

Ombudsman Service Overview

Professional Standards Policy Statement #59: *Every local and state association of REALTORS® is required to offer, either directly or as part of a cooperative enforcement agreement (consistent with Professional Standards Statement #40, Cooperative Enforcement Agreements), ombudsman services to members, clients, and consumers on or before January 1, 2016.*

Purpose

The purpose of the ombudsman is to provide a knowledgeable, informed contact when REALTOR® members or members of the public have real estate related questions that have not been addressed by an individual broker. KAR will supply ombudsmen service for any board or association in the state that requests this service via the **KAR Professional Standards Agreement**.

Role

The role of the ombudsman is to identify and attempt to facilitate a resolution of misunderstandings and/or disagreements before matters evolve into a formal complaint. The ombudsman will communicate via telephone.

Qualifications of the Ombudsman

- Must have the ability to communicate successfully with a diverse range of people.
- Must have the ability to remain nonjudgmental.
- Must be a problem solver.
- Must have completed five years of the KAR Professional Standards Training (not consecutively) and be actively involved in real estate practice.
- Must be familiar with the NAR Code of Ethics, Kentucky real estate statutes and regulations, and applicable MLS Rules and Regulations.
- Must be a REALTOR®.
- Must complete the KAR Professional Standards training during the year in which they will serve as ombudsman.
- Must complete the KAR Ombudsman training during the year in which they will serve as ombudsman.
- Must view the NAR ombudsman process videos on Realtor.org.
- Is a volunteer – not paid staff.

Selection and Term

One ombudsman will be appointed from each local association, with one additional ombudsman appointed for every 1,000 members of a local association. Local association appointees will be submitted to KAR along with Professional Standards Appointments which are submitted to KAR in the fall. The ombudsman appointment will be for renewable one-year terms.

Responsibilities of the Ombudsman

- Attempts to call the complainant within 2 business days of receipt of the **Ombudsman Request Form**.
- After 2 to 3 attempts to call the complainant and no response is forthcoming, discontinue the call.
- Notifies KAR immediately in writing if complainant cannot be reached.
- Keeps all information confidential.
- Must be impartial – cannot take sides or determine who is right or wrong.
- Listens to the complainant's concerns.
- Helps determine the desired outcome (money, license sanctions, MLS concerns, etc.)
- Explains possible avenues that might resolve the issue or reach the desired outcome.
- Answers general questions and/or procedural questions.
- Contacts the potential respondent to explain the complainant's concerns and desired outcome.
- Reports back to the complainant.
- Explains the various options after the completion of the ombudsman process.
- Closes out the assignment by submitting a **Report Form** to KAR within 7 business days of receipt of the **Ombudsman Request Form**. The **Report Form** is provided to KAR for the purpose of tracking the service, and identifying potential areas of member education. Destroys the **Ombudsman Worksheet/Log** and all notes taken during the process.

Limitations of the Ombudsman

- The ombudsman may not refer concerns they have regarding the conduct of any party utilizing the ombudsman service to the Grievance Committee, to the KREC, a local MLS Committee or to any other regulatory body, except that concerns that the public trust has been violated will be referred to the Grievance Committee. The prohibition is intended to ensure impartiality and avoid the possible appearance of bias.
- Only in case of violation of public trust is the ombudsman authorized to refer concerns to Grievance Committee. Possible Violation of the Public Trust - as defined by the National Association of REALTORS® - “demonstrated misappropriation of client or customer funds or property, willful discrimination, or fraud resulting in economic harm.”
- If possible discrimination on the basis of race, color, religion, sex, handicap, familial status, national origin, sexual orientation or gender identity is brought up, the complainant needs to contact the proper authorities. The ombudsman should not get into a discussion regarding discrimination.
- The ombudsman will adhere to Article 11 of the Code of Ethics. Should an ombudsman receive an Ombudsman Request which they find will involve an area of real estate that they are not comfortable in and do not have expertise in, they should contact KAR staff and ask them to re-assign the Ombudsman Request to another ombudsman. Staff may decide that they do not have an expert in this area on the ombudsman call list and may recommend that the complainant go forward with a complaint.

Process

KAR staff will offer the services of an ombudsman. Staff will send information regarding the service when requested and make the information available on KAR’s website. If the completed **Ombudsman Request Form** is returned to KAR, staff will forward the **Ombudsman Request Form** to the ombudsman electronically. The ombudsman will contact the complaint within 2 business days and determine the desired outcome, then contact the respondent, then report back information to the complainant. The possible outcomes may include a resolution of the situation or complaint, or the complainant may choose to move forward with an ethics complaint through KAR. Other action may include the complainant seeking legal advice or contacting Kentucky’s real estate licensing authority. The ombudsman will explain the various options after completion of the ombudsman process. The ombudsman will then complete a **Report Form** and return it to KAR within 7 business days of receipt of the **Ombudsman Request Form**.

The ombudsman service works in conjunction with KAR’s REALTOR® Professional Standards process. Once the ombudsman service begins, the 180 days filing deadline is suspended until the ombudsman service is completed. If the board’s ombudsman process is initiated by the complainant with respect to conduct that becomes the subject of a subsequent complaint, the 180 days filing deadline shall be suspended beginning with the date of the request for the ombudsman service and shall resume when the service is concluded.