

# Top 5 Most Violated Articles of the Code of Ethics Broker Guide

## Code of Ethics Overview

The Code of Ethics is broken down into three parts:

1. Duties to Clients & Customers (Articles 1-9)
2. Duties to the Public (Articles 10-14)
3. Duties to REALTORS® (Articles 15-17)

Most Articles have supporting Standards of Practice, which are intended to interpret the Articles and are applications of ethical principles to specific conduct in specific circumstances.

REALTORS® cannot be found in violation of a Standard of Practice, but they can be found in violation of an Article, as supported by a Standard of Practice.

The Articles that are most frequently alleged in ethics complaints, and also have the most violations are:

- Article 1
- Article 3
- Article 9
- Article 12
- Article 16

## Article 1

- “When representing a buyer, seller, landlord, tenant, or other client as an agent, REALTORS® pledge themselves to protect and promote the interests of their client. This obligation to the client is primary, but it does not relieve REALTORS® of their obligation to treat all parties honestly. When serving a buyer, seller, landlord, tenant or other party in a non-agency capacity, REALTORS® remain obligated to treat all parties honestly.”
- Article 1 has 16 Standards of Practice covering a wide variety of behaviors, but focuses on protecting and promoting the interests of your client while treating all parties honestly.
- Key Standards of Practice:
  - o SOP 1-6 & 1-7 – require agents to submit offers and counter offers objectively and quickly.

- o SOP 1-15 – allows REALTORS® to disclose the existence of offers in response to buyers or buyer agents who ask, when authorized by the seller. Further, if authorized to disclose, and asked, the REALTOR® must also disclose who the offer came from (the agent, another agent within the brokerage or a cooperating broker). In a situation where there is a variable rate commission, such information could change the offer from the buyer.
- o SOP 1-16 – prohibits the listing agent from providing unauthorized access to a listed property. This SOP only applies to listing agents as Article 1 requires REALTORS® to protect and promote the interests of THEIR clients, i.e., the seller. Cooperating brokers who provide unauthorized access are covered under Article 3 (see below).

### **Article 3**

- “Realtors® shall cooperate with other brokers except when cooperation is not in the client’s best interest. The obligation to cooperate does not include the obligation to share commissions, fees, or to otherwise compensate another broker.”
- Article 3 covers the behavior between cooperating agents.
- The first Standards of Practice deal with compensation –
  - o SOP 3-1 – cooperation does not automatically mean there is an offer of compensation,
  - o SOP 3-2 – any change in compensation must be communicated to the other broker before an offer to purchase/lease is submitted,
  - o SOP 3-3 – brokers may agree to change their compensation, and
  - o SOP 3-4 – any variable rates of compensation must be disclosed.
- SOP 3-9, the compliment to SOP 1-16, prohibits a cooperating broker from allowing access to the property on terms other than those established by the owner or listing broker. This could include a failure to follow showing instructions outlined in the MLS. This does not fall under Article 1 because a buyer agent would almost assuredly be acting in the interests of their client who is asking to see a particular property.

### **Article 9**

- “Realtors®, for the protection of all parties, shall assure whenever possible that all agreements related to real estate transactions including, but not limited to, listing and representation agreements, purchase contracts, and leases are in writing in clear and understandable language expressing the

specific terms, conditions, obligations and commitments of the parties. A copy of each agreement shall be furnished to each party to such agreements upon their signing or initialing.”

- Article 9 requires, whenever possible, that all agreements are in writing in clear and understandable language and that copies are provided to each party once signed.
- While Virginia law requires all brokerage agreements to be in writing, a fair number of complaints are still filed citing to Article 9 because an agent either did not fill in all of the terms of the brokerage agreement or contract or failed to provide a copy to the client.

## **Article 12**

- “Realtors® shall be honest and truthful in their real estate communications and shall present a true picture in their advertising, marketing, and other representations. Realtors® shall ensure that their status as real estate professionals is readily apparent in their advertising, marketing, and other representations, and that the recipients of all real estate communications are, or have been, notified that those communications are from a real estate professional.”
- Article 12 is the truth in advertising article and includes requirements to update information on your website should it become outdated.
- SOP 12-4 prohibits REALTORS® from advertising a property for sale or lease without authority from the owner.
- SOP 12-9 required REALTORS® to disclose the firm name and states of licensure on websites.

## **Article 16**

- “Realtors® shall not engage in any practice or take any action inconsistent with exclusive representation or exclusive brokerage relationship agreements that other Realtors® have with clients.”
- Article 16 prohibits “going behind the sign” and clarifies what REALTORS® must do when soliciting business.
- Three noteworthy Standards of Practice:
  - o SOP 16-9 requires REALTORS® to make reasonable efforts to determine if someone is subject to a current, valid exclusive agreement to provide the same type of real estate services. Note that if someone has their house

listed for sale with another broker and you are offering to enter into a property management agreement with them, these are two different types of service and making such an offer is not prohibited by Article 16.

- o SOP 16-16 says that a REALTOR® cannot use the terms of an offer, or the submission of an offer, to attempt to modify the offer of compensation. This means that a buyer agent could not contact the listing agent to say “we will only submit this offer if you increase my compensation to X%.”
- o SOP 16-20 prohibits REALTORS® from inducing clients to terminate brokerage relationships when the REALTOR® leaves the firm. This SOP clarifies that there is no prohibition on brokers establishing a policy of how existing brokerage agreements will be handled when an agent leaves a firm.

---

## Questions and Answers

### **Which Standards of Practice prohibit REALTORS® from allowing unauthorized access to a property?**

SOP 1-16, which applies to listing agents and SOP 3-9, which applies to cooperating agents. The reason for the difference is because the Articles address the duties of each agent to the parties. Article 1 applies to the duties owed to your own client (plus honesty to all parties), while Article 3 applies to the duties owed to a cooperating agent.

### **If a property is listed for sale by a brokerage, can an agent from a different firm contact the owner to offer property management services?**

Yes. Article 16 requires that REALTORS® make reasonable efforts to determine if a prospect is subject to an exclusive brokerage relationship with another agent, but may offer different services that what the current exclusive brokerage agreement is for.

### **Can the listing agent change what the compensation in the MLS is after an offer has been submitted?**

Standard of Practice 3-2 says that any change in compensation must be communicated to the other REALTOR® prior to the submission of an offer. After an offer has been submitted, the listing agent may not unilaterally change the offered compensation. Both the listing broker and buyer broker (not agents) may enter into an agreement to change the compensation at any time during the transaction.