

Ethics Complaint/Arbitration Request Checklist

- Contact the respondent's local board/association for the appropriate forms.
- Ethics** — Complete the ethics complaint form and provide a written explanation that includes the facts on which the alleged violation(s) is based, cite the appropriate Article(s) and include any other appropriate documentation. A complainant may allege a violation of any Article regardless of which category the Article is located under.
- Arbitration** — Complete the arbitration request form, attach the details of the dispute, and enclose the appropriate deposit along with whatever documentation that may help to substantiate your position.
- The ethics complaint or arbitration request will then be sent to the grievance committee for review.
- The grievance committee may, if deemed appropriate, send a copy of the ethics complaint and/or arbitration request to the respondent for a written response.
- The grievance committee, which functions much like a grand jury, will then review the ethics complaint and/or arbitration request (and response, if any).
- If the grievance committee refers the ethics complaint or arbitration request for a hearing, the parties will be advised of the referral. The respondent will be requested to submit a written response if one has not already been filed.
- If the grievance committee determines that a hearing is **not warranted**, the parties will be advised that the matter has been dismissed and notified of the opportunity to appeal the grievance committee's dismissal to the board of directors.
- If the grievance committee determines that a hearing is **is warranted**, the parties will be advised of the date, time, and place of the hearing subsequent to having an opportunity to challenge any of the hearing panelists for cause.
- During the hearing, the parties have an opportunity to present their positions. Parties may exercise their right to bring witnesses and/or attorneys to the hearing. The standard of proof in an **ethics** complaint is clear, strong, and convincing evidence. The standard of proof that must be observed to prevail in an **arbitration** proceeding is a preponderance of the evidence (i.e., that evidence, when taken as a whole, is more convincing than the evidence offered in opposition).
- The hearing panel's ethics decision or arbitration award is transmitted to the parties. Either party may file an **ethics** appeal or rehearing request with the president, but the complainant may only appeal on a procedural basis. The parties involved in an **arbitration** may appeal only on the basis that there was a procedural irregularity that materially worked to their detriment.
- The board of directors, either on an ethics appeal or after the ethics appeal period has expired, renders its final decision, which will in turn be transmitted to the parties. Arbitration awards are considered final and binding subsequent to the expiration of the procedural review period.

The information contained in this brochure has been summarized and provided for your use as a quick reference. For more information on Code of Ethics enforcement procedures or to review the complete Code of Ethics and Arbitration Manual, contact your local board staff.

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Enforcement

It's just one of many services offered by your Association of REALTORS®



Code of Ethics Enforcement A Member Benefit

The single, most outstanding characteristic that sets REALTORS® apart from other real estate practitioners is the willingness to accept and abide by the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS®. The Code of Ethics, which was first adopted on July 29, 1913, is a living document, responsive in its content to changes in the law and industry. The Code has been revised many times through the years to reflect current developments in professional real estate practice. The term REALTOR® has come to represent competency, honesty, and high integrity. These qualities stem from voluntary adherence to an ideal of moral conduct in real estate business practices.

But even with the best of intentions, planning and preparation, occasional disagreements arise between REALTORS® and/or between REALTORS® and their clients or customers. As civil litigation becomes increasingly costly, time consuming, and burdensome, there has been a trend among private parties to settle disputes and conflicting claims through alternative means.

Your local board of REALTORS® offers its members and their clients and customers a vehicle to economically expedite ethics complaints and/or arbitration requests without going to court. If a monetary dispute arises from a real estate transaction or if you believe a REALTOR® may have acted in an unethical manner, seek a resolution through your local board of REALTORS®. Ethics complaints that are brought before the board give those parties involved an opportunity to be educated about the Code. In addition, REALTORS® are judged by their peers as opposed to other individuals who may be far less familiar with the practices and customs of the real estate industry.

Code of Ethics Enforcement Frequently Asked Questions

What's the difference between an ethics complaint and arbitration request?

An **ethics** complaint charges that a REALTOR® or REALTOR-ASSOCIATE® has violated an Article(s) of the Code of Ethics. An **arbitration** request involves a dispute over entitlement to a monetary transaction (e.g., a commission).

Who can file an ethics complaint?

Any person, whether a member or not, having reason to believe that a member is in violation of any conduct subject to disciplinary action.

Who can file an arbitration request?

A customer, client, or REALTOR® principal. A REALTOR® nonprincipal can also request arbitration with his current or former REALTOR® principal.

Is there a time limit?

Yes, **ethics** complaints must be filed within one hundred eighty (180) days after the facts constituting the matter complained of could have been known in the exercise of reasonable diligence or within one hundred eighty (180) days after the conclusion of the transaction or event, whichever is later. Requests for **arbitration** must be filed within one hundred eighty (180) days after the closing of the transaction, if any, or within one hundred eighty (180) days after the facts constituting the arbitrable matter could have been known in the exercise of reasonable diligence, whichever is later.*

Who should I give the complaint or request to?

The Association Executive/Secretary of the board/association of REALTORS®.

What should be included with the ethics complaint or arbitration request?

Ethics — An ethics complaint form must be completed and filed. In addition, a written statement of the facts (with appropriate documentation, if any) on which the complaint is based must also be included, dated, and signed by the complainant. The appropriate Article(s) as they pertain to the facts in the alleged violation must be cited in the complaint. **Arbitration** — An arbitration request form must be completed and submitted with details of the dispute and the deposit as set by the board (not to exceed \$500, which may be refundable if the requestor is found to be the prevailing party). In addition, include whatever documentation that may help to substantiate your position.

Are there certain Articles that can or can't be cited?

Only Articles 1 through 17 may be the basis of a complaint. The Preamble is aspirational and establishes ideals that a REALTOR® should strive to attain. Because of its subjective nature, the Preamble may not be used as a basis for charges of alleged unethical conduct or as the basis for disciplinary action.

Can Standards of Practice be cited in an ethics complaint?

No. Standards of Practice may be cited only in support of the Article(s) that was allegedly violated.

Are there issues or complaints that should not be brought before a board/association of REALTORS®?

Yes. A charge of violating the law or State real estate regulations is not a matter that would be considered by the board/association of REALTORS®. Also, the board/association is not a court of law where criminal or civil issues are resolved.

Is submitting to arbitration mandatory?

It depends on the circumstances. A REALTOR® may be obligated to arbitrate, or he/she may have a choice as to whether or not to voluntarily participate in an arbitration proceeding conducted by the board/association of REALTORS®.

When is arbitration mandatory/voluntary?

Mandatory — When the dispute is between: 1) REALTORS® who are principal brokers** in different firms; 2) clients and REALTOR® principals. **Voluntary** — When the dispute is between: 1) Members in the same firm; 2) a REALTOR®, who is a principal broker, and a non-member principal broker in another firm; 3) customers and REALTOR® principals.

* If the board's informal dispute resolution processes (e.g., mediation) are invoked, the 180 day filing deadline is suspended.

** "Principal Broker" means... A sole proprietor, partner, corporate officer, majority shareholder, or branch office manager of a real estate firm.

Do You Have a Complaint?

**Problem with a REALTOR®
but not sure where to turn?**

**Ready to take matters
into your own hands?**

**Afraid of being buried
under the paperwork?**

Let your local board's
Code of Ethics enforcement
program point you
in the right direction!