

ETHICS COMPLAINT PROCESS

The Northeast Florida Association of REALTORS® ("NEFAR"), a professional trade association, offers its members and the public several dispute resolution options, regarding disagreements over the details of a real estate transaction. These services are: 1) utilizing our Ombudsman service; 2) filing an Ethics Complaint against a REALTOR®, for a possible violation of the Code of Ethics of the National Association of REALTORS ("NAR") and/or other membership duty; and/or, 3) filing a request for arbitration with a REALTOR®, for a commission/compensation dispute.

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You, the potential complainant, may first like to take advantage of our **OMBUDSMAN SERVICE**:

Our trained Ombudsmen will: listen to your concerns; ascertain your desired outcome; explain possible avenues that might resolve the issue or reach the desired outcome; answer general questions and/or procedural questions; contact the REALTOR/potential respondent to explain your concerns and desired outcome; tries to bring resolution; reports back to you; and, explains your rights after the completion of the Ombudsman process.

To request an Ombudsman's service, please complete the [Ombudsman Request](#) form and submit it as directed at the bottom of the form.

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Every REALTOR takes an oath pledging to uphold NAR's Code of Ethics upon joining their local REALTOR association. NEFAR administers the Code of Ethics process for its REALTOR members. Anyone who believes that a REALTOR has exhibited unethical conduct that may violate the REALTOR Code of Ethics may file an Ethics Complaint against that REALTOR. Take a look at [Appendix X](#) that has valuable information to consider [Before You File an Ethics Complaint](#).

The following is a brief overview of the **ETHICS COMPLAINT PROCESS**:

Filing an ethics complaint involves charging a REALTOR® with a violation of one or more Articles of the Code of Ethics of the National Association of REALTORS®. The process is quick, inexpensive, and handled by the Grievance and Professional Standards Committees of the Association. An ethics complaint must be filed within one hundred eighty (180) days of the time that the alleged offense and facts relating to it could have been known by the complainant in the exercise of reasonable diligence or within one hundred eighty (180) days after the conclusion of the transaction or event, whichever is later.

Due to the COVID pandemic, NEFAR began processing Ethics Complaints virtually. A complaint includes a completed Ethics Complaint form (Form #E-1), a letter explaining the situation(s) with the citing of the corresponding Article(s) being charged, and any documentation that the complainant desires to have taken into consideration in support of the complaint allegation(s). Ethics Complaints must be filed via email, in a **pdf** format, to susanr@nefar.com.

When a written complaint is received, it is reviewed by NEFAR's Grievance Committee to determine if, taken as true on their face, a hearing is warranted. The Grievance Committee makes only such preliminary evaluation as is necessary to make these decisions. If the Grievance Committee determines that a hearing is warranted, a copy of the Ethics Complaint will be provided to the Respondent/REALTOR so that they will have the opportunity to file a Reply.

If the Grievance Committee determines that an ethics hearing is warranted, the Respondent is provided with a copy of the Ethics Complaint and given fifteen (15) days in which to either submit a Reply in defense of the allegation(s), or to acknowledge the allegation(s) in the complaint and waive their right to a hearing (the "expedited process"). The Ethics Complaint and Reply will either be forwarded to the Professional Standards Committee for a full hearing, or, if the case qualifies for the expedited process, a panel of the Professional Standards Committee will meet in executive session (the parties do not attend) to determine whether the allegations in the complaint, as acknowledged and agreed to by the Respondent, support a violation of membership duty and/or the Code of Ethics and to render a decision accordingly.

NEFAR is holding all Ethics Complaint Hearings virtually. If you do not already have a Zoom account, you will need to set one up by going to <https://zoom.us/freesignup/> and sign up for a new account. It's free! Then, if you do not already have a Dropbox account, you will need to go to <https://www.dropbox.com/basic>, to sign up for a free Dropbox Basic account, in order to participate in a virtual hearing.

All Parties would be participating in a virtual hearing remotely through Zoom. The Northeast Florida Association of REALTORS allows essential parties and witnesses, panelists, counsel, and staff to appear remotely only if **that person** is in a private location that provides the ability to keep the information presented at the hearing from being heard or overheard by any person who is not authorized to participate in the hearing. Those persons are also strictly prohibited from recording these proceedings or using any electronic or other communication devices during the hearing, other than those required to participate in the hearing.

Please note that the mere act of sending the matter to the Professional Standards Committee for a hearing does not imply guilt or innocence. It means only that, if the facts alleged in the complaint were taken as true on its face, it could be possible that a violation of the Code of Ethics occurred. On the other hand, the Grievance Committee may dismiss a complaint if they conclude that the allegations, if taken as true, could not support a finding that the Code of Ethics has been violated.

If a hearing is warranted, it is the Complainant's responsibility to substantiate a violation of each Article cited against each named Respondent with clear, strong, and convincing proof.

If a Respondent is found in violation of the Code of Ethics, they may receive one or more of the following disciplines: a letter of warning; a letter of reprimand; required attendance at an education course(s); a fine not to exceed \$15,000; probation, suspension, and/or expulsion of membership; and/or suspension or termination of MLS rights and privileges. Also, if found in violation of the Code of Ethics or other membership duty, a Respondent will be assessed an administrative processing fee of \$250. **The Association may not award "damages" to a member or to a member of the public, and in the case of an imposed fee and/or fine, the Association receives payment, not the aggrieved party.** Other forms of discipline or recovery of monies are the purview of the court system.

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Either party involved in the ethics complaint process or the expedited process has the right to appeal the decision. The appeal is heard by the Board of Directors or a panel comprised of members of the Board of Directors.

For further information on the Ombudsman service, Ethics Complaint, Mediation, and/or Arbitration process, please contact Susan Rodehaver, Professional Standards Administrator, at (904) 394-9137 or susanr@nefar.com.

Ombudsman Request

Date: _____

Name of Complainant: _____

Firm (if any): _____

Address: _____

Preferred phone for contact: _____

Best time to contact you: _____

Role in transaction: _____
(Buyer, Seller, Agent, Broker)

Subject property (if any): _____

Name of Respondent: _____

Firm (if any): _____

Address: _____

Phone: _____

Role in transaction: _____
(Buyer, Seller, Agent, Broker)

What issue would you like the Ombudsman to resolve?*

(Attach additional form, if necessary.)

Return to: Susan Rodehaver, Professional Standards Administrator,
Northeast Florida Association of REALTORS ("NEFAR")
via email, in pdf format, to susanr@nefar.com

*All information on this form is confidential. NEFAR will destroy this form and any other documents and materials pertaining to this matter at the conclusion of the ombudsman service. NEFAR is not responsible for, and shall be held harmless from, the failure of any party to perform or fulfill any promise or agreement entered into as a part of the ombudsman service.

Appendix X to Part Four

Before You File an Ethics Complaint

Background

Boards and Associations of Realtors® are responsible for enforcing the Realtors® Code of Ethics. The Code of Ethics imposes duties above and in addition to those imposed by law or regulation which apply **only** to real estate professionals who choose to become Realtors®.

Many difficulties between real estate professionals (whether Realtors® or not) result from misunderstanding, mis-communication, or lack of adequate communication. If you have a problem with a real estate professional, you may want to speak with them or with a principal broker in the firm. Open, constructive discussion often resolves questions or differences, eliminating the need for further action.

If, after discussing matters with your real estate professional or a principal broker in that firm, you are still not satisfied, you may want to contact the local Board or Association of Realtors®.

In addition to processing formal ethics complaints against its Realtor® members, many boards and associations offer informal dispute resolving processes (e.g., ombudsman, mediation, etc.). Often parties are more satisfied with informal dispute resolution processes, as they are quicker, less costly, and often help repair damaged relationships. *(Revised 11/15)*

If, after taking these steps, you still feel you have a grievance, you may want to consider filing an ethics complaint. You will want to keep in mind that . . .

- Only Realtors® and Realtor-Associate®s are subject to the Code of Ethics of the National Association of Realtors®.
- If the real estate professional (or their broker) you are dealing with is not a Realtor®, your only recourse may be the state real estate licensing authority or the courts.
- Boards and Associations of Realtors® determine whether the Code of Ethics has been violated, not whether the law or real estate regulations have been broken. Those decisions can only be made by the licensing authorities or the courts.
- Boards of Realtors® can discipline Realtors® for violating the Code of Ethics. Typical forms of discipline include attendance at courses and seminars designed to increase Realtors®' understanding of the ethical duties or other responsibilities of real estate professionals. Additional examples of authorized discipline are a letter of reprimand and appropriate fines. For serious or repeated violations, a Realtor®'s membership can be suspended or terminated. Boards and Associations of Realtors® cannot require Realtors® to pay money to parties filing ethics complaints; cannot award "punitive damages" for violations of the Code of Ethics; and cannot suspend or revoke a real estate professional's license. *(Revised 11/15)*
- The primary emphasis of discipline for ethical lapses is educational, to create a heightened awareness of and appreciation for the duties the Code imposes. At the same time, more severe forms of discipline, including fines and suspension and termination of membership may be imposed for serious or repeated violations.

Filing an Ethics Complaint

The local Board or Association of Realtors® can provide you with information on the procedures for filing an ethics complaint. Here are some general principles to keep in mind.

- Ethics complaints must be filed with the local Board or Association of Realtors® within one hundred eighty (180) days from the time a complainant knew (or reasonably should have known) that potentially unethical conduct took place or within one hundred eighty (180) days after the conclusion of the transaction or event, whichever is later (unless the Board's informal dispute resolution processes are invoked, in which case the filing deadline will momentarily be suspended).
- The Realtors® Code of Ethics consists of seventeen (17) Articles. The duties imposed by many of the Articles are explained and illustrated through accompanying Standards of Practice or case interpretations.
- Your complaint should include a narrative description of the circumstances that lead you to believe the Code of Ethics may have been violated.
- Your complaint must cite one or more of the seventeen (17) Articles of the Code of Ethics which may have been violated. Hearing Panels decide whether the Articles expressly cited in complaints were violated—not whether Standards of Practice or case interpretations were violated.
- The local Board or Associations of Realtors®' Grievance Committee may provide technical assistance in preparing a complaint in proper form and with proper content.

Before the Hearing

- Your complaint will be reviewed by the local Board or Association's Grievance Committee. Their job is to review complaints to determine if the allegations made, if taken as true, might support a violation of the Article(s) cited in the complaint.
- If the Grievance Committee dismisses your complaint, it does not mean they do not believe you. Rather, it means that they do not feel that your allegations would support a Hearing Panel's conclusion that the Article(s) cited in your complaint had been violated. You may want to review your complaint to see if you cited an Article appropriate to your allegations.
- If the Grievance Committee forwards your complaint for hearing, that does not mean they have decided the Code of Ethics has been violated. Rather, it means they feel that if what you allege in your complaint is found to have occurred by the Hearing Panel, that panel may have reason to find that a violation of the Code of Ethics occurred.
- If your complaint is dismissed as not requiring a hearing, you can appeal that dismissal to the Board of Directors of the local Board or Association of Realtors®.

Preparing for the Hearing

- Familiarize yourself with the hearing procedures that will be followed. In particular you will want to know about challenging potential panel members, your right to counsel, calling witnesses, and the burdens and standards of proof that apply.
- Complainants have the ultimate responsibility (“burden”) of proving that the Code of Ethics has been violated. The standard of proof that must be met is “clear, strong and convincing,” defined as “. . . that measure or degree of proof which will produce a firm belief or conviction as to the allegations sought to be established.” Consistent with American jurisprudence, respondents are considered innocent unless proven to have violated the Code of Ethics.
- Be sure that your witnesses and counsel will be available on the day of the hearing. Continuances are a privilege—not a right.
- Be sure you have all the documents and other evidence you need to present your case.
- Organize your presentation in advance. Know what you are going to say and be prepared to demonstrate what happened and **how you believe the Code of Ethics was violated**.

At the Hearing

- Appreciate that panel members are unpaid volunteers giving their time as an act of public service. Their objective is to be fair, unbiased, and impartial; to determine, based on the evidence and testimony presented to them, what actually occurred; and then to determine whether the facts as they find them support a finding that the Article(s) charged have been violated.
- Hearing Panels cannot conclude that an Article of the Code has been violated unless that Article(s) is specifically cited in the complaint.
- Keep your presentation concise, factual, and to the point. Your task is to demonstrate what happened (or what should have happened but did not), and how the facts support a violation of the Article(s) charged in the complaint.
- Hearing Panels base their decisions on the evidence and testimony presented during the hearing. If you have information relevant to the issue(s) under consideration, be sure to bring it up during your presentation.
- Recognize that different people can witness the same event and have differing recollections about what they saw. The fact that a respondent or their witness recalls things differently does not mean they are not telling the truth as they recall events. It is up to the Hearing Panel, in the findings of fact that will be part of their decision, to determine what actually happened.
- The Hearing Panel will pay careful attention to what you say and how you say it. An implausible account does not become more believable through repetition or through volume.
- You are involved in an adversarial process that is, to some degree, unavoidably confrontational. Many violations of the Code of Ethics result from misunderstanding or lack of awareness of ethical duties by otherwise well-meaning, responsible real estate professionals. An ethics complaint has potential to be viewed as an attack on a respondent’s integrity and professionalism. For the enforcement process to function properly, it is imperative for all parties, witnesses, and panel

After the Hearing

- When you receive the Hearing Panel’s decision, review it carefully.
 - Findings of fact are the conclusions of impartial panel members based on their reasoned assessment of all of the evidence and testimony presented during the hearing. Findings of fact are not appealable.
 - If you believe the hearing process was seriously flawed to the extent you were denied a full and fair hearing, there are appellate procedures that can be invoked. The fact that a Hearing Panel found no violation is not appealable.
 - Refer to the procedures used by the local Board or Association of Realtors® for detailed information on the bases and time limits for appealing decisions. *(Revised 11/14)*
- Appeals brought by ethics respondents must be based on:
- (a) a perceived misapplication or misinterpretation of one or more Articles of the Code of Ethics,
 - (b) a procedural deficiency or failure of due process, or
 - (c) the nature or gravity of the discipline proposed by the Hearing Panel.
- Appeals brought by ethics complainants are limited to procedural deficiencies or failure of due process that may have prevented a full and fair hearing.

Conclusion

- Many ethics complaints result from misunderstanding or a failure in communication. Before filing an ethics complaint, make reasonable efforts to communicate with your real estate professional or a principal broker in the firm. If these efforts are not fruitful, the local Board or Association of Realtors® **can** share options for dispute resolution, including the procedures and forms necessary to file an ethics complaint. *(Revised 11/15)*

FROM: The NEFAR Grievance Committee

Enclosed are an Ethics Complaint form and a copy of the Code of Ethics of the National Association of Realtors®. In formulating your complaint, you must make sure that you refer to specific Articles of the Code of Ethics so that our Grievance Committee can determine whether or not sufficient evidence exists to warrant the holding of a Professional Standards hearing. Ethics Complaints must be filed within one hundred eighty (180) days of the time that the alleged offense and facts relating to it could have been known by the complainant in the exercise of reasonable diligence or within one hundred eighty (180) days after the conclusion of the transaction or event, whichever is later.

Please submit your complaint in writing, taking time to examine your complaint in view of the Code of Ethics, explaining specific situations and referencing each situation to a specific Article, and fill in the Ethics Complaint form, citing which specific Articles you feel have been violated. If you need assistance interpreting the Code, or in formulating your complaint in terms of specific Articles of the Code of Ethics, please contact us so that we can refer you to a member of our Grievance Committee that can assist you. If you have any documentation pertinent to your complaint (i.e. listing agreement, purchase and sale agreement, appraisal, home inspection report, etc.), please send those as well. If supporting documentation is not provided, it may not be possible for the Grievance Committee to render a timely decision.

Further -- and this is important -- please understand that when a REALTOR® is charged with a violation of the Code of Ethics, the complaining party may not recover damages, either actual or punitive. Should a REALTOR® be found guilty of a violation of one or more articles of the Code of Ethics, they may receive a letter of warning or reprimand, a fine of up to \$15,000, an administrative fee of \$250, required attendance of educational courses and/or seminars, suspension of membership, or termination of membership. The Association of REALTORS® is not empowered to force a REALTOR® to pay damages of any kind.

As soon as the complaint is fully completed and returned to the Association, it will be placed before the Grievance Committee. You will be notified as to the actions and recommendations of the Committee. Should there be a live or virtual hearing scheduled before a Professional Standards Hearing Panel, you will be notified well in advance, in order that you may be represented by counsel, if you wish, and in order that you may call whatever witnesses you desire.

Thank you for your cooperation, and thank you, too, for bringing this matter to the attention of the Association.

Enclosures

Northeast Florida Association of REALTORS®, Inc.

(Board or Association)

7801 Deercreek Club Road, Jacksonville, Florida 32256

Ethics ComplaintTo the Grievance Committee of the Northeast Florida Association of REALTORS®, Inc.Filed _____, 2023

Complainant(s)

Respondent(s)

Complainant(s) charge(s):

An alleged violation of Article(s) _____ of the Code of Ethics and/or other membership duty as set forth in the Bylaws of the Association, in Article VII, Sections 1 through 3, and alleges that the above charge(s) (is/are) supported by the attached statement, which is signed and dated by the complainant(s) and which explains when the alleged violation(s) occurred and, if a different date, when the complainant(s) first knew about the alleged violations.

This complaint is true and correct to the best knowledge and belief of the undersigned and is 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.

Date(s) alleged violation(s) took place: _____

Date(s) you became aware of the facts on which the alleged violation(s) is/are based: _____

I (we) declare that to the best of my (our) knowledge and belief, my (our) allegations in this complaint are true.

Are the circumstances giving rise to this ethics complaint involved in civil or criminal litigation or in any proceeding before the state real estate licensing authority (DBPR/FREC) or any other state or federal regulatory or administrative agency? ☐ Yes ☐ No

If so, date(s) filed: _____ and Case number(s): _____

You may file an ethics complaint in any jurisdiction where a REALTOR® is a member or MLS participant. Note that the REALTORS® Code of Ethics, Standard of Practice 14-1 provides, in relevant part, "REALTORS® shall not be subject to disciplinary proceeding in more than one Board of REALTORS... with respect to alleged violations of the Code of Ethics relating to the same transaction or event."

Have you filed, or do you intend to file, a similar or related complaint with another Association(s) of REALTORS®? ☐ Yes ☐ No

If so, name of other Association(s): _____ Date(s) filed: _____

I understand that should the Grievance Committee dismiss this ethics complaint in part or in total, that I have twenty (20) days from transmittal of the dismissal notice to appeal the dismissal to the Board of Directors.

COMPLAINANT(S):

Type/Print Name

Signature

Type/Print Name

Signature

Address

Phone

E-mail

Are you willing and able to participate in an ethics hearing virtually via ZOOM, should a hearing be scheduled? ☐ Yes ☐ No