



**The Code of Ethics:
Our Promise of Professionalism**



The Code is good business.

**The REALTORS® Code of Ethics
Quadrennial Member Education Program
Third Cycle**


Slide 1




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Course Objectives

- ☛ Identify key aspirational concepts in the Preamble to the NATIONAL ASSOCIATION OF REALTORS® Code of Ethics.
- ☛ Describe "general business" ethics and compare and contrast them with the REALTORS® Code of Ethics.
- ☛ Describe concepts established in Articles 1, 2, 12, and 17 and possible violations of them.



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Course Objectives

- ☛ Describe the professional standards process for enforcing the Code of Ethics, including the duty to arbitrate.
- ☛ Identify critical elements of due process as they relate to Code enforcement.
- ☛ Identify factors considered by hearing panels in procuring cause disputes.




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Ice-breaker Exercise

1. _____	10. _____
2. _____	11. _____
3. _____	12. _____
4. _____	13. _____
5. _____	14. _____
6. _____	15. _____
7. _____	16. _____
8. _____	17. _____
9. _____	




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Ice-breaker Answers

1. Article 15	10. Article 17
2. Article 13	11. Article 10
3. Article 14	12. Article 4
4. Article 8	13. Article 11
5. Article 7	14. Article 9
6. Article 16	15. Article 2
7. Article 3	16. Article 6
8. Article 5	17. Article 12
9. Article 1	



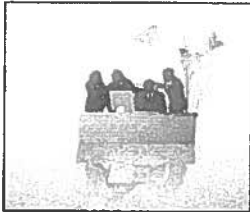
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PART 1: History of the Code of Ethics





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Pre -1900

- ✦ No licensing of real estate practitioners
- ✦ Speculation, exploitation, and disorder
- ✦ *Caveat emptor* governed transactions




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NATIONAL ASSOCIATION OF REALTORS® Formed in 1908

Known then as
the National
Association of
Real Estate
Exchanges



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Code of Ethics Adopted in 1913

- ✦ Established professional standards for conduct
- ✦ First ethical code for business after medicine, engineering, and law
- ✦ Focused on:
 - service to the public
 - commitment to professionalism
- ✦ Included "Duties to Clients" and "Duties to Other Brokers"

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The Code of Ethics was the basis for later-adopted license laws.



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The Code Ethics


Since its inception, the Code has required:

- ✦ arbitration of contractual disputes between/among REALTORS®
- ✦ respect for other brokers' exclusive relationships with clients
- ✦ cooperation between/among REALTORS®

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PART 2: Business Ethics, NAR Code of Ethics, and Pathways to Professionalism

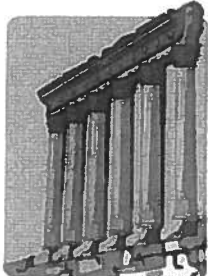


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Business Ethics

- ✿ Industry codes
- ✿ Company policies
- ✿ Individual moral values
- ✿ Business ethics and legal standards



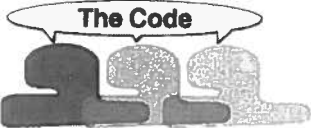
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REALTORS® Share One Common Characteristic

Regardless of real estate business specialty (such as appraisal, property management, etc.), all REALTORS® are bound by the Code of Ethics.

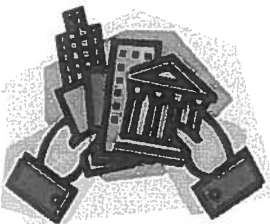


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Preamble to the Code of Ethics




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Under all is the land...

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PG, Page 6




The Golden Rule . . .
Whatsoever ye would that others should do to you, do ye even so to them.


Slide 17

PG, Page 6

Alleged violations of the Preamble may not be the basis for disciplining a REALTOR®.



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Structure of the Code of Ethics

Three Sections

- ☛ Duties to Clients and Customers
- ☛ Duties to the Public
- ☛ Duties to Other REALTORS®



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Structure of the Code of Ethics

17 Articles

- ☛ Each section is comprised of Articles, which are broad statements of ethical principles.
- ☛ Only Articles of the Code may be violated.



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Structure of the Code of Ethics

Standards of Practice

- ☛ Support, interpret, and amplify each Article.
- ☛ May not be charged, but may be cited in support of an alleged violation.

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Official Case Interpretations

- ☛ Fact situations for which each Article and/or Standard of Practice of the Code are applied.
- ☛ May not be charged, but may be cited in support of an alleged violation.

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How the Code of Ethics Evolves

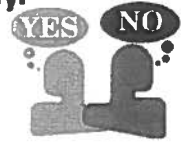
- ☛ Amendments made during Midyear Meetings and REALTORS® Conference and Expo.
- ☛ Revisions require approval by NAR Professional Standards Committee and Board of Directors.
- ☛ Interpretations and Procedures Subcommittee of the Professional Standards Committee recommend many of the changes.

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Any change to an Article of the Code also must be approved by the NAR Delegate Body.



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The Code and the Law

The Code of Ethics:

- ✦ must be reasonably construed with the law
- ✦ imposes duties above and in addition to duties imposed by law or regulation
- ✦ restates certain fundamental legal principles



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Pathways to Professionalism

Three Sections

- ✦ Respect for Public
- ✦ Respect for Property
- ✦ Respect for Peers

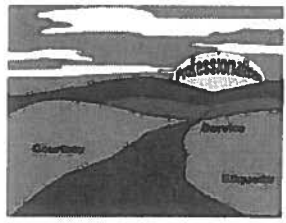
*Professional
Courtesies*





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PG, Pages 10 and 11

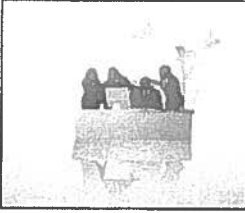
Pathways to Professionalism Exercise





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PART 3: Enforcement of the Code of Ethics





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Enforcement of the Code of Ethics



- ✦ Every associations is responsible for enforcing the Code.
- ✦ This includes providing mediation and conducting ethics and arbitration hearings.
- ✦ Only REALTORS® and REALTOR-ASSOCIATES® subject to the Code.

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Enforcement of the Code of Ethics


- ✦ An association where someone holds membership or gains MLS access has jurisdiction to process ethics complaints and arbitration requests filed against that individual.
- ✦ Associations do **not** determine violations of law and regulation.

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Association Dispute Resolution

<p>Option #1 – Informal</p> <ul style="list-style-type: none"> ☛ Ombudsman ☛ Mediation 	<p>Option #2 – Formal</p> <ul style="list-style-type: none"> ☛ Ethics complaints ☛ Arbitration requests
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Informal Dispute Resolution Ombudsman Program

- ☛ Only available if offered by local association.
- ☛ Voluntary process.
- ☛ Ombudsmen may field and respond to inquiries and complaints, solicit responses, and meet with disputing parties.
- ☛ Disputants reserve right to file a formal ethics complaint.

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Ombudsman's Functions

- ☛ Primary role is communication and conciliation (not adjudication).
- ☛ Does not determine an ethics violation.
- ☛ Anticipates, identifies, helps resolve misunderstandings or disagreements **before** disputes or unethical conduct charges arise.

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Ombudsmen can help repair breakdowns in communication and develop acceptable resolutions between disputing parties.



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Informal Dispute Resolution Mediation

- ☛ Voluntary process in arbitration.
- ☛ Disputing parties meet with a mediator appointed by the association.
- ☛ Parties create a mutually acceptable resolution of the dispute, rather than go before an arbitration hearing panel.

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Mediation


- ☛ Preferred dispute resolution tool by the REALTOR® organization.
- ☛ Must be available to all REALTORS®.
- ☛ May offer before or after grievance committee's review.
- ☛ If offered before, must offer again after grievance committee determines matter is arbitrable and forwards on to a hearing.

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Mediation

If a resolution is reached, parties sign an agreement containing the terms of the settlement, and no arbitration hearing is held.



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Mediation Versus Arbitration

Mediation	Arbitration
Low-cost	Moderate cost
Little delay	Moderate delay
Maximum range of solutions	Win/lose/split
Parties control outcome	Arbitrators control outcome
Uncertain closure	Definite closure
Maintain/improve relationships	May harm relationships

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Who can file an ethics complaint?




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Grievance Committee in Ethics

Is there a potential violation of the Code of Ethics?



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Ethics Hearing Panel

- ✦ Following a hearing, panel decides whether the Code of Ethics has been violation, proven through **clear, strong, and convincing evidence**.
- ✦ If a Code violation is found, then the panel also determines the discipline.

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Authorized Discipline

- ✦ Letter of warning
- ✦ Letter of reprimand
- ✦ Education
- ✦ Fine, not to exceed \$5,000
- ✦ Probation of one year or less
- ✦ Suspension of not less than 30 days, nor more than one year
- ✦ Expulsion from membership for one to three years
- ✦ Suspension or termination of MLS privileges


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The primary emphasis of discipline is educational, to create a heightened awareness of and appreciation for the Code of Ethics.



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Filing an Arbitration Request

- ✦ Arbitration is conducted under Article 17 of the Code of Ethics and under a state's arbitration statute (if any).
- ✦ Article 17 provides that arbitration occurs under the following circumstances . . .

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Arbitration and Article 17

- ✦ Contractual or specific non-contractual disputes, as defined by Standard of Practice 17-4
- ✦ Between REALTORS® (principals)
- ✦ Arising out of their relationship as REALTORS®

NOTE: Clients also may arbitrate with their REALTOR® principals.


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Grievance Committee in Arbitration

Is there an **arbitrable** issue?
(That is, a money dispute, typically concerning which REALTOR® is entitled to the cooperative commission in a transaction.)



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Arbitration Hearing Panel

- ✦ Conducts full "due process" hearing.
- ✦ Comprised of members from an association's professional standards committee.
- ✦ After a hearing, panel decides which party is entitled to the award, based on a **preponderance of the evidence.**


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Payment of an Arbitration Award

- ✦ An unpaid award typically may be judicially enforced.
- ✦ Some associations require that award monies be deposited with the association, pending review of the hearing process or during a legal challenge.




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PART 4: Concepts of Procuring Cause in Arbitration



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Arbitration Guidelines

- ✿ Found in the *Code of Ethics and Arbitration Manual*.
- ✿ Guide hearing panels in resolving arbitrable issues.
- ✿ Focus primarily on procuring cause as the basis for resolving most commission disputes.

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Procuring Cause Factors

- ✿ No pre-determiners.
- ✿ Consider the entire course of events.
- ✿ Writing an offer, making the first showing, or an agency relationship, in and of themselves, do not necessarily determine procuring cause or entitlement.

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Procuring Cause

The proximate cause; the cause originating a series of events which, without break in their continuity, result in the accomplishment of the prime object.

– *Black's Law Dictionary, Fifth Edition*


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Procuring Cause

It is the squirrel that shakes the branch and not the squirrel that gathers the nut.

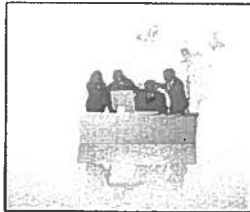
– Arkansas Supreme Court



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PART 5: Summaries and Case Studies of Selected Articles of the Code of Ethics




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Article 1

- ☛ Protect and promote your clients' interests.
- ☛ This obligation to your clients is primary.
- ☛ Treat all parties honestly.
- ☛ Standard of Practice 1-2 defines terms such as: "client", "customer", "agent", and "broker".


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PG, Pages 20 and 21

Article 1 Case Study

(Based on Case Interpretation #1-26)



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Article 2

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

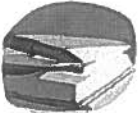
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PG, Pages 23 and 24

Article 2 Case Study

(Based on Case Interpretation #2-7)




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Article 12

Requires truth and honesty in **all** real estate communications.



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Article 12

- ☛ Be honest and truthful in real estate communications.
- ☛ Present a **"true picture"** in advertising, marketing, and other representations.
- ☛ Ensure that your status as real estate professional is readily apparent in advertizing, marketing, and other representations.


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PG, Pages 26 and 27

Article 12 Case Study #1

(Based on Case Interpretation #12-17)




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PG, Pages 28 and 29

Article 12 Case Study #2

(Based on Case Interpretation #12-19)



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Article 17

- ✦ REALTORS® (principals) must arbitrate contractual and specific non-contractual disputes, as defined by SOP 17-4.
- ✦ Clients may invoke mandatory arbitration with their REALTORS® (principals).
- ✦ REALTORS® are obligated to cause their firms to arbitrate.


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PG, Pages 31 and 32

Article 17 Case Study

(Based on Case Interpretation #17-1)

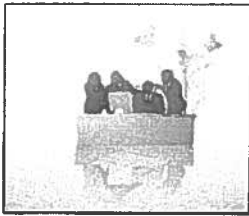


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PART 6: Conclusion



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The REALTORS® Code of Ethics

- ✦ Protects the buying and selling public.
- ✦ Promotes a competitive real estate market place.
- ✦ Enhances the integrity of the industry.
- ✦ Is our promise of performance.
- ✦ Is our promise of professionalism.

Code of Ethics and Standards of Practice of the National Association of Realtors®

1. A REALTOR® shall have the right to the same full and complete disclosure of all known facts concerning the property as the seller or lessor has.

2. A REALTOR® shall not be held responsible for the actions of another REALTOR® who is not under their direct supervision, control or management.

3. A REALTOR® shall not discriminate in the sale or rental of real estate on the basis of race, sex, religion, marital status, national origin, ancestry, handicap, age or sex.

4. A REALTOR® shall not discriminate in the sale or rental of real estate on the basis of sex.

5. A REALTOR® shall not discriminate in the sale or rental of real estate on the basis of religion.

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