

MREC DISCIPLINARY PROCESS---STEP BY STEP

The MREC disciplinary process typically begins with an individual or a legal entity filing a formal (written) complaint with the MREC Office but, statutorily, a complaint may be initiated by the MREC based on information which appears to indicate that a licensee has been involved in a violation of the License Law or the Administrative Rules of the MREC. In either instance, a letter is drafted to the Principal Broker of the Brokerage Firm and all licensees who are believed to be involved, they are notified of the complaint and each licensee is asked to respond with all information in their possession within the next ten (10) days.

Upon receipt of the notice of a complaint, the Broker and the licensees should have a conversation with and receive direction from their Errors and Omissions Insurance Carrier; including a discussion about securing an attorney who specializes in real estate license law and/or handles complaints involving licensed professionals. Each of the licensees (individually) will be required to provide an explanation of the events which may be in question. The individual response is required even if a real estate attorney provides a rebuttal to the formal complaint.

The MREC Investigative Staff will compile all information, review documents which are pertinent to the investigation, interview witnesses (if necessary), subpoena documents from third parties and conduct a complete administrative investigation. If the Investigative Staff and Legal Counsel believe there may have been a violation, a formal complaint indicating the specific violations of MREC Guidelines will be issued to the various licensees.

Once the formal complaint has been issued, the licensees have the opportunity (if they choose to do so) to agree with the investigative findings and negotiate a tentative settlement of the case with the MREC Investigative Staff---subject to the final approval of the entire Real Estate Commission---or they may choose to have an Administrative Hearing before the Real Estate Commissioners.

At an Administrative Hearing the licensees may (actually, should) be represented by legal counsel and the MREC will also have an attorney(s) present. The proceeding is very much like a court trial but with relaxed rules of evidence. The final adjudication is made by the Real Estate Commissioners. The Commissioners are individuals who are highly informed in the practice of real estate and are not bureaucrats or employees of the MREC. Each Commissioner is a peer of the licensees, is an active real estate broker and was appointed by the Governor of the state and confirmed by a vote of the Mississippi Senate to serve on the MREC.

Any adverse decision of the MREC Commissioners may be appealed by a licensee, within thirty (30) days of the action, by filing the appeal in Circuit Court in the home county of a licensee or in Hinds County. Decisions from those courts may also be appealed to the Mississippi Supreme Court or the State Court of Appeals. Except in rare situations, all appeals are decided "on the record" from the Hearing.

DISCIPLINARY ACTIONS USED BY THE MREC

The MREC has a multitude of disciplinary actions from which to choose when a licensee or a brokerage firm has violated MREC Guidelines; most of which do not lead to the permanent revocation of a license. They are as follows, to wit:

- 1) **Letter of Caution:** This is not a disciplinary action but is a "written warning" addressing minor misconduct being committed by the licensee which does not warrant the imposition of a sanction. The letter is not considered in any subsequent disciplinary proceedings against the licensee unless the prior warning(s) in the letter is relevant to the misconduct alleged in the later proceeding(s).
- 2) **Letter of Reprimand:** This is a disciplinary action and a formal letter of censure which is a public document that is issued by the MREC and informs a real estate licensee or a brokerage firm that the licensee's or the firm's conduct violates state law or the Administrative Rules of the MREC and will require the Commission to monitor the licensee or firm. It informs the licensee or firm that future violations will lead to more severe sanctions. It is placed in the licensing file of the recipient but does not negatively impact the ability of the licensee or the firm to continue with licensable real estate activities. The initial Letter of Reprimand is typically for a minor Administrative Rule violation.
- 3) **Letter of Reprimand with Continuing Education:** This is a disciplinary action which is practically identical to a Letter of Reprimand but is typically issued when the licensee is a repeat violator of a minor misconduct or commits a more severe violation. The continuing education is used for remedial training of the violator. The recipient of the letter is allowed to continue with licensable real estate activities.

- 4) **License Suspension held in Abeyance:** This is a disciplinary action which is typically imposed when a licensee or brokerage firm violates a state law which stipulates that a violator's license may be suspended or revoked or their actions are such that members of the public, clients and/or customers suffer financial harm as a direct result of their actions. This action is generally going to include an additional probationary period for the licensee and will require them to complete some remedial training in the form of several continuing education courses. The violator is allowed to continue to engage in licensable real estate activity but any additional misconduct during the period of their sentence may lead to a full license suspension or other sanctions.
- 5) **Full License Suspension:** This is a disciplinary action which is typically imposed when a licensee of brokerage firm has shown total disregard for the state statute or an administrative rule or the licensee has made substantial misrepresentations to customers and clients during a real estate transaction. In the majority of the instances, the statutory violations are shown to be egregious and the licensee's actions or the brokerage's actions border on fraud and improper dealing. The violator is forbidden to engage in any licensable activities for a specifically defined time frame when their license is suspended. The licensee or brokerage firm will normally appear before the Commissioners prior to their licenses being reinstated and licensees will be required to complete remedial training during the term of their license suspension and probationary period.
- 6) **License Revocation:** This is a disciplinary action which directly impacts the licensee's ability to work, diminishes their earnings potential and hinders their ability to advance their real estate career. The licensee no longer has the right to practice real estate. It is very common for the Commissioners to allow a licensee the right to petition the MREC for the opportunity to become licensed again. However, the state statute requires at least a five (5) year hiatus for the licensee. Often a licensee who has their license revoked is also involved in criminal activity.

Corrective or Remedial Education is designed to improve a licensee's deficient skills to achieve expected competencies in specific areas of their real estate activities.

Period of Probation is a time during which a licensee and/or a licensee's real estate abilities may be more closely scrutinized and observed.