

**Business Issues Policy Committee  
2017 REALTORS® Conference**

**Chair:** Chris Kutzkey (CA)

**Vice Chair:** John Kmiecik (IL)

**Committee Liaison:** Brenda Small (DC)

**Staff Executive:** Marcia Salkin, Melanie Wyne, Christie DeSanctis (DC)

**Recommendation(s):**

1. That NAR support the disclosure of beneficial ownership of business entities at the time those entities are registered with the states, with appropriate consideration given to address legitimate business privacy concerns. ✓ passed

*Rationale:* Anonymous shell companies are increasingly being used by corrupt foreign and domestic interests to launder money via real estate purchases. Currently, there are no federal laws requiring the identification of these companies' "beneficial owners," i.e. the individuals who control and benefit from these companies. This has created obstacles for law enforcement agencies' enforcement of anti-money laundering (AML) laws.

Legislation has been introduced to address this problem by requiring the disclosure of the beneficial owners of a shell company when it is formed and registered with its home state. If a state prefers not to collect this data, it could choose to have Treasury take on the responsibility. The information collected would not be made public, and only would be disclosed to law enforcement, or financial institutions that request it in order to fulfill their AML responsibilities. Allowing law enforcement and financial institutions to have access to such information will improve the tracking of illicit money laundering schemes, and thereby reduce growing pressures to impose bank-like AML responsibilities on real estate sales professionals.

Could this recommendation create a financial benefit and/or obligation for state and local associations?

Check one:  Yes  No If yes, please attach a *Program Impact Analysis Form* as an Exhibit.

This recommendation has been reviewed by (check all that apply):  Not Applicable

Leadership Team  Legal  Finance  Other (list committees): Public Policy Coordinating Committee

**The Executive Committee recommends to the Board of Directors:**

Approval  
 Approval with the following amendment:

Referral to \_\_\_\_\_ for further study  
 Defeat

**Board of Directors Action:**

- Approved
- Approved with Executive Committee amendment
- Approved with the following Board of Directors amendment:

- Defeated
- Referred to \_\_\_\_\_ for further study

***The following is reported for your information only and does not affect Association policy or budget.***

1. The Business Issues Policy Committee received the report of the Federal Technology Policy Advisory Board. At its earlier meeting, the Advisory Board was updated by:

- Dave Conroy of the Center For REALTOR<sup>®</sup> Technology on NAR's work in the area of blockchain technology, and its potential to improve property data, increase transaction speeds, establish identity and facilitate contract enforcement;
- Melanie Wyne on the status of legislative/regulatory issues including net neutrality, data privacy/security and patent litigation reform; and
- Chloe Hecht of NAR Legal on an issue with the U.S. Copyright Office. Recently, a number of Multiple Listing Services (MLSs) have received notices of inquiry on their applications for compilation copyrights. The Copyright Office does not believe that MLS databases demonstrate the required creativity to continue to receive copyrights. NAR is engaged in negotiations with the Copyright Office to educate them on why they are incorrect and to get guidance on how to show this creativity in the MLS copyright applications.

2. The Committee then heard a presentation by Loretta Salzano, Founding Partner, Franzen & Salzano, P.C. and Brian Levy, Of Counsel, Katten & Temple, LLP on recent developments in the Consumer Financial Protection Bureau's (CFPB) efforts to enforce the Real Estate Settlement Procedures Act (RESPA), in particular activity related to affiliated business arrangements, online co-marketing, and illegal kickbacks.

3. NAR staff briefed the Committee on the ongoing tax reform Call For Action (CFA) and growing Congressional interest in state oversight of professional licensing boards.

4. Finally, the Committee discussed and approved Committee goals for 2018 and discussed anticipated committee activities, including the Hub.

## Insurance Committee 2017 REALTORS® Conference

**Chair:** David McKey (LA)                      **Vice Chair:** Brandi Gabbard (FL)  
**Committee Liaison:** Brenda Small (DC)                      **Staff Executive:** Austin Perez (DC)

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### Recommendation(s):

1. That NAR fund actuarial cost research to guide the development of NAR policy on a national disaster insurance program, subject to Finance Committee approval of an additional \$174,000. pasted ✓

**Rationale:** The Federal government spends billions of dollars annually on disaster relief to repair uninsured homes damaged by natural disasters. The Insurance Committee believes that it would be less expensive to pool the risk, charge a nominal fee on each homeowner's insurance policy and build up a national insurance reserve fund to pay for the losses. However, no actuarial research has been conducted to determine the size of the insurance fund or policy fee needed to cover the nationwide annual cost. This research would be the first to estimate the U.S. costs and benefits of a federal "all perils" insurance program by using sophisticated catastrophe modeling of earthquakes, floods and tornados across 48 states. Without this data, the Insurance Committee does not feel it has the information needed to move forward and develop NAR policy on this important topic.

Could this recommendation create a financial benefit and/or obligation for state and local associations?

Check one:  Yes  No If yes, please attach a *Program Impact Analysis Form* as an Exhibit.

This recommendation has been reviewed by (check all that apply):  Not Applicable

Leadership Team  Legal  Finance  Other (list committees): Public Policy Coordinating Committee

**The Executive Committee recommends to the Board of Directors:**

- Approval  Referral to \_\_\_\_\_ for further study  
 Approval with the following amendment:  Defeat

**Board of Directors Action:**

- Approved  Defeated  
 Approved with Executive Committee amendment  Referred to \_\_\_\_\_ for further study  
 Approved with the following Board of Directors amendment:

*The following is reported for your information only and does not affect Association policy or budget.*

1. NAR staff provided updates on several federal policy issues:

a. Tax Reform. The Committee was encouraged to respond to NAR's Call For Action opposing any tax reform plan that would weaken the tax incentives for owning a home, such as the mortgage interest deduction, or increase taxes on middle-class homeowners through the elimination of the state and local tax deduction. NAR is urging Congress to reform the tax code and protect middle class homeowners without turning America into a home-renting nation.

b. Flood Insurance. The Committee was updated on NAR's continuing efforts to move long-term reauthorization and reform legislation in the House. Recently, Chairman Jeb Hensarling (R-TX) and Majority Whip Steve Scalise (R-LA) announced a tentative agreement to slightly modify a section of the NAR-supported 21st Century Flood Reform Act (HR 2874), potentially clearing the way for a House vote. While bill text including the agreement is not yet available or finalized, this is an encouraging development that could help move the legislative process forward and put pressure on the Senate to act before NFIP's authority expires on December 8.

c. Health Care. The Committee was briefed on NAR's policy and involvement in the health insurance reform debate since the late 1990s. Originally, NAR's focus was on the development of association health plan legislation but over time, has evolved to a broader set of issues under the Affordable Care Act. Health insurance will be a top priority for the Insurance Committee next year.

3. David Maurstad, FEMA's Assistant Administrator for Federal Insurance, provided an update on several NFIP initiatives, including the development of an educational campaign to double the number of homeowners with flood insurance in 6 years. Mr. Maurstad outlined the campaign for the Committee and requested feedback on how to improve its effectiveness given the role of real estate agents in property sales in and around floodplains.

4. The Committee identified flood, disaster, and health insurance as its top-3 priorities in 2018. The Committee was also introduced to the Hub.

5. The Committee approved the previous meeting's minutes and achieved 100% RPAC participation.



# Membership Policy and Board Jurisdiction Committee 2017 REALTORS® Conference

**Chair:** Linda J. Page ✓

**Vice Chair:** Anne Meczwyor

**Committee Liaison:** Diane Disbrow

**Staff Executive:** Katherine Goldberg

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## Recommendation(s):

1. That amendments to the Procedure for Processing a Contested Application for Change of Jurisdiction be approved to incorporate criteria related to an association's involvement in advocacy and community outreach activities (underscoring indicates additions). Passed ✓

### ***Criteria for Evaluating a Contested Application for Charter Status as a Member Association or for Change of Jurisdiction Affecting Jurisdiction of an Existing Association***

*(As applicable, these criteria also are to be used when evaluating any jurisdictional dispute among existing member associations of REALTORS®.)*

*The burden of proof is upon the applicant association to establish its right to some portion of the jurisdiction presently assigned to the respondent association. Therefore, the criteria should be a list of items by which to measure the performance of the respondent association and by which to measure the abilities of the applicant association to fulfill the obligations of its application.*

*Included in each of the following sections is a list of questions that are typical, but not all-inclusive of what a hearing panel considers during deliberations.*

#### ***Ability to serve the public***

- *What is the association's level of participation in civic and real estate projects throughout its jurisdiction?*
- *How does the association represent real estate interests throughout its jurisdiction?*
- *To what extent does the association provide comprehensive services to the public?*

**Ability to serve members**

- *What is the association's geographic size (in miles)?*
- *What is the geographic size (in miles) of the requested territory?*
- *What is the membership size of the association (REALTORS® and REALTOR-ASSOCIATE®s)?*
- *How many nonmember licensees (brokers, salespersons and non-principal licensed or certified appraisers) are affiliated with the designated REALTOR® members of the association?*
- *Does the association have an executive officer?*
- *Does the association conduct regularly scheduled membership meetings?*
- *Does the association have an indoctrination program?*
- *Does the association maintain a association-owned multiple listing service or participate in a regional multiple listing service?*
- *Does the association conduct educational programs?*
- *Does the association have a communication process in place (e.g., monthly newsletter, magazine, etc.)?*
- *What are other services the association offers to its members?*

**Ability to enforce the Code of Ethics**

- *Does the association have a properly constituted grievance committee and professional standards committee or does the association participate in an interboard or regional professional standards agreement? Does the association carefully adhere to the procedures set forth in the association's Code of Ethics and Arbitration Manual?*
- *Does the association provide education and training on the subject of the Code of Ethics?*
- *What is the typical processing time for ethics complaints and requests for arbitration?*

**Ability to safeguard the term REALTOR®**

- *Does the association disseminate guidelines for proper use of the term?*
- *What is the nature and extent of the program that identifies instances of improper use of the term?*
- *What action is taken to prevent misuse of the term?*

**Compliance with NATIONAL ASSOCIATION OF REALTORS® policy**

- *Does the association adhere to NAR policy?*

- *Does the association periodically submit its governing documents to the National Association for review?*

***Response to changing market area***

- *Is the association fragmented into different market areas? Please describe these areas.*
- *Are there natural boundaries separating two associations or separating the contested area from either association (e.g., rivers, lakes, mountain range, etc.)?*
- *Is the contested area viewed as being more closely aligned with one association than the other because of boundaries such as political districts, school districts, area codes, etc.?*
- *What type of real estate comprises the contested area?*
- *Does this differ from the basic make up of the remaining association territory?*

**Advocacy**

- *What Vote, Act and Invest activities (as defined in NAR's Core Standards) have been conducted by the association?*
- *Does the association have a Governmental Affairs Director?*
- *Does the association participate in State and National Calls for Action?*
- *Does the association communicate to members the value of RPAC (provide examples)?*
- *Does the association use REALTOR® Party Grant Programs?*
- *Does the association sponsor RPAC Fundraising Events?*
- *Does the association participate in local fair housing initiatives?*
- *Provide other examples of advocacy initiatives.*

*In addition to the criteria established above, the committee also considers the following criteria, to the extent they are applicable.*

- *Do a majority of the REALTORS® (principals) in the requested area support the petition*

of the applicant group or association?

- Do a majority of the REALTORS® and REALTOR-ASSOCIATE®s (other than principals) in the requested area support the petition of the applicant group or association?
- Do the petitioners have sufficient members and financial resources to conduct the activities and programs required of a member association of the NATIONAL ASSOCIATION OF REALTORS®?
- What effect will the release of the contested territory have on the existing association?

**Rationale:** Given increased focus on the advocacy and community outreach components of Core Standards, the criteria used to consider disputes involving territorial jurisdiction of local associations have been updated to provide additional guidance to hearing panels considering jurisdiction disputes.

Could this recommendation create a financial benefit and/or obligation for state and local associations?

Check one:  Yes  No If yes, please attach a *Program Impact Analysis Form* as an Exhibit.

This recommendation has been reviewed by (check all that apply):  Not Applicable

Leadership Team  Legal  Finance  Other (list committees):

**The Executive Committee recommends to the Board of Directors:**

Approval

Approval with the following amendment:

Referral to \_\_\_\_\_ for further study

Defeat

**Board of Directors Action:**

Approved

Approved with Executive Committee amendment

Approved with the following Board of Directors amendment:

Defeated

Referred to \_\_\_\_\_ for further study

***The following is reported for your information only and does not affect Association policy or budget.***

1. Hearing panels of the Committee considered two (2) contested applications for change of jurisdiction.

2. The Committee adopted amendments to the optional harassment provisions in Article VI,



Section 14 of the model board bylaws.

3. The Committee supported adoption of a new bylaw certification process. Associations will complete a certification form confirming adoption of the required sections of the Model Board Bylaws and submit to NAR for its records. This process will eliminate the need to submit association bylaws to NAR for review. This will also ensure the association's continued coverage under the National Association's Professional Liability Insurance Policy.

## Credentials and Campaign Rules Committee 2017 REALTORS® Conference

**Chair:** Chris Polychron (AR)

**Vice Chair:** Tom Salomone (FL)

**Committee Liaison:** n/a

**Staff Executive:** Lesley Walker and Idis Rivera (IL)

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### Recommendation(s):

1. That effective August 1, 2018, as of August 1 of the year prior to the year in which the election would be held, an Eligible Candidate may obtain endorsements and campaign financial support from individuals or institutions.

Rationale: The current restrictions on candidate's ability to solicit and receive endorsements and campaign financial support is confusing and unnecessarily restrictive to candidates, who are running a condensed 9-month campaign. This recommendation would eliminate a great deal of the confusion, and unnecessary restrictions in the current campaign and election rules. Pending approval, recommendation 1 will take affect with the next election cycle beginning on January 1, 2018.

Could this recommendation create a financial benefit and/or obligation for state and local associations?

Check one:  Yes  No If yes, please attach a *Program Impact Analysis Form* as an Exhibit.

This recommendation has been reviewed by (check all that apply):  Not Applicable  
 Leadership Team  Legal  Finance  Other (list committees):

#### The Executive Committee recommends to the Board of Directors:

Approval  Referral to \_\_\_\_\_ for further study  
 Approval with the following amendment:  Defeat

#### Board of Directors Action:

Approved  Defeated  
 Approved with Executive Committee amendment  Referred to \_\_\_\_\_ for further study  
 Approved with the following Board of Directors amendment:

**2. That effective immediately, an Eligible Candidate's campaign team members are exempt from the individual endorsement prohibition.**



Rationale: The Eligible Candidate's campaign teams have been disclosed to the committee. The current restrictions on an Eligible Candidate's campaign team is confusing and unnecessarily restrictive to the candidate.

Could this recommendation create a financial benefit and/or obligation for state and local associations?

Check one:  Yes  No If yes, please attach a *Program Impact Analysis Form* as an Exhibit.

This recommendation has been reviewed by (check all that apply):  Not Applicable

Leadership Team  Legal  Finance  Other (list committees):

**The Executive Committee recommends to the Board of Directors:**

- Approval
- Referral to \_\_\_\_\_ for further study
- Approval with the following amendment:
- Defeat

**Board of Directors Action:**

- Approved
- Defeated
- Approved with Executive Committee amendment
- Referred to \_\_\_\_\_ for further study
- Approved with the following Board of Directors amendment:

**3. That effective immediately, any time prior to submitting an application for Elected Office, states and regions may conduct an internal vetting process to interview, evaluate, and select REALTORS® within the state and/or region to run for Elected Office.**



Rationale : States and regions follow their own processes to evaluate and select candidates to run for NAR Elected Office. States and regions need the ability to freely conduct their vetting process in a time frame that makes sense for the state and/or region, and also allows members to adequately plan for the enormous time-commitment serving an NAR Elected Office requires.

Could this recommendation create a financial benefit and/or obligation for state and local associations?

Check one:  Yes  No If yes, please attach a *Program Impact Analysis Form* as an Exhibit.

This recommendation has been reviewed by (check all that apply):  Not Applicable

Leadership Team  Legal  Finance  Other (list committees):

**The Executive Committee recommends to the Board of Directors:**

- Approval
- Approval with the following amendment:

- Referral to \_\_\_\_\_ for further study
- Defeat

**Board of Directors Action:**

- Approved
- Approved with Executive Committee amendment
- Approved with the following Board of Directors amendment:

- Defeated
- Referred to \_\_\_\_\_ for further study

*Passed*

**4. That effective immediately, any time prior to filing an application for Elected Office, a REALTOR®'s home state association and/or region may endorse a REALTOR® for President-Elect, First Vice President, Treasurer or Regional Vice President. No campaigning may take place or campaign materials may be distributed until such REALTOR® is deemed an Eligible Candidate.**

Rationale: A state and/or region should be free to endorse a candidate at any time during the state and/or region's vetting process, and the candidate's endorsement may be made freely known. However, the CCRC wants to make clear that while a state or region may endorse a candidate, all campaigning is still limited to the 9-month time period from August to May.

Could this recommendation create a financial benefit and/or obligation for state and local associations?

Check one:  Yes  No If yes, please attach a *Program Impact Analysis Form* as an Exhibit.

This recommendation has been reviewed by (*check all that apply*):  Not Applicable

Leadership Team  Legal  Finance  Other (list committees):

**The Executive Committee recommends to the Board of Directors:**

- Approval
- Approval with the following amendment:

- Referral to \_\_\_\_\_ for further study
- Defeat

**Board of Directors Action:**

- Approved
- Approved with Executive Committee amendment
- Approved with the following Board of Directors amendment:

- Defeated
- Referred to \_\_\_\_\_ for further study

*Passed*

**5. That no campaign materials may be displayed or distributed at any NAR trade expo held during NAR's Annual or Legislative Conferences, and further, that the CCRC have the authority to inform the candidates in advance where campaign materials may be displayed or distributed at NAR meetings or events.**



Rationale: Allowing such booths would distract from the purpose of NAR meetings and events.

Could this recommendation create a financial benefit and/or obligation for state and local associations?

Check one:  Yes  No If yes, please attach a *Program Impact Analysis Form* as an Exhibit.

This recommendation has been reviewed by (check all that apply):  Not Applicable

Leadership Team  Legal  Finance  Other (list committees):

**The Executive Committee recommends to the Board of Directors:**

Approval

Approval with the following amendment:

Referral to \_\_\_\_\_ for further study

Defeat

**Board of Directors Action:**

Approved

Approved with Executive Committee amendment

Approved with the following Board of Directors amendment:

Defeated

Referred to \_\_\_\_\_ for further study

**6. That Article X, Section 2 of the NAR Constitution be amended to allow the Leadership Team to approve new rules or elimination of existing rules in the Campaign and Elections Process Manual between meetings of NAR's Board of Directors.**

*Failed*

Rationale: To be more responsive to campaign and election issues which require the addition of or change to existing policies. Pending approval, recommendation 6 will require constitutional amendment to be voted on by the Delegate Body in November, 2018.

Could this recommendation create a financial benefit and/or obligation for state and local associations?

Check one:  Yes  No If yes, please attach a *Program Impact Analysis Form* as an Exhibit.

This recommendation has been reviewed by (check all that apply):  Not Applicable

Leadership Team  Legal  Finance  Other (list committees):

**The Executive Committee recommends to the Board of Directors:**

Approval

Approval with the following amendment:

Referral to \_\_\_\_\_ for further study

Defeat

**Board of Directors Action:**

Approved

Approved with Executive Committee amendment

Defeated

Referred to \_\_\_\_\_ for further study

Approved with the following Board of Directors amendment:

*Passed*

**7. That Article X, Section 2(f) of the NAR Constitution be amended to provide for two (2) year staggered term for the regional representatives' of the Credentials and Campaign Rules Committee.**

Rationale: The committee believes a longer tenure, and staggered terms, will provide the continuity and historical knowledge necessary to enable the committee to be more effective and efficient, as opposed to adding new regional representatives each year who require a significant time period to get caught up on the rules and issues facing the committee. Pending approval, recommendation 7 will require constitutional amendment to be voted on by the Delegate Body in November, 2018.

Could this recommendation create a financial benefit and/or obligation for state and local associations?

Check one:  Yes  No If yes, please attach a *Program Impact Analysis Form* as an Exhibit.

This recommendation has been reviewed by (*check all that apply*):  Not Applicable

Leadership Team  Legal  Finance  Other (list committees):

**The Executive Committee recommends to the Board of Directors:**

- Approval
- Approval with the following amendment:

- Referral to \_\_\_\_\_ for further study
- Defeat

**Board of Directors Action:**

- Approved
- Approved with Executive Committee amendment
- Approved with the following Board of Directors amendment:

- Defeated
- Referred to \_\_\_\_\_ for further study

**Legal Action Committee  
2017 REALTORS® Conference**

<b>Chair:</b>	Patti Lawton, ME	<b>Vice Chair:</b>	Dennis Badagliacco, CA
<b>Committee Liaison:</b>	Diane Disbrow, NJ	<b>Staff Executive:</b>	Ralph Holmen

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**Recommendation(s):**

*All passed*

1. That NAR purchase a Master Policy for the Professional Liability Insurance Program for the NATIONAL ASSOCIATION OF REALTORS®, its affiliates, its member associations, and REALTOR® association multiple listing services from Chubb Group for the 2018 policy year beginning on January 1, 2018. The premium for this policy is \$1,288,710, a modest 4.8% increase over 2017, and NAR is also required to maintain a "loss corridor reserve" in the amount of \$500,000. Coverage under this renewed policy raises slightly the deductibles applicable to antitrust cases, and adds enhanced coverage for cyber claims.

That NAR purchase a NPE Patent Infringement Liability Policy for NATIONAL ASSOCIATION OF REALTORS®, REALTOR® association owned multiple listing services, and state and local associations from RPX Insurance Services, LLC for the 2018 policy year beginning on January 1, 2018. The premium for this policy is \$129,625, which is the same as in 2017.

This recommendation is subject to Finance Committee approval of an additional \$188,000 over the budgeted amount for the premium.

*Rationale:* This recommendation will protect the interests of NAR, state, and local associations by providing professional liability insurance coverage. It will also protect the interests of NAR, REALTOR® association owned multiple listing services, and state and local associations by providing insurance to protect against patent infringement claims and lawsuits brought by "non-practicing entities" (a/k/a "patent trolls").

Could this recommendation create a financial benefit and/or obligation for state and local associations?

Check one:  Yes  No If yes, please attach a *Program Impact Analysis Form* as an Exhibit.

This recommendation has been reviewed by (check all that apply):  Not Applicable  
 Leadership Team  Legal  Finance  Other (list committees):

The Executive Committee recommends to the Board of Directors:

Approval

Approval with the following amendment:

Referral to \_\_\_\_\_ for further study

Defeat

That NAR purchase a Master Policy for the Professional Liability Insurance Program for the NATIONAL ASSOCIATION OF REALTORS<sup>®</sup>, its affiliates, its member associations, and REALTOR<sup>®</sup> association multiple listing services from Chubb Group for the 2018 policy year beginning on January 1, 2018. The premium for this policy is \$1,288,710, a modest 4.8% increase over 2017, and NAR is also required to maintain a "loss corridor reserve" in the amount of \$500,000. Coverage under this renewed policy raises slightly the deductibles applicable to antitrust cases, and adds enhanced coverage for cyber claims.

That NAR purchase a NPE Patent Infringement Liability Policy for NATIONAL ASSOCIATION OF REALTORS<sup>®</sup>, REALTOR<sup>®</sup> association owned multiple listing services, and state and local associations from RPX Insurance Services, LLC for the 2018 policy year beginning on January 1, 2018. The premium for this policy is \$129,625, which is the same as in 2017.

~~This recommendation is subject to Finance Committee approval of an additional \$188,000 over the budgeted amount for the premium.~~

**Rationale:** The Executive Committee deleted this contingency in order to ensure that the insurance program will continue.

Board of Directors Action:

Approved

Approved with Executive Committee amendment

Approved with the following Board of Directors amendment:

Defeated

Referred to \_\_\_\_\_ for further study

2. That NAR provide funding to the Washington Association of REALTORS<sup>®</sup> of up to \$16,666 in State of Washington v. United States (WA) for WAR's legal fees and expenses if the Supreme Court accepts the case for review and WAR files an amicus brief on the merits.

*Rationale:*

The Washington Association of REALTORS<sup>®</sup> is participating in a coalition with other industry associations to support the State of Washington's request for U.S. Supreme Court review of the



Ninth Circuit Federal Court of Appeals decision in this case. That decision ordered the State of Washington to reconstruct or remove culverts beneath roadways throughout the State of Washington because those culverts allegedly interfere with salmon migration, in violation of certain 19<sup>th</sup> century Indian treaties. The estimated cost of such culvert remediation is approximately \$2.00 billion.

This request is for funding from NAR for a second amicus brief on the merits of the case if the Court grants review. This case has potentially added significance because there are similar treaties regarding salmon fishing in Oregon, Montana, and Idaho, and the result in this case may be applied to provide affected tribes with off-reservation rights in those states as well.

Could this recommendation create a financial benefit and/or obligation for state and local associations?

Check one:  Yes  No If yes, please attach a *Program Impact Analysis Form* as an Exhibit.

This recommendation has been reviewed by (check all that apply):  Not Applicable  
 Leadership Team  Legal  Finance  Other (list committees):

**The Executive Committee recommends to the Board of Directors:**

- Approval  Referral to \_\_\_\_\_ for further study  
 Approval with the following amendment:  Defeat

**Board of Directors Action:**

- Approved  Defeated  
 Approved with Executive Committee amendment  Referred to \_\_\_\_\_ for further study  
 Approved with the following Board of Directors amendment:

**3. That NAR provide funding to the Texas Association of REALTORS<sup>®</sup> of \$300,000 in Texas Association of REALTORS<sup>®</sup> v. PDFfiller, Inc. (TX) to be applied to one-half of the legal fees and expenses incurred by TAR after November 1, 2017, up to an initial maximum amount of \$140,000, and, subject to Finance Committee approval of a 2017 Legal Action program budget adjustment, an additional contribution of up to \$160,000.**

*Rationale:*

In December 2016, TAR sued PDFfiller for copyright and trademark infringement for making certain TAR real estate forms available on the PDFfiller website for use with PDFfiller's forms-filling software. This is the same defendant as in the California Association of REALTORS<sup>®</sup> litigation now pending in Massachusetts. The case is now in discovery.

Could this recommendation create a financial benefit and/or obligation for state and local associations?

Check one:  Yes  No If yes, please attach a *Program Impact Analysis Form* as an Exhibit.

This recommendation has been reviewed by (*check all that apply*):  Not Applicable  
 Leadership Team  Legal  Finance  Other (list committees):

**The Executive Committee recommends to the Board of Directors:**

Approval  Referral to \_\_\_\_\_ for further study  
 Approval with the following amendment:  Defeat

**Board of Directors Action:**

Approved  Defeated  
 Approved with Executive Committee amendment  Referred to \_\_\_\_\_ for further study  
 Approved with the following Board of Directors amendment:

**4. That NAR provide funding to the South Carolina Association of REALTORS<sup>®</sup> of up to \$20,000 in Waldo v. Cousins and South Carolina Association of REALTORS<sup>®</sup> (SC), to be applied to one-half of the legal fees and costs incurred by the South Carolina Association of REALTORS<sup>®</sup> not covered by the NAR insurance coverage for associations.**

*Rationale:*

Waldo challenged the arbitration award issued by the South Carolina Association of REALTORS<sup>®</sup> in favor of Sperry Van Ness/Michael Cousins. Waldo claims that the award was not supported by evidence demonstrating that Cousins was procuring cause, and that the arbitration panel's award was arbitrary, capricious, and contrary to law. The Master-In-Equity designated to decide the case vacated the arbitration award on the basis of her conclusion that the award was made in "manifest disregard of law." She held that South Carolina co-brokerage agreements must be in writing, and because there was no written agreement to share the commission the arbitration panel made an error of law in granting an award to Cousins. Typically, the "error of law" standard is narrow, and requires arbitrators to know and intentionally disregard the applicable law. Cousins and the South Carolina Association of REALTORS<sup>®</sup> are appealing the ruling.

Could this recommendation create a financial benefit and/or obligation for state and local associations?

Check one:  Yes  No If yes, please attach a *Program Impact Analysis Form* as an Exhibit.

This recommendation has been reviewed by (*check all that apply*):  Not Applicable  
 Leadership Team  Legal  Finance  Other (list committees):

**The Executive Committee recommends to the Board of Directors:**

Approval  Referral to \_\_\_\_\_ for further  
 Approval with the following amendment: study  
 Defeat

**Board of Directors Action:**

Approved  Defeated  
 Approved with Executive Committee amendment  Referred to \_\_\_\_\_ for further  
 Approved with the following Board of Directors study  
amendment:

***The following is reported for your information only and does not affect Association policy or budget.***

1. The St. Louis Association of REALTORS® also appeared before the committee to report on the successful conclusion of their challenge to a St. Louis County residential rental licensing ordinance for which the committee authorized funding at its November 5, 2016 meeting.
2. The following resolution was adopted by the Legal Action Committee to recognize the decades of service and contributions of Ralph W. Holmen, NAR staff and staff executive of the Committee:

A RESOLUTION OF THE LEGAL ACTION COMMITTEE  
of the  
NATIONAL ASSOCIATION OF REALTORS®  
in recognition of  
Ralph W. Holmen  
November 2017

WHEREAS Ralph Holmen has served the Legal Action Committee with distinction for over thirty years, during which time he has been a trusted and respected advisor and to the committee members and leaders hereof, and

WHEREAS his devotion of time, wisdom, talent, and unassailable integrity has been

instrumental in ensuring the sound administration and prudent oversight of the tasks entrusted to the Legal Action Committee by NAR Leadership, and

WHEREAS Ralph Holmen has been an esteemed counselor, mentor, and friend to the members of the National Association of REALTORS<sup>®</sup>, local and state association staff and counsel, and his colleagues of the National Association of REALTORS<sup>®</sup>, and

BE IT THEREFORE RESOLVED that the present and past members of the Legal Action Committee of the National Association of REALTORS<sup>®</sup> express their most sincere gratitude to Ralph Holmen for his many and varied contributions and for a job exceptionally well done, and

BE IT FURTHER RESOLVED that Ralph Holmen's leadership, wisdom, and knowledge will continue to guide future generations of REALTORS<sup>®</sup> and staff leaders of the REALTOR<sup>®</sup> family.



## Multiple Listing Issues and Policies Committee 2017 REALTORS® Conference

Chair: Tom Berge Jr.

Vice Chair: Shad Bogany

Committee Liaison: Diane Disbrow

Staff Executive: Rodney Gansho

### Recommendation(s):

1. That MLSs be prohibited from requiring participation by all offices of a real estate firm within the shareholder association(s) jurisdiction and that MLSs be required to provide a no-cost waiver option of MLS fees, dues and charges for licensees affiliated with an MLS Participant who can demonstrate their subscription to another MLS. Further, that references to MLS "jurisdiction" or "territory" be changed to "service area" to reflect the true nature of the location, and help eliminate confusion over the jurisdiction of shareholder association(s). (underscoring indicates additions, strikeouts indicate deletions)

As amended  
effective July 1, 2018  
passed ✓

#### *Section 6: Jurisdiction of Association Multiple Listing Services (Policy Statement 7.42)*

*The ~~jurisdiction~~ service area of multiple listing services owned and operated by associations of REALTORS® is not limited to the jurisdiction of the parent association(s) of REALTORS®. Rather, associations are encouraged to establish multiple listing services that encompass natural market areas and to periodically reexamine such boundaries to ensure that they encompass the relevant market area. While associations are encouraged to work cooperatively to establish market area multiple listing services, the absence of such an agreement shall not preclude any association from establishing and maintaining a multiple listing service whose ~~territory~~ service area exceeds that of the parent association(s) jurisdiction. ~~Where the territory of an MLS exceeds that of the parent association(s), the authority of the MLS to require offices of a participant or a participant's firm to participate in the MLS is limited to offices located within the jurisdiction of the association(s) of REALTORS® that own and operate the MLS or that are parties to a multi-association or regional MLS service agreement. MLSs may not, as a matter of local determination, require that each other offices of a firm's offices located within the jurisdiction of the association(s) that own and operate the MLS or that are parties to a multi-association or regional MLS service agreement to participate in the MLS if any office of that firm participates in that MLS. (Revised 5/02) M~~*

**Section 1: Waivers of MLS Fees, Dues, and Charges (Policy Statement 7.43)**

*Recurring MLS fees, dues, and charges may be based upon the total number of real estate brokers, sales licensees, and licensed or certified real estate appraisers affiliated with or employed by an MLS participant ~~when related to the operation of a computerized MLS system that provides information and services in addition to the compilation of current listing information.~~*

*~~However, an MLS participant may not be assessed any charges or subscription fees for printed MLS sheets/cards/books with respect to any individual who is engaged solely and exclusively in a specialty of the real estate business separate and apart from listing, selling, leasing, or appraising the type of properties which are required to be filed with the MLS.~~*

*However, MLSs must provide participants the option of a no-cost waiver of MLS fees, dues and charges for any licensee or licensed or certified appraiser who can demonstrate subscription to a different MLS where the principal broker participates. MLSs may, at their discretion, require waiver recipients and their participants to sign a certification for nonuse of its MLS services, which can include penalties and termination of the waiver if violated.*

(Note: Accompanying revisions will be made to the NAR Model MLS Rules and Regulations.)

**Rationale:** Creates a modern service structure that recognizes evolving business models, provides flexibility in light of emerging technology and workplace trends, encourages value-driven services, and eliminates the unnecessary layering of MLS fees for brokers and agents that can occur under existing policy.

Could this recommendation create a financial benefit and/or obligation for state and local associations?

Check one:  Yes  No If yes, please attach a *Program Impact Analysis Form* as an Exhibit.

This recommendation has been reviewed by (check all that apply):  Not Applicable  
 Leadership Team  Legal  Finance  Other (list committees):

**The Executive Committee recommends to the Board of Directors:**

Approval  Referral to \_\_\_\_\_ for further study  
 Approval with the following amendment:  Defeat

**Board of Directors Action:**

Approved  Defeated

- Approved with Executive Committee amendment     Referred to \_\_\_\_\_ for further study  
 Approved with the following Board of Directors amendment:

2. That brokers have access to all available sold listing data maintained by the MLS starting from January 1, 2012 for display in IDX, maintaining the existing exception to exclude areas where "sold" information is not publicly accessible. (underscoring indicates additions, strikeouts indicate deletions)

*passed*

**MLS Policy Statement 7.58 provides, in pertinent part:**

To comply with this requirement MLSs must, if requested by a participant, promptly provide basic downloading of all active listings, ~~a minimum of three (3) years sold\* listing data~~, sold\* listing data starting from January 1, 2012; non-confidential pending sale listing data, and other listings authorized under applicable MLS rules and may not exclude any listings from the information which can be downloaded or displayed under IDX except those listings for which a participant has withheld consent, or listings for which the seller has prohibited Internet display. Associations and MLS's can also offer alternative display options including framing of board, MLS, or other publicly-accessible sites displaying participants' listings (with permission of the framed site). For purposes of this policy, "downloading" means electronic transmission of data from MLS servers to MLS's IDX download must be refreshed to accurately reflect all updates and status changes no less frequently than every twelve (12) hours. Data transmitted must exclude the listing or property address, respectively, of any seller who affirmatively directs that the listing or the property address not appear on the Internet or other electronic form of display or distribution.

(Note: accompanying revisions will be made to the NAR Model MLS Rules and Regulations.)

**Rationale:** Changes the limitation on available sold listing data for IDX display from a minimum 3 year requirement to all available sold listing data maintained by the MLS starting from January 1, 2012 to the current date, and allows brokers to compete on a level playing field with other online sources of property information.

Could this recommendation create a financial benefit and/or obligation for state and local associations?

Check one:     Yes     No    If yes, please attach a *Program Impact Analysis Form* as an Exhibit.



This recommendation has been reviewed by (check all that apply):  Not Applicable  
 Leadership Team  Legal  Finance  Other (list committees):

**The Executive Committee recommends to the Board of Directors:**

- Approval  Referral to \_\_\_\_\_ for further study  
 Approval with the following amendment:  Defeat

**Board of Directors Action:**

- Approved  Defeated  
 Approved with Executive Committee amendment  Referred to \_\_\_\_\_ for further study  
 Approved with the following Board of Directors amendment:

*Passed*

3. That brokers be authorized to provide in both IDX and VOW, results to online consumer property searches with no less than five hundred (500) listings or fifty percent (50%) of the listings in the MLS database, whichever is less. (underscoring indicates additions, strikeouts indicate deletions)

IDX

**MLS Policy Statement 7.58, Internet Data Exchange ("IDX") Policy, Policies Applicable to Multiple Listing Services, Subsection 10:**

*establish reasonable limits on the amount of data/number of listings that consumers may retrieve or download in response to any inquiry. Such number shall be determined by the MLS, but in no instance may the limit be fewer than ~~one hundred (100)~~ five hundred (500) listings or ~~five percent (5%)~~ fifty percent (50%) of the listings in the MLS, whichever is less.*

VOW

**Virtual Office Websites: Policy Governing Use of MLS Data in Connection with Internet Brokerage Services Offered by MLS Participants, Subsection IV, Requirements that MLSs May Impose on the operation of VOW and Participants, Subsection 1(e):**

*The number of current or, if permitted, sold listings that Registrants may view, retrieve, or download in response to an inquiry may be limited to a reasonable number. Such number shall be determined by the MLS, but in no event may the*

limit be fewer than ~~one hundred (100)~~ five hundred (500) listings or ~~five percent (5%)~~ fifty percent (50%) of the listings in the MLS, whichever is less.

(Note: accompanying revisions will be made to the NAR Model MLS Rules and Regulations.)

**Rationale:** Increases the minimum number of results to consumer online property search for IDX and VOW to 500 listings or 50% of the listings in the MLS database, whichever is less. Responds to broker requests for less restrictive search parameters and results in a more robust search functionality.

Could this recommendation create a financial benefit and/or obligation for state and local associations?

Check one:  Yes  No If yes, please attach a *Program Impact Analysis Form* as an Exhibit.

This recommendation has been reviewed by (check all that apply):  Not Applicable

Leadership Team  Legal  Finance  Other (list committees):

**The Executive Committee recommends to the Board of Directors:**

Approval  Referral to \_\_\_\_\_ for further study  
 Approval with the following amendment:  Defeat

**Board of Directors Action:**

Approved  Defeated  
 Approved with Executive Committee amendment  Referred to \_\_\_\_\_ for further study  
 Approved with the following Board of Directors amendment:

**4. That MLS orientation and additional MLS training be revised to include remote training options as provided in the revisions to MLS policy reflected below. (underlining identifies additions)**

***Section 13: Orientation and Other Training (Policy Statement 7.92)***

*Multiple listing services may, as a matter of local discretion, require applicants for MLS participation and licensees (including licensed or certified appraisers) affiliated with an MLS participant who have access to and use of*



*MLS-generated information to complete an orientation program of no more than eight (8) classroom hours devoted to the MLS rules and regulations, computer training related to MLS information entry and retrieval, and the operation of the MLS within thirty (30) days after access has been provided.*

*Participants and subscribers may also be required, at the discretion of the MLS, to complete additional training of not more than four (4) classroom hours in any (12) twelve month period when deemed necessary by the MLS to familiarize participants and subscribers with system changes or enhancements and/or changes to MLS rules or policies.*

*Participants and subscribers must be given the opportunity to complete any mandated orientation and additional training remotely. (Adopted 11/09) M*

**Rationale:** Requires the MLS to provide a remote training option for MLS orientation, and parallels the current requirement for MLS CE training. This acknowledges the increased availability of remote training options, and eases potential administrative burdens on brokers and agents.

Could this recommendation create a financial benefit and/or obligation for state and local associations?

Check one:  Yes  No If yes, please attach a *Program Impact Analysis Form* as an Exhibit.

This recommendation has been reviewed by (check all that apply):  Not Applicable  
 Leadership Team  Legal  Finance  Other (list committees):

**The Executive Committee recommends to the Board of Directors:**

Approval  Referral to \_\_\_\_\_ for further study  
 Approval with the following amendment:  Defeat

**Board of Directors Action:**

Approved  Defeated  
 Approved with Executive Committee amendment  Referred to \_\_\_\_\_ for further study  
 Approved with the following Board of Directors amendment:

***The following is reported for your information only and does not affect Association policy or budget.***

1. The Committee received a report from Work Group Chair Rick Harris concerning the launch of the new MLS Consolidation Resources now available at URL, [www.nar.realtor/mlsconsolidation](http://www.nar.realtor/mlsconsolidation). This initiative is a collaboration between NAR and CMLS that started close to two years ago and involved many NAR and MLS industry leaders, including a dedicated Work Group of REALTORS and MLS executives. These Resources are a first step to offer and collect valuable information and materials to assist MLSs considering whether consolidation is in the best interest of their members.

# Professional Standards Committee 2017 REALTORS® Conference

**Chair:** Doreen Roberts (CA)

**Vice Chair:** Debbie Dwyer (MA)

**Committee Liaison:** Diane Disbrow (NJ)

**Staff Executive:** Kate Lawton (IL)

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## Recommendation(s):

*passed*  
1. That the Code of Ethics Training learning objectives and criteria in Exhibits A (New Member) and B (Continuing Member) be amended as indicated in those Exhibits to assist associations in enforcing the Code of Ethics training requirement, and members in understanding their training obligations.

**Rationale:** These enhancements simplify and streamline enforcement of the Code of Ethics training requirement, providing much needed, clear guidance on training objectives for members and association staff.

Could this recommendation create a financial benefit and/or obligation for state and local associations?

Check one:  Yes  No If yes, please attach a *Program Impact Analysis Form* as an Exhibit.

This recommendation has been reviewed by (check all that apply):  Not Applicable  
 Leadership Team  Legal  Finance  Other (list committees):

The Executive Committee recommends to the Board of Directors:

Approval  Referral to \_\_\_\_\_ for further study  
 Approval with the following amendment:  Defeat

Board of Directors Action:

Approved  Defeated  
 Approved with Executive Committee amendment  Referred to \_\_\_\_\_ for further study  
 Approved with the following Board of Directors amendment:

*Respect*  
2. That Standard of Practice 12-10 be amended as follows (strikeouts indicate deletions, underscoring indicates additions) to provide that Article 12's obligation to present a true picture includes images, and that misleading consumers through the use of misleading images is prohibited.

**Standard of Practice 12-10**

REALTORS®' obligation to present a true picture in their advertising and representations to the public includes Internet content ~~posted~~, images, and the URLs and domain names they use, and prohibits REALTORS® from:

- 1) engaging in deceptive or unauthorized framing of real estate brokerage websites;
- 2) manipulating (e.g., presenting content developed by others) listing and other content in any way that produces a deceptive or misleading result;
- 3) deceptively using metatags, keywords or other devices/methods to direct, drive, or divert Internet traffic; or
- 4) presenting content developed by others without either attribution or without permission, or
- 5) ~~to otherwise mislead consumers.~~ otherwise misleading consumers, including use of misleading images.

**Rationale:** As consumers rely increasingly on images of listed property in tailoring their home search, excessive use of photo altering techniques or extreme distortion of a space's size in a photograph may not only mislead consumers, but damage the credibility of REALTORS® and the industry that rely on photographs in the MLS or on websites to accurately represent listed property. These amendments provide that Article 12's obligation to present a true picture includes images, and that misleading consumers through the use of misleading images is prohibited under Article 12.

Could this recommendation create a financial benefit and/or obligation for state and local associations?

Check one:  Yes  No If yes, please attach a *Program Impact Analysis Form* as an Exhibit.

This recommendation has been reviewed by (check all that apply):  Not Applicable

Leadership Team  Legal  Finance  Other (list committees):

**The Executive Committee recommends to the Board of Directors:**

- Approval  Referral to \_\_\_\_\_ for further study  
 Approval with the following amendment:  Defeat

**Board of Directors Action:**

- Approved  Defeated  
 Approved with Executive Committee amendment  Referred to \_\_\_\_\_ for further study  
 Approved with the following Board of Directors amendment:

***The following is reported for your information only and does not affect Association policy or budget.***

1. The Committee approved modernization and enhancements to six and deletion of four of the Case Interpretations related to the Code of Ethics, *Code of Ethics and Arbitration Manual* , as well as minor revisions to Section 1 Definitions Relating to Ethics, and Section 26 Definitions Relating to Arbitration, *Code of Ethics and Arbitration Manual* , to clarify the definitions of "board" and "association".
2. The Committee discussed enhancements to Section 13(d), Power to Take Disciplinary Action, *Code of Ethics and Arbitration Manual* , to clarify the role of REALTOR® Principals in an ethics hearing. After extensive discussion, the Committee referred the issue to the Interpretations and Procedures Advisory Board for further consideration at their next meeting.
3. The Committee discussed development of a mobile application or other tool to assist members in quickly and easily finding answers to their ethical questions in the Code of Ethics itself, in NAR's professional standards policies or case interpretations, or in any of the articles, training guides, or other resources available on nar.realtor.
4. The Committee received the report of the Commitment to Excellence Advisory Board, and was updated on that program's development and budget.
5. The Committee received an update from June Barlow, Vice President and General Counsel for the California Association of REALTORS®, on the Association's lateral discipline and publication pilot programs.
6. The Committee received the recommendations of the "Second Century Code of Ethics" group and determined that due to the considerable time taken by the group in crafting the report, and given that the recommendations in the report required considerable discussion and deliberation, the recommendations were referred to the Interpretations and Procedures Advisory Board for further consideration at their next meeting.
7. The Committee adopted the resolution in Exhibit C honoring the service of professional standards enforcement volunteers.



(Strikeouts indicate deletions, underscoring indicates additions)

## Requirements

### New-Member Training

Applicants for REALTOR® membership shall complete an orientation program on the Code of Ethics of not less than 2 hours and 30 min. of instructional time, effective Jan. 1, 2001.

This requirement can be satisfied through instruction provided by the local board or by another board and can include classroom instruction, home study, correspondence study, or Internet-based instruction. Any orientation program must meet the learning objectives and minimum criteria established by the NATIONAL ASSOCIATION OF REALTORS® from time to time. REALTORS® who, having completed such orientation, shall not be required to complete further Code of Ethics orientation upon application for membership in another board provided that REALTOR® membership has been continuous or that any break in membership is for one year or less.

Find answers to common questions here: Q&A: Ethics Training Requirements for New and Continuing Members

## Mandatory NewMember Code of Ethics Orientation

### Outline

#### I. Policy Summary for Mandatory New Member Code of Ethics Orientation

#### II. Minimum time for New Member Code of Ethics Orientation

#### III. Learning Objectives

#### IV. Criteria and Minimum Content Components

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#### I. Policy Summary for Mandatory New Member Code of Ethics Orientation

New members or prospective new members of the National Association of REALTORS® are required to complete an orientation program on the Code of Ethics of not less than 2 hours and 30 minutes of instructional time. ~~Boards/Associations of REALTORS®~~ are required to provide such program to new members/prospective new members either on their own, in conjunction

with other Boards/Associations, or through some other method (such as home study, correspondence or internet-based online courses). Any course offered by an Board/Association, regardless of format, must meet the learning objectives and minimum criteria for such courses as established by the National Association of REALTORS® from time to time.

## II. Minimum time for New Member Code of Ethics Orientation:

A minimum ~~total instructional time~~ of 2 hours and 30 minutes of instructional time is required. Boards and associations may choose to format this time in any reasonable blocks, including the following formats:

1. One class of 3 hours in length with two breaks of ten to fifteen minutes each. Depending on state law, this format may qualify for continuing education credit.
2. Three classes of approximately 1 hour each.
3. Inclusion of the required content and time elements into a full day or multi-day new member orientation program (which includes other topics such as legislative efforts, MLS, fair housing, antitrust, etc.).

Boards and associations should not divide the content into sessions of less than 50 minutes each (considered to be one hour of instructional time) unless the content is part of a longer program which includes other topics. For example, it would not be considered to be a reasonable division of content to have a fifteen minute presentation on the Code of Ethics at each of 10 monthly board meetings. The nature of the content is such that a minimum of one hour of instructional time is necessary to accomplish the intended learning environment.

## III. Learning Objectives

Upon completion of the New Member Code of Ethics Orientation class, participants will be able to:

1. Briefly describe the history of the Code of Ethics as it relates to its origins, its influence on state licensing laws and its establishment of arbitration as the monetary dispute resolution process between REALTORS®. (create "How can I teach this?" link or dropdown box that provides content in "expanded examples")
2. Identify concepts in the Preamble to the Code of Ethics, including concepts such as the wide distribution of land ownership, highest and best use of the land, principles of competency, fairness and high integrity and the concept of adherence to the Code regardless of an inducement of profit and/or an instruction from clients to the contrary. (create "How can I teach this?" link or dropdown box that provides content in "expanded examples")
3. Identify the Golden Rule as one of the foundations upon which the Code of Ethics is built.

(create “How can I teach this?” link or dropdown box that provides content in “expanded examples”)

4. List the major categories of Articles in the Code (Duties to Clients and Customers, Duties to the Public and Duties to REALTORS®). (create “How can I teach this?” link or dropdown box that provides content in “expanded examples”)

5. Describe the structure of the Code and its supporting materials (Articles, Standards of Practice and Case Interpretations). (create “How can I teach this?” link or dropdown box that provides content in “expanded examples”)

6. List Articles of the Code which are commonly the subject of complaints. (create “How can I teach this?” link or dropdown box that provides content in “expanded examples”)

7. Describe the concepts of these commonly cited Articles of the Code, including Articles 1, 2, 9, 12, and 16. (create “How can I teach this?” link or dropdown box that provides content in “expanded examples”)

8. Given case studies, fact scenarios or similar interactive learning methods, identify possible violations of the Code of Ethics, specifically related to the commonly cited Articles. (create “How can I teach this?” link or dropdown box that provides content in “expanded examples”)

9. Describe the professional standards enforcement process of the board or association, including the distinction between an ethics complaint and an arbitration ~~petition request~~, and the differences between the Grievance Committee and the Professional Standards/~~Arbitration~~ Committees. (create “How can I teach this?” link or dropdown box that provides content in “expanded examples”)

10. Briefly describe the bases upon which a procuring cause arbitration claim is decided. (create “How can I teach this?” link or dropdown box that provides content in “expanded examples”)

#### ~~IV. Criteria and Minimum Content Components~~

Expanded Examples (each learning objective above will link or provide a dropdown with the relevant content for each learning objective):

~~The criteria and minimum content components of the New Member Code of Ethics Orientation are described below in connection with each learning objective established for the course. These criteria and minimum content components are intended to describe the information which should be conveyed to accomplish the corresponding learning objective. Boards and associations should feel free to convey this information which is considered to accomplish the learning objective in a~~

~~variety of methods which best fit the board's or association's needs for the class.~~

~~To this end, the format of the class may include brief lectures, group exercises, quizzes, group discussions, case studies and the like. Because of the nature of the concepts, Learning Objective #8 does require the use of some type of fact based interactive method so that participants can engage in a skill practice activity in which they can apply concepts learned in other parts of the class.~~

**Learning Objective #1:** Briefly describe the history of the Code of Ethics as it relates to its origins, its influence on state licensing laws and its establishment of arbitration as the monetary dispute resolution process between REALTORS®.

This learning objective is directed to content of the following nature:

1. The Code of Ethics was adopted in 1913 as one of the first industry codes of ethics.
2. The Code of Ethics is a living document which is changed as necessary to meet the challenges of new business concepts which have developed during its history.
3. However, the Code of Ethics includes timeless concepts such as honesty, obligations to clients and avoidance of self-dealing.
4. The Code of Ethics was a precursor to state licensing of real estate practitioners.
5. The Code of Ethics was a model for many of the original state licensing laws.
6. The Code of Ethics has mandated the arbitration of money disputes between REALTORS® since its inception in 1913. REALTORS® have participated in this "Culture of Cooperation" for eighty plus years and, as a result, have a unique system in which competitors cooperate and pay commissions to each other for such cooperation. This system is clearly to the public's benefit in the efficient sale of real property.

**Learning Objective #2:** Identify concepts in the Preamble to the Code of Ethics, including concepts such as the wide distribution of land ownership, highest and best use of the land, principles of competency, fairness and high integrity and the concept of adherence to the Code regardless of an inducement of profit and/or an instruction from clients to the contrary.

This learning objective should be accomplished by an examination of the concepts in the Preamble to the Code of Ethics. A recommended list of concepts to be discussed include those listed in the learning objective and the following:

1. The concept of striving to become and remain informed on issues affecting real estate.
2. Willingly sharing the fruit of one's experience and study with other REALTORS®.
3. The elimination of practices which may damage the public, or bring discredit or dishonor to the real estate profession through Code enforcement and assisting regulatory bodies.
4. Urging the exclusive representation of clients.
5. The concept of not attempting to gain any unfair advantage over competitors.
6. Refraining from unsolicited comments about other practitioners and offering any opinions about competitors in an objective and professional manner.

**Learning Objective #3:** Identify the Golden Rule as one of the foundations upon which the Code of Ethics is built.

This learning objective is self-explanatory as an identification of the Golden Rule being part of the Preamble to the Code.

**Learning Objective #4:** List the major categories of Articles in the Code (Duties to Clients and Customers, Duties to the Public and Duties to REALTORS®).

This learning objective begins the process of demonstrating the structure of the Code. Information to be included in this learning objective is a discussion of the way the Code is prioritized as to its categories, Articles and Standards of Practice. The instructor should discuss the fact that the Code is divided into these three categories by design, with the idea that Duties to Clients and Customers is the first priority in the Code, Duties to the Public is the next priority, and Duties to REALTORS® is the final priority. The instructor should also then introduce the idea that the material within the categories is also prioritized. This introduction should lead into the next learning objective.

**Learning Objective #5:** Describe the structure of the Code and its supporting materials (Articles, Standards of Practice and Case Interpretations).

Within this learning objective, the material should describe the Articles of the Code as the broadest statements of ethical principles embodied by the Code. Discussion should then proceed to the concept that the Standards of Practice further define the Article under which they are placed. Then, the Case Interpretations should be presented as hypothetical factual situations which have been described by the NAR Professional Standards Committee in which a hypothetical REALTOR® has been found in violation of the Code of Ethics or in which a hypothetical REALTOR® has been exonerated of an allegation of a violation of the Code of Ethics. In addition, further discussion should be included which describes the prioritization of the Articles of the Code beginning with the duties of highest priority (i.e. Article 1 and its obligation to protect and promote the interests of the client). ~~The Standards of Practice within each Article should also be described within the same context as being prioritized under their respective Articles.~~

**Learning Objective #6:** List Articles of the Code which are commonly the subject of complaints.

This learning objective envisions a simple listing of Articles such as 1, 2, 9, 12, and 16, which are commonly the subject of complaints in many boards and associations. ~~If an board or~~ association has particular experience with Articles other than those listed, it should include those Articles.

**Learning Objective #7:** Describe the concepts of these commonly cited Articles of the Code, including Articles 1, 2, 9, 12, and 16.

Content for this learning objective includes an analysis of the commonly cited Articles identified



in Objective #6. The content for this learning objective can also be accomplished by the fact based methods required under Learning Objective #8. A synopsis of the concepts of the noted Articles and recommended Standards of Practice follows. The citing of recommended Standards of Practice does not preclude a board or association from using different Standards of Practice in the program.

Article 1: Basic concepts of the Article include the obligation to protect and promote the interests of the client and an explanation that this obligation is one of fidelity in the nature of a fiduciary relationship. The Article also specifies that this obligation of fidelity does not relieve the Realtor® of the obligation to treat all parties honestly. Important Standards of Practice under Article 1 which are recommended to be discussed, as time allows, include:

Standard of Practice 1-5 defines the conditions under which a REALTOR® may engage in disclosed dual agency.

Standard of Practice 1-6 specifies the obligation to present all offers and counter-offers objectively and as quickly as possible.

Standards of Practice 1-7 and 1-8 include the obligation to present all offers until closing and/or acceptance (depending on the party with whom the REALTOR® is working) and specify additional conditions as to how and when this obligation applies.

Standard of Practice 1-9 defines the obligation of confidentiality.

Standards of Practice 1-12 and 1-13 specify disclosure obligations of REALTORS® upon taking a listing or entering into a buyer/tenant agreement.

Standard of Practice 1-15 authorizes disclosure of the existence of offers on a property with a seller's approval.

Standard of Practice 1-16 cautions REALTORS® not to access or use, or allow others to access or use, listed property on terms and conditions other than those authorized by the seller.

Article 2: Article 2 might be commonly termed the "property or transaction disclosure" article. Its principles include the obligation not to exaggerate, misrepresent or conceal pertinent facts about the property or the transaction. Article 2 is limited, however, in that it does not include an obligation to discover latent defects, advise on matters outside the scope on one's real estate license or to disclose facts which are confidential under the scope of agency duties. Standards of Practice 2-1 should be discussed in that it further clarifies the obligation to discover and disclose adverse factors. The discovery obligation extends only to those factors which would be within the expertise required by the real estate licensing authority and does not impose an obligation of expertise in other professional or technical disciplines.

Article 9: Article 9's primary concept is to require REALTORS® to assure, whenever possible, that agreements be in writing, expressing the specific terms and obligations of the parties. In addition, Standard of Practice 9-1 amplifies this obligation by requiring REALTORS® to use

reasonable care to ensure that these documents are kept current through the use of written extensions or amendments.

Article 12: Article 12 might be called the "truth in advertising" article. Its call is for REALTORS® to present a "true picture" in real estate related advertising and representations to the public, including those online and in social media. Standard of Practice 12-7 should be included for discussion. This Standard of Practice covers the use of the term "sold" in signs and advertising.

Article 16: Article 16 encompasses the idea of non-interference with agency and other exclusive relationships of other REALTORS®. Its central premise is that a REALTOR® shall not engage in any practice or take any action which is inconsistent with the agency or other exclusive relationship that other REALTORS® have with clients. While Article 16 is a relatively short Article, it has many Standards of Practice which have been established to support it. Discussion of the following Standards of Practice is recommended as time allows:

Standard of Practice 16-2: This Standard of Practice clarifies the types of personal, mail and other forms of written solicitations which are ethical and unethical. Explanation should be given that "general" types of solicitation, as defined in the Standard of Practice, are not unethical and that the Standard of Practice is narrow and specific as to the types of solicitations which are recognized as unethical under Article 16.

Standard of Practice 16-4 and 16-6: These two companion Standards of Practice specify the appropriate conduct of a REALTOR® when confronted with issues regarding solicitation of a listed property. While the basic premise of Standard of Practice 16-4 is that solicitation of a listing which is currently listed exclusively with another REALTOR® is unethical, procedures are set out in Standard of Practice 16-4 and 16-6 which modify this basic premise under certain limited conditions. Standard of Practice 16-5 deals with parallel issues in the solicitation of buyers/tenants subject to exclusive buyer/tenant agreements.

Standard of Practice 16-9: This Standard of Practice specifies the conditions under which a REALTOR® is required to inquire of a prospective client as to the client being subject to another exclusive agreement. The Standard of Practice requires REALTORS® to make reasonable efforts to determine whether the client is subject to another current, valid, exclusive agreement prior to the REALTOR® entering into an agency agreement or other exclusive relationship with the client.

Standard of Practice 16-13: Standard of Practice 16-13 sets out the obligation not to deal with another REALTOR®'s client who is subject to an exclusive agreement unless the client's agent or broker gives consent or unless the client initiates such dealings.

**Learning Objective #8:** Given case studies, fact scenarios or similar interactive learning methods, identify possible violations of the Code of Ethics, specifically related to the commonly cited Articles.

Minimum content for this Learning Objective includes at least one interactive exercise which demonstrates some of the principles of the Articles and Standards of Practice discussed under Learning Objective #7. ~~Boards and Associations~~ may use interactive methods to accomplish Learning Objectives #7 and #8 together.

**Learning Objective #9:** Describe the professional standards enforcement process of the ~~board or association~~, including the distinction between an ethics complaint and an arbitration ~~petition request~~, and the differences between the Grievance Committee and the Professional Standards/~~Arbitration~~ Committees.

This Learning Objective is not intended to require a complete "course" on Professional Standards Enforcement Procedures. The minimum content required by this Objective is a brief description of the Professional Standards enforcement process, including the following concepts:

1. The basic steps in processing an ethics complaint and an arbitration ~~petition request~~; that is, a written submission to the Grievance Committee, and if the complaint/~~petition request~~ meets the standards set out by the procedures, the forwarding of the complaint/~~petition request~~ to the Professional Standards/~~Arbitration~~ Committee for a full hearing.
2. The difference between the Grievance Committee as an initial screening committee and the Professional Standards/~~Arbitration~~ Committee as the decision making committee.
3. The difference between an ethics complaint which deals with a member's conduct and an arbitration ~~petition request~~ which deals with a money dispute between REALTORS®.
4. The types of discipline which may be imposed for a violation of the Code of Ethics.

**Learning Objective #10:** Briefly describe the bases upon which a procuring cause arbitration claim is decided.

This Learning Objective is not intended to be a course on arbitration or procuring cause. However, the minimum content for this Objective should include a brief discussion of the concept of procuring cause as the standard by which REALTOR® to REALTOR® commission disputes are decided; that the concept of procuring cause is determined by the factors specified by the NAR Professional Standards Committee in the Code of Ethics and Arbitration Manual; that no one factor, such as who showed the property first, who wrote the successful offer to purchase, or who secured a written agency agreement with the buyer, will determine the outcome of the case.

(Strikeouts indicate deletions, underscoring indicates additions)

## Code of Ethics Training Requirements

### For Existing Members

NOTE: A sample course outline for Code of Ethics ~~Continuing Education~~ Training for existing members is available.

Find answers to common questions here: Q&A: Ethics Training Requirements for New and Continuing Members

#### Professional Standards Policy Statement No. 48 provides:

Effective January 1, 2001 through December 31, 2004, and for successive four (4) year periods ending December 31, 2016, REALTORS® were required to complete quadrennial ethics training of not less than two (2) hours and thirty (30) minutes of instructional time. Beginning January 1, 2017 through December 31, 2018, and for successive two (2) year periods thereafter, REALTORS® are required to complete biennial ethics training of not less than two (2) hours and thirty (30) minutes of instructional time. REALTORS® completing such training during any two (2) year cycle shall not be required to complete additional ethics training in respect of this requirement as a requirement of membership in any other Board or Association.

A REALTOR® completing the new member Code of Ethics orientation during any two (2) year cycle shall not be required to complete additional ethics training in respect of this requirement until a new two (2) year cycle commences.

Failure to complete the required periodic ethics training shall be considered a violation of a membership duty.

Failure to meet the requirement will result in suspension of membership for the first two months (January and February) of the year following the end of any two (2) year cycle or until the requirement is met, whichever occurs sooner. On March 1 of that year, the membership of a member who is still suspended as of that date will be automatically terminated.

Every Board and Association is required to provide access to necessary ethics training programs either locally, in conjunction with other Boards and Associations, or through other methods (including, but not limited to, home study, correspondence courses, or Internet-based instruction). Any training offered pursuant to this requirement must meet the learning objectives and minimum criteria established by the National Association of REALTORS® from time to time. (Amended 11/10)

## REALTORS® Code of Ethics Training

### Outline

(Click on any section heading or subheading to go to that portion of the document, or simply scroll down the page to view the document starting from the beginning.)

#### I. Policy Summary for Periodic Ethics Training

#### II. Minimum time for Code of Ethics Continuing Education

#### III. Learning Objectives and Delivery Vehicles

- Required Learning Objectives in every ~~four~~ two year cycle
- Suggested Learning Objectives in any ~~four~~ two year cycle
- ~~Other Learning Objectives~~

#### IV. Criteria and Minimum Content Components

- ~~Required Learning Objectives~~
- ~~Suggested Learning Objectives in any four year cycle~~

#### V. Possible Delivery Vehicles for Code of Ethics Continuing Education

#### VI. Sample Course Outline for Code of Ethics Continuing Education

### I. Policy Summary for REALTORS® Code of Ethics Training

Members of the National Association of REALTORS® are required to complete periodic ethics training of not less than 2 hours and 30 minutes of instructional time once every two years. ~~Boards/Associations of REALTORS®~~ are required to provide access to such programs to members either on their own, in conjunction with other ~~Boards/Associations~~, or through some other method (such as ~~home study, correspondence or internet based~~ online courses). Any course offered by an ~~Board/Association~~, regardless of format, must meet the learning objectives and minimum criteria for such courses as established by the National Association of REALTORS® from time to time.

~~A REALTOR® who has completed such periodic ethics training in any two year period in one~~



~~Board/Association shall not be required to complete any further ethics training in such period if the REALTOR® is a member of another Board or Boards. In addition, a member may take such courses to satisfy the periodic ethics training through any Board/Association so long as the member can provide satisfactory documentation of completion to the member's primary Board/Association.~~

~~A new member of a Board/Association who has completed the New Member Code of Ethics Orientation shall not be required to complete periodic ethics training until the expiration of the two year cycle in which the new member completed the New Member Code of Ethics Orientation.~~

~~Failure to complete the required periodic ethics training shall be a violation of a membership duty for which violation the member's primary Board/Association shall suspend the member until such time as the member completes the required training.~~

~~Failure to meet the requirement will result in suspension of membership for the first two months (January and February) of the year following the end of any two (2) year cycle or until the requirement is met, whichever occurs sooner. On March 1 of that year, the membership of a member who is still suspended as of that date will be automatically terminated.~~

~~Every Board and Association is required to provide access to necessary ethics training programs either locally, in conjunction with other Boards and Associations, or through other methods (including, but not limited to, home study, correspondence courses, or Internet based instruction). Any training offered pursuant to this requirement must meet the learning objectives and minimum criteria established by the National Association of REALTORS® from time to time.~~

## II. Minimum time for Training:

~~A minimum total instructional time of 2 hours and 30 minutes of instructional time every two years is required. To provide for maximum flexibility and choice by local area in customizing training best suited for their members, boards and associations may choose to format this time in any reasonable blocks different ways, including, but not limited to, the following formats:~~

- ~~1. One class of 3 hours in length with two breaks of ten to fifteen minutes each. Depending on state law, this format may qualify for continuing education credit.~~
- ~~2. Three classes of 50 minutes each.~~
- ~~3. Six sessions of 25 minutes each. This format might envision a module or topic included as part of a board or association membership meeting.~~
- ~~4. Inclusion of the required content and time elements into a full day or multi-day program. This format might include presenting a Code of Ethics course as part of a GRI program or Professional Standards Seminar.~~

Boards and associations should not divide the content into sessions of less than 25 minutes each unless the content is part of a longer program which includes other topics. For example, it would not be considered to be a reasonable division of content to have a five or ten minute "Code of Ethics" presentation at monthly board meetings.

### III. Learning Objectives and Delivery Vehicles

In order to provide for flexibility of content and presentation, the learning objectives below are divided into the two categories of required learning objectives and suggested learning objectives. Required learning objectives must be accomplished in every two year cycle. ~~Suggested learning objectives are presented to give boards and associations choice in presenting information in successive four year cycles which is current and fresh.~~

In addition to the required objectives, boards and associations may teach the Suggested Learning Objectives below, or develop their own learning objectives to accomplish teaching the required material in each cycle, and keep the training current and relevant.

However, any learning objectives developed locally must cover at least one of the following:

- The Code of Ethics and its principles
- Professional standards procedures
- Arbitration, mediation, and/or ombudsman procedures
- Procuring cause claims

For example, an association could design a training that spends two hours and thirty minutes of instructional time on the Required Learning Objectives. Alternatively, an association could develop a training that spends one hour on the Required Learning Objectives and one hour and thirty minutes on the Suggested Learning Objectives. Finally, an association could have a Code of Ethics Training that spends thirty minutes of instructional time covering the Required Learning Objectives, then an additional two hours of instructional time covering agency (which relates Article 16), fair housing (which relates to Article 10), relevant license laws (which could relate to Articles 1, 2, 11, etc.) or appropriate advertising and interaction on social media (which could relate to Articles 12 or 15).

While it's important to cover the Required Learning Objectives and keep other content relevant to the Code of Ethics and its enforcement process, associations have considerable flexibility in tailoring content to cover any number of issues that might be helpful and relevant to its membership. That being said, subjects such as MLS, lock box procedures, or membership duties are not considered content which fulfills the REALTORS® Code of Ethics Training requirement.

Associations may deliver Code of Ethics Training in a variety of formats. These formats may include, but are not limited to:

1. Live classroom or meeting presentations
2. Webinars or videos
3. Online courses

If the association uses any method which is not presented in a “live” format (such as webinars, videos, or online courses), the association must include a measurement technique with the delivery vehicle to test the member’s understanding of the material. Typically, this measurement technique would be a test.

**Required Learning Objectives in every two year cycle:**

Upon completion of the Code of Ethics Continuing Education materials, participants will be able to:

1. Identify at least two aspirational concepts in the Preamble to the Code of Ethics, describe the concept of general business ethics and identify how the Code of Ethics compares and contrasts with the concept of general business ethics. (create “How can I teach this?” link or dropdown box that provides content in “expanded examples”)
2. Describe the concepts of at least two of the following Articles of the Code of Ethics: Articles 1, 2, 3, 9, 11, 12, 16 and 17. (create “How can I teach this?” link or dropdown box that provides content in “expanded examples”)
3. ~~Given interactive learning methods such as case studies, quizzes, role play, group discussion of fact scenarios,~~ Identify possible violations of the Code of Ethics, specifically related to at least one of the two Articles selected in Objective #2 after participating in interactive learning methods such as case studies, quizzes, role play, and group discussion of fact scenarios. (create “How can I teach this?” link or dropdown box that provides content in “expanded examples”)
4. Briefly describe the professional standards enforcement process of the board or association. (create “How can I teach this?” link or dropdown box that provides content in “expanded examples”)

~~A board or association may conduct the entire 2 hour and 30 minute time period under the required learning objectives. For example, although the minimum requirement is to examine 2 of the stated Articles of the Code, a program may examine 3 articles with several case studies examining each of the three articles to complete the minimum time period. Alternatively, the program may examine only the two articles required and then use one or more of the suggested learning objectives or other learning objectives as the board or association may desire to complete the minimum time period.~~

**Suggested Learning Objectives in any two year cycle:**

Boards and associations may choose to complete any or all of these learning objectives to fulfill the required minimum class time.

Upon completion of the Code of Ethics Continuing Education materials, participants will be able to:

1. Describe the concepts in selected Articles of the Code of Ethics (other than those selected in the required learning objectives). (create "How can I teach this?" link or dropdown box that provides content in "expanded examples")
2. Given interactive learning methods such as case studies, quizzes, role play, or group discussion of fact scenarios, identify possible violations of the Code of Ethics, specifically related to the Articles selected in Objective #1. (create "How can I teach this?" link or dropdown box that provides content in "expanded examples")
3. Describe the history of the Code of Ethics as it relates to its origins, its influence on state licensing laws and its establishment of arbitration as the monetary dispute resolution process between REALTORS®. (create "How can I teach this?" link or dropdown box that provides content in "expanded examples")
4. List the major categories of the Articles of the Code of Ethics. (create "How can I teach this?" link or dropdown box that provides content in "expanded examples")
5. Describe the structure of the Code and its supporting materials. (create "How can I teach this?" link or dropdown box that provides content in "expanded examples")
6. Identify the roles of the various committees of the board or association charged with enforcement of the Code of Ethics. (create "How can I teach this?" link or dropdown box that provides content in "expanded examples")
7. Describe the concepts of due process used in enforcement hearing processes. (create "How can I teach this?" link or dropdown box that provides content in "expanded examples")
8. Given interactive learning methods such as case studies, quizzes, role play, or group discussion of fact scenarios, identify appropriate and inappropriate applications of the concepts of due process described in Objective #7. (create "How can I teach this?" link or dropdown box that provides content in "expanded examples")
9. Briefly describe the bases upon which a procuring cause arbitration claim is decided. (create "How can I teach this?" link or dropdown box that provides content in "expanded examples")
10. List at least three of the factors upon which a procuring cause arbitration claim is decided. (create "How can I teach this?" link or dropdown box that provides content in "expanded examples")
11. Describe the processing of an ethics complaint. (create "How can I teach this?" link or dropdown box that provides content in "expanded examples")
12. Describe the processing of an arbitration claim. (create "How can I teach this?" link or dropdown box that provides content in "expanded examples")
13. Given interactive learning methods such as case studies, quizzes, role play, or group discussion of fact scenarios, identify issues and possible outcomes in a procuring cause

- arbitration claim. (create "How can I teach this?" link or dropdown box that provides content in "expanded examples")
14. Describe the mediation process. (create "How can I teach this?" link or dropdown box that provides content in "expanded examples")
  15. List the benefits of the mediation process. (create "How can I teach this?" link or dropdown box that provides content in "expanded examples")
  16. Given interactive learning methods such as case studies, quizzes, role play, or group discussion of fact scenarios, demonstrate possible outcomes in a mediation of a procuring cause claim. (create "How can I teach this?" link or dropdown box that provides content in "expanded examples")
  17. Describe the content and format of "Pathways to Professionalism"; discuss how it can enhance relations between REALTORS®, and how it ensures heightened professional services to consumers. (Adopted 11/04) (create "How can I teach this?" link or dropdown box that provides content in "expanded examples")

#### **Other Learning Objectives:**

Other than the required objectives, boards and associations may develop their own learning objectives to accomplish the required minimum material in each cycle. This category of "other" learning objectives must have either the Code of Ethics, professional standards procedures, arbitration and mediation procedures or procuring cause claims as its subject matter basis. Other subjects such as MLS, lock box procedures, membership duties and the like are not considered as content which fulfills the Code of Ethics Continuing Education requirement.

#### **IV. Criteria and Minimum Content Components**

The criteria and content components of the Code of Ethics Continuing Education material are divided into required minimum content for the required learning objectives and suggested content for the suggested learning objectives.

The components are described below in connection with each learning objective. These criteria and content components are intended to describe the information which should be conveyed to accomplish the corresponding learning objective. Boards and associations should feel free to convey this information which is considered to accomplish the learning objective in a variety of methods which best fit the board's or association's needs for the class.

To this end, the format of the class may include brief lecturettes, group exercises, quizzes, group discussions, case studies, role plays, mock hearings and the like. Because of the nature of some of the concepts, several learning objectives require the use of some type of fact-based interactive method so that participants can engage in a skill practice activity in which they can apply concepts learned in other parts of the material.

**Expanded Examples (each learning objective above will link or provide a dropdown with the relevant content for each learning objective):**



**Required Learning Objectives:**

**Required Learning Objective #1: Identify at least two aspirational concepts in the Preamble to the Code of Ethics, describe the concept of general business ethics and identify how the Code of Ethics compares and contrasts with the concept of general business ethics.**

This learning objective can be accomplished by examination of aspirational concepts in the Preamble such as:

1. The concept of striving to become and remain informed on issues affecting real estate.
2. Willingly sharing the fruit of one's experience and study with other REALTORS®.
3. The elimination of practices which may damage the public, or bring discredit or dishonor to the real estate profession through Code enforcement and assisting regulatory bodies.
4. Urging the exclusive representation of clients.
5. The concept of not attempting to gain any unfair advantage over competitors.
6. Refraining from unsolicited comments about other practitioners and offering any opinions about competitors in an objective and professional manner.
7. The concept of wide distribution of land ownership.
8. Highest and best use of the land.
9. Principles of competency, fairness and high integrity.
10. Adherence to the Code regardless of inducement of profit or instruction from the client to the contrary.
11. The Golden Rule.

The concept of general business ethics can be described by reference to values, morals, decisions and personal/business judgments which are beyond the minimum standards typically set by the legal system. Likewise, the Code of Ethics embodies many of the central principles of business ethics but focuses on the objective measurement of the conduct of members in the specific business environment of real estate transactions.

**Required Learning Objective #2: Describe the concepts of at least two of the following Articles of the Code of Ethics: Articles 1, 2, 3, 9, 11, 12, 16 and 17.**

A synopsis of the concepts of the noted Articles and recommended Standards of Practice follows. The citing of "recommended" Standards of Practice does not preclude a board or association from using different Standards of Practice in the program.

**Article 1:** Basic concepts of the Article include the obligation to protect and promote the interests of the client and an explanation that this obligation is one of fidelity in the nature of a fiduciary relationship. The Article also specifies that this obligation of fidelity does not relieve the REALTOR® of the obligation to treat all parties honestly. Important Standards of Practice under Article 1 which are recommended to be discussed, as time allows, include:

**Standard of Practice 1-5** defines the conditions under which a REALTOR® may engage in disclosed dual agency.

*Standard of Practice 1-6* specifies the obligation to present all offers and counter-offers objectively and as quickly as possible.

*Standards of Practice 1-7 and 1-8* include the obligation to present all offers until closing and/or acceptance (depending on the party with whom the REALTOR® is working) and specify additional conditions as to how and when this obligation applies.

*Standard of Practice 1-9* defines the obligation of confidentiality.

*Standards of Practice 1-12 and 1-13* specify disclosure obligations of REALTORS® upon taking a listing or entering into a buyer/tenant agreement.

*Standard of Practice 1-15* authorizes disclosure of the existence of offers on a property with a seller's approval.

*Standard of Practice 1-16* cautions REALTORS® not to access or use, or allow others to access or use, listed property on terms and conditions other than those authorized by the seller.

*Article 2:* Article 2 might be commonly termed the "property or transaction disclosure" article. Its principles include the obligation not to exaggerate, misrepresent or conceal pertinent facts about the property or the transaction. Article 2 is limited, however, in that it does not include an obligation to discover latent defects, advise on matters outside the scope of one's real estate license or to disclose facts which are confidential under the scope of agency duties. Standards of Practice 2-1 should be discussed in that it further clarifies the obligation to discover and disclose adverse factors. The discovery obligation extends only to those factors which would be within the expertise required by the real estate licensing authority and does not impose an obligation of expertise in other professional or technical disciplines.

*Article 3:* Article 3 is the "cooperation" article. The concepts of cooperation and compensation should be distinguished. In particular, the article's admonition that the obligation of cooperation does not include the obligation to share commissions should be noted. Standards of Practice under Article 3 which are recommended include Standards of Practice 3-1, 3-2 and 3-4.

*Standard of Practice 3-1* affirms the distinction between cooperation and compensation. Listing agents/brokers establish the terms and conditions of offers to cooperate. Cooperating brokers may not assume that cooperation includes compensation. Cooperating brokers must ascertain the terms of compensation, if any, before beginning efforts to accept the offer of cooperation.

*Standard of Practice 3-1* obligates the REALTOR® making an offer of compensation to timely communicate any change in that offered compensation prior to the time a cooperating REALTOR® produces ~~produces~~ submits an offer to purchase/lease the property.

*Standard of Practice 3-4* defines the disclosure obligations of listing agents/brokers to disclose dual or variable rate commission arrangements and the obligation of buyer/tenant representatives to disclose such information to their client.

**Article 9:** Article 9's primary concept is to require REALTORS® to assure, whenever possible, that agreements be in writing, expressing the specific terms and obligations of the parties. In addition, Standard of Practice 9-1 amplifies this obligation by requiring REALTORS® to use reasonable care to ensure that these documents are kept current through the use of written extensions or amendments.

**Article 11:** Article 11 deals with the standard of competence a REALTOR® must maintain for the discipline in which the REALTOR® engages. In addition, the Article sets forth the principle that a REALTOR® who works outside the field of competence in which the REALTOR® typically engages must either engage the assistance of one who is competent in that field or fully disclose the facts to the client.

**Article 12:** Article 12 might be called the "truth in advertising" article. Its call is for REALTORS® to present a "true picture" in real estate related advertising and representations to the public, including those online and in social media. Standard of Practice 12-7 should be included for discussion. This Standard of Practice covers the use of the term "sold" in signs and advertising.

**Article 16:** Article 16 encompasses the idea of non-interference with agency and other exclusive relationships of other REALTORS®. Its central premise is that a REALTOR® shall not engage in any practice or take any action which is inconsistent with the agency or other exclusive relationship that other REALTORS® have with clients. While Article 16 is a relatively short Article, it has many Standards of Practice which have been established to support it. Discussion of the following Standards of Practice is recommended as time allows:

**Standard of Practice 16-2:** This Standard of Practice clarifies the types of personal, mail and other forms of written solicitations which are ethical and unethical. Explanation should be given that "general" types of solicitation, as defined in the Standard of Practice, are not unethical and that the Standard of Practice is narrow and specific as to the types of solicitations which are recognized as unethical under Article 16.

**Standard of Practice 16-4 and 16-6:** These two companion Standards of Practice specify the appropriate conduct of a REALTOR® when confronted with issues regarding solicitation of a listed property. While the basic premise of Standard of Practice 16-4 is that solicitation of a listing which is currently listed exclusively with another REALTOR® is unethical, procedures are set out in Standard of Practice 16-4 and 16-6 which modify this basic premise under certain limited conditions. Standard of Practice 16-5 deals with parallel issues in the solicitation of buyers/tenants subject to exclusive buyer/tenant agreements.

**Standard of Practice 16-9:** This Standard of Practice specifies the conditions under which a REALTOR® is required to inquire of a prospective client as to the client being subject to another exclusive agreement. The Standard of Practice requires REALTORS® to make reasonable efforts to determine whether the client is subject to another current, valid, exclusive agreement prior to the REALTOR® entering into an agency agreement or other exclusive relationship with the client.

**Standard of Practice 16-13:** Standard of Practice 16-13 sets out the obligation not to deal with another REALTOR®'s client who is subject to an exclusive agreement unless the client's agent or broker gives consent or unless the client initiates such dealings.

**Article 17:** Article 17 is the REALTOR®'s obligation to arbitrate (and mediate, if required by the association) certain monetary disputes rather than litigate them. The conditions on mandatory arbitration are that the dispute must be a contractual or specific non-contractual dispute defined by Standard of Practice 17-4, be between REALTORS® associated with different firms and be arising out of their relationship as REALTORS®. Standard of Practice 17-4 defines the types of non-contractual disputes which are required to be arbitrated. Of the four non-contractual disputes in Standard of Practice 17-4, the first subparagraph is likely the most common occurrence, representing disputes between two co-brokers.

**Required Learning Objective #3:** Given interactive learning methods such as case studies, quizzes, role play, group discussion of fact scenarios, identify possible violations of the Code of Ethics, specifically related to at least one of the two Articles selected in Objective #2.

Minimum content for this Learning Objective includes at least one interactive exercise which demonstrates some of the principles of the Articles and Standards of Practice discussed under Learning Objective #2. Boards and Associations may use interactive methods to accomplish Learning Objectives #2 and #3 together.

**Required Learning Objective #4:** Briefly describe the professional standards enforcement process of the board or association.

This Learning Objective is not intended to require a complete "course" on Professional Standards Enforcement Procedures. The minimum content required by this Objective is a brief description of the Professional Standards enforcement process. Included would be one or more of the following concepts:

1. The basic steps in processing an ethics complaint and an arbitration ~~petition~~request; that is, a written submission to the Grievance Committee, and if the complaint/~~petition~~request meets the standards set out by the procedures, the forwarding of the complaint/~~petition~~request to the Professional Standards/~~Arbitration~~ Committee for a full hearing.
2. The difference between the Grievance Committee as an initial screening committee and the Professional Standards/~~Arbitration~~ Committee as the decision-making committee.
3. The difference between an ethics complaint which deals with a member's conduct and an arbitration ~~petition~~ request which deals with a money dispute between REALTORS®.
4. The types of discipline which may be imposed for a violation of the Code of Ethics.
- 4.5. How the Ombudsman and Mediation processes offer valuable alternative dispute resolution options for members.

**Suggested Learning Objectives in any ~~four~~two year cycle:**

***Suggested Learning Objective #1:*** Describe the concepts in selected Articles of the Code of Ethics (other than those selected in the required learning objectives).

Accomplishment of this learning objective follows the same pattern as Required Learning Objective #1.

***Suggested Learning Objective #2:*** Given interactive learning methods such as case studies, quizzes, role play, or group discussion of fact scenarios, identify possible violations of the Code of Ethics, specifically related to the Articles selected in Objective #1.

This learning objective is also accomplished as in Required Learning Objective #2.

***Suggested Learning Objective #3:*** Describe the history of the Code of Ethics as it relates to its origins, its influence on state licensing laws and its establishment of arbitration as the monetary dispute resolution process between REALTORS®.

This learning objective is directed to content of the following nature:

1. The Code of Ethics was adopted in 1913 as one of the first industry codes of ethics.
2. The Code of Ethics is a living document which is changed as necessary to meet the challenges of new business concepts which have developed during its history.
3. However, the Code of Ethics includes timeless concepts such as honesty, obligations to clients and avoidance of self-dealing.
4. The Code of Ethics was a precursor to state licensing of real estate practitioners.
5. The Code of Ethics was a model for many of the original state licensing laws.
6. The Code of Ethics has mandated the arbitration of money disputes between REALTORS® since its inception in 1913. REALTORS® have participated in this "Culture of Cooperation" for eightyone hundred plus years and, as a result, have a unique system in which competitors cooperate and pay commissions to each other for such cooperation. This system is clearly to the public's benefit in the efficient sale of real property.

***Suggested Learning Objective #4:*** List the major categories of the Articles of the Code of Ethics.

This learning objective begins the process of demonstrating the structure of the Code. Information to be included in this learning objective is a discussion of the way the Code is prioritized as to its categories, Articles and Standards of Practice. The instructor should discuss the fact that the Code is divided into three categories by design, with the idea that Duties to Clients and Customers is the first priority in the Code, Duties to the Public is the next priority, and Duties to REALTORS® is the final priority. The instructor should also then introduce the idea that the material within the categories is also prioritized. This introduction should lead into the next learning objective.

***Suggested Learning Objective #5:*** Describe the structure of the Code and its supporting materials.



Within this learning objective, the material should describe the Articles of the Code as the broadest statements of ethical principles embodied by the Code. Discussion should then proceed to the concept that the Standards of Practice further define the Article under which they are placed. Then, the Case Interpretations should be presented as hypothetical factual situations which have been described by the NAR Professional Standards Committee in which a hypothetical REALTOR® has been found in violation of the Code of Ethics or in which a hypothetical REALTOR® has been exonerated of an allegation of a violation of the Code of Ethics. In addition, further discussion should be included which describes the prioritization of the Articles of the Code beginning with the duties of highest priority (i.e. Article 1 and its obligation to protect and promote the interests of the client). ~~The Standards of Practice within each Article should also be described within the same context as being prioritized "under" their respective Articles.~~

***Suggested Learning Objective #6:*** Identify the roles of the various committees of the board or association charged with enforcement of the Code of Ethics.

This learning objective should identify the various committees of the board which deal with professional standards matters. Specifically, the roles of the Grievance Committee, Professional Standards Committee, ~~and/or Arbitration Committee~~ and the Board of Directors should be discussed.

***Suggested Learning Objective #7:*** Describe the concepts of due process used in enforcement hearing processes.

The concepts and elements of due process to be included in this learning objective are:

1. Due process is a basic right of the parties to a hearing.
2. The broadest statement of due process is the idea of conducting a hearing within the bounds of fundamental fairness.
3. Due process rights include the following rights:
  - a. Right to know nature of complaint/arbitration request in advance.
  - b. Opportunity to prepare an adequate defense.
  - c. Right to call witnesses.
  - d. Right to present evidence/testimony.
  - e. Right to cross-examine witnesses called by other side.
  - f. Right to have legal counsel present.
  - g. Right to a hearing before an impartial peer panel.

***Suggested Learning Objective #8:*** Given interactive learning methods such as case studies, quizzes, role play, or group discussion of fact scenarios, identify appropriate and inappropriate applications of the concepts of due process described in Objective #7.

Included in the interactive methods to demonstrate this learning objective could be mock hearings.

**Suggested Learning Objective #9:** Briefly describe the bases upon which a procuring cause arbitration claim is decided.

This Learning Objective is not intended to be a course on arbitration or procuring cause. However, the minimum content for this Objective should include a brief discussion of the concept of procuring cause as the standard by which REALTOR® to REALTOR® commission disputes are decided; that the concept of procuring cause is determined by the factors specified by the NAR Professional Standards Committee in the *Code of Ethics and Arbitration Manual*; that no one factor, such as who showed the property first, who wrote the successful offer to purchase, or who secured a written agency agreement with the buyer, will determine the outcome of the case.

**Suggested Learning Objective #10:** List at least three of the factors upon which a procuring cause arbitration claim is decided.

Content for this learning objective would be derived from the Code of Ethics and Arbitration Manual's Appendix as to Suggested Factors for Consideration by a Hearing Panel in Arbitration.

**Suggested Learning Objective #11:** Describe the processing of an ethics complaint.

This learning objective is directed to the Grievance Committee process in determining whether a complaint should be forwarded for a hearing, the Professional Standards Hearing Panel process and the appeal process.

**Suggested Learning Objective #12:** Describe the processing of an arbitration claim.

This information should parallel that of Objective #11 for arbitration claims.

**Suggested Learning Objective #13:** Given interactive learning methods such as case studies, quizzes, role play, or group discussion of fact scenarios, identify issues and possible outcomes in a procuring cause arbitration claim.

This learning objective envisions a discussion of issues in a procuring cause case and possible outcomes. Information should be taken from the Appendix on Suggested Factors for Consideration by a Hearing Panel in Arbitration, including the Sample Fact Analyses of arbitration cases contained in that appendix.

**Suggested Learning Objective #14:** Describe the mediation process.

The primary focus of this objective is to describe the mediation process as a voluntary dispute resolution process available to parties to an arbitration claim before and/or after the Grievance Committee processes the case.

**Suggested Learning Objective #15:** List the benefits of the mediation process.

While an extensive list could be developed, some of the benefits which might be discussed include:

1. The mediation process is voluntary and thus consensual. The parties decide the case only if they choose to settle.
2. The mediation process is "win-win" in the sense that each party comes away from a mediation agreement with something, as contrasted to an arbitration hearing in which there is a "winner" and "loser" and one party very well may leave the case with nothing.
3. If the parties reach an agreement in mediation, the deposits of the parties are returned.
4. Mediation is a much more informal process than an arbitration hearing.
5. While arbitration is confidential, mediation has fewer "outsiders" (e.g. panelists) involved and thus fewer persons will know of the dispute.
6. Because mediation is a consensual process rather than an adjudicative process, there is a greater likelihood of preserving relationships between the parties for future benefits and business of the parties.

***Suggested Learning Objective #16:*** Given interactive learning methods such as case studies, quizzes, role play, or group discussion of fact scenarios, demonstrate possible outcomes in a mediation of a procuring cause claim.

This learning objective might be accomplished by a mock mediation, group exercise on mediation or the like.

#### ~~V. Possible Delivery Vehicles for Code of Ethics Continuing Education~~

~~Boards and associations may deliver Code of Ethics Continuing Education in a variety of formats. These formats may include, but are not limited to:~~

- ~~1. Live classroom or meeting presentations.~~
- ~~2. Home study courses.~~
- ~~3. Computer based courses.~~
- ~~4. Internet/web based courses.~~

~~If the board/association uses any method which is not presented in a "live" format (such as home study, computer based or internet based courses), the board/association must include a measurement technique with the delivery vehicle to test the member's understanding of the material. Typically, this measurement technique would be a test.~~

#### ~~VI. Sample Course Outline for Code of Ethics Continuing Education~~

~~Following is a sample course outline for a Code of Ethics Continuing Education course. This outline is a very general topical outline and not a detailed outline which might be constructed to~~

conduct a complete course. Approximate time frames for topics are noted. This sample course outline is designed as a course approximately 3 hours in length, with two ten minute breaks, or a total instructional time of approximately 2 hours and 30 minutes.

### ~~Sample Topical Outline for Code of Ethics Continuing Education~~

~~I. Welcome and Introductions/Icebreaker Exercise — 5 minutes~~

~~II. Concepts of the Preamble of the Code of Ethics — 10 minutes~~

~~III. Due Process and Code Enforcement — 10 minutes~~

~~IV. Professional Standards Enforcement and Resolution Processes — 15 minutes~~

~~A. The Two Functions of the Board/Association in Professional Standards Matters~~

~~1. Ethics~~

~~2. Arbitration~~

~~B. The Difference Between Ethics and Arbitration~~

~~C. The Processing of an Ethics Complaint~~

~~1. The Grievance Committee — Function and Purpose~~

~~2. The Professional Standards Committee — Function and Purpose~~

~~D. The Processing of an Arbitration Claim~~

~~1. The Grievance Committee — Function and Purpose~~

~~2. The Professional Standards/Arbitration Committee — Function and Purpose~~

~~E. Discipline in Ethics Cases~~

~~V. Exercises and Cases on the Code of Ethics~~

~~A. Article 1 and related Standards of Practice — 10 minutes~~

~~B. Article 1 Case Study — 10 minutes~~

~~BREAK — 10 minutes~~

~~C. Article 2 and related Standards of Practice — 10 minutes~~

~~D. Article 2 Case Study—10 minutes~~

~~E. Article 3 and Related Standards of Practice—10 minutes~~

~~F. Article 11 and Related Standards of Practice—10 minutes~~

~~G. Article 11 Case Study—10 minutes~~

~~BREAK—10 minutes~~

~~H. Article 16 and Related Standards of Practice—10 minutes~~

~~I. Two Case studies on Article 16—25 minutes~~

~~VI. Conclusion—5 minutes~~



A RESOLUTION OF THE PROFESSIONAL STANDARDS COMMITTEE  
of the  
NATIONAL ASSOCIATION OF REALTORS®  
in recognition of  
**PROFESSIONAL STANDARDS  
ENFORCEMENT VOLUNTEERS**  
November 2017

WHEREAS the REALTOR® Code of Ethics has guided REALTORS® and the National Association of REALTORS® in pursuit of the highest standards of professionalism, ethics, and consumer protection for over 100 years, and

WHEREAS enforcement of the Code of Ethics ensures its relevancy and significance in an ever changing real estate market, and

WHEREAS enforcement of the Code of Ethics would not be possible without the service, dedication, and selfless commitment of time from thousands of volunteers at local, state, and territorial associations across the country,

BE IT THEREFORE RESOLVED that the present and past members of the Professional Standards Committee of the National Association of REALTORS® express their most sincere gratitude to volunteer members of committees, panels, and tribunals charged with the most solemn task of enforcing the REALTOR® organization's Code of Ethics, and

BE IT FURTHER RESOLVED that the contributions of these individuals are recognized as continuing the esteemed work of the founders of the National Association of REALTORS® in ensuring REALTORS® are recognized as safeguarding the best interests of consumers, the wisest use of the land, and the private property rights that are the cornerstone of the American Dream.



**RPAC Trustees Fundraising Committee  
2017 REALTORS® Conference**

<b>Chair:</b>	Hagan Stone (TN)	<b>Vice Chair:</b>	Leigh Brown (NC)
<b>Committee Liaison:</b>	Kenny Parcell (UT)	<b>Staff Executive:</b>	Lauren Facemire (DC)/Liz Demorest (DC)

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**Recommendation(s):**

✓ Passed

1. That NAR adopt a policy that state and local REALTOR® associations may only use advocacy resources provided by the NAR REALTOR® Party for advocacy activity within their territorial jurisdiction as defined by NAR unless use outside the association's territorial jurisdiction is permitted by a written agreement among, or policy applicable to, all affected local and state association(s) regarding such use of advocacy resources, or the association in whose jurisdiction such advocacy will occur or NAR approves. The policy should allow for an association to request REALTOR® Party funds for use outside of its territorial jurisdiction, and if the association in whose jurisdiction such activity will take place objects, the funds may be provided subject to review and approval by the appropriate NAR committee(s) overseeing REALTOR® Party activities, in accordance with the following policy:

Resources provided to state and local REALTOR® associations by the National Association of REALTORS®, for advocacy activity as part of the NAR REALTOR® Party Program, except as otherwise noted in this section, shall only be used within the applying association's NAR-defined territorial jurisdiction.

- 1) Local and state REALTOR® associations may determine, via written agreement or policy, the extent to which advocacy resources provided by the REALTOR® Party program may be used by other associations within their respective association territorial jurisdictions.
- 2) Two or more associations may cooperate to use REALTOR® Party resources in joint efforts where a portion of the political subdivision where such advocacy activities will take place lie within the territorial jurisdiction of two or more associations.
- 3) Local or state associations that request the use of REALTOR® Party resources for advocacy activity outside of their defined territorial jurisdiction shall:
  - a) Provide, as part of their application for REALTOR® Party resources, notice of:
    - i. The proposed use of REALTOR® Party resources in an area outside of the applying association's territorial jurisdiction,
    - ii. An acknowledgment that the applying association has communicated or attempted to communicate with any association in whose jurisdiction such advocacy will occur regarding the proposed advocacy,
    - iii. The contact information for any other association staff or members

- that the applying association contacted to discuss the request.
- b) If the other association(s) in whose jurisdiction such advocacy will occur declines to approve or to discuss the proposed request, the applying association may seek approval to engage in the advocacy using REALTOR® Party funds from the REALTOR® Party committee empowered to grant the use of such funds.
  - c) The respective REALTOR® Party Committee having oversight over the resources requested shall consider the input of the following parties for each request:
    - i. The applying association,
    - ii. Any association in whose jurisdiction the proposed advocacy activities will occur,
    - iii. The state association where the applying local association and any affected associations are located, and;
    - iv. Any other party the Committee feels can assist with the decision.
  - d) Factors that the respective REALTOR® Party Committee may consider as part of the approval of the use of REALTOR® Party advocacy resources outside of an associations territorial jurisdiction include, but are not limited to:
    - i. Size of the associations,
    - ii. The number of association members whose office is in another associations territorial jurisdiction, and;
    - iii. The political consideration surrounding the use of any particular advocacy resource.
  - e) Approval of the REALTOR® Party Committee for the use of REALTOR® Party resources outside of the territorial jurisdiction of the applying association shall require a simple majority vote of the committee.
  - f) The decision of the respective REALTOR® Party Committee on the use of advocacy resources outside of an association's territorial jurisdiction shall be final.
  - g) Notwithstanding the foregoing, the applying association's use of REALTOR® Party resources does not require approval of any Commercial Overlay Board (COB) in whose territorial jurisdiction such use will occur, or of the applicable REALTOR® Party Committee with respect to such use within the COB's territorial jurisdiction.
- 4) A COB that requests use of NAR REALTOR® Party Resources for advocacy activity within the COB's territorial jurisdiction must comply with section (b) above with respect to all state and local associations in which such advocacy will occur.
  - 5) The requirement that REALTOR® Party resources may be used only for advocacy within the territorial jurisdiction of the applying association (except as otherwise provided in this policy) shall apply based on the individuals or entities (association members, members of the public, or otherwise) at whom such advocacy is directed, and not solely based on the geographic location of an event at which such advocacy activities take place.
  - 6) NAR staff using the NAR Association Territorial Jurisdictional descriptions shall determine questions regarding the use of REALTOR® Party resources and the existing boundaries of any association's territorial jurisdiction.



- 7) Any state or local association that is found in violation of this section may be subject to any or all of the following sanctions as determined by the respective REALTOR® Party Committee:
- a) Loss of access to any REALTOR® Party Programs for a specific period.
  - b) Loss of NAR provided advocacy tools and resources for a specific period.
- 8) The recommendation of any REALTOR® Party Committee for sanctions of a state or local REALTOR® association that violates these provisions must be approved by the NAR Leadership Team.

**Rationale:** State and local REALTOR® associations, since the start of the REALTOR® Party, have questioned the practice of associations engaging in advocacy actions outside of their defined NAR territorial jurisdictions. This recommendation addresses how associations are permitted to use REALTOR® Party Resources for advocacy activity outside of their jurisdiction.

There is no existing NAR policy on this issue. Some associations feel they should not act outside of their jurisdiction, while others felt they could apply for and receive REALTOR® Party resources for advocacy activity outside of their jurisdiction. Surveys of the state and local AE's and GADs indicate that the lack of any defined policy causes confusion for state and local associations regarding their engagement in advocacy activity outside of their territorial jurisdiction. This recommendation provides needed guidance on this issue. The goals of this recommendation are to ensure that all REALTORS® speak with one voice on advocacy issues, to promote cooperation among all levels of the REALTOR® organization for advocacy, and to provide that REALTOR® advocacy resources are being used in the most effective and efficient manner possible.

Could this recommendation create a financial benefit and/or obligation for state and local associations?

Check one:  Yes  No If yes, please attach a *Program Impact Analysis Form* as an Exhibit.

This recommendation has been reviewed by (check all that apply):  Not Applicable

Leadership Team  Legal  Finance  Other (list committees):

**The Executive Committee recommends to the Board of Directors:**

- Approval  Referral to \_\_\_\_\_ for further study  
 Approval with the following amendment:  Defeat

**Board of Directors Action:**

- Approved  Defeated  
 Approved with Executive Committee amendment  Referred to \_\_\_\_\_ for further study  
 Approved with the following Board of Directors amendment:

2. That NAR adopt policy that state and local REALTOR® associations shall only engage in advocacy using resources other than REALTOR® Party funds within their territorial jurisdictions as defined by NAR unless use outside the association's territorial jurisdiction

*Passed ✓*

is permitted by a written agreement among, or policy applicable to, all affected local or state associations regarding such use of advocacy resources, or the other association in whose jurisdiction such advocacy will occur or NAR approves. Such policy is based on the following:

- 1) REALTORS® are best represented at the local, state and national levels when speaking with one voice.
- 2) REALTOR® organizations are best represented and most appropriately engage in advocacy when associations engage in advocacy only within their territorial jurisdictions, unless another association(s) in which such advocacy will occur or NAR approves.
- 3) That the best way to accomplish this goal is to define for each level of the REALTOR® organization the units of government that should be the focus of the respective association. Those definitions are:
  - a. NAR – U.S. Federal Government
  - b. State/Territorial REALTOR® Associations – The state government
  - c. Local REALTOR® Associations – The local units of government within the territorial jurisdictions of the local association.
- 4) State or Local REALTOR® Associations, or their related political committees, shall, except as otherwise noted in this section, only engage in advocacy activity within their respective association territorial jurisdiction as set by NAR.
  - a. For the purpose of this section, “advocacy activity” is defined as any activity performed by a state or local association, which aims to influence decisions within political, economic, and social systems and institutions, including, but not limited to:
    - i. Fundraising,
    - ii. Political expenditures or support of any kind, including direct contributions to candidates or political committees as well as any campaign support or independent expenditure activity,
    - iii. Member advocacy outreach communications,
    - iv. Lobbying activities.
  - b. Local and state REALTOR® associations may determine, via written agreement or policy, the extent to which advocacy resources provided by the REALTOR® Party program may be used by other associations within their respective association territorial jurisdictions.
  - c. Two or more associations may cooperate to engage in advocacy activity in joint efforts where a portion of the political subdivision where such advocacy activities will take place lie within the territorial jurisdiction of two or more associations.
  - d. Local or state associations that seek to engage in advocacy outside of their defined territorial jurisdiction shall attempt to obtain the consent or approval of the association(s) in whose jurisdiction such advocacy will occur.
    - i. Associations shall first communicate their desired goals and plans for action with the affected local or state associations.
    - ii. Where appropriate, the state association shall act as a mediator to assist



- local associations in cooperating regarding advocacy outside an association's jurisdiction.
- iii. If the state association identifies an impasse between the parties, the state association may recommend that the disputed advocacy activity be considered by NAR for resolution as provided below.
- e. Local or state associations that propose to engage in advocacy outside of their defined territorial jurisdiction shall provide to NAR:
- i. A description of the proposed advocacy outside its territorial jurisdiction,
  - ii. Information about the associations communications or attempted communication with any association(s) in whose jurisdiction such advocacy will occur regarding the proposed advocacy,
  - iii. The contact information for any other association staff or members that the applying association contacted to discuss the request.
  - iv. The respective REALTOR® Party committee having oversight over the resources requested shall consider the input of the following parties for each request:
    - 1. The applying association,
    - 2. Any association in whose jurisdiction the proposed advocacy activities will occur,
    - 3. The state association where the local association proposing to engage in advocacy and any affected associations are located, and;
    - 4. Any other party the committee feels can assist with the decision.
  - v. Factors that the respective REALTOR® Party Committee may consider as part of the approval of the use of advocacy resources outside of an associations territorial jurisdiction include, but are not limited to:
    - 1. Size of the associations,
    - 2. The number of association members whose office is located in another associations territorial jurisdiction, and;
    - 3. The political consideration surrounding the use of any particular advocacy resource.
  - vi. Approval of the REALTOR® Party committee for advocacy activity outside of the territorial jurisdiction of the association proposing to engage in such activity shall require a simple majority vote of the committee.
  - vii. The decision of the respective REALTOR® Party committee on the use of advocacy resources outside of an association's territorial jurisdiction shall be final.
  - viii. Notwithstanding the foregoing, an association's advocacy activity does not require approval of any Commercial Overlay Board (COB) in whose territorial jurisdiction such advocacy will occur, or of the applicable REALTOR® Party committee with respect to such advocacy within the COB's territorial jurisdiction.
- f. A COB proposing to engage in advocacy activity within the COB's territorial jurisdiction must comply with section (d) above with respect to all state and local associations in which such advocacy will occur.

- g. The requirement that a state or local association engage in advocacy only within its territorial jurisdiction (except as otherwise provided in this policy) shall apply based on the individuals or entities (association members, members of the public, or otherwise) at whom such advocacy is directed, and not solely based on the geographic location of an event at which such advocacy activities take place.
- h. Any state or local association that is found in violation of this section may be subject to any or all of the following sanctions as determined by the respective REALTOR® Party committee:
  - i. Loss of access to any REALTOR® Party programs for a specific period.
  - ii. Loss of NAR provided advocacy tools and resources for a specific period.
- i. The recommendation of any REALTOR® Party committee for sanctions of a state or local REALTOR® association that violates these provisions must be approved by the NAR Leadership Team.

**Rationale:** State and local REALTOR® associations, since the start of the REALTOR® Party, have questioned the practice of associations engaging in advocacy actions outside of their defined NAR territorial jurisdictions. This recommendation addresses how associations are permitted to use their own resources for advocacy activity outside of their jurisdiction.

There is no existing NAR policy on this issue. Some associations feel they should not act outside of their jurisdiction, while others felt they could engage in advocacy activity outside of their jurisdiction. Surveys of the state and local AE's and GADs indicate that the lack of any defined policy causes confusion for state and local associations regarding their engagement in advocacy activity outside of their territorial jurisdiction. This recommendation provides needed guidance on this issue. The goals of this recommendation are to ensure that all REALTORS® speak with one voice on advocacy issues, to promote cooperation among all levels of the REALTOR® organization for advocacy, and to provide that REALTOR® advocacy resources are being used in the most effective and efficient manner possible.

Could this recommendation create a financial benefit and/or obligation for state and local associations?

Check one:  Yes  No If yes, please attach a *Program Impact Analysis Form* as an Exhibit.

This recommendation has been reviewed by (check all that apply):  Not Applicable

Leadership Team  Legal  Finance  Other (list committees):

**The Executive Committee recommends to the Board of Directors:**

- Approval
- Approval with the following amendment:
- Referral to \_\_\_\_\_ for further study
- Defeat

**Board of Directors Action:**

- Approved
- Approved with Executive Committee amendment
- Approved with the following Board of Directors amendment:
- Defeated
- Referred to \_\_\_\_\_ for further study

*The following is reported for your information only and does not affect Association policy or budget.*

1. The Committee heard the following RPAC Fundraising Reports:

a. Participation Council Chair Anita Colletti reported that as of October 25, RPAC had a 32% participation rate and 23,050 more investors than the same time last year. As of October 25, the Online Fundraising Program had raised \$3,366,286.

b. Major Investor Council Chair Kaki Lybbert reported that as of October 25, RPAC had 7,728 Major Investors, which is a 13% increase from the same time last year. As of October 25, 32 state associations and 246 local associations are soft dollar Major Investors. The President's Circle program had 1,196 members as of October 25, which is 149% of the 2017 goal.

c. Corporate Ally Program Advisory Board Chair Jim Imhoff reported that the Corporate Ally Program has raised \$1,188,604, which is a 8% increase from the same time last year. He thanked the Committee for supporting the Corporate Ally Program (CAP) Advisory Board's recommendation to shift the focus of CAP fundraising in 2018 to issues advocacy. This change, made in response to the preference of the investors, also helps to distinguish more clearly the mission of the Corporate Ally Program from the mission of RPAC.

d. Vice Chair Leigh Brown reported that eight states had achieved the Triple Crown Award and six states had met the RPAC requirements of the President's Cup Award as of October 25.

e. Chair Hagan Stone reported that as of October 25, RPAC has raised \$30,599,180 at the national, state, and local levels, which is 98% of the National RPAC Fundraising Goal. As of October 25, state totals for the Federal RPAC Disbursements Allocation are \$7,745,723, which is 105% of the allocation total.

2. The Committee received informational updates on the RPAC Hall of Fame wall, RPAC transmittal deadlines, and plans for the celebration of RPAC's 50th Anniversary.

3. The Committee was briefed on RPAC events during the REALTORS® Conference & Expo:

a. Fundraising Forum Chair Scott Louser updated the Committee on plans for the Fundraising Forum and auction.

b. Chair Hagan Stone reported that over 1,000 tickets to NAR After Dark had been sold as of November 3.

4. RPAC Trustees Federal Disbursement Committee Vice Chair Steve LaRue reported on the issue advocacy actions of their Committee related to tax reform and thanked the RPAC Trustees

Fundraising Committee for their work in raising the funds needed to be effective at the federal level.

5. The Future of the REALTOR® Party PAG Chair, Leslie Rouda Smith, and Vice Chair, Jim Liptak, provided the Committee with an update on the Future of the REALTOR® Party of PAG report. The report contains recommendations on new and enhanced REALTOR® Party programs. They reported that these new and enhanced programs come with a price tag, which will be examined rigorously through our association's budgeting process. In the interest of transparency, they presented these recommendations to all of the REALTOR® Party committees at the REALTORS® Conference & Expo. Additionally, the PAG recommendations will be discussed at the November REALTOR® Party Training Conference in San Antonio, TX. No funding requests, allocation shifting or dues increases will be discussed at the Finance Committee or Board of Directors this month. Rather, these discussions will be held in March 2018 at the Budget Review sessions with the goal of putting a proposal before the Board of Directors for approval in May 2018. Any proposed increase in REALTOR® Party spending will be considered along with all of the other needs for enhanced products and services for our members and prioritized by the Budget Review Team participants.



Robert A. Goldberg, President & CEO, Director  
430 North Michigan Avenue  
Chicago, IL 60611  
312.329.8269 Phone  
312.329.8390 Fax

DATE: November 6, 2017

TO: RIN Board of Directors:  
Bill Brown  
Elizabeth Mendenhall  
Chris Polychron  
Tom Salomone  
John Smaby  
Bob Goldberg

CC: Katie Johnson  
John Pierpoint  
Ken Burlington  
Roshani Seth  
Tim Kline

FROM: Bob Goldberg

**REALTORS® Information Network  
CEO REPORT  
Q3 2017**

RIN continues to accomplish its primary goal of ensuring that Move, Inc. an operating unit of News Corp. and the operator of realtor.com remain in compliance with the Operating Agreement.

RIN also manages the operation of the .realtor domain along with our business partner Second Generation, LLC. We recently launched a new web site to claim and manage .realtor domains, [www.get.realtor](http://www.get.realtor) accompanied by a new visual identity and tag line "Master your domain". Members may continue to claim their first domain free for the first year, with new options to choose from, including: Google G-suite (professional Gmail, video conferencing, calendar and file sharing/storage); free Placester® IDX web site; or the realtor.com profile web site.



REALTORS® Information Network, Inc.  
CEO SUMMARY REPORT  
Q3 2017

RIN also anticipates the launch of the .realestate domain in 2018 with our business partner Second Generation, LLC.

**RIN BUDGET**

Through the end of Q3 2017 RIN reported a net loss from operations of (\$385,225) versus a budgeted loss from operations of (\$1,368,984), resulting in a positive variance of \$983,787.

Positive variances on a number of major items contributed toward the overall positive variance, the primary item being Advertising \$553,124, followed by Consulting \$137,501, Outside Computer Service \$92,501, Promotional Domain Fees \$29,518, Staff Travel \$45,396, and Salary/Fringe \$39,015. It is anticipated that direct expenses will be under by approximately \$200K for yearend due to timing on various projects.

***RIN's Cash Position*** remains strong with \$2,526,615 currently available.

RAG: tak



