



EASTERN CONNECTICUT ASSOCIATION OF REALTORS[®], INC.

The Voice for Real Estate in Eastern Connecticut™

106 Route 32, Suite 4 • North Franklin, CT 06254-1800

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Web Site: <http://www.easternctrealtors.com>



The Eastern Connecticut Association of REALTORS[®] requires that the members adhere to a strict Code of Ethics according to its Bylaws and those of the National Association of REALTORS[®]. This Code was originally adopted in 1913 and has been amended in accordance with modern business practices.

The seventeen articles of the Code of Ethics are comprised of three parts: Duties to Clients and Customers, Duties to the Public and Duties to other REALTORS[®]. In addition to the articles there is a strict format for processing complaints developed by the National Association of REALTORS[®].

All complaints must be submitted in writing citing the specific articles that are believed to have been violated. As soon as the complaint is received, a meeting of the Grievance Committee is called. The function of the committee is similar to that of a grand jury. The committee considers a list of questions and asks, "If the facts alleged in the complaint are taken as true on their face, is it possible that a violation of the Code of Ethics occurred?"

If the answers to these questions are "yes" then the Grievance Committee either issues a citation or refers the complaint to the Professional Standards Committee for a hearing by an Ethics hearing panel. Please review the Ethics Citation brochure that is attached for further detail. If a hearing is scheduled, all parties are given at least twenty-one (21) days notice of such a hearing. At the hearing, the parties may be represented by counsel providing notice is given fifteen (15) days prior to the hearing. An outline of the hearing procedures will be furnished.

A copy of the Code of Ethics and the official Ethics Complaint Form are enclosed for your review. I've also enclosed a copy of "Before You File an Ethics Complaint" that provides you with more details on the entire process. Should you have any questions or would like assistance completing the form, please feel free to contact me at 860-892-2595.

Sincerely,

A handwritten signature in cursive script that reads 'Susan D. Hurlbert'.

Susan D. Hurlbert
Chief Executive Officer
Enclosures:

Code of Ethics
Ethics Complaint Form
Before You File an Ethics Complaint
Ethics Citation Program brochure



REALTOR[®] - is a registered collective membership mark which may only be used by real estate professionals who are members of the NATIONAL ASSOCIATION OF REALTORS[®] and subscribe to its strict Code of Ethics.



Eastern Connecticut Association of REALTORS®
106 Route 32, Suite 4, North Franklin, CT 06254

Ethics Complaint

To the Grievance Committee of the Eastern Connecticut Association of REALTORS®

Filed _____, 20_____

Complainant(s) Respondent(s)

Complainant(s) charge(s):

An alleged violation of Article(s) _____ of the Code of Ethics or other membership duty as set forth in the bylaws of the Board in _____ and alleges that the above charge(s)

Article, Section

(is/are) supported by the attached statement, which is signed and dated by the complainant(s) and which explains when the alleged violation(s) occurred and, if a different date, when the complainant(s) first knew about the alleged violations.

1. This complaint is true and correct to the best knowledge and belief of the undersigned and is filed within one hundred eighty (180) days after the facts constituting the matter complained of could have been known in the exercise of reasonable diligence or within one hundred eighty (180) days after the conclusion of the transaction, whichever is later.

Date(s) alleged violation(s) took place: _____

Date(s) you became aware of the facts on which the alleged violation(s) (is/are) based: _____

2. I (we) declare that to the best of my (our) knowledge and belief, my (our) allegations in this complaint are true.

3. Are the circumstances giving rise to this ethics complaint involved in civil or criminal litigation or in any proceeding before the state real estate licensing authority or any other state or federal regulatory or administrative agency?

Yes No

4. I wish to file this complaint anonymously. I understand that a subcommittee of the Grievance Committee will investigate the complaint and act as the Complainant. I further understand that the subcommittee will contact me to investigate the complaint. Before you check Yes, please contact the ECAR Chief Executive Officer to discuss the advantages and disadvantages of your choice.

Yes No

5. You may file an ethics complaint in any jurisdiction where a REALTOR® is a member or MLS Participant. Note that the REALTORS® Code of Ethics, Standard of Practice 14-1 provides, in relevant part, "REALTORS® shall not be subject to disciplinary proceeding in more than one Board of REALTORS®... with respect to alleged violations of the Code of Ethics relating to the same transaction or event."

6. Have you filed, or do you intend to file, a similar or related complaint with another Association(s) of REALTORS®?

Yes No

If so, name of other Association(s) _____ (date(s) filed) _____

7. I understand that should the Grievance Committee dismiss this ethics complaint in part or in total, that I have twenty (20) days from transmittal of the dismissal notice to appeal the dismissal to the Board of Directors.

Complainant(s):

Signature lines for complainant and respondent

Type/Print Name

Phone

Signature

Address

Before You File an Ethics Complaint

Background

Boards and Associations of REALTORS® are responsible for enforcing the REALTORS® Code of Ethics. The Code of Ethics imposes duties above and in addition to those imposed by law or regulation which apply only to real estate professionals who choose to become REALTORS®.

Many difficulties between real estate professionals (whether REALTORS® or not) result from misunderstanding, miscommunication, or lack of adequate communication. If you have a problem with a real estate professional, you may want to speak with them or with a principal broker in the firm. Open, constructive discussion often resolves questions or differences, eliminating the need for further action.

If, after discussing matters with your real estate professional or a principal broker in that firm, you are still not satisfied, you may want to contact the local Board or Association of REALTORS®. In addition to processing formal ethics complaints against its REALTOR® members, many boards and associations offer informal dispute resolving processes (e.g., ombudsman, meditation, etc.). Often parties are more satisfied with informal dispute resolution processes, as they are quicker, less costly, and often help repair damaged relationships. (Revised 11/15)

If, after taking these steps, you still feel you have a grievance, you may want to consider filing an ethics complaint. You will want to keep in mind that . . .

- Only REALTORS® and REALTOR-associate®s are subject to the Code of Ethics of the National Association of REALTORS®.
- If the real estate professional (or their broker) you are dealing with is not a REALTOR®, your only recourse may be the state real estate licensing authority or the courts.
- Boards and Associations of REALTORS® determine whether the Code of Ethics has been violated, not whether the law or real estate regulations have been broken. Those decisions can only be made by the licensing authorities or the courts.
- Boards of REALTORS® can discipline REALTORS® for violating the Code of Ethics. Typical forms of discipline include attendance at courses and seminars designed to increase REALTORS®' understanding of the ethical duties or other responsibilities of real estate professionals. Additional examples of authorized discipline are a letter of reprimand and appropriate fines. For serious or repeated violations, a REALTOR®'s membership can be suspended or terminated. Boards and Associations of REALTORS® cannot require REALTORS® to pay money to parties filing ethics complaints; cannot award "punitive damages" for violations of the Code of Ethics; and cannot suspend or revoke a real estate professional's license. (Revised 11/15)
- The primary emphasis of discipline for ethical lapses is educational, to create a heightened awareness of and appreciation for the duties the Code imposes. At the same time, more severe forms of discipline, including fines and suspension and termination of membership may be imposed for serious or repeated violations.

Filing an Ethics Complaint

The local Board or Association of REALTORS® can provide you with information on the procedures for filing an ethics complaint. Here are some general principles to keep in mind.

- Ethics complaints must be filed with the local Board or Association of REALTORS® within one hundred eighty (180) days from the time a complainant knew (or reasonably should have known) that potentially unethical conduct took place or within one hundred eighty (180) days after the conclusion of the transaction or event, whichever is later (unless the Board’s informal dispute resolution processes are invoked, in which case the filing deadline will momentarily be suspended).
 - The REALTORS® Code of Ethics consists of seventeen (17) Articles. The duties imposed by many of the Articles are explained and illustrated through accompanying Standards of Practice or case interpretations.
 - Your complaint should include a narrative description of the circumstances that lead you to believe the Code of Ethics may have been violated.
 - Your complaint must cite one or more of the seventeen (17) Articles of the Code of Ethics which may have been violated. Hearing Panels decide whether the Articles expressly cited in complaints were violated—not whether Standards of Practice or case interpretations were violated.
 - The local Board or Associations of REALTORS®’ Grievance Committee may provide technical assistance in preparing a complaint in proper form and with proper content.
- Before the Hearing
- Your complaint will be reviewed by the local Board or Association’s Grievance Committee. Their job is to review complaints to determine if the allegations made, if taken as true, might support a violation of the Article(s) cited in the complaint.
 - If the Grievance Committee dismisses your complaint, it does not mean they do not believe you. Rather, it means that they do not feel that your allegations would support a Hearing Panel’s conclusion that the Article(s) cited in your complaint had been violated. You may want to review your complaint to see if you cited an Article appropriate to your allegations.
 - If the Grievance Committee forwards your complaint for hearing, that does not mean they have decided the Code of Ethics has been violated. Rather, it means they feel that if what you allege in your complaint is found to have occurred by the Hearing Panel, that panel may have reason to find that a violation of the Code of Ethics occurred.
 - If your complaint is dismissed as not requiring a hearing, you can appeal that dismissal to the Board of Directors of the local Board or Association of REALTORS®.

Preparing for the Hearing

- Familiarize yourself with the hearing procedures that will be followed. In particular you will want to know about challenging potential panel members, your right to counsel, calling witnesses, and the burdens and standards of proof that apply.
- Complainants have the ultimate responsibility (“burden”) of proving that the Code of Ethics has been violated. The standard of proof that must be met is “clear, strong and convincing,” defined as “. . . that measure or degree of proof which will produce a firm belief or conviction as to the allegations sought to be established.” Consistent with American jurisprudence, respondents are considered innocent unless proven to have violated the Code of Ethics.
- Be sure that your witnesses and counsel will be available on the day of the hearing. Continuances are a privilege—not a right.

- Be sure you have all the documents and other evidence you need to present your case.
- Organize your presentation in advance. Know what you are going to say and be prepared to demonstrate what happened and how you believe the Code of Ethics was violated.

At the Hearing

- Appreciate that panel members are unpaid volunteers giving their time as an act of public service. Their objective is to be fair, unbiased, and impartial; to determine, based on the evidence and testimony presented to them, what actually occurred; and then to determine whether the facts as they find them support a finding that the Article(s) charged have been violated.
- Hearing Panels cannot conclude that an Article of the Code has been violated unless that Article(s) is specifically cited in the complaint.
- Keep your presentation concise, factual, and to the point. Your task is to demonstrate what happened (or what should have happened but did not), and how the facts support a violation of the Article(s) charged in the complaint.
- Hearing Panels base their decisions on the evidence and testimony presented during the hearing. If you have information relevant to the issue(s) under consideration, be sure to bring it up during your presentation.
- Recognize that different people can witness the same event and have differing recollections about what they saw. The fact that a respondent or their witness recalls things differently does not mean they are not telling the truth as they recall events. It is up to the Hearing Panel, in the findings of fact that will be part of their decision, to determine what actually happened.
- The Hearing Panel will pay careful attention to what you say and how you say it. An implausible account does not become more believable through repetition or through volume.
- You are involved in an adversarial process that is, to some degree, unavoidably confrontational. Many violations of the Code of Ethics result from misunderstanding or lack of awareness of ethical duties by otherwise well-meaning, responsible real estate professionals. An ethics complaint has potential to be viewed as an attack on a respondent's integrity and professionalism. For the enforcement process to function properly, it is imperative for all parties, witnesses, and panel members to maintain appropriate decorum.

After the Hearing

- When you receive the Hearing Panel's decision, review it carefully.
- Findings of fact are the conclusions of impartial panel members based on their reasoned assessment of all of the evidence and testimony presented during the hearing. Findings of fact are not appealable.
- If you believe the hearing process was seriously flawed to the extent you were denied a full and fair hearing, there are appellate procedures that can be invoked. The fact that a Hearing Panel found no violation is not appealable.
- Refer to the procedures used by the local Board or Association of REALTORS® for detailed information on the bases and time limits for appealing decisions. (Revised 11/14)

Appeals brought by ethics respondents must be based on:

- (a) a perceived misapplication or misinterpretation of one or more Articles of the Code of Ethics,
- (b) a procedural deficiency or failure of due process, or
- (c) the nature or gravity of the discipline proposed by the Hearing Panel.

Appeals brought by ethics complainants are limited to procedural deficiencies or failure of due process that may have prevented a full and fair hearing.

Conclusion

- Many ethics complaints result from misunderstanding or a failure in communication. Before filing an ethics complaint, make reasonable efforts to communicate with your real estate professional or a principal broker in the firm. If these efforts are not fruitful, the local Board or Association of REALTORS® can share options for dispute resolution, including the procedures and forms necessary to file an ethics complaint.

(Revised 11/15)

Filing an ethics complaint against a REALTOR® is a time-consuming process. With the Citation Program, respondents can elect to avoid the lengthy hearing process when a REALTOR® or a member of the public files a complaint against them.

HOW THE CITATION PROGRAM WORKS

- A REALTOR® or member of the public would file a complaint in the customary manner.
- If the Grievance Committee decides that the Articles cited in the complaint make the case eligible for the Citation Program, the respondent will be notified and given ten (10) days to elect to participate in the Citation Program or request an ethics hearing.
- If the respondent agrees to the Citation Program, he/she would pay the fine and complete the education.
- Included in this brochure is a list of violations that are eligible for this process. For a full description of ALL Code of Ethics violations, visit <http://www.easterncrealtors.com/code-of-ethics-and-standards-of-practice.html>

TO FILE A COMPLAINT:

Contact Susy Hurlbert, CEO at
860-892-2595

or

Susy@easterncrealtors.com

to obtain a copy of the appropriate
complaint forms.

Eastern Connecticut Association of REALTORS® CITATION PROGRAM FOR CODE OF ETHICS VIOLATIONS



BACKGROUND

ECAR's ongoing effort to increase professionalism in the marketplace for our membership, streamline the ethics hearing process and protect the interests of the general public.



Eastern Connecticut Association of REALTORS®
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North Franklin, CT 06254
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ECAR's Professional Standards and Grievance Committees are charged with upholding the highest principles of the Association and ensuring that members adhere to the REALTOR® Code of Ethics. Over the years, members have sought ways to avoid time-consuming ethics complaint filings and hearings.

In response, ECAR introduced a new Citation Program effective October 16, 2014.



WHY SHOULD A RESPONDENT ELECT TO USE THIS SYSTEM?

➤ **For Respondents**, electing the Citation Program avoids an uncomfortable and often time-consuming hearing process while still respecting their due process rights since they may elect NOT to use the Citation System and proceed with a full hearing. The Citation Program is as confidential as the hearing process.

➤ **For Complainants**, there may be less time involved, yet justice will still be served, thereby protecting the industry from unethical behavior. However, if the Respondent elects to have a hearing, the Complainant would need to be prepared to attend.

Please note that the Citation Program is limited to violations of the following Articles only. Other Code of Ethics violations and arbitration/mediation services follow the regular complaint process.

Article 3: 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 4: REALTORS® shall not acquire an interest in or buy or present offers from themselves, any member of their immediate families, their firms or any member thereof, or any entities in which they have any ownership interest, any real property without making their true position known to the owner or the owner's agent or broker. In selling property they own, or in which they have any interest, REALTORS® shall reveal their ownership or interest in writing to the purchaser or the purchaser's representative.

Article 5: REALTORS® shall not undertake to provide professional services concerning a property or its value where they have a present or contemplated interest unless such interest is specifically disclosed to all affected parties.

Article 6: REALTORS® shall not accept any commission, rebate, or profit on expenditures made for their client, without the client's knowledge and consent.

When recommending real estate products or services (e.g., homeowner's insurance, warranty programs, mortgage financing, title insurance, etc.), REALTORS® shall disclose to the client or customer to whom the recommendation is made any financial benefits or fees, other than real estate referral fees, the REALTOR® or REALTOR®'s firm may receive as a direct result of such recommendation.

Article 12: REALTORS® shall be honest and truthful in their real estate communications and shall present a true picture in their advertising, marketing, and other representations. REALTORS® shall ensure that their status as real estate professionals is readily apparent in their advertising, marketing, and other representations, and that the recipients of all real estate communications are, or have been, notified that those communications are from a real estate professional.

Article 14: If charged with unethical practice or asked to present evidence or to cooperate in any other way, in any professional standards proceeding or investigation, REALTORS® shall place all pertinent facts before the proper tribunals of the Member Board or affiliated institute, society, or council in which membership is held and shall take no action to disrupt or obstruct such processes.

Article 16: 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.

Fines for citations shall be as follows:

- 1) For the first violation: Warning or up to \$500
- 2) For a second violation: \$150 up to \$500
- 3) For a third violation: \$500 up to \$1,000

Education commensurate with the Article violated is required to be taken within 90 days of the receipt of the Citation by the respondent for all violations. It is the respondent's responsibility to provide proof of attendance at the required course.



QUESTIONS?

Contact Susy Hurlbert, CEO at
860-892-2595 or

Susy@easternctrealtors.com

