chosen to hear the matter. After that hearing, the Panel will decide if a violation has occurred and will impose appropriate disciplinary action.

Q: Who can file a Formal Disciplinary Complaint?

A: Virtually any person or entity, including members of the public is able to file a Complaint against a member of PWR who he or she believes is in violation of the COE and/or MLS Rules.

Q: Are there any deadlines to file a Complaint?

A: A Complaint must be filed within 180 days from the time you, the Complainant, knew or should have known that a potential violation occurred.

Q: How long does the Complaint process take?

A: The Complaint process typically takes 2-3 months in order to ensure due process to both sides.

Q: Can I file a Complaint anonymously?

A: No; you must be the Complainant. You cannot be anonymous if you file on your own behalf.

Q: What happens if the Respondent is found to be in violation?

A: If the hearing Panel finds the Respondent to be in violation of the COE and/or MLS Rules, PWR can impose disciplinary action on the Respondent. The attached D-12 form outlines the types of disciplinary actions that can be imposed. [Download – D-12 Form](#)

MLS (CARETS) CITATION POLICY

Q? How do I report a violation?

A: In lieu of using one of the options referenced above, you may report a violation by following the instructions at the bottom of each listing. Refer to the MLS (CARETS) Citation Policy. [Download – MLS Citation Policy](#)