

# **REALTORS<sup>®</sup>**

# **CODE OF ETHICS**

## **Our Promise of Professionalism**

MEMBER EDUCATION PROGRAM

Participant Workbook

## Objectives

Upon completion of “The Code of Ethics: Our Promise of Professionalism” course, participants will be able to:

- Identify key aspirational concepts found in the Preamble to the NATIONAL ASSOCIATION OF REALTORS® Code of Ethics
- Describe “general business” ethics, and compare and contrast the REALTORS® Code of Ethics with business ethics, generally
- Describe the concepts established in Articles 1, 2, 3, 11, and 16 of the Code of Ethics and identify possible violations of the Code of Ethics specifically related to those Articles
- 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 how the Code of Ethics should be used in daily business practices.
- Explain how the Pathways to Professionalism tool provides guidelines for respecting property, the public, and peers.

## Exercise: Ice-Breaker

**Instructions:** Read each statement and select the Article of the Code of Ethics from the list below that the statement most closely describes. Write the correct Article number in the space next to each statement. No Articles are to be selected twice.

**NOTE:** The statements in this exercise do not fully represent the comprehensive ethical principles of each Article of the Code of Ethics. To gain a full understanding of the principles of the REALTORS® Code of Ethics, each Article must be read and understood in its entirety.

<b>Choose from Articles: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17</b>	
1. Make only truthful and objective statements.	
2. Avoid the unauthorized practice of law.	
3. Participate in professional standards enforcement.	
4. Keep client funds in separate escrow accounts.	
5. Receive compensation from one party only with informed consent.	
6. Respect exclusive relationships.	
7. Cooperate with other brokers.	
8. Disclose present or contemplated interests in property.	
9. Treat all parties honestly.	
10. Arbitrate contractual disputes.	
11. Equal professional services for all.	
12. Make your “true position” known when presenting offers.	
13. Be competent in your field of practice.	
14. Get transactional details in writing.	
15. Disclose pertinent facts.	
16. Disclose financial benefits from recommending products/services	
17. Paint a true picture in advertising.	

## Part 1: History of the Code of Ethics

### 1. History of the Code, Part 1

#### Pre-1900

- There was no licensing of real estate practitioners.
- Speculation, exploitation, and disorder was the rule.
- *Caveat emptor* (buyer beware) governed transactions.

#### 1908

- NATIONAL ASSOCIATION OF REALTORS® formed

#### 1913

- Code of Ethics adopted
  - Established professional standards of conduct.
  - The first business ethical code, after those of medicine, engineering, and law.
  - Standards to protect the buying and selling public.

#### 1989 - the Present

- Since 1989 the Code has changed almost each year
  - Are you familiar with the most recent changes?
  - How the Code is enforced?
  - How to use the Code to your benefit?

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

### 1. Business Ethics and the Code

- What are "business ethics?"
  - Industry codes and standards
  - Company policies and practices
  - Individual values
- Legal standards generally set minimum standards of conduct required by law, while ethical standards encompass principles higher than legal standards.
- Business ethics and the REALTORS® Code of Ethics

**Note:** REALTORS® engage in many specialty areas and may be subject to the various codes and canons of those fields (such as legal ethics, the Uniform Standards of Professional Appraisal Practice [USPAP], the National Auctioneers Association [NAA] Code of Ethics, and the codes of the NATIONAL ASSOCIATION OF REALTORS®' Institutes, Societies, and Councils, etc.).

***Regardless of their real estate specialties or fields of practice, all REALTORS® are bound by the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS®.***

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

### 2. Aspirational Concepts of the Preamble to the Code

- Under all is the land . . .
- The Golden Rule.
- “Widely allocated ownership” and “widest distribution of land ownership”.
- Maintain and improve the standards of our calling.
- Share our common responsibility for the integrity and honor of the real estate profession.
- Become and remain informed about issues affecting real estate.
- Share your experience and expertise with others.
- Identify and eliminate practices that damage the public or might discredit or bring dishonor to the real estate profession.
- Urge exclusive representation of clients.
- Refrain from taking unfair advantage of your competitors.
- Don't make unsolicited comments about other practitioners.
- If your opinion is sought about a competitor (or if you believe a comment is necessary), offer it in an objective, professional manner.
- Remember, the term “REALTOR®” stands for competency, fairness, high integrity, moral conduct in business relations.
- Keep in mind that no inducement of profit or instruction from clients can justify departure from the Code's duties.

**Important Note:** The Preamble may **not** be the basis for disciplining a REALTOR®.

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

### 3. The Structure of the Code and How It Is Amended

- Three major sections
  - Duties to Clients and Customers
  - Duties to the Public
  - Duties to REALTORS®
- The Code's 17 Articles are broad statements of ethical principles

**Important Note:** Only violations of the Articles can result in disciplinary action.

- The Standards of Practice support, interpret, and amplify the Articles under which they are stated
  - REALTORS® may not be found in violation of a Standard of Practice, only its foundational Article.
  - Standards of Practice may be cited in support of an alleged violation of an Article (such as a violation of Article 1, as interpreted by Standard of Practice 1-3).
- “Interpretations to the Code of Ethics” (or Case Interpretations) found on [nar.realtor](http://nar.realtor) include specific applications of the Articles and/or Standards of Practice.
- How the Code evolves
  - When needed, amendments to the Code, the Standards of Practice, and the Official Interpretations are made at the NAR Midyear Meetings and the REALTORS® Conference and Expo.
  - The NAR Interpretations and Procedures Subcommittee frequently makes recommendations to the Professional Standards Committee about enhancements to professional standards procedures and to the Code of Ethics.
  - All proposed changes to the Code and to the policies and procedures by which the Code is enforced must be approved by the Board of Directors. Amendments to the 17 Articles must also be approved by the Delegate Body.

## **Part 2: Business Ethics, NAR Code of Ethics, and Pathways to Professionalism**

### **4. The Code and the Law**

- The Code must be reasonably and consistently construed with the law
- The Code imposes duties above and in addition to the duties imposed by law or regulation
- The Code restates certain fundamental legal principles (contract, agency, fair housing)



## Respect for the Public

1. Follow the "Golden Rule": Do unto other as you would have them do unto you.
2. Respond promptly to inquiries and requests for information.
3. Schedule appointments and showings as far in advance as possible.
4. Communicate promptly if you are delayed or must cancel an appointment or showing. If a prospective buyer decides not to view an occupied home, promptly communicate the situation to the listing broker or the occupant.
5. When entering a property ensure that unexpected situations, such as pets, are handled appropriately.
6. Never criticize property in the presence of the occupant.
7. When showing an occupied home, always ring the doorbell or knock—and announce yourself loudly before entering. Knock and announce yourself loudly before entering any closed rooms.
8. Present a professional appearance.
9. If occupants are home during showings, ask their permission before using the bathroom.
10. Encourage the clients of other brokers to direct questions to their agent or representative.
11. Communicate clearly; Ensure specialized language and real estate terminology is understood.
12. Be aware of and respect cultural differences.
13. Be aware of—and meet—all deadlines.
14. Promise only what you can deliver—and keep your promises.
15. Do not tell people what you think—tell them what you know.

### **Respect for Property**

1. When showing a property, be responsible for your clients/customers and keep the group together.
2. Make reasonable and timely accommodations to provide access to listed properties.
3. Make reasonable and timely requests to access listed properties.
4. Leave the property as you found it (lights, heating, cooling, drapes, etc.) If you think something is amiss (e.g. vandalism), contact the listing broker immediately.
5. Be considerate of the seller's property. Do not allow anyone to eat, drink, smoke, dispose of trash, use bathing or sleeping facilities, or bring pets. When instructed or appropriate, remove footwear when entering property.
6. Obtain permission before photographing, videographing, or streaming the interiors or exteriors of properties, or allowing others to do so.

### **Respect for Peers**

1. Respond to other real estate professionals' communications promptly and courteously.
2. Contact the listing broker if there appears to be a discrepancy in the listing information.
3. Inform anyone accessing the property about important information (e.g., pets, security systems, video and audio recording equipment).
4. Inform if sellers or listing agent will be present during the showing.
5. Show courtesy, trust, and respect to other real estate professionals.
6. Avoid the inappropriate use of endearments or other denigrating language.
7. Do not prospect at other REALTORS®' open houses or similar events.
8. Secure property and lockbox and/or return keys promptly.
9. Real estate is a reputation business. What you do today may affect your reputation—and business—for years to come.

*(Revised 05/23)*

## Part 3: Enforcement of the Code of Ethics

### 1. Background

- Ethics complaints deal with the perceived unethical “action” or “conduct” of a REALTOR®.
- Arbitration requests deal with contractual disputes or specific non-contractual disputes identified in Standard of Practice 17-4 of the Code of Ethics, involving money arising out of a real estate transaction.
- Mediation is the National Association’s preferred dispute resolution system for otherwise arbitrable disputes.
- Ombudsman procedures are in place at each local association and are intended to provide enhanced communications and initial problem-solving between parties who have differences that may lead to a formal complaint.
- As of 2000, all REALTOR® associations must offer mediation as an optional service to its REALTORS®.
- In mediation, the disputing parties work with a neutral third-party, a mediation officer, to identify and discuss the issues relative to the dispute and to craft an enforceable resolution voluntarily entered into between the parties.
- Many difficulties between real estate professionals (whether REALTORS® or not) result from misunderstandings, miscommunication, or lack of adequate communication.
- Prior to pursuing an ethics complaint, arbitration request or mediation request, REALTORS® are encouraged to work with each other to resolve their differences.

## **Part 3: Enforcement of the Code of Ethics**

### **2. REALTORS® Dispute Resolution**

When REALTORS® are unable to settle disagreements themselves, the local association can help. There are two options available:

1. informal dispute resolution through mediation or an ombudsman program
2. formal dispute resolution by filing an ethics complaint or an arbitration request

### **3. Informal Dispute Resolution – Ombudsman Program**

#### **Ombudsman Services**

##### **1. Introduction**

###### **What is an Ombudsman?**

An ombudsman is an individual appointed to receive and resolve disputes through constructive communication and advocating for consensus and understanding.

###### **What is the purpose of an Ombudsman?**

Ombudsman procedures are intended to provide enhanced communications and initial problem-solving capacity at the local level.

Many “complaints” received by boards and associations do not expressly allege violations of specific Articles of the Code of Ethics, and many do not detail conduct related to the Code. Some “complaints” are actually transactional, technical, or procedural questions readily responded to.

### **Who must provide Ombudsman services?**

All associations must provide ombudsman services to their members and members' clients and customers, according to Professional Standards Policy Statement #59: Associations to Provide Ombudsmen Services, *Code of Ethics and Arbitration Manual*.

- Voluntary on the part of REALTORS® and consumers.
- Associations have considerable latitude in developing criteria for serving as an ombudsman. Ombudsmen should be familiar with the Code of Ethics, state real estate regulations, and current real estate practices.
- REALTORS®, staff, and others may act as ombudsmen.
- Ombudsmen can:
  - field and respond to inquiries and complaints about real estate transactions, ethical practices, and Code enforcement issues.
  - receive and respond to questions and complaints about members, solicit responses, and meet with the disputing parties.
- Parties may decline to use ombudsmen services.
- Ethics complaints resolved through an ombudsman are considered dismissed.
- Failure or refusal of a member to comply with the terms of a mutually agreed upon resolution permits the complaining party to file or re-file an ethics complaint. The filing deadline is the date when the matter was originally brought to the attention of the association.

## **2. Role of the Ombudsman**

The ombudsman's role is primarily one of communication and conciliation, not adjudication.

### **Ombudsmen DO**

Ombudsmen anticipate, identify, and resolve misunderstandings and disagreements before matters ripen into disputes and possible charges of unethical conduct.

### **Ombudsmen DON'T**

Ombudsmen do not determine whether ethics violations have occurred or who is entitled to what amount of money.

## 4. Informal Dispute Resolution – Mediation Program

### What is Mediation?

Mediation a powerful tool to help disputing REALTORS®, and sometimes REALTORS® and their clients, resolve disputes that might otherwise be arbitrated.

- Mediation is the preferred dispute resolution tool of the REALTOR® organization
- Voluntary, unless the association (at its discretion) requires its REALTOR® members to mediate per Article 17 of the Code of Ethics.
- Vehicle for creating a mutually acceptable resolution of disputes (instead of having a decision imposed by a hearing panel)
- Must be available to all REALTORS®
- Local association option: Mediation may be offered to disputants before or after a grievance committee’s review of arbitration requests. If offered before, then mediation must be offered again after the grievance committee determines an arbitrable matter exists.
- Process
  - Disputing parties meet with a mediator appointed by the association.
  - Parties explain their issues and positions and have an opportunity to ask each other questions.
  - Mediators use a wide variety of techniques to move the parties toward a mutually acceptable resolution.
  - If an agreement is reached, then the parties put the agreement into a signed document expressing the terms, and no arbitration hearing is held.
- Mediation compared with arbitration

<b>Mediation</b>	<b>Arbitration</b>
Low cost	Moderate cost
Little delay	Moderate delay
Maximum range of solutions	Win/lose/split
Parties control the outcome	Arbitrators control the outcome
Uncertain closure	Definite closure
Maintains/improves relationships	May harm relationships

- Additional mediation resources: "Mediation – The Alternative for Win-Win" article by Bruce H. Ayt, ABR, ABRM, CRB, © Copyright 2001 and the "No Losers in Mediation" article, first published in the September/October 2001 issue of *Real Estate Business*.

### Mediation Officer

The mediation officer is a neutral third party. If any party objects to the mediation officer (i.e., potential conflict of interest) another mediation officer can be assigned.

### Difference Between Mediation and Arbitration

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



## 5. Formal Dispute Resolution – Filing an Ethics Complaint

- Who can file a complaint?
- Grievance committee in ethics
  - A screening body comprised of members of the association.
  - Answers key question: “If the allegations in the complaint are taken as true on their face, is it possible a violation of the Code of Ethics occurred?”

**Important Note:** A grievance committee’s review of an ethics complaint is not a hearing on the merits, but rather a preliminary review to determine if the complaint requires a hearing.

- Ethics hearing panel
  - Conducts full “due process” hearings, including sworn testimony, counsel, witnesses, and evidence.
  - Is comprised of members of an association’s professional standards committee.
  - After a hearing, decides in executive session whether there has been a violation of the Code of Ethics. Violations of the Code must be supported by clear, strong, and convincing proof.
  - Must also determine the discipline (if any) to be imposed on the violator when a violation of the Code of Ethics has been found.
- Authorized discipline and administrative processing fees
  - Letter of Warning
  - Letter of Reprimand
  - Education
  - Fine not to exceed \$15,000
  - Probation for one year or less
  - Suspension for not less than 30 days or more than one year
  - Expulsion from membership for one to three years
  - Suspension or termination of MLS privileges.
  - Administrative processing fee (if found in violation) not to exceed \$500
- The primary emphasis of discipline for an ethics violation is educational, to create a heightened awareness of and appreciation for the Code. More serious or repeated violations might lead to more severe forms of discipline.

**Note:** Administrative processing fees are not discipline. Fees should not be assessed on a case-by-case basis, but consistently, subject to association policy.

## 6. Formal Dispute Resolution – Filing an Arbitration Request

- Authority to conduct arbitration is established in Article 17 of the Code of Ethics and in the state arbitration statute
- Article 17 establishes arbitration can occur when there are:
  - Contractual disputes or specific non-contractual disputes (see Standard of Practice 17-4)
  - Between REALTORS® (principals) associated with different firms
  - Arising out of their relationship as REALTORS®

**Note:** Although less common, clients also may invoke mandatory arbitration against their REALTOR® (principal).

- Grievance committee in arbitration
  - Performs an initial screening function similar to its role in reviewing ethics complaints.
  - Asks key question: “If the claims in the request for arbitration are taken as true on their face, is the matter at issue related to a real estate transaction and properly arbitrable?” (Is there some basis on which an arbitration award could be based?)

**Note:** A grievance committee’s review of an arbitration request is not a hearing on the merits, but rather a preliminary review to determine if a hearing is warranted.

- Arbitration hearing panel
  - Conducts full “due process” hearing, including sworn testimony, counsel, witnesses, and evidence.
  - Comprised of members of an association’s professional standards committee.
  - After a hearing, decides in executive session who is entitled to an award, as demonstrated by a preponderance of the evidence.
- Payment of awards
  - Awards may be judicially enforced when not paid by the nonprevailing party.
  - All associations require that when awards are not paid, an equivalent amount must be deposited with the association, pending review of the hearing process or during the pendency of any legal challenge.

## Part 4: Concepts of Procuring Cause in Arbitration

### 1. Background

**Arbitration** is defined by -- and the arbitration of disputes is limited to -- circumstances that fall within the parameters of Article 17.

- They must be “contractual disputes or specific non-contractual disputes as defined in Standard of Practice 17-4 between REALTORS® (principals) associated with different firms, **arising out of their relationship as REALTORS®.**”
  - For example, the desire to collect damages for an automobile accident is not an arbitrable matter under the Code just because two REALTORS® were involved in the accident. Such a claim is not one “arising out of their relationship as REALTORS®” as provided in Article 17.
- Arbitration requests must be filed within one hundred eighty (180) days after:
  - the closing, if any
  - or
  - the realization that a dispute existed, whichever is later.

Arbitration can be mandatory or voluntary. Participants in arbitration are:

Mandatory	Voluntary
REALTOR® principals associated with different firms	REALTORS® within the same firm
REALTOR® principals associated with different firms when requested by their REALTOR® licensees	REALTORS® and real estate professionals that do not hold REALTOR® membership
Clients and the REALTOR® principals who represent them as agents. In this situation, the client must agree to arbitrate the dispute through the association of REALTORS®.	REALTORS® and customers (no agency relationship)

## **Part 4: Concepts of Procuring Cause in Arbitration**

### **NAR's Arbitration Guidelines and Key Factors in Procuring Cause Disputes**

#### **The Standard of Proof**

The standard of proof in which an arbitration hearing decision is based shall be a "preponderance of the evidence," defined as, "evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it, that is, evidence which as a whole shows that the facts sought to be proved are more probable than not." *There are no findings of fact in arbitration.*

#### **Arbitration Awards**

The panel will award an amount to the prevailing party. The amount cannot be more than what was requested in the arbitration request, though it can be less.

#### **Making an Appeal**

The fact that a hearing panel found no violation of the Code of Ethics is not appealable.

If a party believes that the hearing process was seriously flawed to the extent of denying a full and fair hearing, there are procedures for both ethics and arbitration to appeal that decision on what is called a "procedural deficiency."

#### **Grounds for Appeal**

In addition to procedural deficiencies, appeals brought by ethics respondents can also be based on:

- A perceived misapplication or misinterpretation of one or more Articles of the Code of Ethics
- The nature or gravity of the discipline proposed by the hearing panel

The appeal panel's decision is final.

## **Part 5: Summaries and Case Studies of Selected Articles of the Code of Ethics**

Part 5 of this training program features summaries and case studies of four particular Articles of the Code of Ethics.

### **1. Article 1**

- Protect and promote your clients' interests.
- This obligation to your clients is primary.
- With that duty in mind, REALTORS® must also treat all parties honestly.
- Standard of Practice 1-2 defines key terms, including “client,” “customer,” “agent,” and “broker”.

**Exercise: Article 1 Case Study** (Based on Case Interpretation #1-26)

REALTOR® Leo is a sales associate with Done Right, REALTORS®. To promote Done Right's in-house listings, the firm's principals offer \$1,000 bonuses to the company's sales associates for each listing sold.

Dr. Newcomer, a recent transferee to the town, enters into a buyer's representation agreement with Done Right, REALTORS® through REALTOR® Leo.

Dr. Newcomer explains he has specific needs, foremost of which is that any home he purchases must be convenient for and readily accessible to Dr. Newcomer's spouse, who is physically challenged. "Part of my wife's physical conditioning program is swimming," says Dr. Newcomer. "So," he explains, "in addition to everything else, I am looking for a home with a pool or room to build a pool."

During the next few days, REALTOR® Leo shows Dr. Newcomer several properties in the Blackacre Subdivision, all of which are listed with Done Right, including one with an outdoor swimming pool. Not included among the properties shown to Dr. Newcomer are several similar homes in Blackacre that are listed with other firms, including one with an indoor pool.

After considering the properties he sees with REALTOR® Leo, Dr. Newcomer makes an offer on the home with the outdoor pool. His offer is accepted, and the transaction closes.

Several months later, REALTOR® Leo receives notice that an ethics complaint has been filed against him by Dr. Newcomer. From a colleague at the hospital who lives on the same block, Dr. Newcomer learned about the home with the indoor pool that REALTOR® Leo failed to show him when Dr. Newcomer was looking for just the right property. The complaint alleges that REALTOR® Leo put his own interests and those of Done Right ahead of Dr. Newcomer's interests by exclusively promoting Done Right's listings and by not telling Dr. Newcomer about the similarly priced property with the indoor pool. Dr. Newcomer also says in the complaint that he believes the unshown property suited his family's needs much better than the property he did purchase, because his wife would have been able to use the pool all year long. The complaint spells out that REALTOR® Leo received a bonus for selling one of Done Right's listings to Dr. Newcomer, and that Dr. Newcomer believes that REALTOR® Leo's failure to tell him about the house with the indoor pool was motivated by REALTOR® Leo's desire for the bonus.

During the hearing, REALTOR® Leo defends his actions, explaining that properties rarely meet all of a potential purchaser's desires, and that he made Dr. Newcomer aware of several properties that met most of his requirements, including one property with an outdoor pool. REALTOR® Leo goes on to say that Dr. Newcomer must have been satisfied, because he ultimately purchased that home. (Continued)

When questioned by the hearing panel, REALTOR® Leo acknowledges he knew about but did not show the house with the indoor pool to Dr. Newcomer. He concedes that a year-round, indoor pool was better suited to the family's needs than a seasonal, outdoor pool. He also admits that failing to tell Dr. Newcomer about the house with the indoor pool was, at least in part, motivated by the prospect of the bonus offered by his firm. "But," he also argues, "aside from the indoor pool, that house is no different than the one that Dr. Newcomer bought."

### Questions

1. REALTOR® Leo's obligations under Article 1 call for him to (check all that apply):
  - A. find Dr. Newcomer a house that he is willing to buy
  - B. show Dr. Newcomer all properties that meet his specific needs and requirements, regardless of whether those properties are listed with Done Right, REALTORS® or another firm
  - C. subordinate his own interests to those of Dr. Newcomer
  - D. explain that he honestly believes other physical conditioning programs might be better than swimming for Dr. Newcomer's wife
  
2. Article 1 requires REALTOR® Leo to disclose the \$1,000 bonus at the time of entering into the exclusive buyer's representation agreement with Dr. Newcomer.
  - A. True
  - B. False
  
3. If a second offer was submitted for the property by another real estate office at the same time as Dr. Newcomer's offer was submitted, what disclosures to that cooperating broker, if any, would Done Right REALTORS® be required to make?
  - A. The existence of Dr. Newcomer's offer
  - A. That Dr. Newcomer's offer was obtained by another licensee within Done Right REALTORS®
  - C. The existence of Dr. Newcomer's offer and that it was obtained by another licensee within Done Right REALTORS®, but only if asked by the other cooperating broker and given approval to do so by the seller
  - D. There are no disclosure requirements for multiple offer situations

## 2. Article 2

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



**Exercise: Article 2 Case Study** (Based on Case Interpretation #2-7)

Homebuilder REALTOR® Dean shows one of his newly constructed houses to Buyer Bert. Bert sees some kind of construction beginning nearby and asks REALTOR® Dean about it. “I really don’t know,” says REALTOR® Dean, “but I believe it’s the attractive new shopping center planned for this area.”

Following Buyer Bert’s purchase of one of the houses, Buyer Bert learns that the “construction” actually is a bottling plant, and the area adjacent to it is zoned as “industrial”. Buyer Bert files a complaint with the board of REALTORS®, charging REALTOR® Dean with unethical conduct for failing to disclose a pertinent fact. He says in his complaint that, had he known about the proximity of the new bottling plant when he first saw the house, he would not have purchased it.

During the ethics hearing, REALTOR® Dean’s defense is that he honestly answered Bert’s question, because at the time, he had no knowledge about what was being built. All he knew was that other developers were planning an extensive shopping center somewhere in the general area, so he simply ventured a guess. REALTOR® Dean goes on to say that, as indicated in Buyer Bert’s testimony, he prefaced his response to Bert by saying he didn’t know the answer to Bert’s question.

## Questions

1. Is REALTOR® Dean in violation of Article 2?
  - A. No, because he prefaced his response by clearly saying that he didn't know.
  - B. No, because Buyer Bert could have researched the new construction and zoning himself.
  - C. Yes, because REALTOR® Dean is obligated to discover and disclose adverse factors that are reasonably apparent to a licensed real estate professional.
  - D. Maybe, if the new construction was identified as a "non-material" fact in law or regulation.
  
2. How should REALTOR® Dean have responded when asked about the new construction?
  - A. Refer Bert to the developer.
  - B. Explain that although he didn't know the answer, he would research it and get back to Bert.
  - C. Say he didn't know the answer and leave it at that.
  - D. Advise Bert to wait and see if the construction is a shopping center or something else before submitting an offer.

### **3. Article 12**

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

## Exercise: Article 12 Case Studies

### Case #1 (Based on Case Interpretation #12-17)

REALTOR® X, a principal broker in the firm XYZ, was constantly looking for ways to use the Internet to promote his firm and drive additional traffic to his website.

REALTOR® X had registered, but not used, domain names that incorporated or played on the names of many of his competitors and their firms, including ABC, REALTORS®.

REALTOR® X and his information technology staff concluded that one way to drive traffic to the firm's website would be to take advantage of the search engines commonly used by potential buyers and sellers. When potential buyers or sellers searched on key words like "real estate" or "REALTORS®" or on similar words, lists of search hits would appear, and when consumers searched for ABC, REALTORS®, one of the domain names that might appear would be REALTOR® X's domain name, abcREALTORS.com.

REALTOR® X decided to take advantage of the domain names that he had previously registered, and pointed several that used, in various ways, the names of his competitors, including "abcREALTORS.com," to his site.

In a matter of days, REALTOR® X learned that he had been charged with a violation of Article 12 of the Code of Ethics by REALTOR® A, the owner of ABC, REALTORS®, alleging that his (REALTOR® X's) use of the domain name "abcREALTORS.com" presented a false picture to potential buyers and sellers and others on the Internet.

At the hearing, REALTOR® X defended himself indicating that, in his opinion, use of a domain name was not advertising or a "representation" to the public but simply a convenient way for Internet users to find relevant websites. Moreover, "When consumers reach my home page, there is no question that it is my site since I clearly show XYZ's name and our status as REALTORS®," he continued. "These complaints are just a lot of sour grapes from dinosaurs who aren't keeping up and who don't realize that on the Internet it's 'every man for himself.' "

### Case #1 Questions

1. Which Standard of Practice applies to this situation?
  - A. Standard of Practice 12-9
  - B. Standard of Practice 12-10
  - C. Standard of Practice 12-11
  - D. Standard of Practice 12-12
  
2. Has REALTOR® X violated Article 12?
  - A. Yes.
  - B. No.
  - C. Only if using a domain name based on another firm's name is precluded by law or regulation.
  - D. It depends on the disclosures and any other information displayed on REALTOR® Bob's Web site.

## Exercise: Article 12 Case Studies

### Case #2 (Based on Case Interpretation #12-19)

REALTOR® A, a residential specialist in a major metropolitan area, spent several weeks each year in a cabin in the north woods he had inherited from a distant relative. Always on the lookout for investment opportunities, he paid careful attention to “for sale” signs, online ads, and local brokerage websites in the area.

Returning from the golf course one afternoon, REALTOR® A spotted a dilapidated “for sale” sign on an otherwise attractive wooded lot. Getting out of his car, he was able to discern REALTOR® Z’s name. Returning to his cabin, he looked online to locate REALTOR® Z and REALTOR® Z’s company website. Visiting REALTOR® Z’s website, he found detailed information about the lot he’d seen that afternoon.

He e-mailed REALTOR® Z and asked for information about the lot, including its dimensions and asking price. Several days later REALTOR® Z responded, advising simply, “That listing expired.”

The following day REALTOR® A, hoping to learn whether the lot was still available, contacted REALTOR® X, another area real estate broker. “As it turns out, we have an exclusive listing on the property you’re interested in,” said REALTOR® X. In response to REALTOR® A’s questions, REALTOR® X advised that he had had an exclusive listing on the property for almost six months. “That’s funny,” responded REALTOR® A, “REALTOR® Z has a ‘for sale’ sign on the property and information about it on her website. Looking at her website, I got the clear impression that she still had that property listed.”

While the wooded lot proved to be out of REALTOR® A’s price range, REALTOR® Z’s “for sale” sign and website were still on his mind when he returned home. Ultimately, he contacted the local association of REALTORS® and filed an ethics complaint alleging that REALTOR® Z’s “for sale” sign, coupled with her offering information on her website made it appear as if the wooded parcel was still listed with her firm, when that had not been the case for over six months. REALTOR® A noted that this conduct, in his opinion, violated Article 12 since REALTOR® Z was not presenting a “true picture” in her public representations and was, in fact, advertising without authority, a practice prohibited by Article 12, as interpreted by Standard of Practice 12-4.

At the hearing, REALTOR® Z claimed that failure to remove the “for sale” sign was simply an oversight, and if anyone was to blame, it was her personal assistant who was responsible for removing signs and lockboxes from expired and sold listings. “If you want to blame anyone, blame my assistant since he’s supposed to bring back our ‘for sale’ and ‘sold’ signs.” Turning to the stale listing information on her website, REALTOR® Z acknowledged that information about her former listing had continued to appear for more than six months after the listing had expired. REALTOR® Z

analogized the continued presence of that information to an old newspaper advertisement. “It’s possible someone might come across a six-month-old newspaper with my listings in it. Those ads were true when I ran them but how could I ever control when and where someone will come across them, possibly months or even years later?” she asked. “Besides,” she added, “REALTORS® have better things to do than constantly inspect their websites to make sure everything is absolutely, positively up-to-the-minute.” “If we did that, none of us would have time to list or sell,” she concluded.

### Case #2 Questions

1. Is REALTOR® Z obligated to keep his company's listing information up to date on his firm's website?
  - A. Yes.
  - B. No.
  - C. Only if the same listing information does not also appear in a newspaper.
  
2. If he is obligated to keep his website current, then how long does REALTOR® Z have to remove outdated or expired property information from the website?
  - A. REALTORS®' websites must be immediately and continuously updated to avoid the inclusion of outdated and misleading information.
  - B. REALTORS® should use reasonable efforts to ensure information on their websites is current and accurate.
  - C. It depends on the multiple listing service's IDX and VOW Rules.
  - D. Both B and C.
  - E. REALTORS® are not obligated to update the information shown on their websites.
  
3. When he took the listing, REALTOR® Z received permission from the seller to post a sign on the property and to advertise it on his website. Such authority remains in effect even after the listing expires.
  - A. True
  - B. False



#### **4. Article 17**

- REALTORS® (principals) are required to arbitrate contractual and specific non-contractual disputes identified in Standard of Practice 17-4 that they have with REALTORS® (principals) in other firms.
- REALTORS®' clients may invoke mandatory arbitration with their REALTOR® (principal).
- REALTORS® are obligated to cause their firms to arbitrate.

**Exercise: Article 17 Case Study** (Based on Case Interpretation #17-1)

REALTORS® Linda and Amy participate in a cooperative transaction that results in a dispute over entitlement to compensation. Rather than request arbitration at the local association of REALTORS®, REALTOR® Linda instead files a lawsuit against REALTOR® Amy for the compensation she feels is owed to her. When REALTOR® Amy receives notification a lawsuit has been filed, she turns around and requests arbitration at the local association.

Because Linda and Amy are REALTOR® principals in different firms, the association's Grievance Committee classifies the arbitration as "mandatory" and schedules it for a hearing. REALTOR® Linda receives notice of the grievance committee's decision but refuses to withdraw her lawsuit, so REALTOR® Amy then files an ethics complaint alleging that REALTOR® Linda has violated Article 17, as interpreted by Standard of Practice 17-1.

After receiving the complaint, the association schedules a hearing before the Board of Directors. During that hearing, REALTOR® Amy presents evidence that she sought REALTOR® Linda's agreement to submit the dispute to arbitration. REALTOR® Linda defends her actions by asserting that under state law, REALTOR® associations have no authority to bar her access to the courts, or to require her to arbitrate disputes with other REALTORS®.

The Board of Directors acknowledges that REALTOR® Linda is correct about her legal rights and about the association's inability to prevent her from filing a lawsuit. That said, the Board of Directors points out the association is a voluntary organization whose members agree to assume certain obligations with respect to their relations with other REALTORS®. The board advises Linda that if she wishes to continue as a REALTOR® member, she is obligated to adhere to the Code's duty to arbitrate, as established in Article 17.

## Questions

1. Does filing litigation against another REALTOR® over a contractual dispute always lead to a violation of Article 17?
  - A. Yes.
  - B. No, because everyone is entitled to file litigation.
  - C. It depends on whether: (1) a request for arbitration has been filed, (2) the grievance committee determines the matter to be arbitrable and of a mandatory nature, and (3) a separate ethics complaint alleging a charge of Article 17 has been filed.
  - D. Arbitration always is voluntary.
  
2. REALTORS® may be relieved of their obligation to arbitrate through the local association of REALTORS® when:
  - A. a grievance committee or a hearing panel finds the matter to be too legally complex or the amount involved to be too large or too small
  - B. both parties voluntarily choose to litigate, rather than arbitrate
  - C. the arbitration is classified as “voluntary” by a grievance committee
  - D. the request for arbitration is filed after the filing deadline
  - E. All of the above.
  
3. Is failing to pay an arbitration award always a violation of Article 17?
  - A. Yes.
  - B. Only if a pattern of arbitrarily refusing to pay arbitration awards is established.
  - C. Yes, depending on whether the arbitration is mandatory or voluntary.
  - D. No, arbitration awards must be enforced through the courts.

## **Part 6: Pathways to Professionalism & Marketing the Code of Ethics**

### **1. How do you use the Code of Ethics in your business?**

- Provides a competitive advantage
- You have agreed to abide by the tenets of the Code
- Point this advantage out to customers
- REALTORS® always put the client first
- A tool for training new agents
- A constant reminder of your professional services

## **Part 6: Pathways to Professionalism & Marketing the Code of Ethics**

### **2. When do you look to the Code of Ethics for guidance? Part I**

- Situations arise that might make you question how to handle them—the Code provides you with a way to respond professionally.
  - Customers who question whether they should work with more than one agent
  - Customers who ask your opinion of another agent
  - Customers who think it's best to buy through the listing agent to get the best price
  - Customers you know personally who inquire about pocket listings

Some foreign buyers may not understand the Code because of language difficulties. Translations of The Code of Ethics are available [here](#) in the following languages:

- [Chinese - Simplified](#)
- [Chinese - Traditional](#)
- [Danish](#)
- [French](#)
- [German](#)
- [Italian](#)
- [Japanese](#)
- [Korean](#)
- [Portuguese](#)
- [Romanian](#)
- [Russian](#)
- [Spanish](#)
- [Tagalog](#)
- [Vietnamese](#)

## **Part 6: Pathways to Professionalism & Marketing the Code of Ethics (continued)**

### **Social media brings a new set of challenges to REALTORS®**

- Article 12 of the Code guides REALTORS® to be honest and truthful in all communication forms
- Standard of Practice 10-5 guides REALTORS® to refrain from using discriminatory language against protected classes
- You might question the workings of another agent
- Code provides reassurance among all REALTORS® that all parties will act professionally

## **Part 6: Pathways to Professionalism & Marketing the Code of Ethics**

### **3. How do you promote your ethical duties as a real estate professional to consumers?**

- Use it as a marketing tool
- Let buyers and sellers know you have agreed to this standard of professionalism
- As a REALTOR® you will act in the client's best interest
- [Pledge of Performance](#) available in printable form at nar.realtor
- Use the Pledge in buying and listing presentations
- Wear and display your REALTOR® pin
- Make the Code a key component of all professional correspondence



## **Part 6: Pathways to Professionalism & Marketing the Code of Ethics**

### **4. A Pathway to Professional Conduct: Respect Starts Here Part I**

NAR's Professional Standards Committee created Pathways to Professionalism.

Pathways to Professionalism are issues of courtesy and etiquette. These professional courtesies are intended to be used by REALTORS® on a voluntary basis and cannot form the basis for a professional standards complaint.

A good reputation can take years to build, but seconds to lose it.

Today's actions affect your business and reputation for years to come.

Pathways to Professionalism:

- Not all-inclusive
- Should be guided by local custom and practice
- Cannot be the basis of a professional standards complaint

Six Timeless Tips:

1. Follow the "Golden Rule."
2. Show courtesy and respect to everyone.
3. Communicate with all parties in a timely fashion.
4. Always present a professional appearance.
5. Be aware of and meet all deadlines.
6. Be aware of and respectful of all cultural differences.

## **Part 6: Pathways to Professionalism & Marketing the Code of Ethics (continued)**

Three key areas of respect: property, the public, and peers.

Remember, you are the protector of that home.

### **Respect for the Public**

16. Follow the "Golden Rule": Do unto other as you would have them do unto you.
17. Respond promptly to inquiries and requests for information.
18. Schedule appointments and showings as far in advance as possible.
19. Communicate promptly if you are delayed or must cancel an appointment or showing. If a prospective buyer decides not to view an occupied home, promptly communicate the situation to the listing broker or the occupant.
20. When entering a property ensure that unexpected situations, such as pets, are handled appropriately.
21. Never criticize property in the presence of the occupant.
22. When showing an occupied home, always ring the doorbell or knock—and announce yourself loudly before entering. Knock and announce yourself loudly before entering any closed rooms.
23. Present a professional appearance.
24. If occupants are home during showings, ask their permission before using the bathroom.
25. Encourage the clients of other brokers to direct questions to their agent or representative.
26. Communicate clearly; Ensure specialized language and real estate terminology is understood.
27. Be aware of and respect cultural differences.
28. Be aware of—and meet—all deadlines.
29. Promise only what you can deliver—and keep your promises.
30. Do not tell people what you think—tell them what you know.

### **Respect for Property**

7. When showing a property, be responsible for your clients/customers and keep the group together.
8. Make reasonable and timely accommodations to provide access to listed properties.
9. Make reasonable and timely requests to access listed properties.
10. Leave the property as you found it (lights, heating, cooling, drapes, etc.) If you think something is amiss (e.g. vandalism), contact the listing broker immediately.
11. Be considerate of the seller's property. Do not allow anyone to eat, drink, smoke, dispose of trash, use bathing or sleeping facilities, or bring pets. When instructed or appropriate, remove footwear when entering property.
12. Obtain permission before photographing, videographing, or streaming the interiors or exteriors of properties, or allowing others to do so.

### **Respect for Peers**

10. Respond to other real estate professionals' communications promptly and courteously.
11. Contact the listing broker if there appears to be a discrepancy in the listing information.
12. Inform anyone accessing the property about important information (e.g., pets, security systems, video and audio recording equipment).
13. Inform if sellers or listing agent will be present during the showing.
14. Show courtesy, trust, and respect to other real estate professionals.
15. Avoid the inappropriate use of endearments or other denigrating language.
16. Do not prospect at other REALTORS®' open houses or similar events.
17. Secure property and lockbox and/or return keys promptly.
18. Real estate is a reputation business. What you do today may affect your reputation—and business—for years to come.

*(Revised 05/23)*

## Exercise: Case Study 1

Buyer agent Olivia represents Tom. On March 18, she picks Tom up to view several properties. Tom immediately notices that Olivia's car is a mess. CDs, listing sheets, kids' toys, food wrappers and coffee cups litter the floors and seats. "What can I say, I'm a busy agent with little time to clean my car", she laughs to Tom. After clearing a place for Tom to sit, they drive off to the first showing.

Agent Olivia found the first property in the local MLS. The showing instructions mention a lockbox on the property, and Olivia learns from another agent in her office that the sellers are out of town. Olivia does not contact the listing broker to show the property because she already has a lockbox access code. Just before entering the property, Olivia gets a call from her son's school. She gives Tom the access code to the lockbox and tells him to take a look while she takes the call. After she hangs up, Olivia is surprised to see a dog running around the front yard. Tom left the front door open and the owner's dog got out. She manages to get the dog back inside. Then Olivia realizes she and the dog have tracked mud in the foyer. Frustrated and surprised by the dog being there, Olivia decides it might be best to take Tom to the next showing before she tracks mud throughout the home. She hurries Tom out of the house, without turning off the lights, locking the front door, or replacing the key in the lockbox.

At the next property, the listing broker told Olivia to expect the seller to be home. Olivia knocks loudly – but no one answers. She uses the lockbox key to unlock the door. Before entering she announces that she and Tom have an appointment to look at the home. Hearing nothing, Olivia and Tom walk through the home, room to room. Once in the master bedroom, Olivia and Tom discuss the room's features, and their own likes and dislikes about the owner's decorating. They hear noise from the master bath and realize the seller is in the shower. Embarrassed, Olivia and Tom hurry out of the property without speaking to the seller.

While they were in the second home, it started to rain. Tom and Olivia are soaked by the time they get to Olivia's car. In order to dry off and get comfortable, Olivia pulls into a nearby gas station and uses the bathroom to change into the gym clothes she'd worn two days earlier. She and Tom then head to the third and last showing for the day. On the way there, Tom tells Olivia that he'd rather skip the showing and just go home. She takes him home and continues on her day without cancelling the third appointment or changing her clothes.

## Questions

Olivia obviously makes several errors that violate the Code of Ethics. Based on Pathways to Professionalism, in which incident is Olivia displaying a lack of respect for her peers?

- a. She allows Tom to look around the house without accompanying him.
- b. She tracks mud into the foyer and leaves before cleaning it up.
- c. She does not clean up her car before taking Tom to view properties.
- d. She does not secure the property or lockbox.

Using the guidelines in Pathways to Professionalism, list five guidelines Olivia violates in terms of respect for property. (Note: There may be more than five guidelines that have been violated).

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## Part 6: Pathways to Professionalism & Marketing the Code of Ethics

### Exercise: Case Study 2

Buyer agent Courtney has been working with Max for several months. Max has high expectations, and Courtney hasn't been able to find the right property for him. When 1101 Wellington hits the market, it looks like it could be the one. Courtney promises Max that she will schedule a showing right away – before anyone else. Unfortunately, she's unable to reach the listing broker. The first opportunity for Courtney and Max to see the property is the open house on the following weekend. Courtney and Max attend the open house. While there, Courtney tells several other people touring the home that she is an agent, and she would be willing to work with them. On their way out, Max runs into an old friend and they begin to talk. While waiting for Max, Courtney is approached by a woman she talked to in the house. The woman indicates that her agent couldn't attend the open house, and that she had a few questions. Courtney answers her questions to the best of her ability.

The following day, Max wants to see the property again. He's very interested. Courtney contacts the listing broker to set up another showing. The listing broker agrees to meet them at the property and indicates that the seller will be there, too. Due to terrible traffic, Courtney and Max are 45 minutes late. Courtney does not call the listing agent to let her know they are running late. At the property, Courtney, Max, and Max's new puppy tour the home. Courtney is delighted at the prospect of Max submitting an offer. While in the large great room, Max comments that he would paint the room a better color. Courtney responds, with the homeowner in a different room - but close enough to hear, "Yes, the colors in some of the rooms are dreadful." After they finish touring the home, Courtney thanks the seller and the listing agent for their time.

The next day, Courtney receives an e-mail from the listing agent following up on last night's showing. Courtney reads the e-mail but figures she'll respond only if Max decides to make an offer. A week later Max decides to make an offer. Courtney emails the offer along with numerous comparable properties to justify the purchase price (52 pages total) to the listing agent.

### Questions

1. Taking into consideration the Pathways to Professionalism guidelines, what is Courtney demonstrating a lack of respect for when she and Max comment that the paint color in some rooms is dreadful?
  - A the public
  - b. her peers
  - c. the property
2. Of the many errors Courtney makes in this scenario, which incident demonstrates her lack of respect for the public?
  - a. Courtney does not account for traffic and she and Max are late for the showing.

- b. During the open house, Courtney tells other people touring the home that she would be willing to work with them.
- c. Courtney does not contact the listing agent when she knows she will be late for the showing.
- d. Courtney emails the offer and comparable properties in a 52-page packet to listing agent.