

Ethics (eth'iks)

for REALTOR® Association Staff and Volunteer Leaders

Not always a black/white issue

**Classroom Edition
Participant Guide**

Ethics workbook

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Preface

Since the implementation of board of choice, there have been situations in which associations have been conducting business in an unethical manner. The freedom the members have to select which association to join has resulted in competitive business practices as well as unethical business practices. In this course, you will be able to discern the difference between competitive business practices and unethical business practices.

Objectives

Upon successful completion of this course, you will be able to:

UNIT 1 – Unacceptable Business Practices (focusing on UBP 1-4)

- Identify the five Unacceptable Business Practices (UBPs).
- Distinguish between ethical and unethical business practices given various case situations/scenarios.
- Describe behavior(s)/step(s) that could have been taken that would have achieved the same end result but within the guidelines of ethical business practices.

UNIT 2 – Conflict of Interest (UBP 5)

- Analyze situations to determine if a conflict of interest exists given various case situations/scenarios.
- Describe behavior(s)/step(s) that could have been taken that would have achieved the same end result but within the guidelines of ethical business practices.
- Understand the State(s) statute that identifies procedures/steps to handle cases of conflict of interest.
- Identify obstacles employees/subordinates may encounter when dealing with cases of conflict of interest.
- Identify procedures that may be implemented to encourage employee response to an unethical business practice of a co-worker/supervisor.

UNIT 3 – Benefits of Good Business Practices/Consequences of Unethical Actions

- Identify the benefits of good business practices.
- Identify the consequences of unethical behavior.
- Identify the impact of other's unethical behavior on their own business dealings.
- Utilize a checklist to determine if your own business practices are ethical.

UNIT 1 - UNACCEPTABLE BUSINESS PRACTICES

Definition. Conduct identified in items 1- 5 below. Such conduct violates accepted business practices and should always be avoided.

Unacceptable business practices involve engaging in *one* or more of the following:

1. Knowingly or recklessly making false or misleading representations about other REALTOR® associations or the association's programs, products, or services.
2. False, deceptive, or misleading advertising or marketing practices.
3. Illegal business practices.
4. Knowing violation of state or national policies or mandated local policies.
5. Undisclosed conflict of interest.

Competitive Challenge Scenarios

The following case scenarios are fictional and have been created for learning purposes only.

Case 1

At local association A's monthly membership meeting, a member asked the president to respond to the recent increase in MLS fees. Terry Smith, Association A's President, recognized the majority of the audience was from small brokerage firms. Mr. Smith responded by making up the statement that Association A was not the only one that was raising their MLS fees. He continued to state that he had heard a rumor that Association B was considering changing their MLS fee structure from a per-agent fee to a per-office fee.

1. Were there any unethical actions or non-actions taken? (Describe the action/non-action)

2. If yes, please list all unacceptable business practices that apply. (Explain)

3. If yes, what alternative action(s) could have been taken to achieve the same outcome but within good business practices.

Case 2

Association A has recently updated their computer equipment. This additional expense comes after a recent members dues increase and the president of Association A is worried how members might react to yet another charge.

During a staff meeting, a staff member suggested adding a line to the dues invoice titled: "NAR dues assessment." The staff member commented that the recent expenses could be hidden in this line entry so that members will not be upset with the local board.

1. Were there any unethical actions or non-actions taken? (Describe the action/non-action)

2. If yes, please list all unacceptable business practices that apply. (Explain)

3. If yes, what alternative action(s) could have been taken to achieve the same outcome but within good business practices.

Case 3

The Board of Directors of Association B voted to make its MLS sales/comp information a service of the local association, available to members only. Therefore, certified/licensed appraisers must join Association B to access sales/comp information. Some members of Association C have expressed their view that this violates the spirit of board of choice, where members who join one local board will be provided access to other board's MLS services without having to join another board.

1. Were there any unethical actions or non-actions taken? (Describe the action/non-action)

2. If yes, please list all unacceptable business practices that apply. (Explain)

3. If yes, what alternative action(s) could have been taken to achieve the same outcome but within good business practices.

Case 4

There are two associations (A and B) in very close proximity and many brokers hold membership in both.

Toward the end of 1998, Association A sent letters to Association B members who had offices near the contiguous boundary describing Association A's program of member services and benefits. It contained an invitation to take primary or secondary membership with no initiation fee, simply payment of applicable dues (local dues and, if primary, state and national) owed through the end of the year. Also included in the letter was a dues comparisons schedule with Association B. The schedule showed that Association A's dues were \$175 and Association B dues were up to \$225.

Leadership from Association B questioned the dues amount in Association A's letter because the annual dues for both associations are the same. Association A responded by saying that as a result of your (Assn. B) RPAC fundraising, the typical member usually pays an additional \$50 for voluntary contributions, such as RPAC.

1. Were there any unethical actions or non-actions taken? (Describe the action/non-action)

2. If yes, please list all unacceptable business practices that apply. (Explain)

3. If yes, what alternative action(s) could have been taken to achieve the same outcome but within good business practices.

Case 5

Association A and Association B are neighbors and participate in the same regional MLS. The two share a number of member firms and the competition between the two has been pretty strong for some time. Association A is forced to delay sending the 1999 dues billing for 45 days due to a change over in membership software, and sends a general notice to the membership via newsletter, website, etc. to inform them of the delay.

Association B obtains a full list of Association A's membership from the regional MLS and sends out "official dues billings" to all of Association A's members. The billing looks just like A's normal billing statement and makes very little reference that paying would result in a change in primary board membership. Association B said it was a marketing piece.

1. Were there any unethical actions or non-actions taken? (Describe the action/non-action)

2. If yes, please list all unacceptable business practices that apply. (Explain)

3. If yes, what alternative action(s) could have been taken to achieve the same outcome but within good business practices.

Case 6

Several local associations produce an annual educational event for the REALTOR® community. This event offers continuing education credit courses, entertainment, and free promotional items. To increase attendance, this event piggybacks with one of the State Association’s quarterly meetings. It was agreed upon with the State Association that this event would occur six months after the State Association annual meeting so as to not pull members away from attending the state meeting.

This year, the local event tripled its sponsorships and increased its exhibitors by 50% and member attendance by 20%. However, the State Association experienced a 20% decrease in member attendance for its annual meeting.

Realizing that most members can attend only one meeting per year, the president of the State Association decided to increase marketing efforts to attract more members to the annual meeting. Flyers were sent to all members stating that the Annual State Association Meeting is the only REALTOR® Association sponsored event offered statewide providing accredited continuing education courses.

1. Were there any unethical actions or non-actions taken? (Describe the action/non-action)

2. If yes, please list all unacceptable business practices that apply. (Explain)

3. If yes, what alternative action(s) could have been taken to achieve the same outcome but within good business practices.

Case 7

The boards of directors of Associations A and B voted to merge with a published effective date approximately 60 days later, following due diligence and final approvals. Shortly following announcement of the Directors' approval and planned merger, Association C sent a fax to the member firms of Association B stating that "Your association no longer exists. Don't risk the experience of a disruption in your member services! Call us to find out how you can continue your member benefits."

1. Were there any unethical actions or non-actions taken? (Describe the action/non-action)

2. If yes, please list all unacceptable business practices that apply. (Explain)

3. If yes, what alternative action(s) could have been taken to achieve the same outcome but within good business practices.

Case 8

Association A owns a centralized lock box system and has historically provided services to some of the other associations, including Association B. Several other associations have joined together and have jointly been operating a lock box system.

The contract between Association A and Association B expired. However, services were still being provided by Association A to Association B without any type of contract.

During this time, Association B determined it wanted to offer its own lock box service. A contract was negotiated and signed with the same vendor that provides key service to Association A. Merchandise was ordered.

The lock box company received a threatening letter from Association A stating that if it provides services to Association B, then Association A will terminate all existing agreements and seek another lock box vendor. Since Association A is a larger association, the lock box vendor has declined the order and has refused to proceed with Association B because of the threats.

1. Were there any unethical actions or non-actions taken? (Describe the action/non-action)

2. If yes, please list all unacceptable business practices that apply. (Explain)

3. If yes, what alternative action(s) could have been taken to achieve the same outcome but within good business practices.

Case 9

Association A has announced a new joint marketing alliance with two other area associations (Associations B and C) where they would each offer all programs, products, and services to the members of the other associations at member cost, and each would negotiate all affinity programs on behalf of all three. As word of this new alliance called “The Affinity and Alliance Associations” spread, Association D’s AE contacted one of the associations in the alliance for details.

Even though they were not part of the alliance, Association D placed an advertisement in the newspaper promoting its name and services along with “Join The Affinity and Alliance Associations,” using the same name chosen by the alliance. When informed by the AE of Association A that the alliance name had been registered as a service mark, Association D’s AE said, “According to NAR, it couldn’t be registered.” Despite that it was the alliance name, Association D chose to use it anyway.

Within a very short time, Association D again used the alliance name in a promotional fax/mailer to offices in the marketplace including Association A’s members. When Association D’s AE was officially asked through e-mail by one of the associations in the alliance to cease and desist from using the service mark, Association D’s attorney responded with request for the registration documentation.

1. Were there any unethical actions or non-actions taken? (Describe the action/non-action)

2. If yes, please list all unacceptable business practices that apply. (Explain)

3. If yes, what alternative action(s) could have been taken to achieve the same outcome but within good business practices.

Case 10

A small board was providing a presentation for its members on ways to increase the broker's bottom line. During the discussion, a broker from a large firm stood up and volunteered information to the group on how to put listings into the state-wide MLS without paying full MLS fees. Many of the other participants actively asked questions and took notes. In order to avoid publicly embarrassing the broker and damaging an already fragile working relationship, the AE did not respond to the suggestions being offered and promptly changed the subject.

1. Were there any unethical actions or non-actions taken? (Describe the action/non-action)

2. If yes, please list all unacceptable business practices that apply. (Explain)

3. If yes, what alternative action(s) could have been taken to achieve the same outcome but within good business practices.

Case 11

In order to stay competitive among the REALTOR® Associations, Association A decided to offer free continuing education courses to its members. This was very well received by the membership. In fact, membership turn-over was decreased by 28% as a result of these free offerings. Also, new member enrollment is up by 10%. The free continuing education courses were funded by not forwarding non-members sales person assessment dollars to the state and NAR. The president of Association A justified this action by highlighting the increased revenues as the result of new member enrollment.

1. Were there any unethical actions or non-actions taken? (Describe the action/non-action)

2. If yes, please list all unacceptable business practices that apply. (Explain)

3. If yes, what alternative action(s) could have been taken to achieve the same outcome but within good business practices.

Case 12

The state association recently purchased a new internet-based MLS intended for small local boards that are managed by the state association. Despite concerns expressed by representatives from boards that own their own MLS, the decision was passed by the board of directors of the state association by a narrow margin.

State leaders declared that their fundamental intent was to offer MLS to the state association managed boards which cannot afford to own their MLS. The funds that were utilized to purchase this MLS system came exclusively from fees paid by the managed boards. Opponents countered that the introduction of a state-wide MLS would now open the door for unfair competition from the state level, violate the spirit of three-way agreement and could destabilize MLS membership in many of the boards that have significant investment in their MLS. Finally, opponents argued that small boards unable to afford their own systems should seek support from larger local boards in their areas.

1. Were there any unethical actions or non-actions taken? (Describe the action/non-action)

2. If yes, please list all unacceptable business practices that apply. (Explain)

3. If yes, what alternative action(s) could have been taken to achieve the same outcome but within good business practices.

Case 13

The Inland Board of REALTORS® decided to discontinue offering its own MLS service to its members for financial reasons. Boards to the east and west own their own MLS and wish to receive endorsements from the Inland Board of REALTORS®. The Shoreline Board, hoping to get the endorsement, offers the president of the Inland Board a free mini vacation at a popular spa resort overlooking the ocean.

The President of the Inland Board compared the MLS services and determined that the Shoreline MLS historically provided not only a better MLS service but at a lower cost. With this in mind, the Inland Board decided to endorse the Shoreline MLS and the President enjoyed a much needed vacation at the spa.

1. Were there any unethical actions or non-actions taken? (Describe the action/non-action)

2. If yes, please list all unacceptable business practices that apply. (Explain)

3. If yes, what alternative action(s) could have been taken to achieve the same outcome but within good business practices.

UNIT 2 - CONFLICT OF INTEREST

Definition. Conflict of interest refers to a situation in which a decision maker such as a director, officer, or staff member is influenced in an organizational decision by personal, financial, business, or other interests unrelated to the organization's best interest.

State Law pertaining to Conflict of Interest
(insert your state's law here)

Competitive Challenge Scenarios

The following case scenarios are fictional and have been created for learning purposes only.

Case 1

Terry Smith, the President of a large local association was reviewing the outline of events for the association's annual meeting. The budget for this meeting is considerably larger than the previous year's budget, so Terry recommended adding outside speakers to the agenda. Terry handed the recommendations to Pat, the association's meeting planner, and asked that the speakers be contacted to see if they are available and interested in attending. Terry also listed the amount that the Association was willing to pay for each speaker and instructed Pat to make the offer during the initial call.

While referring to the list, Pat called Bob, one of the potential speakers. Bob's wife Mary answered the phone and said "hold on one minute please, I'll get my husband on the phone". Pat then heard Mary say in the background, "Honey, it's your Uncle Terry's REALTOR® organization. Please pick up the extension." After hearing the proposal and confirming the date was open for Bob, he accepted the invitation to speak at the meeting.

1. Does a conflict of interest exist? (Describe)

2. If yes, are there any factors that may inhibit disclosure and/or exposure of the conflict. Explain from the perspectives of:

Bob: _____

Pat: _____

Terry: _____

3. If yes, what action or follow up procedure is required and who is responsible for that action?

Case 2

Chris Brown is the AE for the state association. The state association also provides management services for the local chapter of a property management organization. While planning the state association's annual inaugural banquet, it was decided to look into a number of different types of entertainment. Request for Proposals were sent out to a number of entertainers. A 7-piece orchestra replied with a fee that was competitive with the others and included with the proposal was a long list of satisfied previous clients and a cassette tape demonstrating the quality of the orchestra.

It was apparent that the orchestra had done some homework because they knew that Chris not only was the executive for the state association, but that she had oversight for the management of the local property managers' association, too. The proposal offered a considerable discount to the state association if the orchestra was to play at the property management association annual convention. Chris decided to offer the orchestra the opportunity to play at both events, thereby saving the state association money.

After typing up an advertisement which included the name of the orchestra, the assistant complimented Chris on the decision to select this orchestra. The assistant stated that they were very good and also mentioned that the violinist is the spouse of a member of the Board of Directors for the state association.

1. Does a conflict of interest exist? (Describe)

2. If yes, are there any factors that may inhibit disclosure and/or exposure of the conflict. Explain from the perspectives of:

Chris Brown: _____

The assistant: _____

Board Member: _____

3. If yes, what action or follow up procedure is required and who is responsible for that action?

Sample Policies

Ownership Disclosure Policy

1. When NAR has an ownership interest in an entity and a member has an ownership interest in that same entity, such member must disclose the existence of his or her ownership interest prior to speaking to a decision making body on any matter involving that entity.
2. If a member has personal knowledge that NAR is considering doing business with an entity in which a member has any financial interest, then such member must disclose the existence of his or her financial interest prior to speaking to a decision making body about the entity.
3. If a member has a financial interest in any entity that the member knows is offering competing products and services as those offered by NAR, then such member must disclose the existence of his or her financial interest prior to speaking to a decision making body about an issue involving those competing products and services.

After making the necessary disclosure, a member may participate in the discussion and vote on the matter unless that member has a conflict of interest as defined below.

Conflict of Interest Policy

A member of any of NAR's decision making bodies will be considered to have a conflict of interest whenever that member:

4. Is a principal, partner or corporate officer of a business providing products or services to NAR or in a business being considered as a provider of products or services ("Business:"); or
5. Holds a seat on the board of directors of the Business unless the person's only relationship to the Business is service on such board of directors as NAR's representative; or
6. Holds an ownership interest of more than 1 percent of the Business.

Members with a conflict of interest must immediately disclose their interest at the outset of any discussions by a decision making body pertaining to the Business or any of its products or services. Such members may not participate in the discussion relating to that Business other than to respond to questions asked of them by other members of the body. Furthermore, no member with a conflict of interest may vote on any matter in which the member has a conflict of interest, including votes to block or alter the actions of the body in order to benefit the Business in which they have an interest.

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UNIT 3 - BENEFITS OF GOOD BUSINESS PRACTICES AND CONSEQUENCES OF UNETHICAL ACTIONS

Unacceptable business practices involve engaging in *one* or more of the following:

1. Knowingly or recklessly making false or misleading representations about other REALTOR® associations or the association's programs, products, or services.
2. False, deceptive, or misleading advertising or marketing practices.
3. Illegal business practices.
4. Knowing violation of state or national policies or mandated local policies.
5. Undisclosed conflict of interest.

Using the spaces provided below, list the worst possible consequences that can occur if you partake in any of the four unacceptable business practices.

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____

List the worst possible consequences that can occur if your business practices are ethical:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____

GUIDELINES

Conflict of Interest Checkpoint

1. Did you or others benefit personally from the transaction? **Yes** **No**
2. Did another organization in which you hold a level of responsibility benefit from the transaction? **Yes** **No**

If:	Then:
One or more answers are Yes	A conflict of interest exists that must be disclosed. <i>Follow your association's disclosure policy.</i>
Both answers are No	There is no conflict of interest.

Standards of Conduct Checklist:

Below is a checklist to be used by individual staff members as a guideline for conducting business in an ethical manner. It is recommended that a copy is given to each staff member.

14-point Checklist

✓ Standards of Conduct:

- 1. Maintain the highest standards of personal conduct.
- 2. Actively promote and encourage the highest degree of ethics at all levels within the real estate industry.
- 3. Maintain loyalty to the REALTOR® association, and pursue its objectives in ways that are consistent with member and public interest.
- 4. Abide by association policies, procedures, and laws impacting REALTOR® associations.
- 5. Strive for excellence in all aspects of leading and managing the association.
- 6. Serve all association members fairly and impartially.
- 7. Accept no personal compensation from business-related activities, which might create a conflict of interest, without full disclosure and knowledge of the association's governing board.
- 8. Maintain confidentiality of privileged information entrusted or known by virtue of an office or position, unless disclosure is necessary to protect the interests of the association.
- 9. Refuse to engage in, or countenance, activities for personal gain at the expense of the association or the real estate industry.
- 10. Refuse to engage in, or countenance, unlawful discrimination.
- 11. Ensure that communicated data and information is accurate and truthful.
- 12. Cooperate in every reasonable and appropriate way with other association executives and officers, and work with them in the advancement of the association and the real estate industry.
- 13. Create and promote a positive public image and role for the REALTOR® association and the real estate industry.
- 14. Ensure that the objective of all association actions and pursuits is to provide the best possible services for the REALTOR® member.