

### BEHAVE YOURSELF: CODE OF ETHICS

Our Promise of Professionalism

Instructor: Patrick McDowell

## HOW DO YOU EARN THIS AND WHAT DOES IT MEAN?

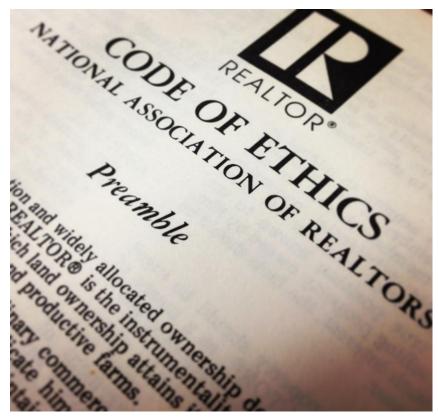


To earn the trademarked title of "REALTOR®", a real estate licensee must join the National Association of REALTORS®, the largest trade organization in the country.

NAR <u>represents approx. 1.6</u> <u>million members</u>. For context, there are an estimated <u>2 million</u> <u>active real estate licensees in the U.S.</u>

### What separates REALTORS® from Licensees?





Download a copy here: NAR.REALTOR



#### NATIONAL ASSOCIATION OF REALTORS®

What was the original name?

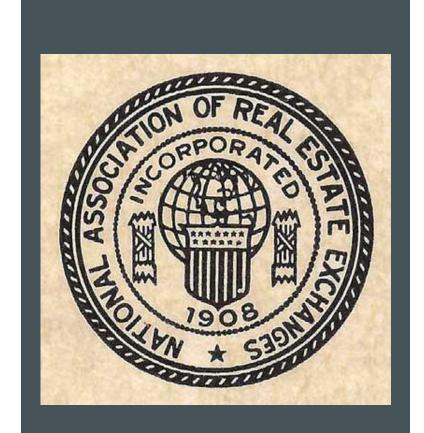
National Association of Real Estate Exchanges

Where and what year was it formed?

Chicago -1908

#### What was the purpose?

"to unite the real estate men of America for the purpose of effectively exerting a combined influence upon matters affecting real estate interest."



### CODE OF ETHICS

#### Adopted in 1913 with the Golden Rule as the theme

NAR's Code of Ethics was one of the first codifications of ethical duties adopted by any business group. The Code ensures that consumers are served by requiring REALTORS® to cooperate with each other in furthering clients' best interests.

Established professional standards for conduct.

Focuses on service to the public and a commitment to professionalism.

Revisions and updates to the Code are on-going.

### CODE OF ETHICS:

#### The Code vs The Law:

#### The Code of Ethics:

- Must be reasonably construed with the law.
- Impose duties above, and in addition to, duties imposed by the law or regulation.
- Restates certain fundamental legal principles.

### CODE OF ETHICS:

### Since its inception, the Code has required:

Arbitration of contractual disputes between and among fellow REALTORS®

Respect for Brokers' exclusive relationships with clients

Cooperation between and among fellow REALTORS®

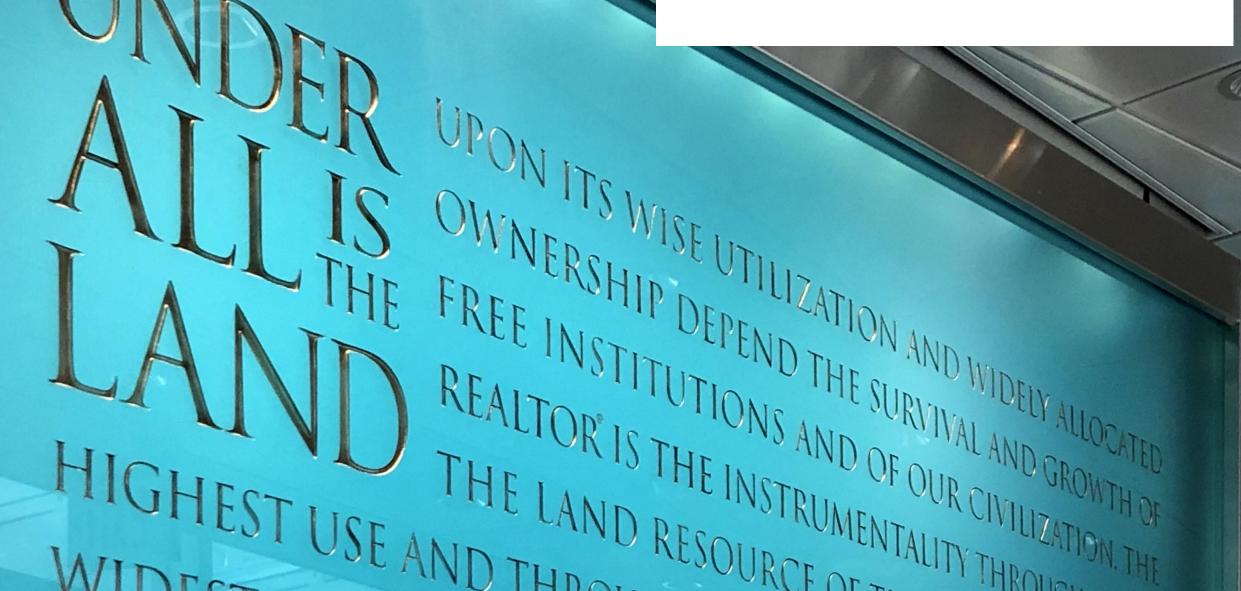
### CODE OF ETHICS: The Structure

### The code is broken into 3 parts:

- 1) Duties to Clients and Customers
- 2) Duties to the Public
- 3) Duties to Other REALTORS®

How many articles does the code have?

### THE PREAMBLE



"REALTORS® should recognize that the interests of the nation and its citizens require the highest and best use of the land and the widest distribution of land ownership."

"Such interests impose grave social responsibility and a patriotic duty to which REALTORS® should dedicate themselves, and for which they should be diligent in preparing themselves."

"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"

"The term REALTOR® has come to connote competency, fairness, and high integrity resulting from adherence to a lofty ideals of moral conduct in business relations."

#### MOST RECENT CHANGES

The REALTOR® Code of Ethics ensures that all consumers are served in a fair and professional manner by requiring REALTORS® to cooperate with each other in furthering clients' best interests. To maintain its relevance and accuracy, the National Association of REALTORS® (NAR) amends the Code as needed. NAR recently updated its Code of Ethics Standards of Practice 1-8 and 12-1 in the Code of Ethics.

#### Standard of Practice 12-1 was amended to read:

REALTORS® must not represent that their brokerage services to a client or customer are free or available at no cost to their clients, unless the REALTOR® will receive no financial compensation from any source for those services.

Previous, SOP 12-1 stated that REALTORS could advertise their services as "free"

#### Standard of Practice 1-8 was amended to read:

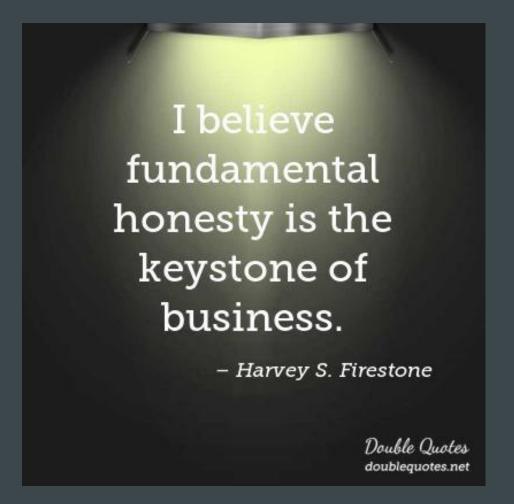
REALTORS®, acting as agents or brokers of buyers/tenants, shall submit to buyers/tenants all offers and counter-offers until acceptance but have no obligation to continue to show properties to their clients after an offer has been accepted unless otherwise agreed in writing. Upon the written request of the listing broker who submits a counter-offer to the buyer's/tenant's broker, the buyer's/tenant's broker shall provide, as soon as practical, a written affirmation to the listing broker stating that the counteroffer has been submitted to the buyers/tenants, or a written notification that the buyers/tenants have waived the obligation to have the counter-offer presented. REALTORS®, acting as agents or brokers of buyers/tenants, shall recommend that buyers/tenants obtain the advice of legal counsel if there is a question as to whether a pre-existing contract has been terminated.

### ARTICLES 1-9

### DUTIES TO CLIENTS AND CONSUMERS

CODE OF ETHICS

ARTICLE ONE
Treat all parties honestly



### ARTICLE 1 Treat all parties honestly

- SOP 1.2: Refers to all real estate related activities
- SOP 1.3: Deliberately mislead an owner on market value
- SOP 1.6: Present offers objectively and as quickly as possible
- SOP 1.9: Confidentiality continues AFTER termination of agency relationship(s)
- SOP 1.16: Shall not permit unauthorize access/use of an owner's property

### ARTICLE 1 Treat all parties honestly

SOP 1.15: Disclosure of other offers

REALTORS®, in response to inquiries from buyers or cooperating brokers shall, with sellers' approval, disclose the existence of offers on the property. Where disclosure is authorized, REALTORS® shall also disclose, <u>if asked</u>, whether offers were obtained by the listing licensee, another licensee in the listing firm, or by a cooperating broker.

### ARTICLE 1 Treat all parties honestly

### KCRAR Exclusive Right to Sell Contract:

133	4.	BROKER'S AUTHORIZATION TO DISCLOSE. Broker is required to disclose certain terms and details of a
134		transaction to the MLS and in accordance with real estate license law. SELLER may authorize Broker to disclose
135		reason for sale of Property and terms of other offers to other Brokers and prospective Buyers.
136		
137		a. Motivating Factor for sale of Property (check one):
138		☐ Seller does not authorize Broker to disclose reason for sale.
139		☐ Seller authorizes Broker to disclose the following motivating factors for sale:
140		
141		
142		b. Other Offers (check one):
143		☐ Seller does not authorize Broker to disclose existence of other offers.
144		☐ Seller authorizes Broker to disclose existence of other offers.
145		Seller authorizes Broker to disclose existence and terms of other offers.
146		

ARTICLE TWO
Disclose Pertinent
Facts



### ARTICLE 2 Disclose all pertinent facts

### SOP 2.1:

REALTORS® shall only be obligated to discover and disclose adverse factors reasonably apparent to someone with expertise in those areas required by their real estate licensing authority. Article 2 does not impose upon the REALTOR® the obligation of expertise in other professional or technical disciplines.

### ARTICLE THREE

Cooperation with other Brokers



SOP 3.1: Cooperation does NOT equal compensation

Realtors®, acting as exclusive agents or brokers of sellers/landlords, establish the terms and conditions of offers to cooperate. Unless expressly indicated in offers to cooperate, cooperating brokers may not assume that the offer of cooperation includes an offer of compensation. Terms of compensation, if any, shall be ascertained by cooperating brokers before beginning efforts to accept the offer of cooperation.

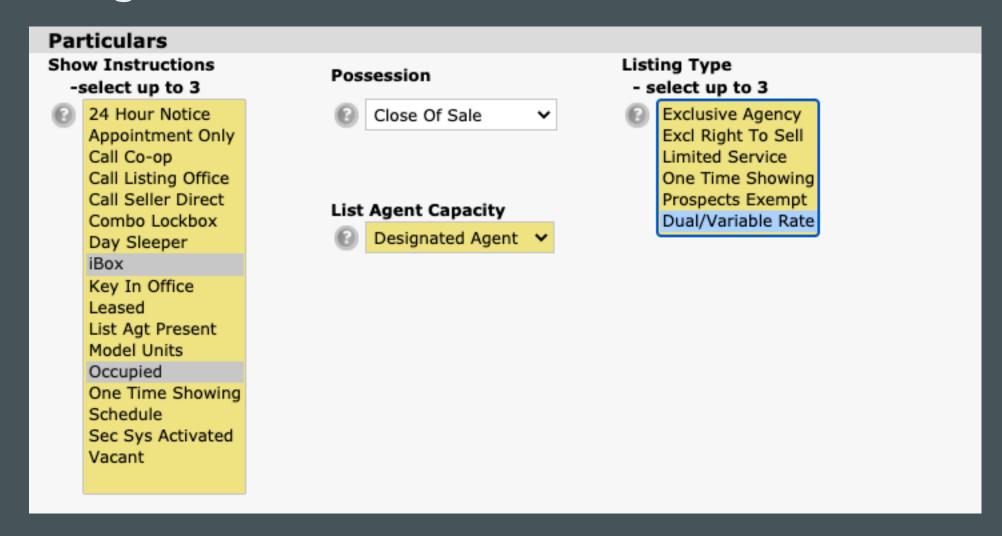
SOP 3.2: Change in compensation MUST be communicated prior to an offer.

SOP 3.3: If both parties agree, compensation can be modified AFTER an offer is written.

### SOP 3.4:

REALTORS®, acting as listing brokers, have an affirmative obligation to disclose the existence of dual or variable rate commission arrangements (i.e., listings where one amount of commission is payable if the listing broker's firm is the procuring cause of sale/lease and a different amount of commission is payable if the sale/lease results through the efforts of the seller/landlord or a cooperating broker). The listing broker shall, as soon as practical, disclose the existence of such arrangements to potential cooperating brokers and shall, in response to inquiries from cooperating brokers, disclose the differential that would result in a cooperative transaction or in a sale/lease that results through the efforts of the seller/landlord. If the cooperating broker is a buyer/tenant representative, the buyer/tenant representative must disclose such information to their client before the client makes an offer to purchase or lease. (Amended 1/02)

Disclosing a dual/variable rate commission on MLS:



ARTICLE
FOUR
Disclosure of true
position



Disclosure must happen PRIOR to signing a contract!

# ARTICLE 5 Disclosure of ALL personal interest

Realtors® shall not undertake to provide professional services concerning a property or its value where they have a present or contemplated interest unless such interest is specifically disclosed to all affected parties.



### ARTICLE 6

Avoid Deals without Client's Informed Consent

### ARTICLE 7

Disclose all Compensation

ARTICLE 8
No Co-Mingling of Funds



ARTICLE 9
All Agreements in
Writing



But wait...there is more (SOP 9.2)

### ARTICLE 9 All Agreements in Writing

SOP 9.2:

When assisting or enabling a client or customer in establishing a contractual relationship (e.g., listing and representation agreements, purchase agreements, leases, etc.) electronically, REALTORS® shall make reasonable efforts to explain the nature and disclose the specific terms of the contractual relationship being established prior to it being agreed to by a contracting party. (Adopted 1/07)

### ARTICLES 10-14

### DUTIES TO THE PUBLIC

CODE OF ETHICS

#### CODE OF ETHICS: Duties to the Public

ARTICLE 10
Non-Discrimination



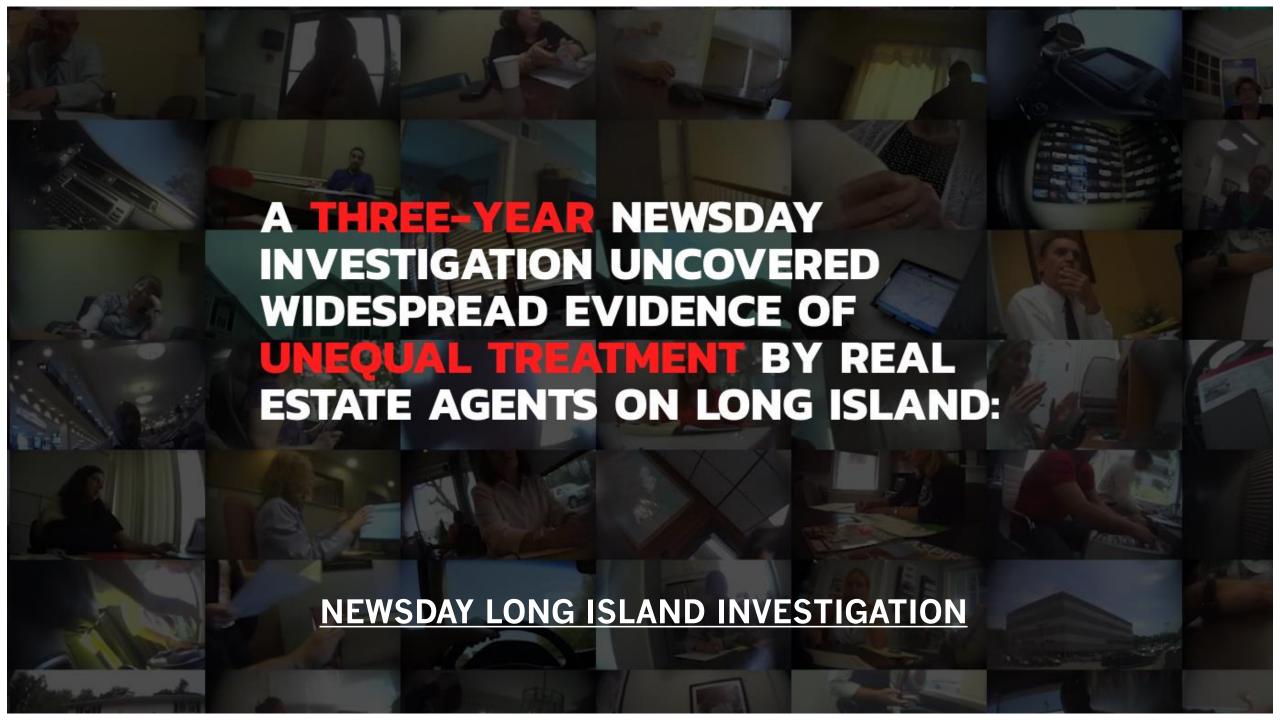
### ARTICLE 10 NON-DISCRIMINATION

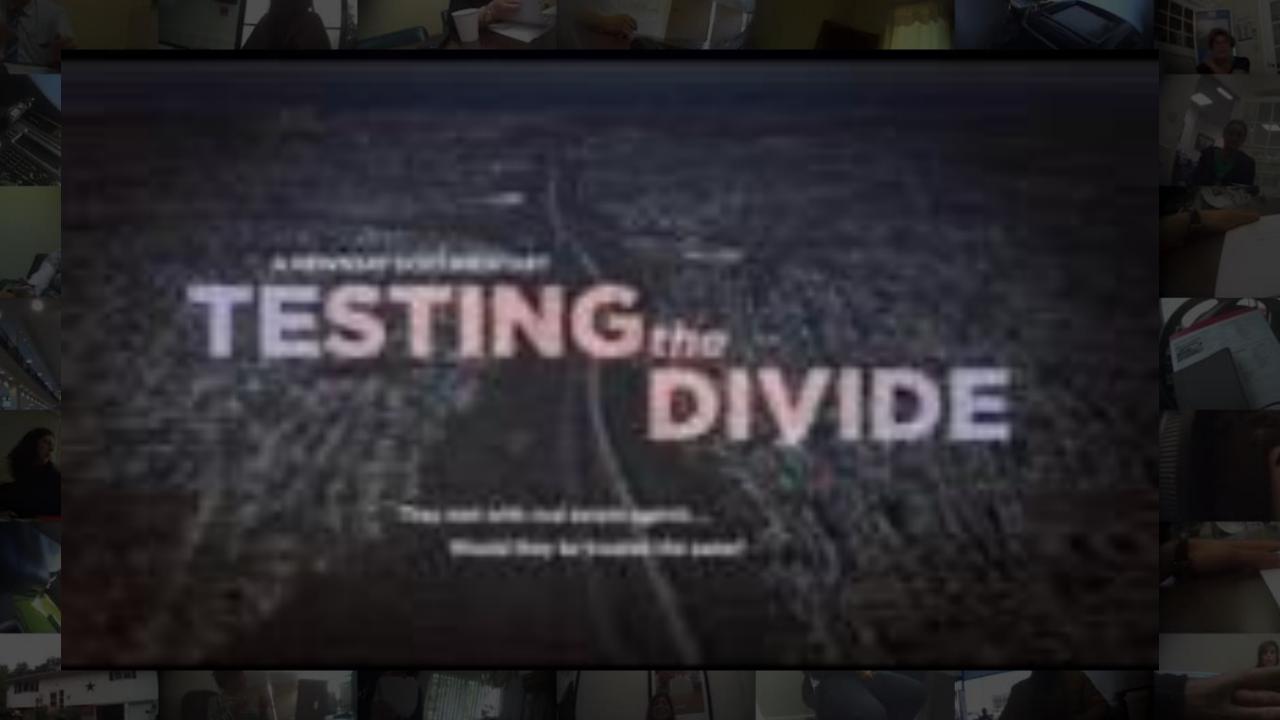
REALTORS® shall not deny equal professional services to any person for reasons of race, color, religion, sex, disability, familial status, national origin, sexual orientation, or gender identity. REALTORS® shall not be parties to any plan or agreement to discriminate against a person or persons on the basis of race, color, religion, sex, disability, familial status, national origin, sexual orientation, or gender identity. (Amended 1/14)

REALTORS®, in their real estate employment practices, shall not discriminate against any person or persons on the basis of race, color, religion, sex, disability, familial status, national origin, sexual orientation, or gender identity. (Amended 1/14)

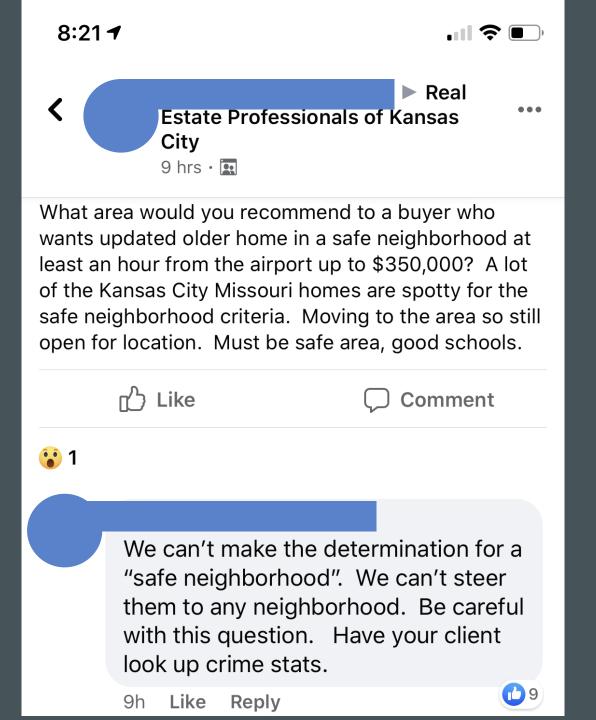
#### SOP 10.1:

When involved in the sale or lease of a residence, REALTORS® shall not volunteer information regarding the racial, religious or ethnic composition of any neighborhood nor shall they engage in any activity which may result in panic selling, however, REALTORS® may provide other demographic information. (Adopted 1/94, Amended 1/06)









#### Find Your Niche

Discover the schools and neighborhoods that are right for you.



Search by state 🗸



Niche makes finding your next school or neighborhood easy!

Sign Up

Log In

#### K-12 Schools and Districts

US Department of Education K12 data on graduation rates and state level test scores.

Private School Universe Survey (PSS) from National Center for Education Statistics (NCES)

Source for list of private schools and their information such as enrollment figures.

Common Core Data (CCD) from National Center for Education Statistics (NCES)

Source for list of schools and school districts and their information such as enrollment figures.

Common Core Data (CCD) School District Finance Survey (F-33) from National Center for Education Statistics (NCES) School district data on finance information.

#### Civil Rights Data Collection

K12 data on AP/IB classes, disciplinary actions, athletics, etc.

School Attendance Boundary Survey (SABS) from National Center for Education Statistics (NCES) Source for school boundaries.

#### Niche K-12 Student and Parent Surveys

Survey administered to millions of parents, high school students, and recent alumni on Niche.com.

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#### Places to Live

#### American Community Survey (ACS) from US Census Bureau

Source for local information such as population, home value, income levels.

Uniformed Crime Report from Federal Bureau of Investigation (FBI)

Source for crime statistics.

National Climatic Data Center (NCDC) from National Oceanic and Atmospheric Administration (NOAA)
Source for weather information.

**Topologically Integrated Geographic Encoding and Referencing (TIGER) from US Census Bureau**Source for list of areas and boundaries.

County Business Patterns from US Census Bureau

ZIP Code Business Patterns from US Census Bureau

Food Environment Atlas from US Department of Agriculture

Volunteering and Civic Life in America from Corporation for National & Community Service

**Exempt Organizations Business Master File from IRS** 

**Urban Neighborhood Boundaries and Statistics** 

#### Factle

Secondary source for neighborhood boundaries.

#### OpenStreetMap

#### Niche Local Survey

Survey administered to millions of people living in neighborhoods across the U.S. on Niche.com

## ARTICLE 10 NON-DISCRIMINATION

#### SOP 10.5:

Standard of Practice 10-5 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. (Adopted and effective November 13, 2020)

## ARTICLE 10 NON-DISCRIMINATION

#### SOP 10.5 – Case Interpretation:

REALTOR® A was a registered member of Political Party Y, and routinely engaged in political discussions on social media and in private conversations. REALTOR® A's conversations and social media posts often included insulting, intimidating, and hostile statements about members of Political Party Z, including aggressively insulting their intelligence, implying they were unpatriotic, and telling them that if they disagreed with him, they should leave the country.

REALTOR® B witnessed numerous instances where REALTOR® A harassed others on the basis of their membership in Political Party Z, and believed that REALTOR® A was using harassing speech. He filed an ethics complaint with the local Association of REALTORS®, alleging REALTOR® A violated Article 10 as interpreted by Standard of Practice 10-5.

The complaint was reviewed by the Association's Grievance Committee, who examined the allegations to determine whether, if taken as true, they would constitute a violation of the Code of Ethics. Ultimately the Grievance Committee dismissed the complaint, as the complainant's sole argument was that REALTOR® A had discriminated against individuals based on their political affiliation with Political Party Z. As political affiliation is not a protected class under Article 10, the allegations in the complaint, even if true, could not constitute a violation of the Code of Ethics.

#### CODE OF ETHICS: Duties to the Public

ARTICLE 11
Provide Competent
Service



## ARTICLE 11 Provide Competent Service

#### SOP 11.1:

When REALTORS® prepare opinions of real property value or price they must:

- be knowledgeable about the type of property being valued,
- have access to the information and resources
  necessary to formulate an accurate opinion, and
- be familiar with the area where the subject property is located
- unless lack of any of these is disclosed to the party requesting the opinion in advance.

#### CODE OF ETHICS: Duties to the Public

# ARTICLE 12 True Picture in Advertising



## ARTICLE 12 Truth in Advertising

#### SOP 12.5:

Realtors® shall not advertise nor permit any person employed by or affiliated with them to advertise real estate services or listed property in any medium (e.g., electronically, print, radio, television, etc.) without disclosing the name of that REALTOR®'s firm in a reasonable and readily apparent manner either in the advertisement or in electronic advertising via a link to a display with all required disclosures.

#### KREC changes that took effect July 1, 2020

## CHANGES TO ADVERTISING

An overview from the Kansas Real Estate Commission of advertising rules effective July 1, 2020

### WHAT IS NEW?

#### No affiliated licensee may include a name or team name in advertising which:

- Uses the terms "realty," "brokerage," "company," or other terms that can be construed as a separate re- al estate company from their supervising broker's company.
- Is more than 2x greater in font size than the supervising broker's business name or trade name.
- Is not <u>adjacent</u> to the supervising broker's trade name or business name in any <u>internet</u>, <u>website</u>, <u>social media or social networking advertisement</u>.

## ARTICLE 12 Truth in Advertising

#### SOP 12.7:

Only REALTORS® who participated in the transaction as the listing broker or cooperating broker (selling broker) may claim to have 'sold' the property. Prior to closing, a cooperating broker may post a 'sold' sign only with the consent of the listing broker.

## ARTICLE 12 Truth in Advertising

#### SOP 12.10:

REALTORS®' obligation to present a true picture in their advertising and representations to the public includes Internet content, images, and the URLs and domain names they use, and prohibits REALTORS® from:

- engaging in deceptive or unauthorized framing of real estate brokerage websites;
- manipulating (e.g., presenting content developed by others) listing and other content in any way that produces a deceptive or misleading result;
- deceptively using metatags, keywords or other devices/methods to direct, drive, or divert Internet traffic; or
- presenting content developed by others without either attribution or without permission, or
- otherwise misleading consumers, including use of misleading images. (Adopted 1/07, Amended 1/18)

#### CODE OF ETHICS: Duties to the Public

ARTICLE 13
Do Not Practice
Law



#### CODE OF ETHICS: Duties to the Public

ARTICLE 14
Cooperate with
Investigations



## ARTICLES 15-17

#### **DUTIES TO REALTORS®**

CODE OF ETHICS

#### CODE OF ETHICS: Duties to REALTORS®

ARTICLE 15
Do Not "Slander"
Competitors



#### CODE OF ETHICS: Duties to REALTORS®

Practice Proper Agency



## ARTICLE 16 Practice Proper Agency

#### SOP 16.2:

Article 16 does not preclude Realtors® from making general announcements to prospects describing their services and the terms of their availability even though some recipients may have entered into agency agreements or other exclusive relationships with another Realtor®. A general telephone canvass, general mailing or distribution addressed to all prospects in a given geographical area or in a given profession, business, club, or organization, or other classification or group is deemed "general" for purposes of this standard. (Amended 1/04)

## ARTICLE 16 Practice Proper Agency

#### SOP 16.6:

When Realtors® are contacted by the client of another Realtor® regarding the creation of an exclusive relationship to provide the same type of service, and Realtors® have not directly or indirectly initiated such discussions, they may discuss the terms upon which they might enter into a future agreement or, alternatively, may enter into an agreement which becomes effective upon expiration of any existing exclusive agreement. (Amended 1/98)

#### CODE OF ETHICS: Duties to REALTORS®

ARTICLE 17
Agree to Arbitrate



CODE OF ETHICS

#### **Three Sections:**

- 1) Respect for the Public
- 2) Respect for Property
- 3) Respect for Peers

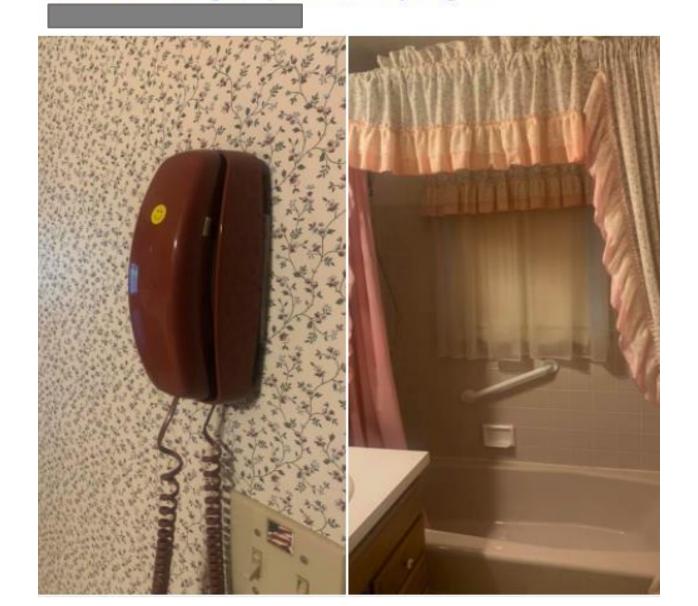
#### 1) Respect for the Public:

- Follow the Golden Rule
- Respond Promptly
- Call if you are delayed or need to cancel an appt or showing
- Never criticize property in presence of the occupant(s)
- When showing an occupied home, always ring the doorbell or knock – and announce yourself loudly before entering.
- Be aware of and respect cultural differences.
- Do not tell people what you think, tell them what you know.

#### 2) Respect for the Property:

- Be responsible for EVERYONE you allow to enter a listed property.
- Never allow buyers to enter a listed property unaccompanied.
- Leave the property as you found it.
- Be considerate of the seller's property. Don't allow anyone to eat, drink, smoke, dispose of trash, use bathing facilities, or bring pets.
- Use sidewalks and remove shoes if weather is bad.
- Respect seller's instructions about photographing or video graphing their property (both exterior or interior).

The past called. They want their frilly shower back. #seenwhileshowing #keepinitrealtor #buyersagent



#### 3) Respect for Peers:

- Respond to all communication in a timely manner.
- Notify listing broker if there appears to be inaccurate info on MLS.
- Share important information about the property (pets/security systems/sellers being present/etc).
- Avoid the inappropriate use of endearments or other denigrating language
- Do not prospect at other REALTORS® events or open houses.
- Return keys promptly.
- Mutual respect is essential.

## Avoid Getting Sued!

CODE OF ETHICS

#### Behave Yourself!

#### **Top 10 Reasons Agents get sued:**

- 1. Failing to disclose property defects.
- 2. Breach of Duty (most common dishonesty)
- 3. Representing clients outside of your area of expertise
- 4. Giving Legal Advice
- 5. Misleading clients (exaggerations)

#### Behave Yourself!

#### **Top 10 Reasons Agents get sued:**

- 6. Breach of contract client claims agent did not perform under the terms of the contract (time frames, negligence, follow-through)
- 7. Failure to keep clients' data safe
- 8. Failure to recommend inspections
- 9. Negligence failed to take appropriate action
- 10. Bodily injury



## BEHAVE YOURSELF: CODE OF ETHICS

Our Promise of Professionalism

Instructor: Patrick McDowell

pmcdowell@KansasCityHomes.com

# Violations: Procedures and Processes

CODE OF ETHICS

Procedure and Process: Ethics Violation or Arbitration Disputes

#### Which parties are subject to the Code of Ethics?

Only REALTORS® and REALTOR-Associates are subject to the Code of Ethics.

#### Where would file a complaint?

The local board/association where the REALTOR® holds a membership.

#### Is there a time constraint?

Yes. Ethics complaints must be filed with the local board within 180 days from the time the complainant knew (or reasonably should have known) that potentially unethical conduct took place.

#### What happens next?

- Reviewed by the Grievance Committee
- Dismissed or forwarded to the Professional Standards Committee
- Professional Standards schedules a hearing
- Following the hearing, a panel comprised of peers, determines whether a violation has occurred.
- Panel then determines the discipline.

#### **Authorized Discipline**

- Letter of warning
- Letter of reprimand
- Education
- Fine, not to exceed \$15,000 KCRAR \$10,000
- Probation of one year or less
- Suspension of not less than 30 days, nor more than one year
- Expulsion from membership for one to three years
- Suspension or termination of MLS privileges

#### Is there another way???

Yes: Ombudsman Program

#### 1) Ombudsman Program

This is a voluntary program.

The Ombudsman will attempt to informally resolve your concerns through phone communication.

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

Ombudsmen do not determine whether ethics violations have occurred, rather they anticipate, identify, and resolve misunderstandings and disagreements before matters ripen into disputes and possible charges of unethical conduct.

#### 2) Citation Program

In 2016, KCRAR's Board of Directors elected to take part in this program. The Citation Program is an optional Professional Standards Program approved by the National Association of REALTORS® (NAR) to assist Local Associations in streamlining the Professional Standards Process on specific approved Articles of the NAR Code of Ethics.

There is a specific list of Articles, supported by SOP's that qualify. 21 to be exact.

#### **Article 1, supported by SOP 1-16:**

Accessing or using, or allowing others to access or use, a property managed or listed on terms other than those authorized by the owner or seller.

#### **Article 3, supported by SOP 3-4:**

Failure to disclose existence of dual or variable rate commission arrangement.

#### **Article 6:**

Second Paragraph: Failure to disclose to a client or customer REALTOR®'s financial benefits or fees received as a direct result of recommending real estate products or services.

SOP 6.1: Failure to disclose direct interest in an organization or business entity when recommending.

#### **Article 12 (Truth in Advertising):**

Failure to represent a true picture in advertising.

Advertising a property for sale/lease without authority of the owner or listing broker.

Failing to disclose the name of a firm in advertisement for listing property.

Falsely claiming to have "sold" property.

#### Article 16, supported by SOP 16.16:

Conditioning submission of a buyer's offer on additional compensation for a listing broker.

#### **Details:**

- Only one fine per complaint regardless of the number of SOP's cited
- \$250 for the first offense
- \$500 for the second offense on previously cited Article(s) or SOP's.
   Respondent will also be required to take a live COE class.
- \$1000 fine for the third offense on previously cited Article(s) or SOP's.
   Respondent will also be required to take a live COE class.

#### **Process:**

Complaints will go directly to the Citation Panel first, and then if appealed or found to be egregious, sent to the Grievance Committee

KCRAR adopted the policy to not accept anonymous complaints relating to the Citation Program

Respondent will have the right to appeal the citation; which will then result in a full Professional Standards Ethic Hearing.

To submit a complaint to be considered by the Citation Panel — Complainant would complete the normal Ethic Complainant Form E-1 located on the KCRAR and return to KCRAR attention Debbie Strange.

# Arbitrable Complaints

CODE OF ETHICS

#### Procedure and Process: Arbitrable Options

#### There are 2 options for dispute resolution:

Money dispute between REALTORS®, most likely where one is entitled to compensation from a resulting transaction.

#### **Mediation**

- Informal
- Low Cost
- Little Delay
- Maximum Range of Solutions
- Parties Control Outcomes
- Uncertain Closure
- Maintain/Improve Relationships

#### **Arbitration**

- Formal
- Moderate Cost
- Moderate Delay
- Win/Lose/Split
- Arbitrators Control Outcome
- Definite Closure
- May Harm Relationships

#### Procedure and Process: Arbitrable Options

#### **Mediation: Informal Dispute Resolution**

Preferred dispute resolution tool by the REALTOR® organization.

Must be available to all REALTORS®.

May offer before or after grievance committee's review.

If offered before, must offer again after grievance committee determines matter is arbitrable and forwards on to a hearing.

Voluntary process in arbitration.

Disputing parties meet with a mediator appointed by the association.

Parties create a mutually acceptable resolution of the dispute, rather than go before an arbitration hearing panel.

If a resolution is reached, parties sign and agreement containing the terms of the settlement, and no arbitration hearing is held.

#### Procedure and Process: Arbitrable Options

#### **Arbitration Panel**

Conducts full "due process" hearing.

Comprised of members from an association's professional standards committee.

After a hearing, panel decides which party is entitled to the award, based on a preponderance of the evidence.



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