

NEED TO SATISFY DUE PROCESS

- Because of the nature of these sanctions, they result in the limitation or denial of the rights and privileges of membership. Therefore, the sanctions must be justified both substantively and procedurally by the standards of due process. If due process standards are not satisfied, a court may: 1) reverse the penalty and 2) hold the Local Association liable for resulting damages.
- Due Process is:
 - Right to a full and fair hearing;
 - Before an impartial tribunal;
 - With knowledge of the charges against him/her;
 - An opportunity to defend himself/herself; and
 - Right to an attorney.

WHO CAN FILE A COMPLAINT?

- Any person, whether member or non-member, may file.
- Board of Directors may direct the Grievance Committee to investigate and file a complaint.
- Grievance Committee may investigate on its own motion and file a complaint.
- Although individual Directors may file a complaint, the Board of Directors, as a group, should not be the complainant.

PROPER RESPONDENTS

- Any member of the Local Board where the complaint is filed—even if the conduct took place while the respondent was a member of a different Board.
- If a salesperson is the respondent, the Designated REALTOR®, may—but need not be named as a respondent.
- Any member of an MLS, who joined the MLS through this Board, if violation of an MLS rule is alleged.

FORM OF COMPLAINT

- The complaint should set forth the facts of the matter and specific Articles of the Code of Ethics allegedly violated. For a MLS violation, the specific MLS rule should be cited.
- Due process requires that a respondent be entitled to full notice of the charges against him. As a result, the facts must be stated clearly and completely, and the complaint must be dated and signed by the complainant. Relevant documents should be attached as exhibits.

TIME LIMITATION

- An ethics/MLS Rules violations must be filed – within 180 days after the facts constituting the matter could have been known in the exercise of reasonable diligence.
- An arbitration complaint must be filed – within 180 days after the close of the transaction (close of escrow) or event or the time that the facts constituting the matter could have been known in the exercise of reasonable diligence – whichever is later.