ADMINISTRATIVE PROCESSING OVERVIEW
DISCIPLINE COMPLAINT - (WITH ETHICS ADVOCATES)

Case No._____,

_____	VS.	_____
Complainants		**Respondents**

This checklist is intended for use in conjunction with processing a disciplinary 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 – Discipline (Guidelines)*. This checklist may be reproduced and used to help process disciplinary complaints.

Notes:

The preferred method for serving notices in the disciplinary procedure is email, as set forth in Section 13 of the *Manual*.

Complainant Party includes all named complainants, their legal counsel, if any, Ethics Advocate, if any and the broker's representative, if any.

Respondent Party includes all named respondents, their legal counsel, if any, Ethics Advocate, if any and the broker's representative, if any.

☐ **REFERENCE**	**ACTION**
☐ 3(a) – (d) *Manual* – Power to Take Disciplinary Action Against an Association Member ☐ A.3 *Guidelines* – Power to Take Action Against an Association Member ☐ 5(a) – (c) *Manual* – Power to Take Disciplinary Action Against an MLS Participant or Subscriber ☐ A.6 *Guidelines* – Power to Take Disciplinary Action Against an MLS Participant or Subscriber ☐ 8(a)(b) *Manual* – Citations ☐ A.5 *Guidelines* – Citations ☐ B.1 *Guidelines* – Filing a Disciplinary Complaint ☐ A.7 *Guidelines* – Distinction Between a Disciplinary Complaint and Arbitration	**Request to File a Discipline Complaint** ☐ Provide the Complainant with the **Discipline Complaint Packet,** which includes: 1. Instructions on filing a discipline complaint; 2. *Before You File a Complaint;* 3. Form D-27 *Roles of Professional Standards Volunteers* 4. Form D-1 *Discipline Complaint;* 5. Copy of the current *CA Code of Ethics & Arbitration Manual;* 6. Ethics Advocate Program Information Sheet; 7. Form D-23 *Request for Ethics Advocate;* • ***Note:*** Before sending the Complaint Packet, verify the Respondent's membership. If the Respondent is a member of a different local board, refer the Complainant to that board.

☐ 20(b) *Manual* – Timing of Filing	**Receipt of Complaint Date** ☐ _____ (Date Filed) ☐ Date-stamp the Complaint with its postmark date or, if no postmark date is given/applicable, with the date of receipt and record above.
☐ 20(a) *Manual* – Who May File; Where to File ☐ 20(b) *Manual* – Timing of Filing ☐ 20(c) *Manual* – Preliminary Review ☐ 20(d) *Manual* – Disciplinary and Arbitration Complaints Filed Together ☐ 20(e) *Manual* – Ethics Advocate ☐ 21(a)(b) *Manual* – Designated REALTOR® as a Respondent in an Ethics Hearing ☐ 22(a)(b) *Manual* – MLS Participant as a Respondent in an MLS Rules Hearing	**Preliminary Review of Complaint** ☐ Conduct a preliminary review of the complaint to determine if it has been properly and timely filed. The preliminary review should only consider questions such as: 1. Were all named Respondents active REALTOR® members or MLS participants at the time the facts and circumstances giving rise to the dispute occurred?; 2. Was the complaint filed within 180 calendar days from the time the alleged offense and facts relating to it could have been known in the exercise of reasonable diligence or 180 days after the conclusion of the transaction, or event, whichever is later?; 3. Did the Complainant Party submit the proper forms?; 4. Did the Complainant Party cite Article(s) in the Code of Ethics?; (This is now optional – the complainant may choose to have the Grievance Committee select the allegations) 5. Has the Disciplinary Complaint been filed in conjunction with an Arbitration Complaint?; 6. Has the complaint been filed at the correct Association? ☐ If the complaint is improperly filed, the Complainant Party should be contacted and instructed to correct any deficiencies. ☐ If there is a factual dispute as to whether the complaint has been timely filed, the Complaint should be forwarded. The Professional Standards Hearing Panel will ultimately decide the matter. ☐ Create a case number and file for this complaint. ☐ At the Association's option, send a hand-written acknowledgment and appreciation letter to the complainant by regular mail. A sample template letter can be found in Appendix C. ☐ ***ETHICS CHECK:*** Create a case file for this complaint in Ethics Check and upload Form D-1 and Exhibit 1 *Statement of Facts*.
☐ 20(f) *Manual* – Prehearing Broker-to-Broker meeting ☐ B.1 *Guidelines* – Filing a Disciplinary Complaint	**Prehearing Broker-to-Broker Meeting** ☐ If the complainant is a REALTOR®, ask the complainant if they would like the Association to arrange a meeting between the complainant's broker and the respondent's broker before forwarding the complaint to the Grievance Committee. The meeting may be conducted virtually using

	a videoconferencing platform such as Zoom or by telephone. ☐ If the complainant does not agree that the brokers should meet, then the complaint will be forwarded to the Grievance Committee. ☐ If the complainant agrees to have the brokers meet, schedule and coordinate a videoconferencing or telephone call with both brokers. ☐ Following the meeting, the complainant will notify the association as to whether they wish to withdraw the complaint or have the complaint sent forward to the Grievance Committee. ☐ If the Association does not receive a response from the complainant within 2 weeks after the association initiates the pre-hearing broker-to-broker process, then the complaint will be forwarded to the Grievance Committee.
☐ 9 *Manual* – Grievance Committee ☐ 24 *Manual* – Action of the Grievance Committee ☐ 24(a) *Manual* – Review of Complaint by Grievance Committee ☐ 24(b) *Manual* – Preliminary Nature of Review ☐ C.1 *Guidelines* – Action of the Grievance Committee ☐ C.2 *Guidelines* – Frivolous Complaints ☐ C.4 *Guidelines* – Analyzing the Complaint ☐ 24(j) *Manual* – Disclosure of the Decision	**Grievance Committee Review** ☐ If no corrections need to be made to the complaint, send notice to the Complainant Party that their complaint has been received and is considered filed. If a date has been chosen for the Grievance Review, include that in the notice. ☐ Notify the GC Chair that a complaint has been filed and schedule (or have your GC Chair schedule) a date to review the Complaint. ☐ Prepare the GC Materials, which includes: 1. Copy of Complaint; 2. G-1 *Grievance Committee Review Checklist;* 3. G-2 *Grievance Committee Report;* 4. Current Code of Ethics and Standards of Practice; 5. D-7 *Certificate of Qualification* 6. D-15 *Guidance for Disciplining Designated REALTORS® and Brokers*. ☐ If the Grievance Committee determines that any Code of Ethics Articles, MLS Rules, and/or Membership Duties should be added to the complaint, make sure that the Grievance Committee has provided a description of the facts upon which the additional allegations are based.
☐ 24(f) *Manual* – Amending the Complaint ☐ 24(g) *Manual* – Dismissing Allegations in a Complaint ☐ C.6 *Guidelines* – Modifications to Complaint ☐ 24(d) *Manual* – Grievance Committee as Complainant ☐ C.7 *Guidelines* – Grievance Committee as Complainant ☐ C.8 *Guidelines* – Review of the Grievance Committee Decision	**Grievance Committee Decision to Dismiss or Amend** ☐ If the GC decides to delete an Article(s) or Respondent(s) from the Complaint or dismisses the Complaint entirely, send the Complainant Party: 1. Cover Letter; 2. G-2 *Grievance Committee Report;* 3. G-3 *Notice of Availability of Review of Grievance Committee's Decision;* 4. G-4 *Request for Review of Grievance Committee's Decision.* ☐ If the GC decides to add an Article(s) or Respondent(s), send the Complainant Party: 1. Cover Letter;

	2. G-2 *Grievance Committee Report;* And have the Complainant Party indicate in writing their acceptance of the changes. If the Complainant Party does not agree to the changes, the GC can either dismiss the changes or be added as Complainants to argue their changes to the Hearing Panel.
	Review of Grievance Committee Decision ☐ The Complainant Party may request a Review of the GC Decision to dismiss a part of or the entire Complaint. Request for Review is due within 10 days from the date the Decision is transmitted to the Complainants. ☐ _____ (Date Due) ☐ If a Request for Review is timely filed, send the Request and original Complaint to the GC Review Panel and schedule a Review. ☐ GC Review Panel documents: 1. D-7 *Certificate of Qualification* 2. G-5 *Action of Directors Upon Request of Review of Grievance Committee's Decision* ☐ Once the Review Panel has issued their decision, transmit to Complainant Party and proceed as the Review Panel has directed.
☐ F.1 *Guidelines* – Transcript/Right to Record ☐ F.2 *Guidelines* – Interpreters and Translators	**Grievance Committee Decision and Receipt of Complaint to Parties** ☐ If the GC decides to forward the Complaint for hearing, send Respondent Party the **Receipt of Complaint Packet,** which includes: 1. Cover Letter; 2. Form D-2 *Notice to Respondent* or D-2A *Notice to Respondent (Ethics Advocate);* 3. Form D-27 *Roles of Professional Standards Volunteers* 4. Copy of Complaint; 5. G-2 *Grievance Committee Report;* 6. Form D-3 *Response;* 7. Copy of the current Code of Ethics; 8. D-23 *Request for Ethics Advocate;* 9. List of potential Panel Members; 10. Form D-4 *Notice of Right to Challenge Panel Members and Availability for Hearing;* 11. Form D-5 *Reasons for Challenge.* ☐ Send the Respondent Party's Designated REALTOR® a copy of the **Receipt of Complaint Packet.** ☐ At the same time, send the Complainant Party the **List of Panel Members Packet,** which includes: 1. Cover Letter 2. List of potential Panel Members; 3. Form D-4 *Notice of Right to Challenge Panel Members and Availability for Hearing;* 4. Form D-5 *Reasons for Challenge.*

	☐ If the Designated REALTOR® is included as a respondent, send Form D-15 *Guidance for Disciplining Designated REALTORS® and Brokers* to all parties.
☐ 28(c) *Manual* – Response not Required; Late Filing ☐ 28(d) *Manual* – Notifying Complainant of Response	**Receipt of Response** ☐ Response is due within **15 calendar days** of the date the Notice to Respondent is sent. ☐ No more than **five calendar days** after the Response is received, forward a copy of the Response to the Complainant Party and copy the Respondent Party on that correspondence to acknowledge receipt. • ***Note:*** The Respondent Party is not required to submit a Response. However, to ensure the due process rights of the Respondents, any Response submitted should be accepted, regardless of the timing of submission, forwarded to the Complainant Party, and given to the Hearing Panel when they are provided with all written materials in advance of the hearing. Similarly, the Complainant Party is entitled to review and respond to the response; therefore, a possible consequence of receipt of a late response may be rescheduling a hearing if the Complainant Party requests a continuance to review the response. ☐ ***ETHICS CHECK:*** Upload Form D-3 and Exhibit A *Statement of Facts* onto Ethics Check.
☐ 28(e) *Manual* – Selecting the Hearing Panel ☐ E.6 *Guidelines* – Selecting the Hearing Panel ☐ 28(f) *Manual* – Composition of the Hearing Panel ☐ 28(g) *Manual* – Presiding Officer ☐ 28(h) *Manual* – Alternate Panel Member ☐ 28(j) *Manual* – Waiver of Objection to Panel Member; Appointing Replacement to Challenged Panel Member	**Schedule Hearing** ☐ After the timeframe for the parties to submit their challenges to proposed Panel Members and availability for hearing has expired, select (or have your Professional Standards Committee Chairperson select) your Presiding Officer and Panel Members from the final list of proposed panel members and schedule the hearing date and time based on the availability of the parties and panel. • ***Note:*** A party's right to disqualify a proposed neutral arbitrator is waived if the party fails to deliver timely Forms D-4 and D-5.
☐ 28(i) *Manual* – Notice of Date, Time, and Place of Hearing ☐ 28(k) Notification of Procedures ☐ 31 *Manual* – Continuances ☐ 32 *Manual* – Continuance Fees ☐ E.3 *Guidelines* – Continuances and Continuance Fees ☐ 30 *Manual* - Witnesses	**Official Notice of Hearing** ☐ Once the hearing date, time and panel have been secured, send the parties the **Official Notice of Hearing Packet,** which includes: 1. Cover Letter; 2. Form D-6 *Official Notice of Hearing;* 3. Form D-8 *Outline of Procedure for Hearing;* 4. Form D-26 *Notice of Additional Attendees* • ***Note:*** Notice of Hearing must be given at least 21 calendar days in advance. Once the Official Notice of Hearing is sent, Parties must submit a written request for continuance if they wish to reschedule. **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 hearing
☐	**Materials to Panel** ☐ Prepare a case file for each Panel Member, including the Complaint, Response, and any relevant correspondence between the Association and the Parties. If the Designated REALTOR® is a respondent, include Form D-15 *Guidance for Disciplining Designated REALTORS® and Brokers*. ☐ Prepare a case file for the Presiding Officer, including the complaint, response, relevant correspondence between the Association and the Parties, and the following forms: 1. G-2 *Grievance Committee Report;* 2. D-6 *Official Notice of Hearing;* 3. D-7 *Certificate of Qualification;* 4. D-8 *Outline of Procedures for Hearing;* 5. D-9 *Acknowledgement of Receipt of Procedures;* 6. D-10 *Other Action of Arbitrators;* 7. D-11 *Decision and Findings of Fact;* 8. D-12 *Recommendations of Hearing Panel;* 9. Presiding Officer's Statements.
☐ 30 *Manual* - Witnesses ☐ F.1 *Guidelines* – Transcript/Right to Record ☐ 34(c) *Manual* – Notice (of Interpreter/Translator) ☐ F.2 *Guidelines* – Interpreters and Translators ☐ 18(b) *Manual* – Notice of Representation	**Important Pre-Hearing Deadlines** ☐ 21 days prior to hearing, Parties must be notified of the hearing date, time, location and panel members. ☐ 15 days prior to the hearing, 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 hearing, 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 hearing, staff should send a hearing reminder to the Parties and Panel, which includes a list of attendees and the date/time/location of the hearing.
☐ 26(a)(b) *Manual* – Withdrawal of Complaint ☐ E.4 *Guidelines* – Withdrawal of an Association Disciplinary Complaint ☐ G.6 *Guidelines* – Reporting "Public Trust" Violations to the BRE	**Withdrawal of Complaint** ☐ At any time up until the Hearing Panel adjourns to make their decision, the Complainant Party may withdraw their Complaint. If the Complaint is withdrawn, the complaint and response should be sent back to the Grievance Committee to determine if the Respondent(s) has committed a violation of the public trust.

	☐ If the GC determines there has been a violation of the public trust, the GC must step forward as the Complainant and take the Complaint to hearing. ☐ If the GC determines no violation of the public trust has occurred, the Complaint is dismissed and the file should be closed.
☐ 19(e) *Manual* – Discussion Prior to Hearing ☐ 33(a) – (f) *Manual* – The Hearing ☐ F.5 *Guidelines* – Failure of Parties to Appear ☐ F.6 *Guidelines* – Conducting the Hearing ☐ F.7 *Guidelines* – Due Process Required ☐ 34 (a) – (c) *Manual* – Transcript/Right to Record ☐ F.1 *Guidelines* – Transcript/Right to Record	**Discipline 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. ☐ Set up recording device and remote testimony devices (if any). ☐ The Panel may recess the hearing as necessary and, on request of a Party or upon the Panel's own motion, may postpone the hearing. ☐ In the event the Complainant Party fails to appear at the Hearing, the Complaint should be sent back to the Grievance Committee to determine if the GC wishes to step forward as the Complainant. ☐ The Presiding Officer should remind all Parties, their Witnesses and the Hearing Panel of the confidential nature of the discipline process.
☐ 33(a) *Manual* – Statements of Qualification; Acknowledgement of Receipt of Outline of Procedure ☐ 19(g) *Manual* – Absent Panel Member ☐ 17(a) – (f) *Manual* – Confidentiality of Proceedings ☐ B.4 *Guidelines* – Confidentiality of Proceedings	**Hearing Documents** The following forms should be completed and retained in the case file: ☐ D-7 *Certificate of Qualification,* to be signed by all Panel members prior to the start of the hearing. ☐ D-9 *Acknowledgement of Receipt of Outline of Procedure,* to be signed by all Parties prior to the start of the hearing. ☐ D-25 *Agreement for Hearing by Two Panelists,* to be signed by all Parties prior to the start of the hearing (only if applicable). ☐ D-10 *Other Action of the Hearing Panel* (if applicable); or ☐ D-11 *Decision and Findings of Fact* and D -12 *Recommendations of Hearing Panel.*
☐ 36(a) *Manual* - Making and Reporting the Decision ☐ 36(b) *Manual* – Consideration of Prior Code of Ethics and Membership Duty Violations ☐ 36(c) *Manual* – Consideration of Prior MLS Duty Violations ☐ 6(a) – (f) *Manual* – Nature of Discipline Against an Association Member ☐ 7(a) – (d) *Manual* – Nature of Discipline Against an MLS Participant or Subscriber ☐ F.11 *Guidelines* – Disciplinary Recommendations	**Decision and Findings of Fact** ☐ Panel Members may consider a Respondent's prior violations in assessing discipline and should have access to Respondents' member files. Access to the member files is permitted only after deliberations and finding of violations. ☐ The Decision must be in writing and provided to the Parties and the Respondent Party's Designated REALTOR® within five (5) days after the written Decision is handed over to staff. ☐ The **Decision of Panel Members Packet** should include the following: 1. Cover Letter;

☐ G.1 *Guidelines* – Distributing the Decision ☐ 38(a) *Manual* – Request for Review	2. D-11 *Decision and Finding of Fact* and D-12 *Recommendations of Hearing Panel* (or D-10 *Other Action of Hearing Panel,* if applicable)*;* 3. Completed D-7 *Certificate of Qualification;* 4. D-13 *Notice of Availability of Rehearing and Review;* 5. D-14 *Request for Duplication of Recording;* 6. D-17 *Request for Review.* • ***ETHICS CHECK:*** Upload Forms D-11 *Decision and Finding of Fact* and D-12 *Recommendations of Hearing Panel* (or D-10 *Other Action of Hearing Panel,* if applicable) onto Ethics Check.
	Request for Review – please see Disciplinary Review Hearing Checklist for more information 20 days from Decision → Request for Discipline Review must be submitted
☐ 37(a) – (c) *Manual* – Action of the Directors if No Request for Review ☐ G.3 *Guidelines* – Action of the Directors if there is no Request for Review	**Decision to Board of Directors for Ratification** ☐ Once the timeframe for filing a Request for Review has expired, provided no Request has been filed, send the Decision to the Board of Directors for Ratification, including: 1. D-11 *Decision and Finding of Fact* and D-12 *Recommendations of Hearing Panel* (or D-10 *Other Action of Hearing Panel,* if applicable)*;* 2. D-22 *Action if No Request for Review.* ☐ Each Director must sign a statement (Form D-7) that he or she is not disqualified from serving on the ratification panel. ☐ If the Board of Directors feels the Decision needs to be modified in some way, they should send the Decision back to the Original Hearing Panel with specific instructions for what to reconsider. ☐ The Hearing Panel Decision is final only once it has been ratified by the Board of Directors. • ***Note:*** The Directors must adopt the Panel's Decision unless it is deficient on its face and may expose the Association to potential liability. The Directors should not change the Decision themselves, but should send the Decision back to the Hearing Panel if they believe it should be changed.
☐ 39(c) *Manual* – Publication of Ethics Violators ☐ 39(d) *Manual* – C.A.R. Publication Policy for Ethics Violators ☐ G.4 *Guidelines* – Publishing the Names of Ethics Violators	**Publication** ☐ Summaries of Code of Ethics violations will be published on the C.A.R. website when a violator is disciplined with at least one of the following: 1. Letter of Reprimand 2. Fine; 3. Suspension; 4. Expulsion. ☐ If the Discipline is subject to publication, forward the following to C.A.R. Professional Standards staff: 1. Photo of Violator

	2. Form D-24 *Submission of Photo for Discipline Publication;* 3. D-11 *Decision and Findings of Fact;* 4. D-12 *Recommendations of Hearing Panel.* • ***Note:*** When a violator must be published by C.A.R. according to the C.A.R. publication criteria, you must suspend the violator's Association membership if he or she does not submit a photo within 10 days of receipt of the final decision. • ***Note:*** The published information will be removed from the C.A.R. website three years after initial publication.
☐ G.6 *Guidelines* – Reporting Suspensions and Expulsions to C.A.R.	**Sanctions Met, File Closed** ☐ Once the Respondent has submitted proof that the Hearing Panel's recommended sanctions have been satisfied, send the Parties a letter letting them know sanctions have been met and the file has been closed.
☐ G.8 *Guidelines* – Record Retention ☐ 34(c) *Manual* – Destruction of Transcript or Recording	**Record Retention** ☐ Once the file is closed, the case file 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 an Association retain a case file for a period of seven (7) years from the date the decision is final. ☐ Any recordings or transcripts of the actual hearing should be destroyed as soon as the Decision is final.

ADMINISTRATIVE PROCESSING OVERVIEW - DISCIPLINE REVIEW

Case No._____,

_____ _____

VS.

_____ _____

Complainants **Respondents**

This checklist is intended for use in conjunction with processing a disciplinary 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 – Discipline (Guidelines).* This checklist may be reproduced and used to help process disciplinary complaints.

Notes:

The preferred method for serving notices in the disciplinary procedure is email, as set forth in Section 13 of the *Manual*.

Complainant Party includes all named complainants, their legal counsel, if any, Ethics Advocate, if any and the broker's representative, if any.

Respondent Party includes all named respondents, their legal counsel, if any, Ethics Advocate, if any and the broker's representative, if any.

☐ **REFERENCE**	**ACTION**
☐ 38(a) *Manual* – Request for Review ☐ G.1 *Guidelines* – Distributing the Decision	**Request to File Discipline Review** ☐ Request for Discipline Review paperwork should be sent to the parties, included with the Decision of the Hearing Panel packet, within five (5) days from the date the Decision is handed over to the Association. ☐ Request for Discipline Review is due within twenty (20) days from the date the Decision was transmitted to the parties. ☐ _____ (Date Due)
☐ 38(a) *Manual* – Request for Review	**Receipt of Request for Review** ☐ _____ (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.
☐ 38(a) *Manual* – Request for Review	**Preliminary Review of Request**

☐ 38(b) *Manual* – Deposit Requirement ☐ 38(c) *Manual* – Basis for Review ☐ 38(d) *Manual* – Preliminary Review; Opportunity to Amend ☐ G.2 *Guidelines* – Review by Directors	☐ 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 a) mis-application/misinterpretation of the Code, b) procedural deficiency or any lack of procedural due process and/or c) unwarranted discipline recommended by the hearing Panel? ☐ 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 D-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 ☐ 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. D-18 *Notice of Request for Review;* 3. Copy of Request for Review; 4. D-4 *Notice of Right to Challenge Panel Members and Availability of the Parties;* 5. List of Board of Directors; 6. D-5 *Reasons for Challenge;* 7. D-13 *Notice of Availability of Rehearing and Review;* 8. D-14 *Request for Duplication of Recording;* 9. D-19 *Reply to Request for Review.* ☐ ***ETHICS CHECK:*** Upload the entire Request for Review onto Ethics Check under the same file as the Discipline Complaint – 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	**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. D-20 *Notice of Review Hearing;* 3. D-26 *Notice of Additional Attendees for Hearing.* • ***Note:*** 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
☐ 38(n) *Manual* – Documents Provided to the Panel	**Materials to Review Panel** ☐ Prepare a case file for each Panel member, including Form D-11, D-12, 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. Form D-20 *Notice of Review Hearing;* 2. D-7 *Certificate of Qualification;* 3. D-21 *Action Upon Review;*

	4. Presiding Officer's Statements (Disciplinary 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 issues cited in the Request for Review.
☐ 30 *Manual* - Witnesses ☐ F.1 *Guidelines* – Transcript/Right to Record ☐ 34(c) *Manual* – Notice (of Interpreter/Translator) ☐ F.2 *Guidelines* – Interpreters and Translators ☐ 18(b) *Manual* – Notice of Representation	**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 ☐ 38(s) *Manual* – Action of the Review Panel ☐ G.2 *Guidelines* – Review by 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. ☐ Make sure the recording/transcript of the Original Hearing is available for the Directors if they need to listen. ☐ In general, the Review Panel should adopt the decision and recommendation of the original Panel. However, if the Review Panel are concerned with deficiency in the decision or the appropriateness of the discipline, they can take the following actions: ☐ Dismiss the matter if they conclude the Findings do not support the recommendations; ☐ Impose alternative discipline that does not exceed the original recommendation; ☐ Refer the Decision back to the original Hearing Panel with recommended modifications; or ☐ Refer the matter for a new hearing with the same or different Hearing Panel, as deemed appropriate. • ***Note:*** Review hearings are never recorded. The original hearing recording should be destroyed after the review panel have issued their decision.
☐ 26(a)(b) *Manual* – Withdrawal of Complaint	**Hearing Documents** ☐ The following forms should be completed and retained in the case file:

☐ E.4 *Guidelines* – Withdrawal of an Association Disciplinary Complaint ☐ G.6 *Guidelines* – Reporting "Public Trust" Violations to the BRE	1. D-7 *Certificate of Qualification,* to be signed by all panel members prior to the start of the hearing. 2. D-21 *Action Upon Review.*
☐ 38(t) *Manual* – Disposition of the Deposit ☐ 38(u) *Manual* – Review Panel's Rationale ☐ 38(v) *Manual* – Finality of Review Panel 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 so rule, a new hearing or reconvening of the original Hearing Panel should be scheduled. ☐ If the Directors modify or adopt the original Decision, the Decision is considered ratified and final. ☐ If the Directors dismiss the Complaint, the file should be closed. ☐ The **Action of Directors Packet** should include the following: • Cover Letter; • D-21 *Action Upon Review;* [If Directors refer case for new hearing] • List of Potential Panel Members (excluding those who have already participated in this case); • D-4 *Availability for Hearing* and D-5 *Notice of Right to Challenge Panel Member & Reason for Challenge;* • Refund of Review Deposit (to Requesting Party Only); [If Decision is modified or adopted] • Copy of the modified or original D-11 *Decision and Findings of Fact* and D-12 *Recommendations of Hearing Panel*. • ***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. • ***Note:*** The recording/transcript of the original Hearing should be destroyed after the Review Panel adjourns. ☐ ***ETHICS CHECK:*** Upload Form D-21 *Action Upon Review* onto Ethics Check. If the Decision is modified, replace the original Decision with the modified one.

ADMINISTRATIVE PROCESSING OVERVIEW – CITATION RECONSIDERATION

Case No._____,

_____	VS.	_____
Complainants		**Respondents**

This checklist is intended for use in conjunction with processing a citation reconsideration under the rules and procedures of the *California Code of Ethics and Arbitration Manual*. The references for this checklist can be found in Section 8 of the *California Code of Ethics and Arbitration Manual.* This checklist may be reproduced and used to help process citation reconsiderations.

Notes:

The preferred method for serving notices in the disciplinary procedure is email, as set forth in Section 13 of the *Manual*.

ACTION
Request for a Citation Reconsideration ☐ Professional Standards Administrators will receive a request for a citation consideration from the MLS after the MLS has issued an MLS citation and the citation recipient is challenging the citation. ☐ From the MLS, the Administrator should receive: (i) the original citation from the MLS and supporting evidence; and (ii) the request for citation reconsideration from the respondent with an explanation for why reconsideration is being requested. ☐ The request for citation reconsideration must clearly state the specific ground(s) for the request and include all facts, timelines and/or reasons for the request. The qualifying grounds for a request for citation reconsideration are one or more of the following: (i) factual dispute regarding the alleged violation(s), such as misapplication of the MLS Rule(s) cited or how the MLS Rule that was cited is not appropriate; or (ii) contention that there was a violation of procedural due process by the MLS. ☐ If the proper grounds for requesting a citation reconsideration are not met, the request for citation reconsideration should be returned to the citation recipient. The citation recipient is then given seven (7) calendar days to amend the request for citation reconsideration to meet the appropriate requirements. ☐ If the appropriate grounds still are not met after seven (7) calendar days, the request for citation reconsideration will be denied and the fine will be due to the MLS within seven calendar days from the date of the notice of denial.
Citation Reconsideration Panel ☐ Select a citation reconsideration Panel comprised of not less than three (3) nor more than five (5) REALTORS® from the Association's Professional Standards Committee or MLS Committee (at the Association's option). ☐ Coordinate with the panel to schedule the citation reconsideration. **NOTE: Since this is not a hearing, the respondent is not invited and not notified.**

- ☐ Prepare a copy of the materials for each Panelist: (i) original MLS citation and supporting documentation; (ii) request for citation reconsideration from the respondent with a written explanation for the basis of the reconsideration; and (iii) the MLS Rules.
- ☐ Prepare Form D-16 *Disposition of Citation Reconsideration,* which will be filled out and signed by the Presiding Officer.

Notice of Final Decision

- ☐ After the citation reconsideration has taken place, obtain the completed D-16 Form from the Presiding Officer.
- ☐ Send the D-16 form along with a cover letter to the respondent within fifteen (15) days after the Panel has rendered its decision.
- ☐ If the decision is to uphold the citation, the cover letter should indicate that the fine and the administrative processing fee are due within seven (7) calendar days from the date the decision has been sent to the respondent. The cover letter **must indicate the dollar amount of the administrative processing fee**. (*Note: Each Association should determine the dollar amount of the administrative processing fee it wishes to charge for citation reconsiderations, which cannot exceed $500.)*
- ☐ The cover letter should also reiterate that the decision of the Panel is not subject to further review.
- ☐ A copy of the decision and cover letter should be forwarded to the MLS that issued the original citation.