



Ombudsmen Information

Professional Standards Policy Statement #59, Associations to Provide Ombudsman Services, in the current NAR *Code of Ethics and Arbitration Manual*, provides as follows:

Every local and state association of REALTORS® is required to offer, either directly or as part of a cooperative enforcement agreement (consistent with Professional Standards Statement #40, Cooperative Enforcement Agreements), ombudsman services to members, clients, and consumers on or before January 1, 2016.

An ombudsman is an individual appointed to receive and resolve disputes through constructive communication and advocating for consensus and understanding. Ombudsman procedures are intended to provide enhanced communications and initial problem-solving capacity at the local level. All associations must provide ombudsman services to their members and members' clients and customers consistent with Professional Standards Policy Statement #59, Associations to Provide Ombudsmen Services, *Code of Ethics and Arbitration Manual*.

I. Introduction

Boards and associations of REALTORS® are charged with the responsibility of receiving and resolving ethics complaints. This obligation is carried out by local, regional and state grievance committees and professional standards committees.

Many "complaints" received by boards and associations do not expressly allege violations of specific Articles of the [Code of Ethics](#), and many do not detail conduct related to the Code. Some "complaints" are actually transactional, technical, or procedural questions readily responded to.

It is the belief of the National Association's [Professional Standards Committee](#) that many ethics complaints might be averted with enhanced communications and initial problem-solving capacity at the local level. These ombudsman procedures are intended to provide that capacity.

- View [frequently asked questions](#) about the Ombudsman process and procedures.

II. Role of Ombudsmen

The ombudsman's role is primarily one of communication and conciliation, not adjudication. Ombudsmen do not determine whether ethics violations have occurred or who is entitled to what amount of money, rather they anticipate, identify, and resolve misunderstandings and disagreements before matters ripen into disputes and possible charges of unethical conduct.

III. Qualification and Criteria for Ombudsmen

Boards and associations have considerable latitude in developing criteria for service as ombudsmen.

At a minimum, ombudsmen should be thoroughly familiar with the Code of Ethics, state real estate regulations, and current real estate practice. Ombudsmen may be REALTORS®, staff members, or others acting on behalf of the local board/association.

Ombudsmen may not participate in the deliberation of any tribunal on the same matter for which they provided the ombuds or mediation service. An ombuds may not serve as a mediator on the same matter for which they provided the ombuds service.

IV. Insurance Coverage

Ombudsmen are covered through the NAR insurance program, as long as they are acting within the coverage limits described in the policy.

As provided in the [FAQ](#) about the National Association of REALTORS® Professional Liability Insurance Program for Associations of REALTORS®, the policy defines an "ombudsman" (or "ombudsperson") as an individual designated by an association to be available for consultation about the association's ethics hearing, arbitration, and/or DRS processes. Only association staff or members may serve as an ombudsman. The policy excludes from coverage any claim that alleges or arises out of any action committed by ombudsman that does not involve an association's ethics hearing, arbitration or the DRS processes.

The following are examples of some situations in which an ombudsman would be covered and other situations when the ombudsman would not be covered:

- A seller contacts the association because they feel their listing broker, who is a REALTOR®, is not responding to phone calls, and may have received offers that they haven't presented to the seller yet. If an ombudsman were appointed to assist the parties, the ombudsman's actions would be covered by the NAR insurance program.
- A buyer contacts the association for help with a short sale transaction. If an ombudsman assisted the buyer, the ombudsman's actions would not be covered by the NAR insurance program.
- REALTOR® A contacts the association because she has reason to believe REALTOR® B has been criticizing her business on Facebook after a difficult transaction. If an ombudsman were appointed to assist the parties, the ombudsman's actions would be covered under the NAR insurance program.

For more information about insurance coverage, visit the [Professional Liability Insurance Program](#) page.

V. Involving the Ombudsman

Boards and associations have considerable latitude in determining how and when ombudsmen will be utilized. For example, ombudsmen can field and respond to a wide variety of inquiries and complaints, including general questions about real estate practice, transaction details, ethical practice, and enforcement issues. Ombudsmen can also receive and respond to questions and complaints about members; can contact members to inform them that a client or customer has raised a question or issue; and can contact members to obtain information necessary to provide an informed response.

In cases where an ombudsman believes that a failure of communication is the basis for a question or complaint, the ombudsman can arrange a meeting of the parties and to facilitate a mutually acceptable resolution.

Where a written ethics complaint in the appropriate form is received, it can be initially referred to the ombudsman who will attempt to resolve the matter.

VI. Right to Decline Ombudsman Services

Persons filing complaints, or inquiring about the process for filing ethics complaints, will be advised that ombudsman services are available to attempt to informally resolve their complaint. Such persons will also be advised that they may decline ombudsman services and can have their complaint referred to ethics mediation (if available), or considered at a formal ethics hearing.

VII. Resolution of Complaints

If a matter complained of is resolved to the mutual satisfaction of all parties through the efforts of an ombudsman, the formal ethics complaint brought initially (if any) will continue to be processed until withdrawn by the complainant.

VIII. Failure to Comply With Agreed Upon Resolution

Failure or refusal of a member to comply with the terms of a mutually agreed on resolution shall entitle the complaining party to resubmit the original complaint or, where a formal complaint in the appropriate form had not been filed, to file an ethics complaint. The time the matter was originally brought to the board or association's attention will be considered the filing date for purposes of determining whether an ethics complaint is timely filed.

IX. Referrals to the Grievance Committee or to State Regulatory Bodies

Ombudsmen cannot refer concerns they have regarding the conduct of any party utilizing their services to the Grievance Committee, to the state real estate licensing authority, or to any other regulatory body. The prohibition is intended to ensure impartiality and avoid the possible appearance of bias.

X. Confidentiality of Ombudsman Process

The allegations, discussions and decisions made in ombudsman proceedings are confidential and shall not be reported or published by the board, any member of a tribunal, or any party under any circumstances except those established in the *Code of Ethics and Arbitration Manual* of the National Association as from time to time amended.

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