ADMINISTRATIVE PROCESSING OVERVIEW –
PROCEDURAL REVIEW OF ARBITRATION AWARD

Case No._____,

_____ _____

VS.

_____ _____

Complainants **Respondents**

Date of Original Hearing:_____

Original Arbitration Panel

Presiding Officer:_____

Arbitrator:_____

Arbitrator:_____

Alternate:_____

This checklist is intended for use in conjunction with processing an arbitration complaint under the rules and procedures of the *California Code of Ethics and Arbitration Manual*. "References" are taken from the *CA Code of Ethics and Arbitration Manual (Manual)* and the *Implementation Guidelines – Arbitration (Guidelines).* This checklist may be reproduced and used to help process arbitration complaints.

Notes:
The preferred method for serving notices in the arbitration procedure is email, as set forth in Section 48 of the *Manual*.

Requesting Party is whichever Party requesting a Review of the Award by the Board of Directors, including all named complainants, their legal counsel, if any, and the broker's representative, if any.

Non-Requesting Party is whichever Party is not requesting the Review, including all named respondents, their legal counsel, if any, and the broker's representative, if any.

REFERENCE	ACTION
• 71(a) *Manual* – Filing the Request for Review • E.2 *Guidelines* – Procedural Review by the Board of Directors	**Request to File Request for Procedural Review** ☐ Request for Procedural Review paperwork should be sent to the parties, included with the Award of Arbitrators packet, within five (5) days from the date the Award is handed over to the Association. ☐ Request for Procedural Review is due within twenty (20) days from the date the Award was transmitted to the parties. ☐ _____ (Date Due)

• 71(a) *Manual* – Filing the Request for Review	**Receipt of Request for Review Date** ☐ _____ (Date Filed) ☐ Date-stamp the Request with its postmark date or, if no postmark date is given/applicable, with the date of receipt and record above.
• 71(f) *Manual* – Conducting the Review Hearing • 71(a) *Manual* – Filing the Request for Review • 71(b) *Manual* – Deposit • 71(c) *Manual* – Basis for Review • 71 (d) *Manual* – Permissible Evidence • 71(e) *Manual* – Preliminary Review • E.2 *Guidelines* – Procedural Review by the Board of Directors • D.7 *Guidelines* – Due Process Required	**Preliminary Review of Request for Review** ☐ Within ten days, conduct a preliminary review of the Request to determine if it has been properly and timely filed. The preliminary review should be limited to the following considerations: 1. Was the request submitted timely?; 2. Does the request come with the proper paperwork?; 3. Was the $_____ deposit submitted?; 4. Does the request cite and clearly indicate alleged *procedural deficiencies* and contain a reasonably detailed summary of the facts supporting the challenge? ☐ If the Request does not meet the filing requirements, return the Request to the Requesting Party and give ten days to amend the request. • ***Note:*** Any preliminary review conducted by staff is not a decision on the merits of the Request and is only intended to make sure the basic filing requirements have been met. In the event of a dispute as to whether the Request states a proper basis for review, the Request should be processed and the Directors should rule on the disputed issue at the time of the hearing. ☐ If the Requesting Party has submitted form A-14 *Request for Duplication of Recording,* along with the $_____ duplication fee, transmit the recording to the requesting party.
• 38(e) *Manual* – Notice of Request for Review • E.2 *Guidelines* – Procedural Review by the Board of Directors • 38(k) *Manual* – Automatic Disqualification; Certificate of Qualification	**Notice of Request for Review** ☐ Send the **Notice of Review Packet** to the Parties and to the Original Presiding Officer, including: 1. Cover Letter; 2. A-16 *Notice of Request for Review;* 3. Copy of Request for Review; 4. A-4 *Availability of the Parties;* 5. List of Board of Directors; 6. A-5 *Notice of Right to Challenge Panel Member & Reasons for Challenge;* 7. A-13 *Review and Enforcement of Arbitration Award;* 8. A-14 *Request for Duplication of Recording;* 9. A-17 *Reply to Request for Review.* • ***Note:*** The Board of Directors do not need to complete Form A-21 *Arbitration Disclosure Statement* for the Review Hearing. Automatic Disqualifications should still be applied. ☐ ***ETHICS CHECK:*** Upload the entire Request for Review onto Ethics Check under the same file as the Arbitration – you do not need to create a new file in Ethics Check for the Review.

• 38(f) *Manual* – Reply not Required; Late Filing	**Reply to Request for Review** ☐ Reply is due within fifteen (15) days from transmittal of notice of receipt of review. The Non-Requesting Party does not have to submit a response or attend the review hearing, but is entitled to both. ☐ The Original Presiding Officer should not submit a written response, but should be provided with any and all documentation submitted by the parties and all relevant correspondence/documentation.
• 38(g) *Manual* – Notice of Reply	**Reply to Parties** ☐ If a Reply is submitted, send the following to the parties and the Original Presiding Officer: 1. Cover Letter; 2. Copy of Reply. ☐ ***ETHICS CHECK:*** Upload Reply onto Ethics Check.
• 38(h) *Manual* – Selecting the Review Panel • 38(i) *Manual* – Waiver of Objection to Director; Appointing Replacement to Challenged Director • 38(j) *Manual* – Composition of Panel • 38(k) *Manual* – Automatic Disqualification; Certificate of Qualification • 38(l) *Manual* – Presiding Officer • 38(o) *Manual* – Conducting the Review Hearing	**Schedule Review Hearing** ☐ After the timeframe for the Parties to submit their challenges and availability for hearing has expired, select (or have your Association President select) a panel from your Board of Directors to conduct the review. ☐ The Original Presiding Officer should be considered when applying automatic disqualifications to potential panel members. • ***Note:*** If the Original Presiding Officer is unable to attend the Review hearing, an arbitrator from the original Panel may attend instead.
• 38(m) *Manual* – Notice of Time and Place of Review Hearing	**Official Notice of Review Hearing** ☐ Once the hearing date, time and panel have been secured, send the Parties and the Original Presiding Officer the **Official Notice of Review Packet,** which includes: 1. Cover Letter; 2. Form A-18 *Notice of Review;* 3. Form A-30 *Notice of Additional Attendees for Hearing.* • ***Note:*** that Notice of Review Hearing must be given **at least 21 calendar days in advance** of the review hearing. **Hearing Deadlines:** 21 days notice → Notified of hearing date, time, location and panel members 15 days prior to hearing → Notification to all parties of legal counsel and/or remote testimony requests 10 days → Notification of intent to utilize an interpreter and/or submit translated document 1 day → Reminder of review hearing
• 71(g) *Manual* – Documents Provided to the Directors	**Materials to Review Panel** ☐ Prepare a case file for each Panel member, including Form A-12 *Award of Arbitrators,* the Request, the Reply (if any) and any relevant documentation/correspondence; ☐ Prepare a case file for the Review Hearing Presiding Officer, including the Request, the Reply (if any), any relevant documentation/correspondence, and the following forms: 1. A-18 *Notice of Review Hearing;*

	2. A-7 *Certificate of Qualification;* 3. A-19 *Action of Directors;* 4. Presiding Officer's Statements (Arbitration Review Hearing); 5. Copy of the current *CA Code of Ethics & Arbitration Manual.* • ***Note:*** The Review Panel should not receive copies of the original complaint/response as they are only allowed to consider the procedural issues cited in the Request for Review.
• 38(m) *Manual* – Notice of Time and Place of Review Hearing • 54(b) Notice of Intention to Have Representation • D.3 *Guidelines* – Right to Counsel • 59 *Manual* – Duty to Give Evidence (Remote Testimony) • D.4 *Guidelines* – Failure of Parties to Appear • 67(c) *Manual* – Notice of Interpreters and Translators • D.2 *Guidelines* – Interpreters and Translators	**Important Pre-Review Deadlines** At least: ☐ 21 days prior to review hearing, Parties must be notified of the date, time, location and panel members. ☐ 15 days prior to the review, Parties must notify all other parties and Association staff of their intent to be represented by legal counsel and/or submit to staff their request for remote testimony. ☐ 10 days prior to the review, Parties must notify all other Parties and Association staff of their intent to utilize an interpreter and/or must submit any translated documents they intend to present at the hearing. ☐ 1 day prior to the review, staff should send a reminder to the Parties, Original Presiding Officer and Panel, which includes a list of attendees and the date/time/location of the hearing.
• 38(q) *Manual* – Failure of Requesting Party to Appear at Hearing • 38(r) *Manual* – Failure of Party Not Requesting Review to Appear at Hearing • 71(i) *Manual* – Action of the Directors • E.2 *Guidelines* – Procedural Review by the Board of Directors	**Review Hearing** ☐ Prepare hearing room – include case files, copy of current C.A.R. Manual, scratch paper. ☐ Prepare a waiting area for the parties and their witnesses (if any) and secure a location for any witnesses to wait until they are allowed in the hearing room for their testimony. • ***Note:*** Review hearings are never recorded. The original hearing recording should be destroyed after the review panel have issued their decision.
• 38(k) *Manual* – Automatic Disqualification; Certificate of Qualification	**Hearing Documents** ☐ The following forms should be completed and retained in the case file: 1. A-7 *Certificate of Qualification,* to be signed by all panel members prior to the start of the hearing. 2. A-19 *Action of Directors.*
• 71(j) *Manual* – Disposition of the Deposit • 71(k) *Manual* – Finality of Directors' Decision	**Action of Directors to Parties** ☐ The Directors' decision must be in writing and provided to the Parties within five (5) days after the written award is handed over to staff. ☐ If the directors overturn the original Award, a new hearing should be scheduled, using none of the original panel members or review panel members who previously heard the case. ☐ If the directors uphold the original Award, the Award is considered final. ☐ The **Action of Directors Packet** should include the following: • Cover Letter;

	• A-19 *Action of Directors;* [If Award is overturned] • List of Potential Panel Members (excluding those who have already participated in this case); • A-4 *Availability for Hearing* and A-5 *Notice of Right to Challenge Panel Member & Reason for Challenge;* • Refund of Review Deposit (to Requesting Party Only); [If Award is upheld] • Copy of original A-12 *Award of Arbitrators*. • ***Note:*** The decision of the directors at the review is final – there is no review process for their decision. There is no findings of fact or explanation of how the directors came to their decision. **Panel members must not discuss their decision** with anyone outside of Association staff and/or Association legal counsel, as necessary. ☐ ***ETHICS CHECK:*** Upload Form A-19 *Action of Directors* onto Ethics Check.
• E.5 *Guidelines* – Record Retention • 70(b) *Manual* – When the Award is Final and Binding	**Record Retention** ☐ Once the Award is final, the case file, including the Award and all documents and correspondence, should be retained according to the Association's record retention policy. If the association does not have a record retention policy, it is recommended that associations retain the case file for a period of five (5) years from the date the award is final. ☐ Any recordings or transcripts of the actual hearing should be destroyed once the award is final.