

## Ethics Complaint / Arbitration Request Checklist

- ☑ Contact the respondent's local 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.
  - ☑ **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.
  - ☑ **Mediation / Arbitration** - (optional) Sign the Mediation request form and attach it to the arbitration request and accompanying materials.
- Mediation/ Ethics** - (optional) Indicate on the Complaint Form E-1 your agreement to a Mediation conference. Both parties must agree to mediate.
- ☑ If both parties do not agree to mediation, the ethics complaint or arbitration request will then be sent to the Review Committee for preliminary review.
  - ☑ The Review Committee, which functions much like a grand jury, will then review the ethics complaint and/or arbitration request.
  - ☑ If the Review 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 Review 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 Review Committee's dismissal to the Board of Directors.
  - ☑ If the Review Committee determines that a hearing is **warranted**, the parties will be advised of the date, time and place of the hearing subsequent to an opportunity to challenge any of the hearing panelists for cause.
- ☑ The Review Committee will automatically suspend any complaint also involved in civil or criminal litigation, or any proceeding before the state real estate licensing authority, or any other state or federal regulatory or administrative agency, until such litigation or proceeding is completed before considering referral of the matter to hearing, unless voluntarily agreed by both parties to proceed with a hearing.
  - ☑ During the hearing, the parties have an opportunity to present their positions. Parties may exercise their right to bring witnesses and/or counsel (attorney or REALTOR® in ethics or attorney in arbitration) 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 with the President, but the **complainant** may only appeal on a **procedural** basis. *Either party* 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 of policies of the REALTORS® Association of Northeast Wisconsin and the National Association of REALTORS®

For more information on these and other services call the REALTORS® Association of Northeast Wisconsin 920-739-9108



## Got a complaint?

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



Ready to take matters into your own hands?

Afraid of being buried under the paperwork?



Let the REALTORS® Association of Northeast Wisconsin's Code of Ethics Enforcement Program point you in the right direction!

# Code of Ethics Enforcement

## A Member Benefit

The single, most outstanding characteristic that sets REALTORS<sup>®</sup> apart from other real estate practitioners is the willingness to accept and abide by the Code of Ethics of the National Association of REALTORS<sup>®</sup>. 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 several times through the years to reflect current developments in professional real estate practice. The term REALTOR<sup>®</sup> has come to represent competency, fairness 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 intentions, planning and preparation, occasional disagreements arise between REALTORS<sup>®</sup> and/or their clients. 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 Association of REALTORS<sup>®</sup> 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<sup>®</sup> may have acted in an unethical manner, seek a resolution through your local Association of REALTORS<sup>®</sup>. Ethics complaints that are brought before the Association give those parties involved an opportunity to be educated about the Code. In addition, REALTORS<sup>®</sup> 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.



*The following chart provides answers to some of the most commonly asked questions regarding Code of Ethics enforcement policies.*

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

*Who can file an ethics complaint?*

*Who can file an arbitration request?*

*Is there a time limit?*

*Who should I give the complaint or request to?*

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

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

*Can Standards of Practice be cited in an ethics complaint?*

*Are there issues of complaints that should not be brought before an Association?*

*Is submitting to arbitration mandatory?*

*When is arbitration mandatory/voluntary?*

An **ETHICS COMPLAINT** charges that a REALTOR<sup>®</sup> has violated an Article(s) of the Code of Ethics.

An **ARBITRATION REQUEST** involves a controversy over entitlement to a monetary transaction (e.g., a commission).

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

A client, customer or REALTOR<sup>®</sup>. (see below for mandatory vs. voluntary)

Yes. **ETHICS COMPLAINTS** must be filed within 180 days after the facts constituting the matter complained of could have been known in the exercise of reasonable diligence or within 180 days after the conclusion of the transaction, whichever is later.

Requests for **ARBITRATION COMPLAINT** 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.

The Executive Vice President or Secretary of the REALTORS<sup>®</sup> Association.

**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. In addition, include whatever documentation that may help substantiate your position.

**ARBITRATION** — An arbitration request form must be completed and submitted with details of the dispute, and the deposit as set by the Association which is refundable if the requester is found to be the prevailing party. In addition, include whatever contract copies and other documentation that may help substantiate your position.

**MEDIATION** — A simple and easy settlement opportunity which may make a hearing unnecessary. (see other enclosure entitled "What is Mediation?")

Only Articles 1 through 17 may be the basis of a complaint. The Preamble is aspirational and establishes ideals that a REALTOR<sup>®</sup> 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.

No. The article(s) itself is all that may be cited. Standards of Practice may be cited only in *support* of the Article(s) that was allegedly violated.

Yes. A charge of violating the law or State real estate regulations is not a matter that would be considered by the REALTORS<sup>®</sup> Association.

It depends on the circumstances. A REALTOR<sup>®</sup> 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 REALTORS<sup>®</sup> Association.

**Mandatory** — When the dispute is between: 1) REALTORS<sup>®</sup> who are principal brokers in different firms; 2) clients and REALTOR<sup>®</sup> principals.

**Voluntary** — When the dispute is between: 1) Members in the same firm; 2) a REALTOR<sup>®</sup> who is a principal broker, and a non-member broker in another firm; 3) customers and REALTOR<sup>®</sup> principals.