

## 2021 Summary of Key Professional Standards Changes

This summary highlights substantive issues and changes but is not all-inclusive. For complete information detailing all the changes, see the 2020 Professional Standards Committee Actions for the REALTORS® Legislative Meetings and Trade Expo and the REALTORS® Conference and Expo at [nar.realtor](http://nar.realtor).

Also, review the shaded portions of the 2021 *Code of Ethics and Arbitration Manual* which highlights all the changes.

### **Change to the Code of Ethics and Standards of Practice**

(underscoring indicates additions, strikeouts indicate deletions)

- **Third Paragraph of the Preamble to the Code of Ethics amended as follows:**

...In recognition and appreciation of their obligations to clients, customers, the public, and each other, REALTORS® continuously strive to become and remain informed on issues affecting real estate and, as knowledgeable professionals, they willingly share the fruit of their experience and study with others. They identify and take steps, through enforcement of this Code of Ethics and by assisting appropriate regulatory bodies, to eliminate practices which may damage the public or which might discredit or bring dishonor to the real estate profession. REALTORS® having direct personal knowledge of conduct that may violate the Code of Ethics involving misappropriation of client or customer funds or property, ~~willful~~ discrimination against the protected classes under the Code of Ethics, or fraud ~~resulting in substantial economic harm~~, bring such matters to the attention of the appropriate Board or Association of REALTORS®...

- **New Standard of Practice 10-5 is adopted as follows:**

REALTORS® must not use harassing speech, hate speech, epithets, or slurs based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity.

**Note:** *Adoptive and effective November 13, 2020.*



## Changes to the *Code of Ethics and Arbitration Manual (Manual)*

(underscoring indicates additions, strikeouts indicate deletions)

- **PS Policy Statement #29, Applicability of the Code of Ethics to non-real estate-related activities**

While REALTORS® are encouraged to follow the principles of the Code of Ethics in all of their activities, a REALTOR® shall be subject to disciplinary action under the Code of Ethics only with respect to real estate-related ~~all of their activities and transactions involving the REALTOR®.~~

**Note:** *Adopted and effective November 13, 2020.*

- **Section 1 (t), Definitions Relating to Ethics**

“Public Trust” refers to demonstrated misappropriation of client or customer funds or property, ~~willful discrimination against the protected classes under the Code of Ethics,~~ or fraud resulting in substantial economic harm.

**Note:** *Change also reflected in:*

*Preamble to the Code of Ethics and Standards of Practice*

*Appendix XI to Part Four, Ethics Mediation*

*Local and State Association Ombudsman Service Policy*

- **Section 21 (f) (1) and (2), Ethics Hearing**

(f) Amendment of complaint:

(1) At any time prior to the hearing of the complaint, the complainant may file an amended complaint with the Professional Standards Administrator (excluding amendments pertaining to an Article previously dismissed by the Grievance Committee relating to previously charged respondents). If an amended complaint, including facts upon which the amendment is based, is filed prior to the hearing, the respondent shall be notified, given a copy, and provided the opportunity to file an amended response. At any time prior to the hearing of the complaint, the Hearing Panel may name the REALTOR® principal as a respondent. Complaints cannot be amended to add, or substitute, other individuals as complainants except as mutually agreed to by the parties.

(2) At any time during the hearing, the complaint may be amended either by the complainant or upon motion of the Hearing Panel to add previously uncited Articles or additional respondents, including facts upon which those amendments are based. Neither the complainant nor the Hearing Panel may bar the other from making such amendments. Amendments to include Articles previously dismissed by the Grievance Committee may be made only on the motion of the Hearing Panel. In such event, the hearing, with the concurrence of the respondent, may proceed uninterrupted or be reconvened on a date certain, not less than fifteen (15) or more than thirty (30) days from the hearing date unless a “late” witness is allowed and then not less than five (5) days from the hearing date. If the respondent knowingly waives his right to the adjournment, the record should reflect the fact that the respondent was aware of the right to an adjournment but chose to proceed with the hearing without interruption on the basis of the amended complaint. If the hearing is adjourned to be reconvened at a later time, the amended complaint shall be filed in writing, signed by the complainant or by the Chairperson of the Hearing Panel, and shall be promptly served on the respondent as in all other cases provided herein. However, in any instance where a Hearing Panel amends an ethics complaint pending before it, the respondent(s) shall be given the choice of proceeding before the same Hearing Panel (either without interruption or when reconvened pursuant to the procedures established elsewhere in this Section) or having the complaint considered in a new hearing before a different Hearing Panel.

To prevent the appearance of bias, at no time during or after an ethics hearing may the Hearing Panel or any appellate body refer concerns regarding potentially unethical conduct to the Grievance Committee. This is based on the premise that the fundamental right and primary responsibility to bring potentially unethical conduct to the attention of the Grievance Committee rests with the parties and others with firsthand knowledge. This prohibition in no way limits or restricts the Hearing Panel from amending pending complaints as otherwise provided for in this section.

**Note:** Same changes also made to Appendix V to Part Four, Ethics Hearing Checklist, paragraphs numbered 21 and 22.

- **Section 23 (j), Action of the Board of Directors**

(j) Upon final action by the Directors, the President shall disseminate to the complainant, the respondent, the Chairperson and members of the Hearing Panel, Association legal counsel, the President of any other Association in which the respondent holds membership, and any governmental agency as directed by the Board of Directors such notice of the action as the President deems appropriate under the circumstances provided, however, that the nature, form, content, and extent of the notice shall be specifically approved by Association legal counsel prior to dissemination.



Association Members, other than those specified, shall not be notified except with respect to suspension or expulsion of membership of the Association Member, or unless one of the publication options in Professional Standards Policy Statement 45, Publishing the Names of Code of Ethics Violators, has been adopted, or unless notification is required to ensure compliance with the Association's bylaws (e.g., where a petition for removal of an officer or director must state the reason(s) an officer or director is deemed disqualified from further service).

Final ethics decisions holding REALTORS® in violation of the Code of Ethics involving real estate related activities and transactions must be forwarded to the state real estate licensing authority, and may be forwarded to any other governmental agency, in instances where there is reason to believe that the public trust may have been violated. The "public trust," as used in this context, refers to demonstrated misappropriation of client or customer funds or property, willful discrimination against the protected classes under the Code of Ethics, or fraud resulting in substantial economic harm.

NOTE: Associations are encouraged to publish periodic Code Enforcement Activity Reports specifying the number of complaints filed for the given period, the Articles of the Code of Ethics charged, the number of complaints dismissed by the Grievance Committee, the number of violations of particular Articles, the number of cases resulting in violations or, conversely, no violations, the number of cases in which sanctions were imposed, the range of sanctions imposed, and other appropriate information. (See Form #E-17, Ethics Activity Report).

With respect to arbitration, such report could include the number of arbitration requests received, the number of arbitration requests dismissed without hearing, the number of mediations conducted, the number of arbitration hearings held, and other relevant information, provided that no Code Enforcement Activity Report shall include the names of individuals or firms.

- **Appendix III to Part Four, Responsibility of Member Board with Respect to Article 10 of the Code of Ethics, amended to add the following to the end of the appendix.**

In January 2020, the leadership of the National Association of REALTORS® passed a Fair Housing Action Plan to reaffirm and strengthen the association's fair housing commitment. The Fair Housing Action Plan, abbreviated "ACT," specifically committed the National Association of REALTORS® to:

- work closely with state association executives to ensure that state licensing laws include effective fair housing training requirements and hold real estate agents accountable to their fair housing obligations



- launch a public-service announcement campaign that reaffirm NAR's commitment to fair housing, and how consumers can report problems
- integrate fair housing into all REALTOR® conferences and engagements
- explore the creation of a voluntary self-testing program, in partnership with a fair housing organization, as a resource for brokers and others who want confidential reports on agent practices so they can address problems
- create more robust fair housing education, including unconscious-bias training, and education on how the actions of REALTORS® shape communities
- conduct a national study to determine what factors motivate discrimination in sales market
- profile leaders who exemplify the best fair housing practices and workplace diversity
- develop materials to help REALTORS® provide consumers with information on schools that avoids fair housing pitfalls

- **Appendix VII to Part Four, Sanctioning Guidelines**

*The Code of Ethics is designed to establish a public and professional consensus against which the practice and conduct of REALTORS® and REALTOR ASSOCIATE®s may be judged. REALTORS® and REALTOR ASSOCIATE®s in joining a Board signify their intention to abide by the Code and thereby enhance the public and professional image of themselves and all other REALTORS®. Adherence to the Code is the first great bond between REALTORS® and REALTOR ASSOCIATE®s throughout the country, and is an obligation voluntarily accepted by them to ensure high standards of professional conduct to serve the interests of their clients and customers (from the Introduction to the Code of Ethics and Arbitration Manual, National Association of REALTORS®, 2021 edition).*

Local ~~Boards~~ Associations of REALTORS®, supported by the state and National Associations, have the awesome responsibility of fostering awareness, understanding, and appreciation for the duties and obligations the Code imposes on those who accept it as their guide to professionalism. A corollary duty of ~~Boards~~ Associations is to receive and resolve complaints alleging potentially unethical conduct by REALTORS®.



The REALTOR® organization is firmly committed to comprehensive education of REALTORS® and the public about the Code and the protections it affords, and also to vigorous, fair, and uniform enforcement when complaints are brought against members. The *Code of Ethics and Arbitration Manual* (Manual) details policies and procedures governing enforcement efforts.

Code enforcement achieves a number of goals. Where REALTORS® are wrongly or mistakenly charged with unethical conduct, the hearing process provides personal and professional vindication. Where violations are determined, the hearing process educates members about their professional obligations and serves as a meaningful deterrent to future violations. The Introduction goes on to point out that the ethics hearing process “. . . is educational in that it raises the consciousness of members to the meaning and significance of the Code” and that “many ethics violations occur inadvertently or through ignorance, and the hearing procedure serves as an effective educational tool.”

Allegations of unethical conduct are often understandably viewed by respondents as threats to their professional and personal reputations. This can result not only in the mounting of vigorous defenses but also, at times, to threats of legal challenge should a violation be determined and discipline imposed. Given that membership confers valuable rights, Boards-Associations need to strictly adhere to their established procedures when considering potential ethics violations. This caution ensures that the rights of the parties will be observed and that legal exposure of Boards-Associations will be minimized.

At the same time, well-founded caution should not be confused with reservation, reluctance, or hesitancy. The Code’s duties become aspirations at best, and potentially meaningless, if not enforced, and enforced with vigor and determination.

Fundamental to fair and consistent Code enforcement is reasonable and judicious use of discipline, as both an educational device and as punishment. The Manual authorizes a wide variety of sanctions that may be imposed for ethics violations and for violations of other membership duties. These range from simple letters of warning to expulsion from REALTOR® membership. Between these extremes are mandatory attendance at remedial educational sessions, fines, probation, and suspension. These sanctions, and the circumstances under which they may be imposed, are discussed in detail in the Manual.





The National Association does not recommend specific discipline for certain offenses, or for violations of particular Articles of the Code. This is in deference to the wisdom and autonomy of Hearing Panels privy to the details of complaints coming before them; in recognition of the fact that no two complaints are identical; and in view of the fact that the details of each hearing, including the experience of respondents, their history of prior violations, and mitigating or extenuating circumstances, may all come into play in determining an appropriate penalty. At the same time, there are key points to be considered with respect to discipline.

- Discipline that can be imposed is strictly limited to those forms authorized in the Manual.
- Discipline should be commensurate with the offense. Unintentional or inadvertent violations should result in penalties designed to educate respondents as to the conduct expected of them as REALTORS®. Conversely, if a REALTOR® intentionally violates the Code, for example to realize an economic gain, a more severe sanction would be appropriate. Only authorized forms of discipline may be utilized. *(Revised 11/13)*
- Discipline should be progressive. The disciplinary emphasis on violations by new members or by longstanding members with no history of unethical conduct should be primarily educational. Repeated or subsequent violations should be addressed with more serious forms of discipline including substantial fines, suspension, and termination of membership. (See the section of this Appendix entitled “Progressive Discipline” for a more detailed discussion of progressive discipline).
- A “gray area” can exist with respect to “first time violations” that are clearly not the result of ignorance or mistake but rather demonstrate flagrant disregard for the Code’s obligations. While the educational aspect of Code enforcement cannot be disregarded, the fact that the Code exists to protect the public must also be seriously considered in determining commensurate discipline.
- Mitigating or extenuating circumstances should be considered in determining appropriate discipline. The fact that a respondent recognized or acknowledged inappropriate or unethical conduct, or took steps to remediate or minimize harm or injury that may have resulted from the respondent’s conduct, should be considered in determining appropriate discipline.
- Conversely, cases in which there is reason to believe that violations of the public trust, including demonstrated misappropriation of client or customer funds or property, discrimination against the protected classes under the Code of Ethics, or fraud have occurred should be considered particularly egregious violations of the Code of Ethics when determining appropriate discipline.



- Respondents' records of earlier violations (or, conversely, the fact that they have not violated the Code in the past) can be considered in determining appropriate discipline. Hearing Panels cannot consider past violations in deciding whether the conduct currently complained of violated the Code.

Crafting appropriate, meaningful discipline can challenge panels that have concluded that the Code has been violated. This discussion is offered as guidance, rather than as a hard and fast template, to assist panels in meeting their key role in ensuring the Code's viability and vitality through vigorous and evenhanded enforcement. Suggested guidelines that can be modified locally so long as the discipline proposed is consistent with the permissible forms authorized in the National Association's *Code of Ethics and Arbitration Manual*, can be found in the section of this Appendix entitled "Disciplinary Guidelines."

### **Progressive Discipline**

Discipline imposed for violations of the Code of Ethics or for violations of other membership duties should be progressive, that is discipline should increase incrementally for subsequent violations. The disciplinary emphasis where first time violations occur should be primarily educational. Repeated or subsequent violations should result in more serious forms of discipline being utilized, including substantial fines, suspension, and termination of membership. At the same time, a gray area can exist where a first time violation is not attributable to ignorance or oversight but rather to blatant disregard for the Code and its obligations. While the educational emphasis of Code enforcement cannot be disregarded, the fact that the Code exists to protect the public must be carefully considered in determining appropriate discipline. ~~Two~~ Three (3) contrasting examples are provided to illustrate these points. *(Revised 11/20)*

**Example 1-A:** REALTOR® A, who had recently earned her real estate license, was found to have violated Article 12 for advertising a listed property without disclosing her status as either a REALTOR® or as a real estate licensee. At the hearing, REALTOR® A acknowledged her oversight and it was clear to the Hearing Panel that the violation was inadvertent and unintentional. The panel concluded that a letter of reprimand and attendance at a three (3) hour Code of Ethics update session was appropriate.

Two months later, REALTOR® A was charged with a nearly identical violation. After concluding that she had, in fact, violated Article 12, the Hearing Panel was given access to REALTOR® A's files to see whether REALTOR® A had previously violated the Code so that appropriate discipline could be recommended. It was the conclusion of the Hearing Panel that a second violation of the same Article, occurring just months after the first violation, warranted more serious discipline. REALTOR® A was fined \$1,000 and required to attend a full day ethics education program. *(Revised 11/13)*





Three months later, REALTOR® A was again found to have violated Article 12. The Hearing Panel was then given access to REALTOR® A's file and, upon learning of the two (2) prior violations in less than a year, recommended a \$5,000 fine. *(Revised 11/13)*

**Example 2-B:** REALTOR® B, who had recently received his real estate license, was found to have violated Article 4 for failing to disclose to his seller-client that the purchaser that REALTOR® B had procured was, in fact, REALTOR® B's wife. In determining appropriate discipline, the Hearing Panel considered REALTOR® B's limited experience in the real estate business and the fact that this was the first time that REALTOR® B had been found in violation of the Code. The Hearing Panel also considered that REALTOR® B's failure to disclose had not been inadvertent or unintentional and that REALTOR® B had knowingly concealed from his client a key fact that might have influenced the client's decision to accept the offer from REALTOR® B's wife. Based on the seriousness of the violation and REALTOR® B's conscious disregard for his disclosure obligation, the Hearing Panel recommended a \$5,000 fine and retaking the ethics orientation required for new members. *(Revised 11/13)*

**Example C:** In social media discussions, REALTOR® C posted several discriminatory and offensive comments which were deemed to be in violation of Article 10 as they discriminated against individuals on the basis of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity. In determining appropriate discipline, the Hearing Panel considered REALTOR® C's comments as hate speech and discrimination in violation of Article 10 and had reason to believe that a violation of the public trust occurred. Based on the offensiveness of REALTOR® C's comments and his total disregard for the Code of Ethics' obligation to not be a party to any plan to discriminate against members of the protected classes of Article 10, the Hearing Panel recommended a \$5,000 fine and mandatory completion of implicit bias training.

## Disciplinary Guidelines

Code enforcement achieves a number of important goals. Where REALTORS® have been wrongly or mistakenly charged with unethical conduct, the hearing process provides personal and professional vindication. Where violations are determined, the hearing process and resulting discipline educates members about their professional obligations and serves as a meaningful deterrent to future violations.

Determining that a violation of one or more Articles has occurred is only a part of a Hearing Panel's job. Equally important is crafting discipline commensurate with the offense. Panels will want to consider that many violations occur due to lack of familiarity with the Code and its obligations, inexperience, oversight, or as unintentional mistakes.

In such cases, the primary purpose of discipline should be educational to ensure that similar violations do not occur in the future. In other cases, violations can occur because of knowing disregard for the Code and its duties. In such cases, greater emphasis will be placed on the punitive nature of discipline.

Hearing Panels are cautioned of the due process concerns of considering a respondent's history of Code violations, as considering too long of a history involving different types of violations can unreasonably affect the severity of the discipline. Typically, Associations might look back a minimum of three (3) years, however, if there is consistency in the types of violations or if the violations are of the public trust, considering a longer history of violations could be appropriate in crafting meaningful discipline aimed at stopping the behavior.

Factors Hearing Panels should consider in determining appropriate discipline include, but are not necessarily limited to:

- (1) The nature of the violation.
- (2) Harm caused by the violation. Was the violation a minor mistake causing little or no harm or, alternatively, was a client, customer, member of the public, or another REALTOR® harmed? Was the violation one of the public trust, including demonstrated misappropriation of client or customer funds or property, discrimination against the protected classes under the Code of Ethics, or fraud?
- (3) Was the violation inadvertent or unintentional or, conversely, was it the result of knowing disregard for the Code's obligations?
- (4) How much real estate experience did the violator have? Did he, or should he, have known better?
- (5) Has the violator been found in violation of the Code previously? How often? How recently? Is the current violation related or similar to earlier violations?
- (6) Are there mitigating or extenuating circumstances that should be considered in determining appropriate discipline?
- (7) Did the violator acknowledge the violation? Did the violator express remorse or contrition?
- (8) Are there other factors that ought to be considered?



With these questions in mind, panels can be guided by (but are not bound by) the following guidelines which may be modified locally at the discretion of each local Board Association.

**First violation example #1:** ~~(or first violation within three [3] years):~~

- violation considered relatively minor, or
- little or no harm or injury caused to others, or
- violation resulted from ignorance or misunderstanding

Possible discipline:

- letter of warning
- fine of \$500 or less
- attendance at relevant education session
- any combination of the above

**First violation example #2:** ~~(or first violation within three [3] years):~~

- violation considered relatively serious, or
- some harm or injury caused to others, or
- violation resulted from disregard for the Code's obligations

Possible discipline:

- letter of reprimand
- fine of \$2,000 or less
- attendance at relevant education session(s)
- any combination of the above

**First violation example #3:** ~~(or first violation within three [3] years):~~

- violation considered very serious, or
- the violation was of Article 10 as interpreted by its Standards of Practice, or of Article 3 as interpreted by Standard of Practice 3-11, or
- substantial harm or injury caused to others, or
- violation resulted from knowing disregard of the Code's obligations

Possible discipline:

- letter of reprimand
- fine of \$10,000 or less
- attendance at relevant education session(s)
- suspension for ninety (90) days or less
- any combination of the above
- termination of membership for up to three (3) years

**Repeat violations example #1 (within three [3] years):**

- current violation considered relatively minor, or
- little or no harm or injury caused to others, or
- violation resulted from ignorance or misunderstanding

Possible discipline:

- attendance at relevant education session(s) or course
- fine of \$2,000 or less (*Revised 11/20*)



**Repeat violations example #2** (or first violation within three [3] years):

- current violation considered relatively serious, or
- some harm or injury caused to others, or
- violation resulted from disregard for the Code's obligation

Possible discipline:

- attendance at relevant education session(s) or course
- fine of \$10,000 or less
- suspension for three (3) months or less
- any combination of the above

**Repeat violations example #3** (or first violation within three [3] years):

- violation considered very serious, or
- the violation was of Article 10 as interpreted by its Standards of Practice, or of Article 3 as interpreted by Standard of Practice 3-11, or
- substantial harm or injury caused to others, or
- violation resulted from knowing disregard for the Code's obligations

Possible discipline:

- attendance at relevant education session(s) or course
- fine of \$15,000 or less
- suspension for six (6) months or less
- any combination of the above
- termination of membership for up to three (3) years

In addition to imposing discipline, the Hearing Panel can also recommend to the Board of Directors that the disciplined member be put on probation. The fact that one or more forms of discipline will be held in abeyance during the probationary period does not bar imposition of other forms of discipline which will not be held in abeyance. Probation is not a form of discipline. When a member is put on probation the discipline recommended by the Hearing Panel is held in abeyance for a stipulated period of time not longer than one (1) year. Any subsequent finding of a violation of the Code of Ethics during the probationary period may, at the discretion of the Board of Directors, result in the imposition of the suspended discipline. Absent any subsequent findings of a violation during the probationary period, both the probationary status and the suspended discipline are considered fulfilled, and the member's record will reflect the fulfillment. ~~The fact that one or more forms of discipline will be held in abeyance during the probationary period does not bar imposition of other forms of discipline which will not be held in abeyance.~~

More serious forms of discipline (including possible termination of MLS privileges, suspension from membership for up to one [1] year, or termination of membership for up to three [3] years) may be appropriate in cases of very serious violations or in cases of repeated violations. Cases in which there is reason to believe that violations of the public trust, including demonstrated misappropriation of client or customer funds or property, discrimination against the protected classes under the Code of Ethics, or fraud have occurred are considered particularly egregious. Associations are encouraged to critically examine these types of cases and recommend discipline consistent with the seriousness of these violations, their harm to consumers, and to the reputation of REALTORS® as committed to the highest level of professionalism.

Important Note: These are not sentencing rules or requirements, but rather simply suggestions to guide Hearing Panels in determining appropriate discipline based both on the current violation and the violator's previous record of ethical conduct.

- **New Appendix XII to Part Four, Appropriate Interpretation of Standard of Practice 10-5 and Statement of Professional Standards Policy 29**

Standard of Practice 10-5 prohibits REALTORS® from using harassing speech, hate speech, epithets or slurs based on the protected classes of Article 10. Statement of Professional Standards Policy 29 provides that REALTORS® are subject to disciplinary action with respect to all of their activities.

To assist Hearing Panels in the appropriate interpretation and application of Standard of Practice 10-5 of the Code of Ethics and Statement of Professional Standards Policy 29, the Professional Standards Committee of the National Association provides the following for consideration by Hearing Panels when asked to determine whether a violation of Article 10 as supported by Standard of Practice 10-5 has occurred.

While the overall focus of Standard of Practice 10-5 is on what might be loosely termed “offensive” or “discriminatory” speech, Hearing Panels should be clear that the Standard of Practice is narrowly limited to conduct related to the requirements of equal professional service of Article 10. Hearing Panels should also be fully aware of the nature and scope of the Standards of Practice under Article 10 and their relationship to fair housing law as described in Appendix III to Part Four of the *Code of Ethics and Arbitration Manual*. As described in Appendix III, Article 10 and its Standards of Practice fully integrate the five basic fair housing obligations that were recognized by NAR's Code of Fair Housing Practices before it was sunset.



Hearing Panels should note that while all of the Standards of Practice under Article 10 inform them as to the interpretation and application of Standard of Practice 10-5, Standard of Practice 10-3 is particularly analogous in its application to discriminatory speech in advertising based on the protected classes of Article 10.

Standard of Practice 10-5 is not focused on types of speech that might be subjectively deemed “offensive” or “discriminatory” by one person and not another. The Standard of Practice is based on very particular types of speech that are directly connected to the protected classes of race, color, religion, sex, handicap, familial status, national origin, sexual orientation or gender identity under Article 10. Only the use of harassing speech, hate speech, epithets and slurs **based on** the protected classes of Article 10 are prohibited. The terms “harassing speech,” “hate speech,” “epithets,” and “slurs” can be commonly understood by use of a dictionary as well as other easily available references.

For example, NAR’s Code of Conduct and Anti-Harassment Policy clearly defines “harassment” and “sexual harassment.”

*Harassment includes inappropriate conduct, comment, display, action, or gesture based on another person’s sex, color, race, religion, national origin, age, disability, sexual orientation, gender identity, and any other protected characteristic.*

*Examples of harassment include, but are not limited to: epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes; and the display or circulation of written or graphic material that denigrates or shows hostility toward an individual or group based on a protected characteristic.*

“Sexual Harassment” includes not only physical acts but also includes verbal and non-verbal/non-physical acts.

*Sexual harassment can be:*

- *Verbal: Sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, or threats.*
- *Non-Verbal: Sexually suggestive objects or pictures, graphic commentaries, suggestive or insulting sounds, leering, whistling, or obscene gestures. ...*

Hearing Panels should look to this existing information on harassment to determine whether harassing speech has occurred and then look to determine whether the harassing speech was based on one of the protected classes.





In similar fashion, Merriam Webster's Dictionary defines "hate speech," "epithets," and "slurs" as follows:

*Hate Speech: speech that is intended to insult, offend, or intimidate a person because of some trait (as race, religion, sexual orientation, national origin, or disability).*

*Epithet: **1a:** a characterizing word or phrase accompanying or occurring in place of the name of a person or thing; **b:** a disparaging or abusive word or phrase*

*Slur: **1a:** an insulting or disparaging remark or innuendo: ASPERSION; **b:** a shaming or degrading effect: STAIN, STIGMA*

Again, Hearing Panels must look to whether the hate speech, epithet or slur is based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation or gender identity and not on some other non-protected characteristic.

Under Statement of Professional Standards Policy #29, REALTORS® are subject to the Code of Ethics' standards in all of their activities. Thus, a violation of Article 10, as supported by Standard of Practice 10-5, can occur when a REALTOR® uses harassing speech, hate speech, epithets and slurs based on the protected classes in any media or context, regardless of whether related to their activities in the real estate business or their identification as a REALTOR®.

- **Article IV, Code of Ethics and Membership Business Practices, Sections 1 and 2 of the Bylaws of the National Association; Change reflected in the Code of Ethics and Arbitration Manual's Preface, The Code of Ethics of the National Association of REALTORS®; Section 23 (j), Action of the Board of Directors; and Part Fourteen, State Association Professional Standards Committee:**

**Section 1.** Each Member Board shall adopt the Code of Ethics of the National Association as a part of its governing regulations, for violation of which disciplinary action may be taken.\*

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\*The separation of arbitration proceedings from proceedings under the Code of Ethics should not be construed as precluding consideration by the Hearing Panel of all factors, including the propriety of the conduct of the parties, relevant to the dispute which is the subject of the arbitration.

Adoption of the Code of Ethics includes responsibility for providing applicant/new member Code of Ethics orientation and ongoing member ethics training that satisfies the learning objectives and minimum criteria established by the National Association from time to time.



**Section 2.** Any Member Board which shall neglect or refuse to maintain and enforce the Code of Ethics with respect to the business activities of its members may, after due notice and opportunity for hearing, be expelled by the Board of Directors from membership in the National Association. Enforcement of the Code of Ethics also requires Member Boards to share with the state real estate licensing authority final ethics decisions holding REALTORS® in violation of the Code of Ethics in instances involving real estate related activities and transactions where there is reason to believe the public trust may have been violated. The “public trust”, as used in this context, refers to demonstrated misappropriation of client or customer funds or property, ~~wilful~~ discrimination against the protected classes under the Code of Ethics, or fraud ~~resulting in substantial economic harm~~. Enforcement of the Code of Ethics also requires Member Boards to provide mediation and arbitration services to members and their clients so that the dispute resolution requirements of Article 17 of the Code of Ethics can be met.

Enforcement of the Code of Ethics also includes responsibility for ensuring that persons primarily responsible for administration of enforcement procedures have successfully completed training that meets the learning objectives and minimum criteria established by the National Association from time to time.

Enforcement of the Code of Ethics also prohibits Member Boards from knowingly granting REALTOR® or REALTOR ASSOCIATE® membership to any applicant who has an unfulfilled sanction pending which was imposed by another Board or Association of REALTORS® for violation of the Code of Ethics.

**Please note:** For comprehensive support material for changes approved by the Board of Directors on November 13, 2020, including videos, frequently asked questions and a webinar series, Breaking Down the Changes in the Code, explaining the need for the changes and their proper application, go to:

[nar.realtor/national-leadership/committee-members-liaisons/code-of-ethics-professional-standards-policies](http://nar.realtor/national-leadership/committee-members-liaisons/code-of-ethics-professional-standards-policies)



## Additional Points of Interest:

1. A graphic explaining the Code of Ethics enforcement process is [here](#). Step 3 explains that if a complaint is filed, it is initially reviewed by a local association's Grievance Committee. The purpose of that initial review is to evaluate the complaint against eight criteria, including whether the complaint was timely filed, and whether the allegations in the complaint, if taken as true, would possibly violate the Code.
2. There were no amendments to any forms or case interpretations in 2020.
3. Please update your local ombudsman policy under the section "Involving the Ombudsman" given the revision to the definition of public trust.
4. The 2021 National Association's Mediation Training Seminar held annually in Chicago is **not** currently scheduled given the status of COVID-19. Please go to [nar.realtor/events/mediator/mediation-training](https://www.nar.realtor/events/mediator/mediation-training) for training updates.
5. The complete listing of all Statements of Professional Standards Policy, in chronological order, is available on-line at nar.realtor. Policy Statements applicable to ethics and arbitration remain in the *Code of Ethics and Arbitration Manual* in their respective sections, but the complete list appears online: [nar.realtor/policy/statements-of-professional-standards-policy](https://www.nar.realtor/policy/statements-of-professional-standards-policy)
6. Click the titles of the following to view them online:

[The Professional Standards Training Guide](#)

[NAR Model Citation Policy](#)

[Ombudsman Procedures](#)

[Ethics Mediation](#)

[Ethics Fast Track Supplement](#)

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