

# Preface

The Code of Ethics was adopted by the NATIONAL ASSOCIATION OF REALTORS® in 1913. Since then, REALTORS® everywhere have agreed to meet its high standards. The professional standards process is a very important part of a REALTOR® association and helps to ensure honorable, faithful, and competent service to clients, customers, and other members of the public by enforcing the Code of Ethics. This brochure was prepared to help you understand the process.

## Q. Do you have a complaint concerning a REALTOR®?

A. The first thing that must be determined in processing a complaint with a REALTOR® association is whether the real estate agent involved is a REALTOR®. Not all real estate agents are REALTORS®. Only those who belong to a REALTOR® association can use the term REALTOR®. When joining an association, all members agree to abide by the Code of Ethics as a continuing condition of membership. It is because of their obligation to abide by the Code of Ethics that you can file complaints at a REALTOR® association.

## Q. Does your complaint concern an ethics or arbitration matter?

A. You may have to consider whether your complaint concerns an ethics matter or an arbitration of a business dispute. An ethics complaint charges that a REALTOR® has violated an Article(s) of the Code of Ethics.

Arbitration is a means of resolving a dispute arising out of a contractual real estate matter that the parties have been unable to solve themselves. An arbitration request is a simple notice by a member of a monetary dispute with another member, usually a commission dispute. Infrequently, an arbitration concerns a dispute between a member of the public and a REALTOR®.

If your situation concerns both ethics and arbitration, the association will handle them separately. Only when the arbitration is completed will the ethics complaint be considered. Arbitration is always handled first.

## Q. Who may file an ethics complaint?

A. *Anyone.* Any person, whether a member or not, may file a complaint against a REALTOR® alleging a violation of the Code of Ethics, providing the complaint:

- 1) is in writing

- 2) is signed by the complainant
- 3) states the facts surrounding the case
- 4) is filed within 180 days after the facts could have been known in the exercise of reasonable diligence

The complainant may file a complaint from any location, providing it is filed with a REALTOR® association having jurisdiction over the individual named in the complaint.

## Q. Who may file an arbitration request?

- A. 1) REALTORS® who are principals in their firm, which include licensed or certified individuals who are sole proprietors, partners in a partnership, officers or majority shareholders of a corporation, or office managers (including branch office managers) acting on behalf of principals of a real estate firm who subscribe to the Code of Ethics as a condition of membership. It also includes REALTORS® who participate in any Multiple Listing Service through any association in which they do not hold membership.
- 2) REALTORS® or REALTOR-ASSOCIATE®s who are not principals, provided the principal broker joins in the request.
- 3) Clients or customers of the REALTOR®. (See *\*NOTE below*)
- The request must also:
    - 1) be in writing
    - 2) be signed by the Complainant
    - 3) indicate the amount in dispute
    - 4) *be filed within 180 days after the closing or 180 days after the facts could have been known in the exercise of reasonable diligence, whichever is later.*

Arbitration facilities are provided by the association as a service to its members. *Arbitration is not a disciplinary proceeding nor does it award damages.* By becoming and remaining a member of a REALTOR® association, each REALTOR® binds himself to arbitrate certain disputes.

Be aware that not every situation may be arbitrated at the association. There must be a contractual basis to the specific dispute at hand, i.e., a promise to pay an amount of money for a particular purpose. There are conditions and limitations to be considered, which will be explained to you as the process continues.

### \* NOTE:

Disputes involving members of the public require that the client or customer sign an agreement to arbitrate and to be bound by the arbitration. Whether the dispute is one that can be processed by the association is determined by the association's Grievance Committee. The REALTOR® association cannot arbitrate damages relat-

ed to charges of misrepresentation, etc. They can only arbitrate disputes based on a promise to pay for something in that particular instance.

## Q. What can the REALTOR® association do?

- A. An association of REALTORS® has limitations to its authority regarding its members. Following is a list of those limitations:
- 1) The association cannot "try" a member for violations of the Arizona real estate license law or any other alleged violation of the law. It has jurisdiction only over violations of membership duties. The Arizona Department of Real Estate has sole control of the real estate licensee's ability to sell real estate. If you think a person has violated the law, you should be contacting an attorney or another agency.
  - 2) For the same reason, the association *cannot* suspend or terminate the *license* of one of its members.
  - 3) The association *can*, in the case of an ethics violation being determined in a due process hearing procedure, administer discipline to the REALTOR® in one or more of the following ways:
    - send a letter of warning or reprimand to the member, with a copy placed in the member's personal file
    - direct the member to attend an ethics class or other training appropriate to the violation
    - fine the member up to \$5,000 (this fine is *not* awarded to the complainant)
    - place the member on probation
    - suspend the member from membership or MLS access
    - expel the member from membership or MLS access

The association will also assess an administrative fee of \$100 to each respondent found in violation of the Code of Ethics.

- 4) Monetary disputes may *not* be part of an ethics proceeding.
- 5) The association can arbitrate certain monetary disputes – and *must* in some situations – but a member of the public must agree in writing to arbitrate the dispute and to be bound by the decision.
- 6) The award in an arbitration may not be more than the amount in dispute, and in no circumstances can "punitive" damages be awarded.

## Q. How do you file?

A. Now that you know the ground rules, if you wish to file a complaint, here's how you do it:

## Ethics complaints

You are always encouraged to first contact the REALTOR® or the REALTOR®'s broker about the issue to attempt a resolution prior to filing a complaint. If those attempts are unsuccessful and you want to file a formal ethics complaint, you need to follow these steps:

- 1) Complete and sign the complaint form supplied by the REALTOR® association. This form requests you to name the REALTOR®(s) in question as the Respondent(s).
- 2) List the Article(s) of the Code of Ethics that you think the REALTOR® has violated. (The association will also supply you with a copy of the Code of Ethics.)
- 3) Attach an explanation of the situation surrounding the complaint. Be as specific as possible. List the specific actions or inactions by the REALTOR® that you believe were wrong. Cite the appropriate Article or Articles of the Code of Ethics related to each action or inaction. List the details, such as relevant dates and locations and people involved.
- 4) Attach copies of any and all pertinent documents such as listing agreements, purchase and sales agreements, addendums, etc. If you have notarized statements from witnesses, include those also.
- 5) Send the entire package, keeping a copy for yourself, to the REALTOR® association. Your complaint will then be processed through the association's Grievance Committee.

## Arbitration requests (monetary disputes)

The process is very similar to filing an ethics complaint. A request for arbitration form will be supplied by the association. Steps to follow are:

- 1) Name a REALTOR® principal of the firm involved and any other REALTOR® involved directly in the transaction (Respondents). (See definition of REALTOR® principal under "Who may file an arbitration request?")
- 2) Indicate the amount in dispute.
- 3) Include an explanation of the situation. State why you feel you are entitled to an award of some kind and include an explanation of your understanding of the Respondent's promise to pay an amount of money in this situation. Remember, don't include allegations of violations of the Code of Ethics in your statement. If you think there have been ethical violations, they can be handled separately with an ethics complaint.
- 4) Attach copies of any and all pertinent documents such as listing agreements, purchase and sales agreements, closing statements, etc., plus any notarized statements from witnesses.

- 5) Most REALTOR® associations require an arbitration deposit. Check with the association about this requirement.
- 6) The Request for Arbitration form includes an arbitration agreement indicating your commitment to abide by the decision of the Hearing Panel.
- 7) Send all of these items to the association. Your request will now be processed by the Grievance Committee. Remember, it is not unusual for an association to receive both an ethics complaint and an arbitration request surrounding the same set of circumstances. If you think the REALTOR®(s) violated the Code of Ethics and you have a monetary dispute with him, you must complete BOTH forms.

**Q. How does the association process the complaint?**

**A.** There are two committees of the association that handle complaints, the Grievance Committee and the Professional Standards Committee. Their functions are described below:

**Grievance Committee**

**Ethics**

This Committee reviews complaints when they are received at the association. The Committee determines whether the complaint has sufficient merit for further consideration, somewhat like a "Grand Jury." It does *not* determine guilt or innocence. The Committee may;

- a) forward the case for a hearing,
- b) dismiss it, if the complaint is determined to be frivolous, harassing, unfounded, or unrelated to the Code of Ethics, or
- c) amend it by adding or deleting Articles.

Also, before they reach a decision, the Committee may request information from you or the Respondent regarding your complaint.

If your complaint is dismissed by the Committee, you have the right to appeal the dismissal to the association's Board of Directors or other appeal body. In the case of an appeal, the Directors re-examine only the materials submitted to the Grievance Committee and can either uphold or overturn the Grievance Committee's decision. The association can explain further details.

If the complaint is to be given further consideration, it will be sent to the Professional Standards Committee for a hearing.

**Arbitration**

The Grievance Committee's role in arbitration is different from ethics complaints. Its function is only to make such preliminary investigation to determine whether the matter is subject to arbitration by the association.

Arbitration is sometimes a duty and sometimes a privilege. The Committee must decide whether your situation fits into the "duty" or the "privilege" category. It does this by determining:

- 1) whether you are authorized, under the rules, to invoke arbitration.
- 2) whether the controversy described is an arbitrable matter by the association's procedures, i.e., the dispute involves a contractual basis, or promise to pay.
- 3) whether the arbitration is mandatory or voluntary to the people involved (this simply means whether arbitrating the dispute is compulsory or not).
- 4) whether either the amount in dispute is too small or too large, or the matter is too legally complicated for the association to consider it.

Such a review could result in the release of members from the obligation to arbitrate, and thus free you to seek other recourse in order to resolve the dispute.

If the Grievance Committee determines that a matter is arbitrable, it will also notify the parties that a mediation procedure is available as a preliminary, voluntary alternative to arbitration.

In either ethics or arbitration cases, you will be informed promptly of the Grievance Committee's decision. If the Grievance Committee forwards the complaint or request for a hearing, it is assigned to the Professional Standards Committee.

As in the case of ethics complaints, you may also appeal a dismissal of an arbitration request by the Grievance Committee to the Board of Directors. The Directors review only the materials submitted to the Committee and can uphold or overturn the Grievance Committee's dismissal. Check with the association for details.

**Professional Standards Committee**

The function of this Committee is to hold ethics and arbitration hearings. The Respondent(s) will be requested to reply to your complaint at this time. A hearing will then be scheduled and you will be notified of the hearing's date, time, and place. These hearings provide an opportunity for the Complainant and the Respondent to explain "his or her side of the story" by presenting testimony and witnesses, if any.

Once all the facts have been presented, a Hearing Panel, consisting of members of the association chosen on the basis of their experience, temperament, and objectivity, will determine whether the Code of Ethics has been violated, or, in the case of an arbitration, how the dispute should be settled.

You will be informed by the association about each step of this process as it occurs. You will also be given instructions about the hearing procedures prior to the hearing. The entire process will often take between 90 and 120 days.

If you have any questions relating to filing your complaint, please call the association of REALTORS®.

For complete details about all the rules related to REALTOR® association professional standards enforcement, contact AAR or the local association of REALTORS® to purchase a Code of Ethics and Arbitration Manual.

**Where do you file?**

The Arizona Association of REALTORS® (AAR) has a cooperative enforcement agreement with most of the local REALTOR® associations throughout Arizona. Complaints concerning members of those "signatory" associations are handled by AAR. Complaints regarding members of associations who are not signatory to the enforcement agreement are handled by those associations. The list below provides phone numbers of non-signatory associations so that you may contact them directly for complaint forms and information. For those that say "AAR," you may contact AAR directly at 602-248-7787 or 1-800-426-7274 or may go to [www.aaronline.com](http://www.aaronline.com) for forms or information. If you do not know which association the REALTOR® belongs to, contact AAR.

**MEMBER ASSOCIATIONS**

**Board/Association**

1. Bullhead City/Mohave Valley .....AAR
3. Casa Grande Regional. ....AAR
4. Central Arizona.....AAR
5. Douglas.....AAR
6. Glendale/West Maricopa.....AAR
7. Graham/Greenlee.....AAR
8. Green Valley.....AAR
9. Kingman/Golden Valley .....AAR
10. Lake Havasu .....AAR
11. La Paz County.....AAR
12. Northern Arizona.....AAR
13. Phoenix.....AAR
14. Prescott Area.....AAR
15. Santa Cruz County .....AAR
16. Scottsdale.....AAR
17. Sedona/Verde Valley.....AAR
18. Southeast Arizona.....AAR
19. SouthEast Valley Regional.....480/833-7510
20. Sun Cities Area.....AAR
21. Tucson.....AAR
22. White Mountain .....AAR
23. Yuma.....AAR

# Filing Ethics Complaints *and* Arbitration Requests

*at the REALTOR® Association*



**ARIZONA ASSOCIATION  
OF REALTORS®**  
**The Voice for Real Estate® in Arizona**

255 East Osborn Road, Suite 200  
Phoenix, Arizona 85012  
Voice: 602-248-7787 Fax: 602-351-2474  
[www.aaronline.com](http://www.aaronline.com)

The terms REALTOR®, REALTORS®, and REALTOR-ASSOCIATE® are registered collective membership marks which may only be used by real estate professionals who are members of the NATIONAL ASSOCIATION OF REALTORS® and who subscribe to its strict Code of Ethics.