HOW DO I FILE A COMPLAINT?

Filing Ethics Complaints and Arbitration Requests

The National Association of REALTORS® adopted the Code of Ethics in 1913, which outlines the standard of conduct expected in the real estate profession. Since then, REALTORS® everywhere have agreed to meet the Code's high standards.

The professional standards process plays a very important role in an Association of REALTORS®. It helps to ensure honorable, faithful and competent service to clients and other members of the public by enforcing the Code of Ethics. It allows members to settle monetary business disputes through Arbitration and Mediation.

The St. Charles REALTORS® has prepared this brochure to help you understand the process.

St. Charles REALTORS®
110 Point West Blvd., St. Charles, MO 63301
636-946-4022
www.StCharlesRealtors.com

FILING INFORMATION FOR MEMBERS OF THE PUBLIC

Q: Who may file an ethics complaint?

A: Anyone. Any person, whether a member or not, may become a Complainant and file a complaint against an Association member, alleging a violation of any of the Articles of the Code. However, the complaint must:

1) Be in writing on the Ethics Complaint form.
2) Be signed by the Complainant.
3) State the facts surrounding the case.
4) Be filed within 180 days after the facts could be known or after the conclusion of the transaction.

A Complainant may file a complaint from any location. However, the Complainant must file it with the Association having jurisdiction over the individual named the Respondent (the person complained against) in the complaint.

After review by the Grievance Committee, and if the complaint is forwarded to a hearing, the Complainant must appear for the hearing to submit testimony and evidence. The burden of proof is on the complainant.

No award of money or "punitive damages" is ever considered in an ethics hearing.

Q: Do I have a complaint concerning a REALTOR®?

A: Before processing a complaint with the St. Charles REALTORS®, you must first determine if the agent involved is a REALTOR®. Not all real estate agents are REALTORS®. Only those who belong to an Association of REALTORS® may use the term REALTOR®. Therefore, you must determine if the person is a REALTOR® and to which Association of REALTORS® an agent belongs.

When joining an Association, all members agree to abide by the Code of Ethics as a continuing condition of membership. It is because of the REALTOR's® obligation to abide by the Code of Ethics that you can file a complaint at an Association of REALTORS®.

Q: What can the St. Charles REALTORS® do to a REALTOR?

A: The St. Charles REALTORS® can administer discipline to a REALTOR®. This would happen only in the case of a violation of the Code of Ethics as determined by an ethics hearing panel. The St. Charles REALTORS® can use one or more of the following ways to discipline a member:

a) A letter of warning or reprimand to the member.
b) Direct the member to attend an ethics class or other training appropriate to the violation.
c) Fine the member up to $15,000 (not awarded to the Complainant).
d) Place the member on probation.
e) Suspend the membership of the member.
f) Expel the member from membership.
g) Suspend or terminate the member's MLS rights and privileges.

An Association of REALTORS® possesses limited authority regarding its members. Note the following limitation:

> The St. Charles REALTORS® cannot charge a member with violations of the Missouri real estate license law or any other law. Its jurisdiction covers only violations of membership duties. The Missouri Real Estate Commission controls the agent's license to sell real estate. If you think a person has violated the license law, you should contact this agency. The number is (573) 751-2628.

For the same reason, the St. Charles REALTORS® cannot suspend or terminate the license of one of its members.

Q: How do I file an ethics complaint?

Many ethics complaints result from misunderstanding or a failure in communication. Before filing a complaint, make reasonable efforts to communicate with your real estate professional or a principal broker in the firm. If these efforts are not fruitful, the Association offers Ombudsman services, which is a dispute resolution service. If that does not resolve the issue, do the following to file a complaint:

A: Follow these steps:

1) Complete and sign the complaint form (available on the website). This form requests you to name the REALTOR® in question as the Respondent.

2) List the Articles of the Code of Ethics that you think the REALTOR® violated.

3) Attach an explanation about the situation surrounding the complaint. Be as specific as possible, referring at all times to the specific Articles of the Code. State what, when, where, why, and how you think the REALTOR® violated each Article.

4) Attach copies of any and all pertinent documents such as listing agreements, purchase agreements, correspondence, etc. If you have notarized statements from witnesses, include those also.

5) Keep a copy for your records and send the entire package to:

St. Charles REALTORS®
110 Point West Blvd.
St. Charles, MO 63301

The Grievance Committee will then process your complaint, and you will be notified of the outcome of the Committee's review.

Q: May a member of the public file a request for arbitration?

A: In certain circumstances, if a member of the public is a client of a REALTOR® (in a contractual relationship with the REALTOR®), arbitration may be offered. Call the Association to see if your situation might be considered for arbitration.

FILING INFORMATION FOR A REALTOR® OR REALTOR-ASSOCIATE®

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1) Be in writing on the Ethics Complaint form.
2) Be signed by the Complainant.
3) State the facts surrounding the case.
4) Be filed within 180 days after the facts could be known or after the conclusion of the transaction.

A Complainant may file a complaint from any location. However, the Complainant must file it with the Association having jurisdiction over the individual named the Respondent (the person complained against) in the complaint.

After review by the Grievance Committee, and if the complaint is forwarded to a hearing, the Complainant must appear for the hearing to submit testimony and evidence. The burden of proof is on the complainant.

No award of money or "punitive damages" is ever considered in an ethics hearing.

Q: Do I have a complaint concerning another REALTOR®?

A: Before processing a complaint with the St. Charles REALTORS®, you must first determine if the agent involved is a REALTOR®. Not all real estate agents are REALTORS®. Only those who belong to an Association of REALTORS® may use the term REALTOR®. Therefore, you must determine if the person is a REALTOR® and to which Association of REALTORS® an agent belongs.

When joining an Association, all members agree to abide by the Code of Ethics as a continuing condition of membership.

Q: What can the St. Charles REALTORS® do to a REALTOR®?

A: The St. Charles REALTORS® can administer discipline to a REALTOR®. This would happen only in the case of a violation of the Code of Ethics as determined by an ethics hearing panel. The St. Charles REALTORS® can use one or more of the following ways to discipline a member:

a) A letter of warning or reprimand to the member.
b) Direct the member to attend an ethics class or other training appropriate to the violation.
c) Fine the member up to $15,000 (not awarded to the Complainant).
d) Place the member on probation.
e) Suspend the membership of the member.
f) Expel the member from membership.
g) Suspend or terminate the member's MLS rights and privileges.

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For the same reason, the St. Charles REALTORS® cannot suspend or terminate the license of one of its members.

Q: How do I file an ethics complaint?

A: Follow these steps:

1) Complete and sign the complaint form (available on the website). This form requests you to name the REALTOR® in question as the Respondent.

2) List the Articles of the Code of Ethics that you think the REALTOR® violated.

3) Attach an explanation about the situation surrounding the complaint. Be as specific as possible, referring at all times to the specific Articles of the Code. State what, when, where, why, and how you think the REALTOR® violated each Article.

4) Attach copies of any and all pertinent documents such as listing agreements, purchase agreements, correspondence, etc. If you have notarized statements from witnesses, include those also.

5) Keep a copy for your records and send the entire package to Gwen@StCharlesRealtors.com or mail to:
   St. Charles REALTORS®
   110 Point West Blvd.
   St. Charles, MO 63301

The Grievance Committee will then process your complaint.

Q: Who may file an arbitration request?

A: Only the following may request arbitration: **REALTORS® who are principal brokers; REALTORS® who are not principals, provided the principal broker joins in the request; and clients of a REALTOR®.**

An arbitration request must:

1) Be in writing on a Request for Arbitration form.
2) Include a filing fee of $500.
3) Indicate the amount in dispute.
4) Be filed within 180 days after the closing of the transaction or after the facts could have been known.

The St. Charles REALTORS® provides arbitration as a service to its members. Arbitration is not a disciplinary proceeding, nor may a participant be awarded damages in arbitration. By becoming and remaining a REALTOR®, each member promises to arbitrate certain disputes.

Not every situation may be arbitrated at the St. Charles REALTORS®. Conditions and limitations exist which you must consider. The St. Charles REALTORS® staff will explain these conditions and limitations to you as the process continues.

NOTE: Disputes involving clients of REALTORS® require that they sign an agreement to arbitrate and be bound by the arbitration. The St. Charles REALTORS® Grievance Committee will determine whether or not the dispute is one that the St. Charles REALTORS® can process.

Q: How do I file an arbitration request?

1) Complete and sign the Arbitration form (available on the website).
2) Indicate the amount in dispute.
3) Include an explanation of the circumstances surrounding the situation. State why you feel you are entitled to an award of some kind. (Do not include allegations of unethical conduct in your request for arbitration. If you think the REALTOR® violated the Code of Ethics, file a separate Ethics Complaint.)
4) The St. Charles REALTORS® will ask you to sign an arbitration agreement. This indicates your commitment to abide by the decision of the Hearing Panel.
5) Attach copies of any pertinent documents such as listing agreements, purchase agreements, closing statements, etc. Also include any notarized statements from witnesses.
6) Include a $500 deposit with your arbitration request.

Send all items to:

St. Charles REALTORS®
110 Point West Blvd.
St. Charles, MO 63301

The Grievance Committee will then process your request.

Remember that it is not unusual for an Association to receive an ethics complaint and an arbitration request regarding the same set of circumstances. If you think a REALTOR® violated the Code of Ethics and the situation also involves a monetary dispute, you must complete both forms—Request for Arbitration and Ethics Complaint.

MEMBERS OF THE PUBLIC, REALTORS® AND REALTOR-ASSOCIATES®

Q: How does the St. Charles REALTORS® process the complaint?

A: Two committees of the St. Charles REALTORS® handle complaints–the Grievance Committee and the Professional Standards Committee. Their functions are described below:

Grievance Committee

Ethics: The Grievance Committee reviews complaints received by the St. Charles REALTORS®. It does not determine guilt or innocence. The Committee considers the following:

1) Is the complaint in an acceptable form?
2) Are all necessary parties named in the complaint?
3) Is the respondent named in the complaint a member of the St. Charles REALTORS® and was the respondent a member of any Association at the time of the alleged offense?
4) Is litigation or any government agency investigation or other action pending related to the same transaction?
5) Was the complaint filed within 180 days after the conclusion of the transaction or after the time that the complainant in the exercise of reasonable diligence could have known the alleged offense and facts relating to it?
6) Is there any reason to conclude that the St. Charles REALTORS® would be unable to provide an impartial Hearing Panel?
7) Are the specific Articles cited in the complaint appropriate? Should additional Articles be cited? Are any inappropriate Articles cited?
8) If the facts alleged in the complaint were taken as true on their face, is it possible that a violation of the Code of Ethics occurred?

After reviewing the complaint, the Committee will:

1) Forward the case for a hearing or to the Citation Panel for review
2) Dismiss it, if the facts alleged in the complaint, if taken as true on their face, do not indicate a possible violation of the Code of Ethics, or
3) Amend the complaint, if approved by the Complainant, to add or to delete Articles of the Code that are more appropriate to the complaint.

If the Committee dismisses your complaint, you have the right to appeal the dismissal to the Board of Directors of the St. Charles REALTORS®. In an appeal, the Directors re-examine the materials submitted to the Grievance Committee. The Directors can then either uphold or overturn the Committee's decision.

Arbitration: The Grievance Committee's role in arbitration is to review the request and paperwork is in order and to determine the following:

1) Whether you are authorized, under the rules, to request arbitration.
2) Whether the controversy described is an arbitrable matter.
3) Whether the arbitration is mandatory or voluntary for the people involved.
4) Whether the amount in dispute is either too little or too large, or too legally complex.
5) Whether the matter is currently the subject of litigation.

Such a review could result in releasing St. Charles REALTORS® members from their obligation to arbitrate. This would free you to seek other recourse in a court of law to resolve the dispute.

If the Grievance Committee determines that a matter is subject to arbitration, it will notify the parties that Mediation is available as a preliminary, voluntary alternative to arbitration.

Q: What is Mediation?

A: Mediation is offered prior to an arbitration hearing as a voluntary alternative of settling monetary disputes. It is an informal process that can end with a settlement or no settlement. If the arbitration is settled, both parties sign an agreement to abide by the settlement and both parties receive their $500 arbitration filing fee back. If no agreement is reached, the case is then set for an arbitration hearing. Failure to reach a settlement at Mediation does not affect any decision of an arbitration hearing panel.

Professional Standards Committee

The Professional Standards Committee is a list of panelists qualified and trained to hold ethics and arbitration hearings. When the Committee schedules a hearing, you will be notified of the time, date, and place. These hearings provide an opportunity for the Complainant and Respondent to explain their side of the story by presenting testimony, evidence, and witnesses.

Once all of the facts have been presented, the Hearing Panel will determine whether the Code of Ethics has been violated, or in the case of arbitration, how the dispute should be settled.

The St. Charles REALTORS® will inform you about each step of this process as it occurs. The St. Charles REALTORS® will also provide you with instructions about the hearing procedure, well in advance of the hearing. The entire process usually takes about 90 days, but sometimes is longer, depending on individual circumstances.