

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 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 Suburban West REALTORS Association to request assistance through our [Ombudsman](#) or [Mediation of Potentially Unethical Conduct](#) programs. [Email](#) Paula Tansey or call 610-560-4800//866-495-7972 (toll free)

If, after taking these steps you are not satisfied, or you feel you only want to consider filing an ethics complaint here is information that will be helpful.

- Only REALTORS are subject to the Code of Ethics of the National Association of REALTORS.
- If the real estate professional you are dealing with is not a REALTOR your recourse may be the state real estate licensing authority or the courts.
- Suburban West REALTORS Association (SWRA) has authority to 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.
- SWRA can [discipline](#) REALTORS for violating the Code of Ethics. Typical forms of discipline include attendance at courses and seminars designed to increase understanding of the ethical duties or other responsibilities of real estate professionals. REALTORS may also be reprimanded, fined, or their membership can be suspended or terminated for serious or repeated violations. SWRA 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.
- 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

SWRA 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 SWRA within one hundred eighty (180) days from the time a complainant knew (or reasonably should have known) that potentially unethical conduct took

place. Making use of the informal [Ombudsman](#) or [Mediation of Potentially Unethical Conduct](#) programs may temporarily suspend the filing deadline. Contact [Paula Tansey](#) for more details.

- 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 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.

Grievance Committee Review

- 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 don't believe you. Rather, it means that they do not feel that the facts presented support a potential violation of the Code of Ethics. 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 SWRA board of directors.

The Hearing Process

- Familiarize yourself with the hearing procedures that will be provided to you. Contact [Paula Tansey](#) if you have any questions.
- 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.
- Witnesses and counsel are permitted. You are responsible to see that your witnesses and counsel will be available on the day of the hearing. Continuances are a privilege - not a right.
- Know 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.
- 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.