

HOW DO I FILE A COMPLAINT?

FILING ETHICS COMPLAINTS

SUSSEX COUNTY ASSOCIATION OF REALTORS® PROFESSIONAL STANDARDS

The National Association of REALTORS® adopted the Code of Ethics in 1913, which outlines the standard of conduct expected in the real estate profession. Since then, REALTORS® everywhere have agreed to meet the Code's high standards.

The professional standards process plays a very important role in an Association of REALTORS®. It helps to ensure honorable, faithful and competent service to clients and other members of the public by enforcing the Code of Ethics. It allows members to settle monetary business disputes through Arbitration and Mediation.

The Sussex County Association of REALTORS® Professional Standards has prepared this packet to help you understand the process.

THE PUBLIC OR A REALTOR®

Q: Who may file an ethics complaint?

A: *Anyone. Any person, whether a member or not, may file a complaint against an Association member, alleging a violation of any of the Articles of the Code. However, the complaint must:*

- 1) *Be in writing on an Ethics Complaint form*
- 2) *Be signed by the Complainant*
- 3) *State the facts surrounding the case*
- 4) *Be filed within 180 days after the facts could all be known.*

A Complainant may file a complaint from any location. However, the Complainant must file it with the Association having jurisdiction over the individual named the Respondent in the complaint.

If the complaint is forwarded to a hearing the Complainant **must** appear.

No award of money or "punitive damages" is ever considered in an ethics hearing.

Q: Do I have a complaint concerning a REALTOR®?

A: *Before processing a complaint with an Association of REALTORS®, you must first determine if the agent involved is a REALTOR®. Not all real estate agents are REALTORS®. Only those who belong to an Association of REALTORS® may use the term REALTOR®. Therefore, you must determine to which Association of REALTORS® an agent belongs.*

When joining an Association, all members agree to abide by the Code of Ethics as a continuing condition of membership. It is because of a REALTOR'S® obligation to abide by the Code of Ethics that you can file a complaint through an Association of REALTORS®.

Q. What can the Association do?

A: *The Association can administer discipline to a REALTOR®. This would happen only in the case of a violation of the Code of Ethics as determined by an ethics-hearing panel. The Association can use one or more of the following ways to discipline a member:*

- a) *A letter of warning or reprimand to the member*
- b) *Direct the member to attend an ethics class or other training appropriate to the violation*
- c) *Fine the member up to \$5,000 (not awarded to the Complainant)*
- d) *Place the member on probation*
- e) *Suspend the membership of the member*
- f) *Expel the member from membership.*

An Association of REALTORS® possesses limited authority regarding its members. Note the following limitations:

- 1) *The Association cannot charge a member with violations of the Delaware real estate license law or any other law. Its jurisdiction covers only violations of membership duties. The Delaware Real Estate Commission controls the real estate agent's license to sell real estate. If you think a person has violated any license law, you should contact this agency. The number is (302) 744-4519.*

For the same reason, the Association cannot suspend or terminate the license of one of its members.

Q: How do I file an ethics complaint?

A: *Follow these steps:*

- 1) *Complete and sign the complaint form (supplied by the Association Staff). This form requests you to name the REALTOR® in question as the Respondent.*
- 2) *List the Articles of the Code of Ethics that you think the REALTOR® violated.*
- 3) *Attach an explanation of the situation surrounding the complaint. Be as specific as possible, referring at all times to the specific Articles of the Code. State what, when, where, why, and how you think the REALTOR® violated each Article.*
- 4) *Attach copies of any and all pertinent documents such as listing agreements, purchase agreements, correspondence, etc. If you have notarized statements from witnesses, include those also.*
- 5) *Keep a copy for your records, and send the entire package (ATTN: Professional Standards Administrator) to the Association. The Grievance Committee will then process your complaint.*

THE PUBLIC AND THE REALTOR®

Q: How does the Association process the complaint?

A: *Two committees of the Association handle complaints - The Grievance Committee and the Professional Standards Committee. Their functions are described below:*

GRIEVANCE COMMITTEE

Ethics: The Grievance Committee reviews complaints received by the Association. The Committee determines whether the complaint merits further consideration. It does not determine guilt or innocence. The Committee considers the following:

- 1) *Is the complaint in an acceptable form?*
- 2) *Are all necessary parties named in the complaint?*
- 3) *Is the respondent named in the complaint a member of the Association, and was the respondent a member of any Association at the time of the alleged offense?*
- 4) *Is litigation or any government agency investigation or other action pending related to the same transaction?*
- 5) *Was the complaint filed within 180 days of the time that the complainant in the exercise of reasonable diligence could have known the alleged offense and facts relating to it?*

- 6) *Is there any reason to conclude that the Association would be unable to provide an impartial Hearing Panel?*
- 7) *Are the specific Articles cited in the complaint appropriate? Should additional Articles be cited? Should Standards of Practice be cited in support of the Articles charged? Are any inappropriate Articles cited?*
- 8) *If the facts alleged in the complaint were taken as true on their face, is it possible that a violation of the Code of Ethics occurred?*

After reviewing the complaint, the Committee will:

- 1) *Forward the case for a hearing or*
- 2) *Dismiss it, if the complaint is determined to be frivolous, harassing, or unfounded, or*
- 3) *Amend the complaint, if approved by the Complainant, to add or delete Articles of the Code that are more appropriate to the complaint*

If the Committee dismisses your complaint, you have the right to appeal the dismissal to the Board of Directors of the Association. In an appeal, the Directors re-examine the materials submitted to the Grievance Committee. The Directors can then either uphold or overturn the Committee's decision.

PROFESSIONAL STANDARDS COMMITTEE

The Professional Standards Committee is a list of panelists qualified and trained to hold ethics and arbitration hearings. When the Committee schedules a hearing, you will be notified of the date, time, and place. These hearings provide an opportunity for the Complainant and Respondent to explain their side of the story by presenting testimony, evidence, and witnesses. Every party may be represented by legal counsel.

Once all of the facts have been presented, the Hearing Panel will determine whether the Code of Ethics has been violated, or in the case of arbitration, how the dispute should be settled.

The Association will inform you about each step of this process as it occurs. The Association will also provide you with instructions about the hearing procedure, well in advance of the hearing. The entire process usually takes about ninety days, but sometimes is longer, depending on individual circumstances.

The term REALTOR[®] is a registered collective membership mark, and may be used only by real estate professionals who are members of the National Association of REALTORS[®] and who subscribe to its strict Code of Ethics.