

NATIONAL ASSOCIATION OF REALTORS®
Code of Ethics Video Series

From *Professionalism in Real Estate Practice* – Article 1

(A narrative explanation of Article 1 with synthesis of related Standards of Practice and Case Interpretations)

Article 1

When representing a buyer, seller, landlord, tenant, or other client as an agent, REALTORS® pledge them-selves to protect and promote the interests of their client. This obligation to the client is primary, but it does not relieve REALTORS® of their obligation to treat all parties honestly. When serving a buyer, seller, landlord, tenant or other party in a non-agency capacity, REALTORS® remain obligated to treat all parties honestly.

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Article 1 establishes a balanced obligation to clients and customers. The Code of Ethics and Arbitration Manual, defines “agent,” “client,” and “customer” as:

Agent: a real estate licensee acting in an agency relationship as defined by state law or regulation;

Client: the person(s) or entity(ies) with whom a REALTOR® or a REALTOR®’s firm has an agency or legally recognized non-agency relationship;

Customer: a party to a real estate transaction who receives information, services, or benefits, but has no contractual relationship with the REALTOR® or the REALTOR®’s firm.

By entering into a contractual agreement to act as agents, REALTORS® are both legally and ethically obligated to the client to use their best efforts to accomplish the client’s objective, be it the sale, purchase, or lease of real property, or managing, counseling, syndicating, or other real estate related service. REALTORS® must be completely faithful to the client they have committed to serve. At the same time, a REALTOR® must also be honest with all parties to the transaction. If a REALTOR® is the agent of a seller, the REALTOR® nonetheless must be honest with buyers and cooperating brokers. If the REALTOR® is the agent of a prospective purchaser, the REALTOR® must also be honest with sellers and their agents by making his/her relationship with the buyer clearly known to all. If a REALTOR® leases property as the agent of the owner or landlord, the REALTOR® must be honest with the lessee and any other brokers involved in the transaction. Even when a REALTOR® is not acting as an agent, the REALTOR® remains obligated to treat all parties honestly. This has particular significance to REALTORS® engaging in appraising, counseling, facilitating, and other activities when a principal-agent relationship is not involved.

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Remember that you are obligated under the Code of Ethics even when acting as a principal in a real estate transaction. (Refer to Standard of Practice 1-1)

Regardless of what capacity you are acting in (e.g., facilitator, transaction broker,

etc. . .), you are obligated by the duties established in the Code of Ethics. This is true regardless of whether real estate-related activities and transactions are conducted in person, electronically, or otherwise. (Refer to Standard of Practice 1-2)

Be forthright and honest when advising prospective sellers about the value of their property. (Refer to Standard of Practice 1-3)

When seeking to become a buyer or tenant representative, do not mislead buyers or tenants as to savings or other benefits that might be realized by using your services. (Refer to Standard of Practice 1-4)

REALTORS[®] may be dual agents but only after full disclosure to and with consent of both parties. (Refer to Standard of Practice 1-5)

Transmit all offers and counter-offers objectively to the seller and landlord as quickly as possible for the owner's decision regardless of who produced the offer. (Refer to Standards of Practice 1-6 and 1-7 and Case Interpretations #1-29 and #1-30)

REALTORS[®] as agents or brokers of buyers and tenants are not obligated to continue to show properties to their clients after an offer has been accepted unless agreed otherwise in writing. (Refer to Standard of Practice 1-8)

Remember that your obligation to preserve confidential information provided by your client continues after the termination of your agency relationship or non-agency relationship recognized by law. Latent material defects are not considered confidential. (Refer to Standard of Practice 1-9)

As a property manager, you must competently manage the property with regard for the rights, safety, and health of those lawfully on the premises. (Refer to Standard of Practice 1-10)

As a property manager, you must exercise due diligence and make reasonable efforts to protect the client's property. (Refer to Standard of Practice 1-11)

When entering into listing contracts, you must advise sellers and landlords of 1) your company policy regarding cooperation and the amount(s) of any compensation, 2) that buyer and tenant agents or brokers may represent the interests of the buyer or tenant even if compensated by you or the seller or landlord, and 3) any potential for you to act as a disclosed dual agent. (Refer to Standard of Practice 1-12)

When entering into buyer/tenant agreements, you must advise potential clients of 1) your company policies regarding cooperation; 2) the amount of compensation to be paid by the client; 3) the potential for additional or offsetting compensation from other brokers, from the seller or landlord, or from other parties; 4) any potential for you to act as a disclosed dual agent, and 5) the possibility that sellers or sellers' representatives may not treat the existence, terms, or conditions of offers as confidential unless confidentiality is required by law, regulation, or by any confidentiality agreement between the parties. (Refer to Standard of Practice 1-13)

When preparing appraisals or other valuations, do not make your fee contingent upon the amount of the approval or valuation. (Refer to Standard of Practice 1-14)

As a listing broker, disclose, with the seller's approval, the existence of offers on the property in response to inquiries from buyers or cooperating brokers. When authorized, disclose whether offers were obtained by the listing licensee, another licensee in the listing firm, or by a cooperating broker. (Refer to Standard of Practice 1-15 and Case Interpretation #1-28)

When acting as the seller's agent, don't suggest an offering price other than the listed price unless instructed by the seller to do so. (Refer to Case Interpretation #1-1)

Inform buyers of pertinent and relevant facts that may affect their decision to purchase. (Refer to Case Interpretation #1-2)

Avoid net listing agreements. They create an unavoidable conflict with the client's best interests. (Refer to Case Interpretation #1-3)

As an agent, the best interests of your client must always come before any contemplated interest you or any member of your firm may have in the property. (Refer to Case Interpretations #1-4, #1-21, and #1-22)

If you are the listing broker or subagent, refrain from suggesting to a buyer that a property is overpriced without the seller's authorization. (Refer Case Interpretation #1-5)

Even when managing property, submit any offers to purchase received to the owner. (Refer to Case Interpretation #1-6)

Don't leave property unsecured or available for unsupervised inspection, even if vacant, without the knowledge and consent of the seller. (Refer to Case Interpretation #1-7)

Promptly deposit checks received on behalf of clients or inform them of any reason for not doing so. (Refer to Case Interpretation #1-8)

When attempting to list a property, determine whether the property is already listed with another broker. Before taking a second, concurrent listing, advise the client of the potential liability for multiple commissions. (Refer to Case Interpretation #1-9)

Advise your client promptly if you become convinced the client's property is overpriced. (Refer to Case Interpretation #1-10)

Remember that as an agent or subagent of the seller, you are required to submit all offers to the seller for the seller's consideration even after an offer has already been accepted, unless prohibited by state law or unless the listing contract specifically relieves you of this responsibility. (Refer to Case Interpretations #1-12 and #1-13)

As a subagent, never condition writing a purchase contract on the buyer's execution of a "pre-listing" agreement. (Refer to Case Interpretation #1-14)

Use your expertise as a real estate professional to advise your clients as to the market value of their homes, even where they claim to know what their properties are worth. (Refer to Case Interpretation #1-15)

Recommend that the client obtain an appraisal if you are unable to advise on the property's market value, either because of your lack of experience or your limited knowledge of the area or of the type of property. (Refer to Case Interpretations #1-16 and #1-22)

Never misuse a prospective client's personal opinion of the property's value to obtain a listing. Base your recommendation for an asking price on a thorough inspection of the property and a systematic review of comparable sales in the area. (Refer to Case Interpretation #1-17)

Recommend that legal advice be sought when in the client's best interest. (Refer to Case Interpretation #1-18)

Be aware of pending or enacted changes in the zoning ordinances that may affect the market value or use of property listed by you. (Refer to Case Interpretation #1-19)

REALTORS® remain bound by the obligations of the Code of Ethics even when dealing among themselves as principals. (Refer to Case Interpretation #1-20)

As an agent, the best interests of your client must always come before any contemplated interest you or any member of your firm may have in the property. (Refer to Case Interpretation #1-21)

Although a listing broker may offer to purchase property listed with him, a listing broker may not step out of his role as an agent and become a principal without the client's knowledgeable consent. (Refer to Case Interpretation #1-22)

Do not "guarantee savings" unless you can demonstrate them in each and every instance. (Refer to Case Interpretation #1-23)

Do not deceive your client. (Refer to Case Interpretation #1-24)

Remember that latent material defects are not considered confidential under the Code. (Refer to Case Interpretation #1-25)

Your clients' interests always take precedence over your personal gain or advantage. (Refer to Case Interpretation #1-26)

Decline any appraisal assignment where your employment or your fee is contingent upon the amount of the appraisal. (Refer to Case Interpretation #1-27)