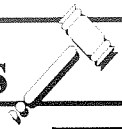




Ethics Complaints & Arbitration Requests



A comprehensive guide to what they are, how to file them and how they are resolved.

Introduction...

Who's involved?

Before processing a complaint with an Association of REALTORS®, you must first determine if the real estate agent involved is a REALTOR®. Not all real estate agents are REALTORS®. Only those who belong to an Association of REALTORS® 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 a REALTOR®'s obligation to abide by the Code of Ethics that you can file a complaint at an Association of REALTORS®.

Determining what type of complaint to file

Before processing a complaint with your Association, you must determine whether your complaint concerns an ethics matter or an arbitration of a dispute.

An Ethics Complaint charges that a REALTOR® violated an Article(s) of the Code of Ethics. Arbitration provides a means for resolving a dispute about a real estate transaction that the parties have been unable to solve themselves.

An arbitration complaint or request often involves one member in disagreement with another member, usually over a commission dispute. Sometimes, an arbitration concerns a dispute between a member of the public and an Association member.

If your situation concerns both ethics and arbitration, the Association will handle the arbitration portion **separately**. The Association will consider the ethics complaint only after it has completed the arbitration. *The Association always holds arbitration first.*

Who may file an ethics complaint?

Anyone, Association Member or not, may file an ethics complaint against an Association Member alleging a Code of Ethics violation. However, the complaint **must be in writing, be signed by the complainant, state the facts surrounding the case and be filed within 180 days after the facts became known.**

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

Who may file an arbitration request?

REALTORS® who are principal brokers and clients/customers of REALTORS® may file an arbitration request. If the principal broker joins in the request, REALTORS® who are not principals may also file these requests.

Similar to the ethics complaint, an arbitration request **must be in writing, be signed by the Complainant, indicate the amount in dispute and be filed within 180 days after the facts became known.**

The Association provides arbitration facilities as a service to its members. Arbitration is not a disciplinary proceeding nor does it award damages. By becoming and remaining a member of the Association of REALTORS®, each REALTOR® binds himself/herself to arbitrate certain disputes.

Not every situation may be arbitrated at the Association. Conditions and limitations exist which you must consider. The Association will explain these conditions and limitations to you as the process continues.

NOTE: *Disputes involving clients or customers require that they sign an agreement to arbitrate and to be bound by the arbitration. The Association's Grievance Committee will determine whether the Complainant is a client or a customer and if the dispute is one that the Association can process.*

Power of the Association

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

- 1) The Association **cannot** try a member for the violations of the New Jersey real estate license law or any other alleged violations of the law. Its jurisdiction only covers violations of membership duties. The New Jersey Real Estate Commission solely controls the real estate agent's license to sell real estate. If you think a person has violated the law, you should contact another agency.
- 2) For the same reason, the Association **cannot** suspend or terminate the license of one of its members.
- 3) The Association **can** administer discipline to the REALTOR®. This would happen only in the case of an ethics violation being determined in a due process hearing procedure. The Association can use one or more of the following ways to discipline a member:
 - send letter of warning or reprimand to the member
 - direct member to attend an ethics class or training appropriate to the violation
 - fine the member up to \$2,500 (this fine is not awarded to the complainant)
 - place the member on probation
 - suspend membership of the REALTOR®
 - expel the member from membership
- 4) An ethics proceeding may **not** include money damages.
- 5) Associations **can** arbitrate some money disputes and must in certain situations. But, the member of the public must agree in writing to arbitrate the dispute and to be bound by the decision.
- 6) An arbitration award may **not** be more than the amount in dispute. In no instance will the Association award 'punitive' damages.



The meaning of the "R"

The terms REALTOR® and REALTORS® are registered collective membership marks. They 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.

How to file an ethics complaint

- 1) **Complete** and Sign the complaint form (supplied by the 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® 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.* State what, when, where, why and how you think the REALTOR®(s) violated each Article.
- 4) **Attach** copies of any and all pertinent documents such as listing 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 Association of REALTORS® to the attention of the Executive Officer. The Grievance Committee will then process your complaint.

How to file an arbitration request

- 1) **Complete** and Sign the arbitration form (supplied by the Association). Name the REALTOR®(s) in question as the Respondent(s).
- 2) **Indicate** the amount in dispute.
- 3) **Include** an explanation of the situation surrounding the complaint. State why you feel you are entitled to an award of some kind. *Remember, don't include unethical allegations in your argument.* If you think the REALTOR®(s) violated the Code of Ethics, the Association can handle this separately through an ethics complaint.
- 5) **Attach** copies of all pertinent documents such as listing agreements, purchase and sales agreements, closing statements, etc. Also, include any notarized statements you may have from witnesses.
- 6) **Include** a \$400 deposit with your arbitration request. The prevailing party in an arbitration will receive their \$400 back from the Association.
- 7) **Send** all of these items to the Association to the attention of the Executive Officer. The Grievance Committee will then process your request.

What is the Grievance Committee?

Generally, the Grievance Committee functions somewhat like a grand jury. However, it plays a different role in both an ethics complaint case and an arbitration case.

Ethics. The Grievance Committee receives complaints received by the Association. The Committee determines whether the complaint sufficiently merits further consideration. It does not determine guilt or innocence. After reviewing the complaint the committee will either:

- a) **Forward the case for a hearing**
- b) **Dismiss it, if the complaint is determined to be frivolous, harrassing or unfounded,**
- c) **Postpone its decision to get more information from you or to determine that the case may be more appropriately considered for arbitration.**

Also, before they reach a decision, the Committee may request a reply from the Respondent(s) regarding your complaint. If the Committee dismisses your complaint, you have the right to appeal dismissal to the Board of Directors. In the case of an appeal, the Directors re-examine only the materials submitted to the Grievance Committee. The Directors can then either uphold or overturn the Committee's decision. If your complaint merits further consideration, it will be sent to the Professional Standards Committee for a hearing.

Arbitration. The Grievance Committee's role in arbitration functions only to make a preliminary investigation. The results of this investigation will determine whether the matter is subject to arbitration. Arbitration is sometimes a duty and sometimes a privilege. The Grievance Committee must decide whether your situation fits into the "duty" or the "privilege" category. To determine which category an arbitration fits into, the Grievance Committee must consider these four points:

- 1) **Whether you are authorized, under the rules, to invoke arbitration**
- 2) **Whether the controversy described is an arbitrable matter**
- 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 complex for the Association to consider.**

Such a review could result in releasing Association members from their obligation to arbitrate. This would free you to seek other recourse in order to resolve the dispute.

If the Grievance Committee determines that a matter is arbitrable, it may also notify the parties that a mediation procedure is available as a preliminary, voluntary alternative to arbitration. If the Committee forwards the complaint or request for a hearing, it is assigned to the Professional Standards Committee.

You may also appeal a dismissal of an arbitration request to the Executive Committee. The Directors review the information and can uphold or overturn the Grievance Committee's decision.



History

The National Association of REALTORS® adopted the Code of Ethics in 1913. 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, customers and other members of the public by enforcing the Code of Ethics.

The Burlington Camden County Association of REALTORS® prepared this document to help you understand the professional standards process.

Professional Standards Committee

The function of the committee is to hold ethics and arbitration hearings. If the Respondent(s) has not already been requested to reply to your complaint, he will be at this time. A hearing will then be scheduled and you will be notified of the hearing's date, time and place. The 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 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.

The Association will inform you about each step of this process as it occurs. The Association will also give you instructions about the hearing procedures prior to the hearing. The entire process will usually take a minimum of 60 days, but may take longer.



The Ethics Complaints and Arbitration Guide is compliments of the Burlington Camden County Association of REALTORS®.

For more information or more questions on filing a complaint, contact the Burlington Camden County Association of REALTORS®
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