

Code of Ethics

CEU Handout

MS 519 CO27 LE

3 clock hours

The Real Estate Learning Group

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When you think of “ethics”, what values come to mind?

- 1.
- 2.
- 3.
- 4.
- 5

Aspirational Concepts of the Preamble of the REALTOR Code of Ethics

- A. Under all is the land ...
- B. The Golden Rule.
- C. “Widely allocated ownership” and “widest distribution of land ownership”
- D. Maintain and improve the standards of their calling.
- E. Share with fellow REALTORS® a common responsibility for the integrity and honor of the real estate profession.
- F. Strive to become and remain informed on issues affecting real estate.
- G. Willingly share the fruit of your experience and study with others.

- H. Identify and take steps to eliminate practices which may damage the public or which might discredit or bring dishonor to the real estate profession.
- I. Urge exclusive representation of clients.
- J. Do not attempt to gain any unfair advantage over competitors.
- K. Refrain from making unsolicited comments about other practitioners.
- L. If an opinion is sought about a competitor (or the REALTOR® believes comment is necessary), the opinion should be offered in an objective, professional manner.
- M. The term REALTOR® stands for competency, fairness, high integrity, moral conduct in business relations.
- N. No inducement of profit and no instruction from clients can justify departure from these ideals.

The Structure of the REALTOR Code of Ethics

- A. The three major sections
 - 1. Duties to Clients and Customers
 - 2. Duties to the Public
 - 3. Duties to REALTORS®
- B. Articles – broad statements of ethical principles.
- C. Standards of Practice – support, interpret, and amplify the Articles under which they are stated

Exercise

The instructor will provide you with a copy of the REALTOR® Code of Ethics and ask everyone to break into groups. In your groups, you will be asked to identify whether the following statements concerning specific Articles in the Code of Ethics are true or false. As a bonus, your group can also identify which article of the Code of Ethics applies to each statement.

1. REALTORS® must always compensate other brokers for their cooperation in the transaction.
True or False? Article ____
2. REALTORS® protect and promote their clients' interests while treating all parties honestly.
True or False? Article ____
3. REALTORS® agree to arbitrate financial disagreements with other brokers and their customers.
True or False? Article ____
4. REALTORS® can not provide professional services where they have a present or contemplated interest in property.
True or False? Article ____
5. REALTORS® receive compensation from only one party, except where they make full disclosure and receive informed consent from their client.
True or False? Article ____
6. REALTORS® make sure that contract details, written or oral, are clearly understood, and when they determine it appropriate provide copies to the parties.
True or False? Article ____
7. REALTORS® are knowledgeable and competent in the fields of practice in which they engage or they get assistance from a knowledgeable professional, or disclose any lack of expertise to their client.
True or False? Article ____
8. REALTORS® can advertise in any way that helps promote the sale of property.
True or False? Article ____
9. REALTORS® willingly participate in ethics investigations and enforcement actions.
True or False? Article ____
10. REALTORS® give equal professional service to all clients and customers irrespective of race, color, religion, sex, handicap, familial status, or national origin.
True or False? Article ____
11. REALTORS® make only truthful, objective comments about other real estate professionals.
True or False? Article ____
12. REALTORS® respect all relationships that other REALTORS® have with their customers.
True or False? Article ____
13. REALTORS® refrain from exaggeration, misrepresentation, or concealment of pertinent facts related to property or transactions.

True or False? Article ____
14. REALTORS® disclose any fee or financial benefit they may receive from recommending related real estate products or services.

True or False? Article ____

15. REALTORS® keep entrusted funds of clients and customers in a separate escrow account.

True or False? Article ____

Article 1

- A. Protect and promote the interests of the client;
- B. This obligation to the client is primary;
- C. But REALTORS® must treat all parties honestly, regardless of agency or non-agency relationship.
- D. Standard of Practice 1-2 defines terms such as “client,” “customer,” “agent,” and “broker.”

Article 1 -- Case Study

Your community has been hit hard by a downturn in the economy. There have been many layoffs and property values have decreased. You've been talking with the seller about listing their property. They are stuck on the figure of \$550,000. You've explained that no comparables in their area has ever sold for more than \$400,000 -- and that was more than a year ago. But they don't want to hear that. It's a good property. You know if it was priced right -- at fair market value -- you could sell it. In the meantime, they have talked to other firms. In fact, a licensee at another agency offered to list it at \$550,000. But the seller came back to you because you were referred by his golf partner. You decide to list it. You get a call from a buyer agent. She asks, "What's it got? Gold studs? -- Buried treasure? I mean, nothing's ever sold in that area for more than \$400,000 -- maybe \$430,000 ... "

When you listed the property at \$450,000, were you in violation of the Code? Why or why not?

What should you say to the buyer agent?

Suppose the home is sold for \$450,000 to someone who is working with another company's licensee and that buyer is just transferring into town. Later, that buyer realizes that the price she paid was \$100,000 more than what any other property in the area had sold for. Would your failure to disclose to the buyer or her licensee the fact that no other property had sold for more than \$430,000 be a violation of the Code?

Article 2

- A. Avoid exaggeration, misrepresentation and concealment of pertinent facts about the property or the transaction;
- B. But there is no obligation to discover latent defects, matters outside scope of license, or matters confidential under agency or non-agency relationships.

Article 2 -- Case Study

REALTOR® A listed a motel for sale and prepared a sales prospectus setting out figures reporting the operating experience of the owner in the preceding year. The prospectus contained small type at the bottom of the page stating that the facts contained therein, while not guaranteed as to accuracy, were "accurate to the best of our knowledge and belief," and carried the name of REALTOR® A as the broker.

Buyer B received the prospectus, inspected the property, discussed the operating figures in the prospectus and other features with REALTOR® A, and signed a contract.

Six months after taking possession, Buyer B ran across some old records that showed discrepancies when compared with the figures in REALTOR® A's prospectus. Buyer B had not had as profitable an operating experience as had been indicated for the previous owner in the prospectus, and the difference could be substantially accounted for by these figures. He filed a charge of misrepresentation against REALTOR® A with REALTOR® A's Board.

Did REALTOR A violate article 2?

What steps do you take to ensure this doesn't happen to you?

Article 3

- A. Cooperate with other brokers except when cooperation is not in the client's best interest.
- B. "Cooperation" does not automatically include compensation.

Article 3 -- Case Study

The offer, contingent on the sale of the buyer's current property, is accepted by Seller Sam. But, Sam instructs Bill, the listing broker, to continue to market the property with the hope that a better offer or one without a contingency would be made.

One week later, Buyer Broker Steve contacts Bill to arrange a showing of the property to out-of-town clients. "I think it's the perfect property for my clients, who will be here this week," says Steve. Bill sets up the showing, but says nothing about the previously accepted purchase offer.

After seeing the property with his clients, Steve drafts a purchase offer and sends it to Bill's office. At Seller Sam's instruction, Bill informs the original buyer of the second offer, and the buyer waives the contingency.

Bill informs Steve that Sam intends to close on a previously accepted contract now that the "sales contingency" has been removed. Steve is very upset that Bill did not tell him about the previously accepted offer. Bill says he continued to market the property and did not make other brokers aware it was under contract to promote his client's best interest by continuing to attract buyers.

1. Is Bill obligated to disclose the accepted offer to the cooperating brokers?
 - A. Yes. Standard of Practice 3-6 clearly establishes that Bill must disclose accepted offers.
 - B. No. It could have affected Bill's ability to obtain future offers.
 - C. No, not if the seller instructed Bill to keep it confidential.
 - D. No, not if the offer included unresolved contingencies.

2. Doesn't Bill's obligation under Article 1 to protect and promote his seller client's interests mean that he should not reveal the accepted offer?
 - A. Yes. Bill's obligation to protect and promote the client's interest controls and Bill should not be found in violation of the Code.
 - B. Yes. Because Article 1 is a higher priority than Article 3, and Article 1 controls.
 - C. No. Article 1 also requires that Bill be honest with all parties. This obligation of honesty, along with the requirement of Standard of Practice 3-6, requires Bill to make the disclosure of the accepted offer.
 - D. Yes, Article 1 emphasizes fiduciary obligations and overrides any other obligation that potentially conflicts with it.

Notes on:

Article 4

Article 5

Article 7

Article 8

Article 9

Article 10

Article 11

- A. Conform to the standards of practice and competence in the real estate discipline in which the REALTOR® engages. Specific real estate disciplines are:
 - 1. Residential real estate brokerage
 - 2. Real property management
 - 3. Commercial and industrial real estate brokerage
 - 4. Real estate appraisal
 - 5. Real estate counseling
 - 6. Real estate syndication
 - 7. Real estate auction
 - 8. International real estate

- B. REALTORS® should not undertake to provide specialized professional services concerning a type of property or service outside their field of competence unless ...
 - 1. They engage the assistance of one who is competent on such types of property or service, or unless ...
 - 2. The facts are fully disclosed to the client.

Article 11 -- Case Study

You are a licensee with real estate brokerage experience and competence in one or disciplines of practice and a prospective client asks you to be their seller or buyer agent for a property outside your discipline of competence. How will you ethically handle this opportunity?

Article 12

Article 13

Article 15

Article 16

- A. REALTORS® shall not engage in any practice or take any action inconsistent with exclusive representation or exclusive brokerage relationship agreements that other REALTORS® have with clients. (*Amended 1/04*)

- B. Examples of issues covered by Article 16 and its Standards of Practice
 - 1. Innovative or aggressive business practices
 - 2. Advertising/solicitations which may be received by other REALTORS® clients
 - 3. Solicitation of listings and agency relationships of clients of other brokers
 - 4. Dealing with other brokers' clients
 - 5. Obligations when entering into exclusive relationships
 - 6. Agency and/or brokerage relationship disclosure
 - 7. Compensation

Article 16 -- Case Study

REALTOR® Barbara has an exclusive listing on Sue's property. An offer for the property is submitted by Buyer Broker Mike. Barbara takes Mike with her to present the offer to Seller Sue later that evening. Sue is interested, but wants time to think it over.

The next day, Mike thinks about what an ineffective job Barbara did presenting his client's offer -- it was as if she didn't fully understand it. There were several important considerations that Barbara did not explain to Sue. Because he attended the presentation and was involved in the negotiations, Mike decides to contact Sue directly to ask if she has any questions and to explain some of the finer points of the offer. Although the offer is less than the list price, Mike thinks it is fair and recommends that Sue accept it. After a little more discussion, Sue agrees. The contract is signed and a copy is faxed to Mike's office.

When Mike calls Barbara to tell her about the sale, she becomes very upset because Mike worked directly with Sue, rather than her.

- 1. Identify the Standard of Practice that applies to this situation?
 - A. Standard of Practice 16-2.
 - B. Standard of Practice 16-4.
 - C. Standard of Practice 16-13.
 - D. Standard of Practice 16-14.

- 2. Is there an obligation on Mike's part to work through Barbara?
 - A. No, the fact that Barbara had introduced Mike to Sue opened the door for him to carry on the negotiations with Sue directly.
 - B. It depends on whether Barbara had expressly precluded Mike from contacting Sue directly.
 - C. No. Mike has always been able to contact Sue directly.
 - D. Yes. Mike should have worked only through Barbara, Sue's listing agent.

Wrap-up and Conclusion

The REALTOR® Code of Ethics ...

- ◆ protects the buying and selling public.
- ◆ promotes a competitive real estate marketplace.
- ◆ enhances the integrity of the industry.
- ◆ is your promise of performance.
- ◆ is your promise of professionalism.
- ◆

Please an AH HA with the class that you learned today and fill out the course evaluation