

# UNIT 6:

## ***REALTORS® CODE OF ETHICS, PART III***

**Unit Six Learning Objectives:** When the student has completed this unit he or she will be able to:

- Explain the duties a Realtor® owes to other Realtors®.
- Summarize the overriding thesis of the Pathway to Professionalism
- Identify the penalties for violating the Code of Ethics.
- Define and differentiate between mediation, arbitration, and the Ombudsman program.

### **DEFINITIONS**

#### **Arbitration**

A voluntary process where an independent third party listens to the individuals involved in the dispute and makes a binding decision on who is the winner.

#### **Mediation**

A voluntary process where an independent third person helps the parties agree to resolve their dispute. Mediation is considered a win-win option; the idea is that both sides will walk out feeling they got something from the mediation. In 90 days, if no resolution is met, the parties must move on to another dispute resolution method, preferably arbitration.

#### **Ombudsman**

A voluntary process where an individual appointed by a local Board of Realtors® receives assistance to resolve disputes through constructive communication and advocating for consensus and understanding.

#### **Procuring cause**

The agent who starts the uninterrupted chain of events leading to the sale or rental of a listing.

#### **Public trust**

Public trust refers to misappropriation of client or customer funds or property, discrimination against the protected classes under the Code of Ethics, or fraud.

#### **Duties to Realtors®:**

The fourth section of NAR's Code of Ethics covers how Realtors® should behave when interacting with other Realtors®. Articles 15 to 17 and their Standards of Practices identify specific behavior and guidelines for dealing with other Realtors®. This section restates many of the same ideas expressed in Articles 1 through 14; however, it explicitly identifies the duties owed to NAR members.

## ARTICLE 15

*" REALTORS® shall not knowingly or recklessly make false or misleading statements about other real estate professionals, their businesses, or their business practices."*

**Central theme.** Article 15 of the Code of Ethics prohibits Realtors® from making a false or misleading statement about other real estate professionals, their own business, or their business practices.

**Article 15 Standards of Practices:** Article 15 three Standards of Practices as follows:

**SP 15.1** – Realtors® may not file false or misleading statements about their business.

**SP 15.2** – Realtors® may not make a false or misleading statement about other Realtor®. This Standard covers the false statements no matter what medium they are presented, i.e., digital, written, in person, etc.

**SP 15.3** – Realtors® publish clarification if they discover a previous statement is false or misleading.

**Article 15 Illustration:** A Realtor® told everyone at her office that a competitive brokerage broker was not doing well financially. She even posted these statements on her Facebook page. She was trying to get agents from the other brokerage to join her company. She then boasted about how great her business was doing when in fact, it was struggling. This violation is of Article 15, Standard of Practices 15.1 and 15.2.

## ARTICLE 16

*" 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."*

**Central theme.** Realtors® must not try to steal away another broker's client. If they know someone is already working with a Realtor®, they must not try and get that client to come to them.

**Article 16 Standards of Practice.** Article 16 has 20 Standards of Practice as follows:

**SP 16.1** – This Standard of Practice serves to set boundaries a Realtor® should not cross with respect to other practitioners. It is not trying to eliminate aggressive or innovative business practices.

**SP 16.2** – A Realtor® may make general statements about their business and participate in marketing campaigns without infringing on other licensees' client relationships. Standard of Practice 16.2, however, outlines two unethical types of solicitation:

- 1.) Telephone or personal solicitation of sellers identified by yard signs or through MLS information; and,
- 2.) Mail or other written solicitation sent to customers or clients of other Realtors® that are not part of a mass marketing campaign.

**SP 16.3** – A Realtor® may contact a client or customer of another Realtor® to offer different services than those the client is already under contract. Realtors® cannot use MLS information to target potential customers.

- SP 16.4 & 16.5 – A Realtor® should not try to steal listings or represented buyers from another agent. The only time a Realtor® may contact another Realtors® client is to get specific information not available by the other agent or not listed in the MLS.
- SP16.6 – If someone under contract with another Realtor® contacts a Realtor®, the Realtor® may discuss how they would work with the customer once their contract is up with the other real estate agent.
- SP16.7 – The fact that a customer has worked with a specific Realtor® in the past does not prohibit another Realtor® from trying to get hired once any existing contract has expired. People do not have to return to the same Realtor® for every transaction they complete.
- SP 16.8 – The fact that an exclusive agreement existed in the past does not prohibit another Realtor® from entering into a similar agreement once the first contact expires.
- SP 16.9 – Before entering into an agreement with a client, a Realtor® must ensure that the client is not already in another contract with a different Realtor®.
- SP 16.10 – A buyer's agent should disclose that the agreement exists between them when they begin to negotiate a contract.
- SP 16.11 – For unlisted property, Realtors® must disclose any relationship between themselves and other customers. They should also request any desired compensation at the first meeting.
- SP 16.12 – All contractual relationships should be disclosed before entering into a Purchase agreement.
- SP 16.13 – Realtors® should communicate to the co-broking Realtor® and not the customer or client.
- SP 16.14 – A Realtor® may enter into any representation but may not require them to pay compensation if the other party is contracted to pay compensation.
- SP 16.15 – All monies and compensation must be paid broker to broker.
- SP 16.16 – A Realtor® may not use the terms of an offer to modify the compensation terms already laid out.
- SP16.17 – Realtors® shall not attempt to extend a listing broker's offer of cooperation without the listing broker's consent.
- SP 16.18 – A Realtor® shall not use information obtained from another agent or the MLS to negotiate the client away from the firm.
- SP 16.19 – Realtors® must have the owner's permission before placing signs on the property.
- SP 16.20 – When a Realtor® leaves a brokerage, their listing stays with the brokerage. Agents are not allowed to entice customers to follow them to another agency.

**Article 16 Illustration:** A Realtor® is holding an open house. A couple comes in and begins looking around. They start asking the Realtor® questions and state they want to put an offer in on the house. The agent writes up an offer and presents it to the seller, who accepts it. Only after the offer is accepted does it come out that the buyers have a Buyer's Broker Agreement with another Realtor.

The Realtor holding the open house should have asked if they were under contract with another Realtor. This is a violation of Article 16 under the Code of Ethics.

## **ARTICLE 17**

*" In the event of contractual disputes or specific non-contractual disputes as defined in Standard of Practice 17-4 between REALTORS® (principals) associated with different firms, arising out of their relationship as REALTORS®, the REALTORS® shall mediate the dispute if the Board requires its members to mediate. If the dispute is not resolved through mediation, or if mediation is not*

*required, REALTORS® shall submit the dispute to arbitration in accordance with the policies of the Board rather than litigate the matter.*

*In the event clients of REALTORS® wish to mediate or arbitrate contractual disputes arising out of real estate transactions, REALTORS® shall mediate or arbitrate those disputes in accordance with the policies of the Board, provided the clients agree to be bound by any resulting agreement or award.*

*The obligation to participate in mediation and arbitration contemplated by this Article includes the obligation of REALTORS® (principals) to cause their firms to mediate and arbitrate and be bound by any resulting agreement or award."*

**Central theme.** Realtors® should first commit to mediation if there are unsettled disputes. If mediation does not settle the conflicts, then the agents will move to binding arbitration.

**Article 17 Standards of Practices:** Article 17 has five Standards of Practices:

SP 17.1 – Realtors® who file litigation and refuse to withdraw in an arbitrable issue will constitute a refusal to arbitrate.

SP 17.2 – Parties to a dispute are not required to commit to mediation, but they are not relieved of the duty to arbitrate by not entering mediation.

SP 17.3 – Realtors® when acting solely as principals, are not obligated to arbitrate disputes with other Realtors®.

SP 17.4 – This Standard of Practice lays out specific times when non-contractual disputes are subject to arbitration. Procuring cause disputes fall under this category.

SP 17.5 – The requirement to arbitrate includes disputes between Realtors® from different states. It also states which association will have jurisdiction over the disputes.

**Article 17 illustration.** Whenever there is a dispute among Realtors® or the parties to a real estate transaction, the parties, per our contract, should first go to mediation and then to binding arbitration. Realtors should work to keep disputes out of the legal system whenever they are able.

## **NAR DISPUTE RESOLUTION**

### **Processing complaints**

Anyone can file a complaint. It can be Realtor® vs. Realtor® or client/customer against Realtor®. Once filed with a local association of Realtors®, the complaint is then forwarded to the Grievance Committee to determine if there is a violation of the code of ethics and an arbitrational issue. If the Grievance Committee believes there is sufficient evidence of an Ethics violation, a hearing will be scheduled with the Professional Standards Committee to hear the case and recommend the Board of Directors on outcome and punishment.

If there is a monetary issue, then the matter will be sent to the local Board's Ombudsman program to help the parties decide. If the Ombudsman does not settle the dispute, the parties will be offered the opportunity to enter mediation and then go on to arbitration to resolve the dispute.

## **Penalties**

Possible penalties for violation of the Code of Ethics include:

- Letter of warning;
- Letter of reprimand;
- Education courses;
- Fines not to exceed \$15,000;
- Probation for not less than 30 days or more than one year;
- Membership suspension for not less than 30 days or more than one year;
- Expulsion from membership for one to three years; and/or,
- Suspension or termination of MLS rights and privileges.

## **PATHWAYS TO PROFESSIONALISM**

While the Code of Ethics establishes enforceable standards that Realtors® must follow, it does not set out standards of common courtesy or etiquette that a Realtors® should use in their dealings with other Realtors® or the public. This is accomplished with NAR's set of professional courtesy standards called the Pathways to Professionalism.

There are three sections to the Pathways to Professionalism:

1. Respect for the Public
2. Respect for Property
3. Respect for Peers

These Professional courtesies are intended to be used by REALTORS® voluntarily. They cannot form the basis for a professional standards complaint.

### **Pathways to Professionalism**

#### **Respect for the Public**

1. Follow the "Golden Rule": Do unto others as you would have them do unto you.
2. Respond promptly to inquiries and requests for information.
3. Schedule appointments and showings as far in advance as possible.
4. Call if you are delayed or must cancel an appointment or showing.
5. If a prospective buyer decides not to view an occupied home, promptly explain the situation to the listing broker or the occupant.
6. Communicate with all parties in a timely fashion.
7. When entering a property, ensure that unexpected situations, such as pets, are handled appropriately.
8. Leave your business card if not prohibited by local rules.
9. Never criticize property in the presence of the occupant.
10. Inform occupants that you are leaving after showings.

11. When showing an occupied home, always ring the doorbell or knock—and announce yourself loudly before entering. Knock and announce yourself loudly before entering any closed room.
12. Present a professional appearance at all times; dress appropriately and drive a clean car.
13. If occupants are home during showings, ask their permission before using the telephone or bathroom.
14. Encourage the clients of other brokers to direct questions to their agent or representative.
15. Communicate clearly; don't use jargon or slang that may not be readily understood.
16. Be aware of and respect cultural differences.
17. Show courtesy and respect to everyone.
18. Be aware of—and meet—all deadlines.
19. Promise what you can deliver—and keep your promises.
20. Identify your REALTOR® and your professional status in contacts with the public.
21. Do not tell people what you think—tell them what you know.

### **Respect for Property**

1. Be responsible for everyone you allow to enter listed property.
2. Never allow buyers to enter listed property unaccompanied.
3. When showing property, keep all members of the group together.
4. Never allow unaccompanied access to the property without permission.
5. Enter property only with permission, even if you have a lockbox key or combination.
6. When the occupant is absent, please leave the property as you found it (lights, heating, cooling, drapes, etc.) If you think something is amiss (e.g., vandalism), contact the listing broker immediately.
7. Be considerate of the seller's property. Do not allow anyone to eat, drink, smoke, dispose of trash, use bathing or sleeping facilities, or bring pets. Leave the house as you found it unless instructed otherwise.
8. Use sidewalks; if weather is bad, take off shoes and boots inside the property.
9. Respect sellers' instructions about photographing or videographing their properties' interiors or exteriors.

### **Respect for Peers**

1. Identify your REALTOR® and professional status in all contacts with other REALTORS®.
2. Respond to other agents' calls, faxes, and e-mails promptly and courteously.
3. Be aware that large electronic files with attachments or lengthy faxes may be a burden on recipients.
4. Notify the listing broker if there appears to be inaccurate information on the listing.
5. Share important information about a property, including pets, security systems, and whether sellers will be present during the showing.
6. Show courtesy, trust, and respect to other real estate professionals.
7. Avoid the inappropriate use of endearments or other denigrating language.
8. Do not prospect at other REALTORS®' open houses or similar events.
9. Return keys promptly.
10. Carefully replace keys in the lockbox after showings.
11. To be successful in the business, mutual respect is essential.

12. Real estate is a reputation business. What you do today may affect your reputation—and business—for years to come.

The above is from the 2021 NAR Code of Ethics and Arbitration Manual, Pathways to Professionalism, page vii. <https://www.nar.realtor/code-of-ethics-and-arbitration-manual/pathways-to-professionalism>

**Commitment to Excellence (C2EX)**

Commitment to Excellence (C2EX) from the National Association of REALTORS® empowers REALTORS® to evaluate, enhance and showcase their highest professional levels. It's not a course, class, or designation—it's an Endorsement that REALTORS® can promote when serving clients and other REALTORS®.

The NAR Board of Directors has requested that all Board of Directors, committee members, and leadership complete the C2EX program. To date, over 50,000 Realtors® have completed this program.

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**SNAPSHOT REVIEW: UNIT SIX**  
**REALTORS® CODE OF ETHICS, PART III**

**SECTION FOUR OF CODE OF ETHICS**

- Articles 15-17; discusses the Duties to Realtors®

**Article 15**

- Realtors® must be truthful, make objective comments about other real estate professionals.

**Article 16**

- respect exclusive brokerage relationships of other Realtors® with their clients

**Article 17**

- arbitrate financial disagreements with other Realtors® and with their clients.

**COMPLAINT PROCESS**

- **complaint process** begins with filing of a complaint by anyone against a Realtor®
- First, **Grievance Committee** reviews complaint, forwards to Professional Standards Committee if a violation of Code of Ethics occurred.
- **Professional Standards Committee** decides on punishment if a violation.
- recommendations forwarded to the Board of Directors to enforce

**Pathway to Professionalism**

- lays sets forth etiquette standards Realtors® should follow
- three categories of etiquette: Respect for the Public, Respect for Property, Respect for Peers

**C2EX**

- new program introduced by NAR, to date, 50,000+ Realtors® have completed program.

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## Check Your Understanding Quiz:

### Unit Six: Realtors® Code of Ethics, Part III

Carefully read each question then provide your best answer based on what you learned in this unit. Then check your answers against the Answer Key which immediately follows the quiz questions.

1. Jill completed a deal with Broker Jack. She was upset with the way Jack handled the transaction. She started spreading false rumors about Jack. Jill is guilty of violating \_\_\_\_\_ of the Code of Ethics.
  - a. Article 10
  - b. Article 15
  - c. Article 16
  - d. Article 17
  
2. According to Article 17, a licensee should be ready to \_\_\_\_\_ any complaints filed against them.
  - a. mediate
  - b. ombudsman
  - c. arbitrate
  - d. litigate
  
3. Procuring cause of a sale goes to the Realtor® who
  - a. listed the property.
  - b. started the chain of events that lead to the sale of the property.
  - c. held the open house where the buyers first saw the home.
  - d. had a fiduciary duty to their client.
  
4. Realtors® follow the Pathway to Professionalism to show respect for
  - a. the public, their peers, and their customers
  - b. the public, the property, and their clients
  - c. the public, the property, and their peers
  - d. the property, their peers, and their customers
  
5. C2EX is a new program
  - a. required by every Realtor®.
  - b. developed by local boards.
  - c. is the most recent NAR designation.
  - d. allows agents to show a high level of professionalism.

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## **Answer Key:**

- 1. b. Article 15**
  - 2. c. arbitrate**
  - 3. b. started the chain of events that lead to the sale of the property.**
  - 4. c. the public, the property, and their peers**
  - 5. d. allows agents to show a high level of professionalism.**
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## Interactive Exercises

### Unit 6: Realtors® Code of Ethics, Part III

#### *SITUATIONAL CASE STUDY:*

Dan, who held an exclusive listing of Joey's property, invited Janet to cooperate with him. When Janet, shortly thereafter, received an offer to purchase the property and took it to Dan. Janet asked to be present at the presentation of the offer, and Dan allowed this. Together they started negotiations with the seller. The next day Janet called Joey, recommending that Joey accept the offer, which was less than the list price, and Joey agreed. The contract was signed and closed.

#### *Discussion Questions:*

1. What Article has is Janet violated?
2. What were Standards of Practices violated?
3. How could the situation be handled without violating the Code of Ethics?

#### *Case Debrief:*

1. Article 16 of the Code of Ethics was violated.
2. The agent violated Standard of Practice 16.13.
3. At the hearing, Janet defended her actions because she had been invited to present the offer to the seller and begin the negotiations to sell the property. Janet had assumed that she had Dan's permission to talk with Joey about the property's sale. The ability of a Realtor® to speak with another agent's customer must be express and not implied.

Note: Each student's opinion on how to handle this case will vary; however, each student should support their stand.