NOTICE OF AVAILABILITY OF REVIEW OF DISCIPLINARY ACTION

The parties to a disciplinary decision have the right to request a review of the hearing Panel's decision by the Board of Directors. This right is intended to protect parties and afford due process. This right is not intended to assist parties in delaying or avoiding discipline. As such, parties should only exercise this right when legitimate grounds exist for the request.

REQUEST FOR REVIEW

Within twenty (20) calendar days after the hearing Panel's decision has been sent to the parties, any party may file a request for a review of the hearing Panel's decision by the Board of Directors or appointed review Panel of the Board of Directors. **The only bases for review are: (1) misapplication or misinterpretation of a membership or MLS duty; (2) procedural deficiency or any lack of procedural due process; and (3) unwarranted discipline.** Below is an explanation of each basis for review:

- **Misapplication or misinterpretation of a membership or MLS duty:** The party requesting the review must explain why the hearing panel did not appropriately apply the Code of Ethics, MLS Rules, or membership duties to the facts stated in the Findings of Fact. The party requesting the review cannot challenge the underlying facts or attempt to reargue the case.
- **Procedural deficiency or lack of procedural due process:** The party requesting the review must explain why their due process rights were violated during the hearing process. Due process consists of: (1) the right to a full and fair hearing; (2) the right to an unbiased panel; (3) the right of a party to know the charges against them; (4) the right of a party to have the opportunity to defend themselves; and (5) the right of a party to have legal counsel during the hearing.
- **Unwarranted discipline:** The party requesting the review must explain why the discipline recommended by the hearing panel is unfair or unjust given the description of the violation in the Findings of Fact. The party requesting the review cannot challenge the underlying facts or attempt to reargue the case.

A request for review must be in writing (Form D-17) and must clearly indicate the bases on which the challenge is being made and contain facts and supporting evidence in reasonable detail to support the challenge. Upon receipt of a properly filed request for review, copies will be sent to the other parties and they will have an opportunity to respond to the request. The Association will then schedule a hearing before the Board of Directors to consider the request. All parties shall have the right to attend and be present at this hearing. The Presiding Officer from the original hearing Panel will also be present to give a summary of the case and answer any questions of the parties and the Directors. Each party will then be given an opportunity to present his or her reasons why the hearing Panel's decision and recommended discipline should or should not be followed. No new evidence regarding the merits of the case will be received.

The Board of Directors must adopt the decision of the hearing Panel unless the party requesting the review demonstrates one of the grounds for review exists. Depending on the grounds, the Board of Directors may (1) dismiss the matter; (2) impose alternative discipline that does not exceed that recommended by the hearing Panel; (3) refer the decision back to the hearing Panel with recommended modifications; or (4) refer the matter for a new hearing.

NO REQUEST FOR REVIEW

If no request for review is filed, the Board of Directors will adopt the hearing Panel's decision and recommendations, unless there is a patent deficiency on the face of the decision, in which case, the decision and recommended discipline may be modified. In the event this occurs, the parties will be duly notified of the change.

FINAL ACTION BY THE BOARD OF DIRECTORS

The decision and recommended discipline of the hearing Panel will be effective upon final action by the Board of Directors. If a request for review is filed but the review is denied by the Board of Directors, this constitutes final action.

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