



CAMPBELL & BRANNON

# Code of Ethics

*Continuing Education Class*

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# Objectives

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- 1) Identify key aspirational concepts found in the Preamble to the NATIONAL ASSOCIATION OF REALTORS® Code of Ethics
- 2) Describe the structure of the REALTORS® Code of Ethics
- 3) Describe the concepts established in Articles 1, 2, 3, 11, and 16 and identify possible violations
- 4) Identify discriminatory speech and conduct that violates Article 10
- 5) Describe the professional standards process for enforcing the Code, including arbitration
- 6) Identify critical elements of due process as they relate to Code enforcement

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# History of the Code

# History

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No licensing of real estate practitioners

1908

Code of Ethics adopted

1989

What does the future hold?

Pre-1900

NATIONAL ASSOCIATION OF REALTORS® formed

1913

Code of Ethics begins to be amended almost every year

2021

# History – What is the Code?

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The Code is an ever-changing document that evolves over time to maintain the high standards in real estate.

It is a REALTORS® commitment to professionalism.

Regardless of what broker or what specialty a real estate agent practices, all REALTORS® are bound by the Code of Ethics.



# History – Embracing Change

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Code of Ethics serves as a reminder of how our words and actions reflect on the industry as a whole

By embracing change, REALTORS® demonstrate respect for clients, peers, and the public

Code has evolved throughout its existence to prohibit discrimination

Standard of Practice 10-5 introduced in 2020

Protected classes face many barriers to homeownership

Understand basic definitions of hate speech, epithets, slurs

# History – Ethics & the Code

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The Code of Ethics includes:

- Industry-wide standards
- Company policy
- Individual moral values

Regardless of real estate business specialty, all REALTORS® are bound by the Code of Ethics.



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# Code Structure



# Structure- Preamble

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## Aspirational Concepts of the Preamble

- The Golden Rule
- “Widely allocated ownership” and “widest distribution of land ownership”
- Maintain and improve the standards of our calling.
- Share our common responsibility for the integrity and honor of the real estate profession.
- Become and remain informed about issues affecting real estate.
- Share your experience and expertise with others.
- Identify and eliminate practices that damage the public or might discredit or bring dishonor to the real estate profession.
- Urge exclusive representation of clients.
- Refrain from taking unfair advantage of your competitors.
- Don't make unsolicited comments about other practitioners.
- If your opinion is sought about a competitor (or if you believe a comment is necessary), offer it in an objective, professional manner.
- Remember, the term “REALTOR®” stands for competency, fairness, high integrity, moral conduct in business relations.
- Keep in mind that no inducement of profit or instruction from clients can justify departure from the Code's duties.

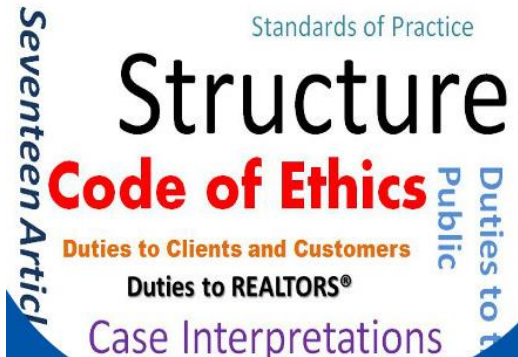


# Structure

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## Three main sections

1. Duties to Clients and Customers
2. Duties to the Public
3. Duties to Other REALTORS®



# Structure- 17 Articles

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Each section is comprised of Articles, which are broad statements of ethical principles

Only Articles of Code may be violated. Thus, one alleging an ethics violation must cite a particular Article



# Structure – Standards of Practice

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Support, interpret, and amplify each Article



May not be charged, but cited in support of an alleged violation

# Structure – Official Case Interpretations

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Factual, specific applications for each Article and/or Standard of Practice of the Code.

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# Arbitration & Mediation

# Arbitration Process

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Ethics  
Complaint



Arbitration  
Requests



Grievance  
Committee



Hearing  
Panel

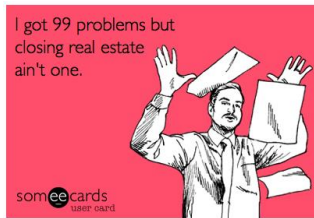


Appeal

# Arbitration- Step 1 Ethics Complaint

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Ethics complaints deal with the perceived unethical “actions” or “conduct” of a REALTOR®





# Arbitration – Step 2 Arbitration

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Arbitration requests must fall within the parameters of Article 17

- Article 17-4: Contractual Disputes involving money arising out of their relationship as REALTORS®.

Arbitration must be requested within 180 days of the later:

- The closing; or
- The realization that a dispute existed



# Arbitration – Step 2 Arbitration

Mandatory	Voluntary
REALTOR® principals associated with different firms	REALTORS® within the same firm
REALTOR® principals associated with different firms when requested by their REALTOR® licensees	REALTORS® and real estate professionals that do not hold REALTOR® membership
Clients and the REALTOR® principals who represent them as agents. In this situation, the client must agree to arbitrate the dispute through the association of REALTORS®.	REALTORS® and customers (no agency relationship)

# Arbitration – Step 2 Arbitration

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After an arbitration hearing, the panel may award an amount to the prevailing party

- **HOWEVER** this amount cannot be more than what was requested in the party's request for arbitration
- They can award less than the amount requested

## Arbitration- Step 3 Grievance Committee

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The Grievance Committee reviews ethics complaints and arbitration requests to determine if a full due process hearing is warranted.

### ETHICS

If the allegations are taken as true on their face, is it possible that a violation of the Code occurred ?

### ARBITRATION

Is it related to a monetary dispute arising out of a real estate transaction that is subject to arbitration?

## Arbitration- Step 3 Grievance Committee

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The Committee ensures that complaints and arbitration requests are in proper form and:

- Proper parties, Articles, and Standards of Practice are named
- Deadlines are followed
- There is no litigation or investigation pending involving the same event that could cause a delay
- The amount involved is within the range for arbitration and if it is mandatory or voluntary



## Arbitration- Step 3 Grievance Committee

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Grounds for a Grievance Committee appeal?

- If the Committee dismissed an ethics complaint or arbitration request
- Classification of the dispute as “voluntary” or “mandatory”



# Arbitration – Step 4 Hearing Panel

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A full “due process” hearing

Fair, unbiased, and impartial

Determine whether a violation of the Code occurred or an award should be rendered

The named violator is deemed INNOCENT until provide guilty of violation the Code  
The burden of proof is “clear, strong, and convincing.”



# Arbitration – Step 4 Hearing Panel

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What happens at a hearing?

1. Parties make an opening statement briefly explaining their basic position
2. Parties present their respective cases, including any witnesses.
3. Parties and witnesses cross-examined by the other party and panel
4. Supporting documents & information presented
5. Parties make closing arguments
6. Decision made based on the evidence



# Arbitration – Step 4 Hearing Panel

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Common

Letters of warning or reprimand

Fines up to \$15,000

Authorized  
Discipline

Attendance at educational courses/seminars

Suspension or termination of membership

Suspension or termination of services  
including MLS

# Arbitration- Step 5 Appeal

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The fact that a hearing panel found no violation of the Code of Ethics is not appealable.

The appeal panel's decision is final.

In addition to procedural deficiencies, appeals brought by ethics respondents can also be based on:

- A perceived misapplication or misinterpretation of one or more Articles of the Code of Ethics.
- The nature or gravity of the discipline proposed by the hearing panel.

# Mediation

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Mediation is an alternative to Arbitration and may help REALTORS® and their clients resolve the dispute

Must be offered by an Association as an alternative to arbitration. However, if mediation is unsuccessful the parties are still free to arbitrate.



# Mediation

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Mediation	Arbitration
Low cost	Moderate cost
Little delay	Moderate delay
Maximum range of solutions	Win/lose/split
Parties control the outcome	Arbitrators control the outcome
Uncertain closure	Definite closure
Maintains/improves relationships	May harm relationships

# Mediation Process

1 Explain process

2 Make statements

3 Identify issues

4 Cross-talk

5 Caucus

6 Find solutions

7 Reach agreement

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# Ombudsman

# Ombudsman

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What is an Ombudsman?

An Ombudsman  
is an individual appointed to  
**resolve disputes**  
through  
constructive communication  
and advocating for  
consensus and understanding.



# Ombudsman

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The ombudsman's role is primarily communication and conciliation, not adjudication.

Ombudsmen DO:

Anticipate, identify, and resolve misunderstandings and disagreements before matters ripen into disputes and charges of unethical conduct.

Ombudsmen DO NOT:

Determine whether ethics violations have occurred or who is entitled to what amount of money.





# Ombudsman

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General questions about real estate practice

Transaction details

Ethical practices

Enforcement issues

Questions and complaints about members

# Ombudsman

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Will not:

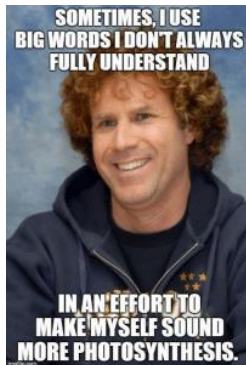
1. Adjudicate the issues presented; or
2. Address complaints alleging violations of the public trust (newly defined in 2020; Article IV).

The Ombudsman may refer cases involving the violation of public trust to the Grievance Committee.

# Ombudsman

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- Complainants do not have to accept the services of an ombudsman
- The formal ethics complaint will continue to be processed until withdrawn by the complainant
- The complainant may resubmit the original complaint if they refuse to comply with the terms of a mutually agreed on resolution



# Ombudsman – Referrals

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Ombudsmen CANNOT refer concerns about **conduct of parties** to:

- the Grievance Committee
- the state real estate licensing authority
- any other regulatory body

The prohibition is intended to **ensure impartiality and confidentiality**, and avoid the possible appearance of **bias**.

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# Real Estate License

# Real Estate License

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## Requirements to Obtain Your Georgia Salesperson License:

- Must be 18 years old
- Have a high school or equivalent diploma
- Complete the required education
- Complete a background check and lawful presence verification
- Pass the Georgia salesperson licensing exam.

Can I sit around an empty house and wait for someone?



Baby, I'm a REALTOR®. I have a license for that.

# Real Estate License

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The law provides that the Commission/Board shall grant licenses:

“... only to persons who bear a good reputation for honesty, trustworthiness, integrity, and competence to transact the business of a licensee in such manner as to safeguard the interest of the public and only after satisfactory proof of such qualifications has been presented to the Commission/Board.” OCGA 43-40-15



# Real Estate License

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The absence of any prior criminal conviction or prior disciplinary action on another professional license gives the applicant a presumption of a good reputation for honesty, trustworthiness, and integrity.

When an applicant has a prior record, they must provide additional proof that he or she currently possesses the requisite good reputation since the prior record is proof that at least at one time the applicant lacked that good reputation.

The Commission's/Board's completion and review of its background investigations lead it to deny issuing a license to about 15% of applicants who report a prior record.



# Real Estate License - Denial

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The reasons for denial/suspension include, but are not limited to:

- Felony Convictions
- Misdemeanor convictions that are crimes of moral turpitude  
Examples: forgery, embezzlement, obtaining money under false pretenses, theft, extortion, or conspiracy to defraud
- Lack of passage of time since previous ethical violation
- Failure to disclose all criminal offenses on the application
- Inadequate character reference

# Real Estate License - Denial

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If an individual has multiple convictions, then at least 5 years must pass since the individual satisfied all terms and conditions of any sentence before making application for licensure or approval.

If an individual has a single conviction, at least 2 years shall have passed since the individual satisfied all terms and conditions of any sentence before making application for licensure or approval.

# Real Estate License - Denial

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An applicant or licensee may be denied or lose their license based on:

- Noncompliance with an order for child support
- Borrower in default, who is not in satisfactory repayment status
- Failure to notify (within 60 days) of felony conviction or misdemeanor of moral turpitude



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## Recent Code Revisions

# Code Revisions

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On November 13, 2020 NAR Board of Directors approved new and amended policies

- Policy Statement 29 was amended and expanded
- NEW standard of practice 10-5
- Revised definition of “Public Trust”

# Code Revisions- Policy Statement 29

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Amended and expanded the applicability of the code to ALL REALTOR® activities

- Previously Article 10 did not apply to discriminatory and abhorrent conduct and speech unless it was related to a real estate activity or transaction
- Updated Policy Statement 29 now applies Article 10 to ALL activities



DISABILITY



RACE



SEX



COLOR



NATIONAL  
ORIGIN



RELIGION



FAMILY  
STATUS

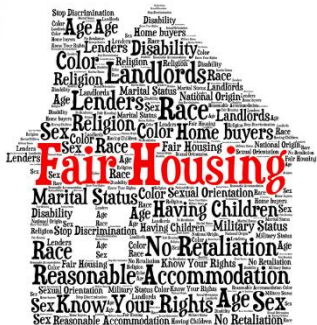


# Code Revisions – Standard of Practice 10-5

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“REALTORS® must not use harassing speech, hate speech, epithets, or slurs based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity.”

Rationale: Bias against protected classes posted publicly could result in REALTORS® not taking clients from a protected class or treat them equally – this violates Fair Housing



# Code Revisions- Public Trust

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The definition of “public trust” expanded to include: 1) ALL discrimination against protected classes under Article 10; 2) ALL fraud; and 3) limits on the reporting requirement to final ethics decisions involving real estate activities and transactions.

- As a result, real estate related discrimination is left actionable under the Code and license law. However, the regulatory agency is not being asked to act on personal, ethical matters outside of the scope of license law.
- The Code requires boards to share with the regulatory agency final ethics decisions where the REALTOR® is found in violation of the Code when the violation is related to real estate related activities and transactions.
- NAR sanctioning guidelines state: “Cases in which there is reason to believe that violations of the public trust, including demonstrated misappropriation of client or customer funds or property, discrimination against the protected classes under the Code of Ethics, or fraud have occurred are considered particularly egregious.”



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# Case Studies

# Case Study-Article 1

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When representing a buyer, seller, landlord, tenant, or other client as an agent, REALTORS® pledge themselves 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.

# Article 1, Case Study 1



1. Do you think Bob is in violation of the Code?
2. What was Bob's obligation to Grant?

# Article 1, Case Study 2



1. Can John renegotiate his listing commission at the time he presents the two offers?
2. By reducing the listing commission, can John present both offers in an objective manner, as required by Standard of Practice 1-6?
3. Under Article 3, as established in Standard of Practice 3-4, is John obligated to inform Bob that he modified the listing commission prior to the offer being accepted?

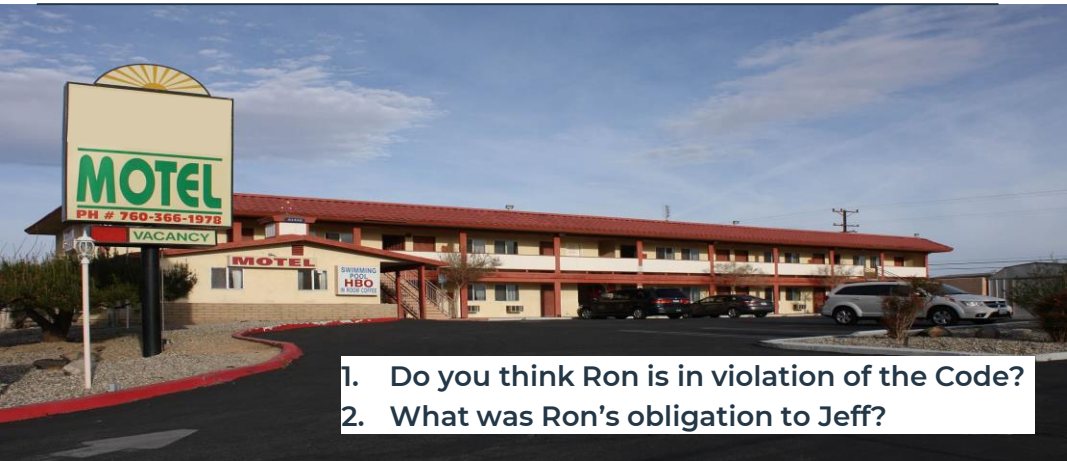


# Case Study – Article 2

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REALTORS® shall avoid exaggeration, misrepresentation, or concealment of pertinent facts relating to the property or the transaction. REALTORS® shall not, however, be obligated to discover latent defects in the property, to advise on matters outside the scope of their real estate license, or to disclose facts which are confidential under the scope of agency or non-agency relationships as defined by state law.

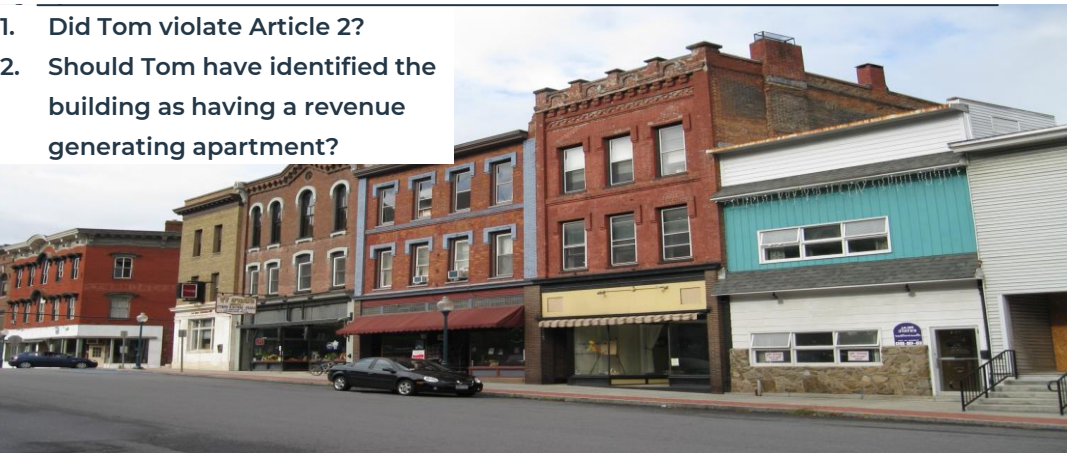
# Article 2, Case Study 1



1. Do you think Ron is in violation of the Code?
2. What was Ron's obligation to Jeff?

# Article 2, Case Study 2

1. Did Tom violate Article 2?
2. Should Tom have identified the building as having a revenue generating apartment?



# Article 3

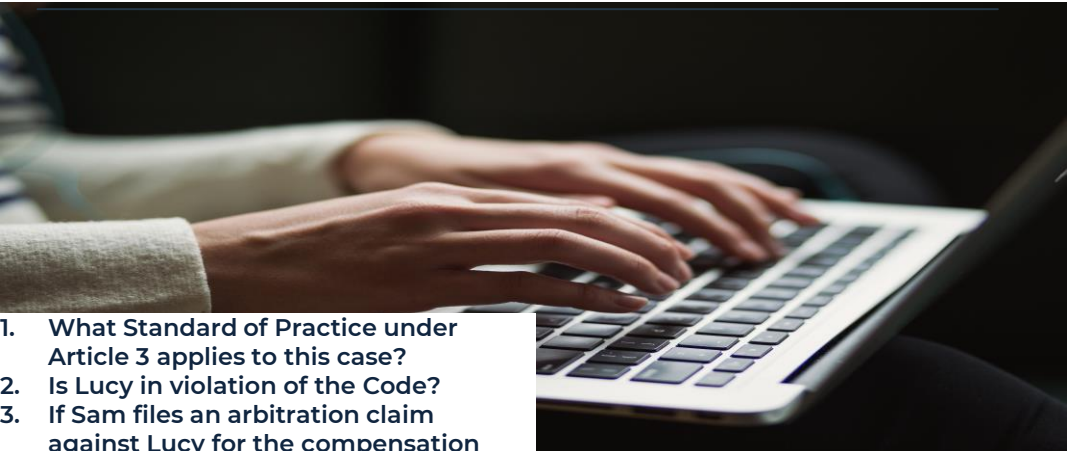
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**REALTORS® shall cooperate with other brokers except when cooperation is not in the client's best interest.**

**The obligation to cooperate does not include the obligation to share commissions, fees, or to otherwise compensate another broker.**




# Article 3, Case Study 1

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1. What Standard of Practice under Article 3 applies to this case?
  2. Is Lucy in violation of the Code?
  3. If Sam files an arbitration claim against Lucy for the compensation offered through the MLS, should Sam prevail?

# Article 3, Case Study 2

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1. Is Bill obligated to disclose the accepted offer to other cooperating brokers?
  2. Does Bill's obligation under Article 1 to protect and promote his seller client's interests mean that he should not reveal the accepted offer?

# Article 11

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The services which REALTORS® provide to their clients and customers shall conform to the standards of practice and competence which are reasonably expected in the specific real estate disciplines in which they engage; specifically, residential real estate brokerage, real property management, commercial and industrial real estate brokerage, land brokerage, real estate appraisal, real estate counseling, real estate syndication, real estate auction, and international real estate.

REALTORS® shall not undertake to provide specialized professional services concerning a type of property or service that is outside their field of competence unless they engage the assistance of one who is competent on such types of property or service, or unless the facts are fully disclosed to the client. Any persons engaged to provide such assistance shall be so identified to the client and their contribution to the assignment should be set forth.

# Article 11, Case Study 1



1. In addition to Article 11, which other Article might apply to this case?
2. Is Leo in violation of the Code?

# Article 11, Case Study 2



1. As used in Standard of Practice 11-1, does Paul have a “present or contemplated interest” in the property when he does the appraisal?
2. Is Paul in Violation of Article 11?



# Article 16

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**REALTORS® shall not engage in any practice or take any action inconsistent with exclusive representation or exclusive brokerage relationship agreements that other REALTORS® have with clients.**

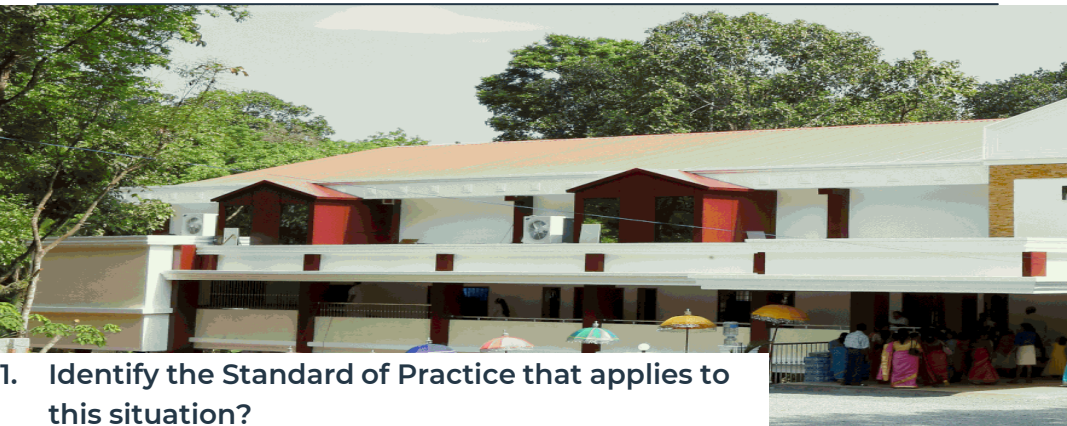
# Article 16, Case Study 1



1. What Standard of Practice under Article 16 applies to this situation?
2. Is Laura in violation of Article 16?
3. What was Laura's obligation?
4. Is Sue in violation of Article 16?



# Article 16, Case Study 2



1. Identify the Standard of Practice that applies to this situation?
2. Is there an obligation on Mike's part to work through Barbara?



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Questions?