



The Code of Ethics:
Our Promise of Professionalism



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The REALTORS® Code of Ethics
Member Education Program

Slide 1



PG, Page 1

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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PG, Page 1

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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Slide 3

PG, Page 2




Ice-breaker Exercise

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



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PG, Page 2




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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PG, Page 3

PART 1: History of the Code of Ethics



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PG, Page 3

Pre -1900

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



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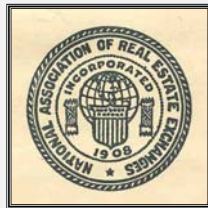
Slide 7



PG, Page 3

NATIONAL ASSOCIATION OF REALTORS® Formed in 1908

Known then as
the National
Association of
Real Estate
Exchanges



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PG, Page 3

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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PG, Page 3

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



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PG, Page 3

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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PG, Page 4

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




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PG, Page 4

Business Ethics

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



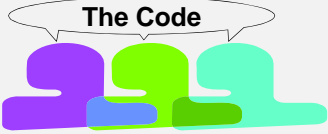
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PG, Page 4

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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PG, Page 5

Preamble to the Code of Ethics



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PG, Page 7

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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PG, Page 7

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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PG, Page 7

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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PG, Page 7

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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PG, Page 7

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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PG, Page 7

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



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PG, Page 8


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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PG, Page 9

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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PG, Page 12

PART 3: Enforcement of the Code of Ethics



Slide 28

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PG, Page 12

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® are subject to the Code.

Slide 29

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PG, Page 12

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.


Slide 30


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PG, Page 13


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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PG, Page 14


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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PG, Page 14

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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PG, Page 14



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





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PG, Page 15

Informal Dispute Resolution Mediation

-  Voluntary process, unless the Association (at its discretion) requires its REALTOR® members to mediate per Article 17.
-  Enabling bylaw provisions (found in Article VII of the NAR Model Bylaws for Local Member Boards) must be adopted to mandate mediation.

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PG, Page 15

Informal Dispute Resolution Mediation

-  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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PG, Page 15

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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PG, Page 15

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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PG, Page 15

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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PG, Page 16

Who can file an ethics complaint?




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PG, Page 16

Grievance Committee in Ethics

Is there a **potential** violation of the Code of Ethics?



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PG, Page 16

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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PG, Page 16

Authorized Discipline


- ☀ Letter of warning
- ☀ Letter of reprimand
- ☀ Education
- ☀ Fine, not to exceed \$15,000
- ☀ 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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PG, Page 16

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



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PG, Page 17

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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PG, Page 17

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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PG, Page 17

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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PG, Page 17

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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PG, Page 18

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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PG, Page 18

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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PG, Page 18

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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PG, Page 19

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



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PG, Page 19

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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PG, Page 22

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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PG, Page 25

Article 12

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



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PG, Page 25

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 advertising, 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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PG, Page 30

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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PG, Page 33

PART 6: Conclusion



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PG, Page 33

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.



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