

WHO CAN FILE AN ETHICS COMPLAINT AGAINST A REALTOR?

The National Association's Code of Ethics and Arbitration Manual provides:

“Any person whether a member or not, having reason to believe that a member is guilty of any conduct subject to disciplinary action, may file a complaint in writing with the secretary of the Board/Association of REALTORS, dated and signed by the complainant, stating the facts on which it is based, provided, however, that the complaint must be filed within 180 days after the facts constituting the matter complained of could have been known in the exercise of reasonable diligence.*”

* **NOTE:** Contact the local Board/Association of REALTORS and ask for the Executive Officer. The executive officer can advise you about how to file a complaint and will send relevant information and forms.

If forms are unavailable, prepare your complaint in writing and specify how you feel the REALTOR has acted unethically.

If available, the board/association may offer assistance in the way of a board/association member to advise you about procedures. This member will not become advocate, but will advise only on procedure.

BASIS FOR FILING AN ETHICS COMPLAINT

The basis for filing an ethical complaint against a REALTOR should be an allegation by the complainant that a REALTOR violated one or more of Articles 1-23 of the Code of Ethics of the NATIONAL ASSOCIATION OF REALTORS. A charge of violating the law or the real estate regulations of the state is not a matter that can be considered by the Board/Association of REALTORS.

COMPLAINTS REFERRED TO THE GRIEVANCE COMMITTEE

The board/association's Grievance Committee is charged with preliminary evaluation and assessment of whether complaints should be (1) dismissed, (2) considered for arbitration rather than as ethics, or (3) scheduled for hearing.

The Grievance Committee does not hold hearings or make decisions regarding ethical violations.

Rather, the Grievance Committee conducts a review of the complaint and makes such investigation as deemed necessary and determines whether the complaint could be construed as a Code violation if the complaint is taken as true on its face. If so, the Grievance Committee will refer it to the Professional Standards Committee for hearing.

APPEAL TO THE BOARD OF DIRECTORS

Dismissal of a complaint by the Grievance Committee may be appealed to the Board of Directors within a time-frame specified by the board/association's bylaws.

Only materials considered by the Grievance Committee can be reviewed by the directors. The parties do not have the right to appear before the Board of Directors. The directors may affirm the Grievance Committee's dismissal or may refer the matter for hearing.

GRIEVANCE COMMITTEE MAY AMEND A COMPLAINT OR FILE ITS OWN COMPLAINT

The Grievance Committee may conclude that one or more of the cited Article(s) are improperly included in a complaint and delete such Article(s).

If they feel an Article should be added to a complaint, they may do so. If the complainant agrees. If the complainant does not agree, the Grievance Committee may file its own complaint to be heard simultaneously with the first complaint.

If a complaint is referred by the Grievance Committee for hearing, the secretary (or executive officer) notifies the respondent of the complaint, using appropriate forms and instructions, and oversees the procedure. The Board secretary may be contacted for information at any time.

DUE PROCESS AND RIGHTS OF PARTIES

A complainant may be frustrated by what appears to be unnecessary delay. However, the board/association operates a quasi-judicial system and must ensure due process. It is important to understand that the board/association does not process legal complaints, nor does it award damages or cancel a real estate license.

REHEARINGS AND APPEALS

After an ethics hearing is concluded, the complainant or respondent can petition for a rehearing solely on the basis of new evidence that could not have been discovered and produced at the original hearing in the exercise of reasonable diligence.

The complainant also has a right of appeal limited solely to alleged failures of due process. The respondent has a wider basis for appeal, including misapplication or misinterpretation of an Article(s), appropriateness of the recommended sanction, failure of due process, or other valid basis.

DECISION OF BOARD OF DIRECTORS IS FINAL

The directors may adopt or modify the recommendation of the hearing panel, including the discipline proposed. The directors may reduce the recommended discipline or refer the matter back to the panel for reconsideration. The directors may dismiss the recommendation of the hearing panel if they feel it is not supported by the panel's findings of fact.

The decision of the Board of Directors is final, and there is no appeal to the state association or to the NATIONAL ASSOCIATION OF REALTORS.

YOU CAN OBTAIN A COPY OF THE CODE OF ETHICS AND STANDARDS OF PRACTICE FROM THE LOCAL BOARD/ASSOCIATION OF REALTORS!!