

**Oregon Association of REALTORS®**  
**Grievance Committee Check List**  
COPYRIGHT © 2004 by OREGON ASSOCIATION OF REALTORS®

**Introduction**

Grievance Committee members must be masters of the Code of Ethics. Committee members must not just be familiar with the Code, they must know it inside and out. Only by being masters of the Code can the Committee do its job as gatekeeper and facilitator. It is the Committee that is the first line of defense against misuse of the Code while at the same time being the first point of contact for the complainant.

The roles of gatekeeper and facilitator can conflict. In its role as a facilitator, it is the Grievance Committee's task to make certain the complainant has had a fair chance to state their complaint. That is, the Grievance Committee can make sure the complainant has a chance to tell their story but cannot tell it for them. The Committee can offer the complainant only "procedural assistance." Procedural assistance means helping the complainant file a complaint in the proper form with sufficient explanation that the Grievance Committee can evaluate it. It does not mean suggesting additional charges to the complainant or helping the complainant find evidence of violations.

In its role as a gatekeeper, the Grievance Committee must decide if the complaint raises sufficient factual issues to warrant a hearing. This role is widely misunderstood. To determine whether a hearing is warranted requires comparing the factual allegation with the Code of Ethics to determine whether what the complainant alleges would be a violation of the Code *if what the complainant says is true*. **TO MAKE THIS DETERMINATION, THE COMMITTEE MUST ASSUME THE FACTS ALLEGED ARE TRUE.**

The gatekeeper role can be quite frustrating. Human instinct is to try to verify facts before taking action. The Grievance Committee must reject instinct and focus on the relationship between the Code and the allegations. Because the allegations must be taken as true, the Grievance Committee's chief skill is knowledge of the Code, not fact finding.

The Grievance Committee's duties, when reviewing an ethics complaint, are set out in Part Three of NAR's Code of Ethics and Arbitration Manual. A copy of Section 19 of Part Three is attached to this check list. Although each of the duties set out in Part Three are important, the meat of what a Grievance Committee does is found in Section 19(7) of Part Three.

According to Section 19(7), it is the Grievance Committee's duty to determine if the specific Articles cited in the complaint are appropriate in light of the facts provided. It is the Grievance Committee that must decide if additional Articles should be cited, whether any inappropriate Articles are cited and whether any Standard of Practice in support of an Article should be cited.

This Grievance Committee Check List is designed to help Grievance Committee members with their task under Section 19(7). Included as an attachment to the Check List is the language of each of the seventeen Articles together with a plain language summary of the Article and reference to the underlying unethical behavior involved.

**Are the Articles cited appropriate in light of the facts ?**

1. What Articles are cited by the Complainant? \_\_\_\_\_

2. What is the Complainant's status with respect to the Respondent?

- Client
- Customer
- Member of the public
- REALTOR®
- Other \_\_\_\_\_

3. What is the relationship between the Articles cited and the Complainant's status?

---

---

---

- Articles 1-9 are duties to clients and customers
- Articles 10-14 are duties to the public
- Articles 15-17 are duties to REALTORS®

The Articles cited should be consistent with the status of the Complainant. If the Complainant is a customer or client, one would expect allegations dealing with Articles 1-9 and so on. This is not a hard and fast rule, however, because categories can overlap (clients are members of the public) and members of one class can claim ethical violations based on actions directed at another class. For instance, one REALTOR® can claim another REALTOR® violated a duty to a client or customer. Nevertheless, the relationship between the Article cited and the Complainant's status is a good place to start in evaluating a complaint.

4. Without regard for the Code, what is the basic nature of the unethical conduct complained of?

- Lack of personal diligence in providing a service
- Lack of personal truthfulness
- Personal failure to disclose
- Unethical business practice

5. Considering the Complainant's status and the basic nature of the unethical conduct, which Code provisions seem most applicable?

A. Client or customer complaint

1. Lack of personal diligence in providing a service

- Article 1 failure to protect client interest
- Article 2 negligent failure to disclose pertinent facts
- Article 9 agreements not in writing
- Article 11 incompetent services in speciality
- Article 12 Lack of care in advertising

2. Lack of personal truthfulness

- Article 1 dishonesty
- Article 2 exaggeration, misrepresentation, concealment
- Article 12 dishonest advertising
- Article 15 defamed competitor

3. Personal failure to disclose

- Article 4 undisclosed purchase or sale (includes family)
- Article 5 undisclosed interest
- Article 6 undisclosed fee or commission
- Article 7 undisclosed dual commission

4. Unethical business practice

- Article 8 mishandled client funds
- Article 10 discriminated in service of employment
- Article 13 practiced law
- Article 16 interfered with exclusive agency relationship

B. Member of the public complaint

1. Lack of personal diligence in providing a service

- Article 11 incompetent services in speciality
- Article 12 lack of care in advertising

2. Lack of personal truthfulness

- Article 12 dishonest advertising

3. Unethical business practice

- Article 10 discriminated in service of employment

- Article 13 practiced law
- Article 16 interfered with exclusive agency relationship

C. REALTOR® complaint

1. Lack of personal diligence in providing a service

- Article 1 failure to protect client interest
- Article 2 negligent failure to disclose
- Article 9 agreements not in writing
- Article 11 incompetent services in speciality
- Article 12 Lack of care in advertising

2. Lack of personal truthfulness

- Article 1 dishonesty
- Article 2 exaggeration, misrepresentation, concealment
- Article 12 dishonest advertising
- Article 15 defamed competitor

3. Personal failure to disclose

- Article 4 undisclosed purchase or sale (includes family)
- Article 5 undisclosed interest
- Article 6 undisclosed fee or commission
- Article 7 undisclosed dual commission

4. Unethical business practice

- Article 3 failure to cooperate with fellow REALTOR®
- Article 8 mishandled client funds
- Article 10 discriminated in service of employment
- Article 13 practiced law
- Article 14 failure to cooperate with hearing or investigation
- Article 16 interfered with exclusive agency relationship
- Article 17 sued for a commission

6. Which Articles named by the Complainant are appropriate? \_\_, \_\_, \_\_, \_\_, \_\_, \_\_, \_\_

7. Which, if any, additional Article should be charged? \_\_, \_\_, \_\_, \_\_, \_\_, \_\_, \_\_