



# **Frequently Asked Questions**

## **Ethics**

## Questions and Answers Ethics Complaints

### **Q. Do you have a complaint concerning a REALTOR®?**

- A.** The first thing that must be determined in processing a complaint with the Englewood Area Board of REALTORS® (EABOR) is whether the real estate agent involved is a REALTOR® and a member of EABOR, or, receives MLS through EABOR. Not all real estate agents are REALTORS®. Only those who belong to an Association of REALTORS® can use the term REALTOR®. When joining an Association, all members agree to abide by the Code of Ethics as a continuing condition of membership. It is because of this obligation to abide by the Code of Ethics that you can file complaints at an Association of REALTORS®.

### **Q. Is your complaint Ethics or Arbitration?**

- A.** You may have to consider whether your complaint concerns an ethics matter or an arbitration of a monetary dispute. An ethics complaint charges that a REALTOR® has violated an Article(s) of the Code of Ethics.

Arbitration is a means of resolving a monetary dispute arising out of a real estate transaction that the parties have been unable to solve themselves. An arbitration complaint or request is a simple notice by a member of a disagreement with another member, usually a commission dispute. Sometimes arbitration concerns a dispute between a member of the public and an Association member. Arbitration does not award damages.

If your situation concerns both ethics and arbitration, EABOR will handle the requests separately. You may file both at the same time, however, arbitration is always held first. Only when arbitration is complete will the ethics complaint be considered.

### **Q. Who may file an ethics complaint?**

- A.** Anyone. Any person, whether a member of EABOR or not, may file a complaint against an EABOR member alleging a violation of the Code of Ethics, providing the complaint:
1. Is in writing.
  2. Is signed by the complainant.

3. States the facts surrounding the case.
4. Is filed within 180 days when the facts could have become known by the complainant or within 180 days after the conclusion of the transaction or event, whichever is later.

**Q. Where do I file an ethics complaint?**

- A.** The Complainant may file a complaint from any location provided it is filed with the Association having jurisdiction over the individual(s) named in the complaint.

**Q. What can EABOR do?**

- A.** EABOR has limitations to its authority regarding its members. Below is a list of those limitations:
1. EABOR cannot hold an administrative hearing for violations of the Florida real estate license law or any other alleged violation of the law. It has jurisdiction only over violations of membership duties. The Florida Real Estate Commission has sole control of the real estate agent's license to sell real estate. If you think a person has violated the law, you should be contacting another agency.
  2. For the same reason, EABOR **cannot** suspend or terminate the real estate **license** of one of its members.
  3. EABOR **can** in the case of an ethics violation being determined in a due process hearing procedure, administer discipline to the REALTOR® in one or more of the following ways:
    - Send a letter of warning or reprimand to the member.
    - Direct the member to attend an ethics class or other training appropriate to the violation.
    - Appropriate and reasonable fine not to exceed \$15,000 (this fine is not awarded to the complainant).
    - Place the member on probation for a stated period of time not less than thirty (30) days or more than one (1) year.
    - Membership of the individual suspended for a stated period of time not less than thirty (30) days or more than one (1) year.
    - Expel the member from membership with no reinstatement privilege for a specified period of one (1) to three (3) years, with reinstatement of membership to be by application only after the specified period of expulsion on the merits of the application at the time received.
    - Suspension (30 days to 1 year) or termination of MLS rights and privileges (1 to 3 years).
    - If Respondent is found in violation of the Code of Ethics, an administrative processing fee of \$500 will be assessed by.

**Q.** Will I receive monetary damages from my ethics complaint?

**A.** Monetary damages cannot be a part of an ethics proceeding.

**Q. What is the function of the Grievance Committee?**

**A.** The Grievance Committee reviews complaints when received by the Englewood Area Board of REALTORS®. The Committee determines whether the complaint has sufficient merit for further consideration, somewhat like a "grand jury". It does not determine guilt or innocence. The Committee will do one of three things:

1. Forward the case for a Professional Standards Hearing; or
2. Dismiss it if the complaint is determined to be frivolous, harassing or unfounded or not within the time limitations; or
3. Postpone its decision based on obtaining more information from you or determining that the case may be more appropriately considered for arbitration.

**Q. What if my complaint is dismissed by the Grievance Committee?**

**A.** If your complaint is dismissed by the Committee, you have the right to appeal the dismissal to the Board of Directors. A panel of five (5) members from the Board of Directors will be selected by the President of the Association. In the case of an appeal, the Directors re-examine the materials submitted to the Grievance Committee and can either uphold or overturn the Grievance Committee's decision. Complainants and Respondents are not present for the appeal.

**Q. What If the complaint is to be given further consideration?**

**A.** It will be sent to the Professional Standards Committee for a hearing.

**Q. What is the function of the Professional Standards Committee?**

**A.** The function of the Professional Standards Committee is to hold ethics and arbitration hearings.

**Q. How is a Hearing Panel selected?**

- A.** The Professional Standards Committee Chair will appoint a Hearing Panel, consisting of three to five members of the Professional Standards Committee of the Englewood Area Board of REALTORS® chosen on the basis of experience, temperament and objectivity.

**Q. How will I know when the hearing is?**

- A.** Both the Complainant and Respondent are notified of the hearing date, time and place at least 21 days prior to the Hearing date.

**Q. What can I expect to happen at the ethics hearing?**

- A.** Prior the Hearing, The Professional Standards Administrator will provide you instructions on the hearing procedures.

**Q. What is the purpose of the Hearing?**

- A.** Hearings provide an opportunity for the Complainant and the Respondent to explain "his or her side of the story" by presenting testimony and witnesses, if any.

**Q. Will I know right away the outcome of the Hearing?**

- A.** After both parties have presented their case to the Hearing Panel, they are dismissed for the day and the Panel members go into executive session to determine whether the Code of Ethics has been violated. The Complainant and Respondent will be notified of the Panel's decision electronic mail.

**Q. After I submit the ethics complaint to the Professional Standards Administrator, how long does it take until a final decision is made?**

- A.** The entire process usually will take a minimum of 60 days but, may take longer.

**Q. How do I file the ethics complaint?**

- A.** Now that you know the ground rules, if you wish to file a complaint, here's how you do it:

1. Contact EABOR's Chief Executive Officer/Professional Standards Administrator (941-208-5546) to request an ethics complaint package; or
2. Visit our website at [www.EnglewoodAreaBoardofREALTORS.com](http://www.EnglewoodAreaBoardofREALTORS.com) and click on the REALTOR® Ethics tab.

3. Complete and sign the complaint form (#E-1). This form requests you to name the REALTOR®(s) in question as the Respondent(s).
4. List the Article(s) of the Code of Ethics that you think the REALTOR® has violated. A copy of the Code of Ethics is included in this packet.
5. Attach a written explanation of the situation surrounding the complaint. Be as specific as possible. State the details, including what, when, where, why and how you think each Article was violated.
6. We will require the original, plus five (5) copies of Form #E-1 and all pertinent documents that prove your points such as listing agreement, purchase and sales agreements, emails, correspondence and addenda. If you have notarized statements from witnesses, include those also.
7. Send the completed package, keeping a copy for yourself, to EABOR to the attention of the Dianne Clark, CEO. The complaint will then be processed through the Grievance Committee.

**Q. Who should I contact for assistance regarding my ethics complaint?**

- A.** Dianne Clark, Chief Executive Officer, Englewood Area Board of REALTORS®, 3952 N. Access Road, Englewood, FL 34224, [dclark@eabor.net](mailto:dclark@eabor.net), or 941-208-5546.