



CODE OF ETHICS AND THE FAIR HOUSING ACT

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NATIONAL ASSOCIATION OF REALTORS®



- History of NAR
 - Pre 1900
 - Formed in 1908
 - Originally known as the National Association of Real Estate Exchanges
- NAR Today

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NATIONAL ASSOCIATION OF REALTORS®

- Our mission is to empower REALTORS® as they preserve, protect and advance the right to real property for all.
- Our vision is to be a trusted ally, guiding our members and those they serve through the ever-evolving real estate landscape.
- Diversity and Inclusion: NAR fully embraces perspectives from all walks of life—regardless of race, ethnicity, gender, religion, age, sexual orientation, gender identity, disability, national origin, socioeconomic status, political affiliation or any other qualities by which we may define ourselves.

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NAR Benefits of Membership



- Exclusive use of the term REALTOR®
- REALTOR® Code of Ethics
- Advocacy – RPAC
- NAR Action Center
- Claim a .REALTOR domain
- Consumer Advertising Campaign
- Realtor.org
- Research and Statistics
- Education and Professional Development
- Access to NAR Library
- Member Benefits & Discounts
- REALTOR® Property Resource Website – RPR (narrpr.com)

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NAR Code of Ethics

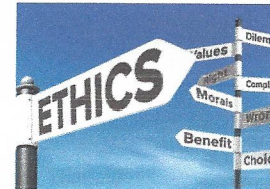
- Adopted in 1913
- Since its inception, the Code has required:
- Observance of the golden rule
- Respect for other brokers' exclusive relationships with clients
- Cooperation between/among REALTORS®
- Arbitration of contractual disputes between/among REALTORS®



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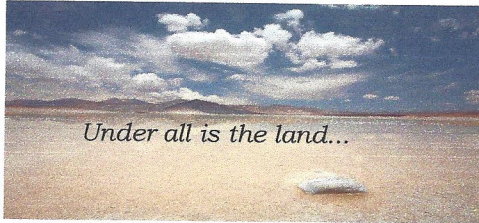
Business Ethics

- Industry codes
- Company policies
- Pathways to Professionalism



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Preamble to the Code of Ethics



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Fundamentals Concepts Of The Preamble

- 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 remain informed on issues affecting real estate.
- 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 profession
- Urge exclusive representation of clients

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Fundamentals Concepts Of The Preamble

- 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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Structure of the Code of Ethics

3 Sections

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



17 Articles

- Each section is comprised of Articles, which are broad statements of ethical principles.
- Only Articles of the Code may be violated.
- Standards of Practice Support, & interpret, each Article.



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Selected Articles & SOP's Review



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Article 1



- When representing clients as an agent, REALTORS® pledge themselves to protect and promote the interests of their client while treating all parties honestly
- REALTORS®, attempting to secure a listing, shall not deliberately mislead the owner as to market value (SOP 1-3)
- REALTORS® may represent the seller/landlord and buyer/tenant in the same transaction only after full disclosure to and with informed consent of both parties. (SOP 1-5)

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Article 1 - Standard of Practice 1-7

- REALTORS®, as listing brokers, shall continue to submit to the seller/landlord all offers and counter offers until closing of title or execution of the lease unless this obligation has been waived in writing
- Upon the written request of a cooperating broker who submits an offer to the listing broker, the listing broker shall provide a written affirmation to the cooperating broker stating that the offer has been submitted to the seller/landlord, or a written notification that the seller/landlord has waived the obligation to have the offer presented

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Article 1 - Standard of Practice 1-9

- REALTORS®, as agents, have an obligation to preserve all confidential information provided by their clients even after the termination of the agency relationship
- Information concerning material defects of property are not considered confidential

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Article 1 - Standard of Practice 1-12 & 1-13

When entering into contractual agreement, REALTORS® must advise:

- Company policies regarding cooperation
- Amount of compensation to be paid by the client
- Possibility that sellers or sellers' representatives may not treat the existence, terms, or conditions of offers as confidential unless confidentiality is required by law, regulation, or by confidentiality agreement



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Article 1 - SOP 1-15

- REALTORS, in response to inquiries from buyers or cooperating brokers shall, only with the sellers' approval, disclose the existence of offers on the property
- Where disclosure is authorized, REALTORS shall also disclose, if asked, whether offers were obtained by the listing licensee, another licensee in the listing firm, or by a cooperating broker

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Article 2

- REALTORS® shall avoid exaggeration, misrepresentation, or 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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Article 3 and Standard of Practice 3-1

- REALTORS® shall cooperate with other brokers, except when cooperation is not in the client's best interest
- REALTORS® acting as exclusive agents or brokers of sellers/landlords, establish the terms and conditions of offers to cooperate
- Unless expressly indicated in offers to cooperate, cooperating brokers may not assume that the offer of cooperation includes an offer of compensation
- Terms of compensation, if any, shall be ascertained by cooperating brokers before beginning efforts to accept the offer of cooperation



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Article 3 - Standard of Practice 3-4

- Listing brokers, have an obligation to disclose the existence of dual or variable rate commission arrangements
- The listing broker, in response to inquiries from cooperating brokers, must disclose the differential that would result in a cooperative transaction or in a sale/lease that results through the efforts of the seller/landlord
- The buyer/tenant representative must disclose such information to their client before the client makes an offer to purchase or lease

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Article 3 - Standard of Practice 3-8, 3-9

- REALTORS® shall not misrepresent the availability of access to show or inspect a listed property (SOP 3-8)
- REALTORS® shall not provide access to listed property on terms other than those established by the owner or the listing broker. (SOP 3-9 and 1-16)



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Articles 4 - 9



- Article 4. When buying or selling for themselves, or for their families or firms, REALTORS® make their true position or interest known
- Article 5. Disclose self-interest before providing professional services
- Article 6. All compensation must be disclosed to the principal
- Article 7. Disclose and obtain consent for dual compensation
- Article 8. Safeguard entrusted funds in an escrow account
- Article 9. All agreements in writing and delivered

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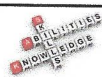
NAR Code of Ethics: Article 10



- Outlines REALTORS®' unequivocal commitment to equal opportunity in housing
- REALTORS®, in their real estate employment practices, shall not discriminate against any person or persons on the basis of race, color, religion, sex, handicap, familial status, national origin, sexual orientation or gender identity
- Standard of Practice 10-3 Realtors® shall not print, display or circulate any statement or advertisement with respect to selling or renting of a property that indicates any preference, limitations or discrimination...(based on any of the protected classes)

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Article 11



- Realtors® shall conform to the standards of practice and competence which are reasonably expected in their specific real estate disciplines
- Realtors® shall not provide professional services outside their field of competence unless they engage the assistance of one who is competent, or unless the facts are fully disclosed to the client
- Anyone engaged to provide such assistance shall be so identified to the client and their contribution to the assignment should be set forth

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Article 12



- REALTORS® shall
 - 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, representations and communications

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Articles 13, 14, 15



- Article 13: Avoid unauthorized practice of law
- Article 14: Willingly participate in ethics investigations and enforcement actions.
- Article 15: Avoid misleading statements about competitors

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Article 16



- REALTORS® shall respect the exclusive representation or or exclusive brokerage relationship agreements that other REALTORS® have with their clients
- REALTORS® shall not solicit a listing which is currently listed exclusively with another broker
- All dealings concerning property exclusively listed, or with buyer/tenants who are subject to an exclusive agreement shall be carried on with the client's representative, and not with the client, except with the consent of the client's representative or except where such dealings are initiated by the client

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Article 16 – SOP 16-11



- On unlisted property, REALTORS® acting as buyer/tenant representatives shall disclose that relationship to the seller/landlord at first contact and shall provide written confirmation of disclosure to the seller/landlord not later than execution of any purchase or lease agreement.
- REALTORS® shall make any request for anticipated compensation from the seller/ landlord at first contact.

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Article 17



- REALTORS® arbitrate and mediate contractual and specific non-contractual disputes, as defined by SOP 17-4
- Clients may invoke mandatory arbitration with their REALTORS®
- REALTORS® are obligated to cause their firms to arbitrate rather than litigate

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Enforcement of the Code



- Associations in which REALTORS® holds membership **or** gains MLS access are responsible for Code enforcement:
 - providing an ombudsman or a mediator
 - conducting ethics and arbitration hearings
- Only REALTORS® and REALTOR-ASSOCIATES® are subject to the Code
- Associations do **not** determine violations of law and regulation

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Association Dispute Resolution

Option #1 – Informal

- Ombudsman Program
- Mediation



Option #2 – Formal

- Ethics complaints
- Arbitration requests



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Role of the Grievance Committee

Ethics:

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



Arbitration:

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

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Ethics Hearing Panel

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



- Conducts full "due process" hearing and decides which party is entitled to the award, based on a **preponderance of the evidence**
- 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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Arbitration and Procuring Cause Factors

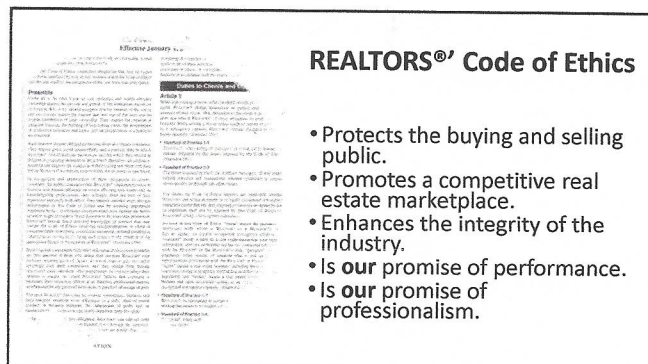


- *Code of Ethics and Arbitration Manual*
- No pre-determiners
 - Writing an offer, making the first showing, or an agency relationship, in and of themselves, do not necessarily determine procuring cause or entitlement
- Procuring cause: *The proximate cause; the cause originating a series of events which, without break in their continuity, result in the accomplishment of the prime object.*

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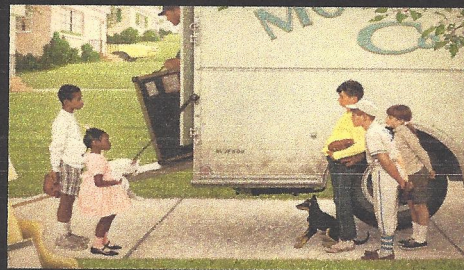
REALTORS® Code of Ethics

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



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Celebrating 50+ Years of Fair Housing



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Discrimination

- Discrimination occurs when you treat some people differently than you treat others
- Even if the incidence is unintentional it is still considered illegal
- HUD and Nat'l Fair Housing Alliance reports most complaints are based on:
 - Handicap Status
 - Familial Status
 - Race Discrimination



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Civil Rights Act of 1866



Prohibits discrimination based on race.

"All citizens of the United States shall have the same rights in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property."

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U.S. Supreme Court Decisions



- Plessy v. Ferguson (1896): Separate but equal is legal
- Buchanan v. Warley (1917): Declared block zoning illegal
- Brown v. Board of Education (1954): Ruled separate but equal unconstitutional
- Jones v. Alfred H. Mayor Co. (1968): Ruled that the Civil Rights Act of 1866 applied to private as well as public discrimination in housing

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Federal Fair Housing Act of 1968



- Unlawful to discriminate on basis of race, color, religion, or national origin when selling or leasing **residential** property.
- Covers dwellings, apartments, and vacant land acquired for **residential** construction.
- 1974 Amendment: Gender added as protected class.
- 1988 Amendment: Added mental or physical handicaps (including Aids) and familial status (family members under the age of 18).
- 1995 HOPA: Seniors communities exempt from the familial status protection if solely occupied by age 62 or older or if 80% of units are occupied by one person 55 or older & adhering to HUD guidelines.

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Exemptions to 1968 Federal Law

- Sale/rental of single family home, owned by individual who doesn't own more than 3 such homes at one time, **and when**:
 - (a) broker, salesperson, or agent not used
 - (b) advertising not used
- Rentals in owner-occupied 1-4 family.
- Dwelling units owned by religious organizations may be restricted to people of same religion.
- Private clubs, as long as not open to the general public and lodgings not operated commercially.

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Illegal Housing Practices

- Blockbusting (Panic Peddling):
 - Inducing owners to sell by making representations regarding entry of minorities into neighborhood
- Steering:
 - Directing potential homeowners to, or away from, a particular area based on race, religion, national origin, etc.
- Redlining:
 - Refusing to make mortgage loans or issue insurance policies in specific geographic areas without regard to the qualifications of applicant



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Disparate Impact Discrimination

- US Supreme Court (6/15): Affirms the original intent of the 50-year-old Fair Housing Act stating that implicit discrimination is as destructive as explicit discrimination
- Disparate Impact occurs when policies, practices, rules or systems that appear to be neutral result in a disproportionate impact on a protected group
- Sources of disparate impact discrimination:
 - Criminal records screening
 - Limited English Proficiency
 - Source of income



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HUD'S Criminal History Housing Policies & Practices



Don't:

- Create policies/exclusions based on arrest records alone
- Create a blanket exclusion of any person with any conviction record
- Use criminal history as a pretext for unequal treatment of individuals of a protected class
- Make exceptions to a policy for some individuals, but not make the same exception for another individual based on the individual's inclusion in a protected class
- Include a blanket prohibition against individuals convicted of drug possession

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NJ Law Against Discrimination

Covers all real estate, public accommodation, and employment.

Protected classes under NJ law:

- | | |
|----------------------------------|-------------------------------------|
| ❖ Race | ❖ Marital Status |
| ❖ Religion | ❖ Ancestry |
| ❖ Color | ❖ National Origin |
| ❖ Nationality | ❖ Affectional or sexual orientation |
| ❖ Mental and Physical Disability | ❖ Domestic partnership |
| ❖ Familial Status | ❖ Same sex marriage |
| ❖ Gender | ❖ Gender Identity Expression |
| | ❖ Source of Income (Rentals) |



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Notice at Listing

- NJREC requires Attorney General's Memorandum on Discrimination be given to every homeowner when property is listed for sale or rent
- Salespersons and Brokers must refuse listings from owners who indicate that they intend to violate the Law Against Discrimination.

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Exceptions to NJLAD

Applies to rentals only:

- Allows rooms or apartments to be restricted to one sex in certain types of housing.
- Religious-based orgs. may discriminate on the basis of religion.
- Allows a duplex owner-occupant or an up/down two-family dwelling owner-occupant to discriminate, except for race.
- Federal exceptions for homeowners selling their own homes do not apply.
- No exceptions when a broker is involved.
- Never an exception for race.

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State Regulations on Rentals

- Cannot discriminate based on welfare income or Section 8 housing funds
- Cannot refuse to rent to families with children
- Landlord must rent a one-bedroom apt. to two members of same sex, if apt. available to members of opposite sex
- Illegal to sexually harass tenant
- Lease may not be voided upon the birth of child
- Landlord must allow for handicap modifications
- Landlord must allow for a guide dog or service animal
- Landlord can:
 - reject based on income or credit rating
 - enforce health regulations limiting persons
 - allowed for size of the apt



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Office Compliance

- Offices must prominently display both the Federal Fair Housing Poster and the New Jersey Poster
- Company should also post a sign stating the company policy against discrimination
- Testers: Volunteers who see if race influences the services offered by real estate brokers and agents



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Risk Management and Fair Housing

- Beware of unintentional discrimination.
- Complainant does not have to prove intent, only that discrimination occurred
- Document! Document! Document!
- Refer to appropriate sources for information
- Penalties for violating fair housing laws are severe and include loss of real estate license

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To Report A Violation

- FFH (HUD): New Jersey, New York, Puerto Rico and the U.S. Virgin Islands: NEW YORK REGIONAL OFFICE (Complaints_office_02@hud.gov) U.S. Department of Housing and Urban Development 26 Federal Plaza, Room 3532 New York, NY 10278-0068 Telephone (212) 542-7519 or 1-800-496-4294 * TTY (212) 264-0927
- NJLAD: NJ Division of Civil Rights: Main Office: U.S. Attorney's Office 970 Broad Street, 7th Floor, Newark, NJ 07102. Civil Rights Complaint Hotline: 855- 281-3339

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Resources

Dept of Housing & Urban Development www.hud.gov/fairhousing
 • 1-800-669-9777 voice 1-800-927-9275 TTY

National Fair Housing Alliance - www.nationalfairhousing.org

Ad Word Guide - www.mvfairhousing.com/pdfs/ad-word-list.pdf

Census Bureau – www.census.gov

Fair Housing Pocket Guide – Sales: www.realtor.or

Fair Housing Handbook: www.realtor.org



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