

New Member Orientation Ethics Information



An overview of the Code of Ethics
and Standards of Practice of the
National Association of
REALTORS®



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The REALTOR[®] Code of Ethics

- Protects the buying and selling public.
 - Promotes a competitive real estate marketplace.
 - Enhances the integrity of the industry.
 - Is your promise of performance.
 - Is your promise of professionalism.
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History and Background of the Code of Ethics

- National Association of REALTORS[®] formed in 1908
 - No license laws at that time.
 - Real estate industry had a history of speculation, exploitation and disorder.
 - Code was adopted in 1913 to establish a professional standard of conduct.
 - Code of Ethics formed the basis for license laws.
 - From its inception, the Code of Ethics required arbitration of monetary disputes between REALTORS[®].
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The Preamble

- The Golden Rule.
 - Widely allocated ownership and widest distribution of land ownership.
 - Maintain and improve the standards of their calling.
 - Share with fellow REALTORS[®] a common responsibility for the integrity and honor of the real estate profession.
 - Strive to become and remain informed on issues affecting real estate.
 - Be willing share the fruit of your experience and study with others.
 - Identify and take steps to eliminate practices which may damage the public or which might discredit or bring dishonor to the real estate profession.
 - Urge exclusive representation of clients.
 - Do not attempt to gain any unfair advantage over competitors.
 - Refrain from making unsolicited comments about other practitioners.
 - If an opinion is sought about a competitor (or the REALTOR[®] believes comment is necessary), the opinion should be offered in an objective, professional manner.
 - The term REALTOR[®] stands for competency, fairness, high integrity, moral conduct in business relations.
 - No inducement of profit and no instruction from clients can justify departure from these ideals.
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Three Major Sections of the Code of Ethics

- Duties to Clients and Customers
 - Duties to the Public
 - Duties to REALTORS[®]
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Structure

Article - Broad Statements of ethical principals.

Standards of Practice - Support, interpret and amplify the Articles under which they are stated.

Case Interpretations - Specific facts situations to which the Articles and/or Standards of Practice are applied.

Only Articles of the Code can be violated, though Standards of Practice can be cited in support of an alleged violation.

The Grievance Committee

- A screening committee comprised of members of the Association appointed to the committee.
 - Key question for the Grievance Committee.
 - If the allegations in the complaint were taken as true on their face, is it possible that a violation of the Code of Ethics occurred?
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Professional Standards Hearing

- Function is to conduct a full “Due Process” hearing with sworn testimony, witnesses and evidence.
 - Hearing Panel comprised of members of the Professional Standards Committee.
 - After conducting a hearing, the Hearing Panel decides whether there was a violation of the Code of Ethics, proven by clear, strong and convincing proof.
 - After the Hearing Panel decides which REALTOR® is entitled to the award (typically a disputed commission in a transaction), proven by a preponderance of the evidence.
 - If the Hearing Panel finds a violation of the Code of Ethics, the Panel then determines the discipline to be imposed on the violator (respondent).
 - Generally, the award of the Panel in an arbitration case can be judicially enforced if not paid by the non-prevailing party.
 - Some Associations have procedures requiring that awards be deposited with the association pending review of the hearing process or during legal challenge.
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Authorized Discipline

- Letter of Warning
 - Letter of Reprimand
 - Education
 - Fine not to exceed \$5,000
 - Probation for one year or less
 - Suspension for not less than 30 days or more than one year.
 - Expulsion from membership for period of one to three years.
 - Suspension or termination of MLS privileges.
 - Administrative processing fee (if found in violation) not to exceed \$500 (“Court Costs”).
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Mediation

- A voluntary process in which disputing parties meet with a mediator appointed by the Association to create a mutually acceptable resolution of the dispute rather than having a decision imposed by an arbitration hearing panel.
 - Mediation can occur before or after the Grievance Committee reviews requests for arbitration, depending on local Association policy.
 - If a dispute is resolved in mediation, the parties sign an agreement spelling out the terms of the settlement, and no arbitration hearing is heard.
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NAR’s Arbitration Guidelines

- Found in the Code of Ethics and Arbitration Manual.
- Guidance to Hearing Panels as to how to determine procuring cause in arbitration hearings.
- Also referred to as “Suggested Factors for Consideration by a Hearing Panel in Arbitration”.
- Guidelines focus on “procuring cause” as the basis for resolving most commission disputes between brokers.

Key Factors in a Procuring Cause Dispute

- No predetermined rule of entitlement may be established by an Association
 - Hearing Panels should consider the entire course of events
 - Matters such as the first showing of the property, the writing of the successful offer or the existence of an agency relationship with the buyer are not, in themselves, exclusive determiners of procuring cause/entitlement
 - The key concepts of procuring cause are referenced in this definition from Black's Law Dictionary, Fifth Edition: "The proximate cause; the cause originating a series of events which, without break in their continuity, result in the accomplishment of the prime object."
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Article 1

- Protect and promote the interests of the client
- This obligation to the client is primary, but must treat all parties honestly regardless of agency or non-agency relationship
- Standard Practice 1-2 defines terms such as "client", "customer", "agent" and "broker".

Article 2 (Disclose! Disclose! Disclose!)

- Avoid exaggeration, misrepresentation and concealment of pertinent facts about the property or the transaction
- There is no obligation to discover latent defects, matters outside scope of license or matters confidential under agency or non-agency relationships

Article 9 (Get it in writing!)

- Agreements shall be in writing whenever possible, in clear and understandable language, expressing the specific terms, conditions, obligations and commitment of the parties.
- A copy of each agreement shall be furnished to each party upon their signing or initialing.
- Standard of Practice 9-1 requires that reasonable care be used to keep documents current by use of written extensions and amendments.

Article 12 (Truth in Advertising)

- Present a "true picture" in your advertising and representations to the public.
- Ensure that the professional status of REALTORS® is clearly identifiable in any advertising.

Article 16 (Respect)

- Do not engage in any practice or take any action inconsistent with the agency or other exclusive relationship that other REALTORS® have with clients.
- Examples of issues covered by Article 16 and its Standards of Practice:
 - Innovative or aggressive business practices.
 - Advertising/solicitation which may be received by other REALTORS® clients.
 - Solicitation of listings and agency relationships of clients of other brokers.
 - Dealing with other broker's clients.
 - Obligations when entering into exclusive relationships.
 - Agency and/or brokerage relationship disclosure.

The National Association of REALTORS® Code of Ethics is available at www.momls.com or by calling the Monmouth County Association of REALTORS® at 732-918-1340.