

Article 10, Code of Ethics

**Rationale and Overview of Professional Standards
Policies on Discriminatory Speech**

HISTORY OF ARTICLE 10 OF THE CODE OF ETHICS

- 1974 non-discriminatory language adopted relating to race, creed, sex and country of national origin
- 1989 creed deleted and color, religion, handicap and familial status added
- 2000 no discrimination in employment practices
- 2011 sexual orientation added to protected classes
- 2014 gender identity added to protected classes
- November 13, 2020 Standard of Practice 10-5

High Level Overview of the PS Changes

- What are the new changes and why were they necessary
- New Standard of Practice 10-5
- Revision to Professional Standards Policy Statement #29
- New Appendix XII, Appropriate Interpretation of Standard of Practice 10-5 and Statement of Professional Standards Policy #29
- Revision to Definition of Public Trust
- Revision to Appendix VII, Sanctioning Guidelines



...REALTORS® should recognize that the interests of the nation and its citizens require the highest and best use of the land...Such interests impose obligations beyond those of ordinary commerce. They impose grave social responsibility and a patriotic duty to which REALTORS® should dedicate themselves... REALTORS®, therefore, are zealous to maintain and improve the standards of their calling and share with their fellow REALTORS® a common responsibility for its integrity and honor.

Preamble, Code of Ethics and Standards of Practice, NATIONAL ASSOCIATION OF REALTORS®



...They (REALTORS®) identify and take steps, through enforcement of this Code of Ethics and by assisting appropriate regulatory bodies, to eliminate practices which may damage the public or which might discredit or bring dishonor to the real estate profession...

Preamble, Code of Ethics and Standards of Practice, NATIONAL ASSOCIATION OF REALTORS®

Adopted and Effective November 13, 2020 (not retroactive)

Standard of Practice 10-5

REALTORS® must not use harassing speech, hate speech, epithets, or slurs based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity.

Standard of Practice 10-5 – A Two Step Process

Step 1: Is the speech harassing speech, hate speech, epithets, or slurs?

Step 2: If so, is the speech based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity?

Statement of Professional Standards Policy #29

29. Applicability of the Code of Ethics to ~~non-real estate-related activities~~

~~While REALTORS® are encouraged to follow the principles of the Code of Ethics in all of their activities, a REALTOR® shall be subject to disciplinary action under the Code of Ethics only with respect to real estate-related all of their activities. ~~and transactions involving the REALTOR®.~~~~

Appropriate Interpretation of Standard of Practice 10-5 and Statement of Professional Standards Policy 29

Appendix XII to Part Four, Code of Ethics and Arbitration Manual

Additional guidance with further explanation provided regarding “harassment”, “hate speech”, “epithets” and “slurs”.

Explanation and Guidance for Standard of Practice 10-5

Examples of Harassment Include, but are not Limited to:

NAR's Code of Conduct and Anti-Harassment Policy

Epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes; and the display or circulation of written or graphic material that denigrates or shows hostility toward an individual or group based on a protected characteristic.

Context Matters - There is No List of Words or Phrases that Would Result in an Automatic Violation of the Code

The following statements are examples for discussion purposes only. They have not been evaluated by the National Association as potential violations of Article 10.

Negative Stereotyping and Written or Graphic Material Denigrating or Showing Hostility Toward an Individual or Group Based on a Article 10's Protected Classes.

Negative Stereotyping

Depicting on social media a picture of Kobe Bryant and his daughter with a statement, “First black man to leave and take his child with him.”

The above statement is an example for discussion purposes only. It has not been evaluated by the National Association as a potential violation.

**Appendix XII, Part
Four, CEAM:
Explanation/Guidance
for SOP 10-5**

Hate Speech: Speech that is intended to insult, offend, or intimidate a person because of some trait (as race, religion, sexual orientation, national origin or disability).

Speech that Insults, Offends, or Intimidates Based on a Trait Relating to Article 10's Protected Classes

Hate Speech

Those (religious group) are the scum of the earth; we should take every opportunity and any means available to drive them out of our community.

The above statement is an example for discussion purposes only. It has not been evaluated by the National Association as a potential violation.

Appendix XII, Part Four, CEAM: Explanation/Guidance for SOP 10-5

Epithet: **1a.** a characterizing word or phrase accompanying or occurring in place of the name of a person or thing; **b.** a disparaging or abusive word or phrase.

A Characterizing Word or Phrase Accompanying or Occurring in Place of a Name of a Person or Thing; Disparaging or Abusive Word or Phrase

Epithet

That (epithet relating to national origin) is disgraceful; just look at those clothes - “Go back to where you came from!”

The above statement is an example for discussion purposes only. It has not been evaluated by the National Association as a potential violation.

Appendix XII, Part Four, CEAM: Explanation/Guidance for SOP 10-5

Slur: 1a. insulting or disparaging remark or innuendo: ASPERSION, **b.** a shaming or degrading effect: STAIN, STIGMA.

An Insulting or Disparaging Remark or Innuendo: Aspersions; a Shaming or Degrading Effect: Stain, Stigma

Slur

That (reference to sexual orientation or gender identity) is not welcome in our neighborhood; those people are perverted.

The above statement is an example for discussion purposes only. It has not been evaluated by the National Association as a potential violation.

Public Trust Issues Involving Real Estate are Referred to Licensing Authority

Article IV, Section 2 of National Association's Bylaws Revised

...Enforcement of the Code of Ethics also requires Member Boards to share with the state real estate licensing authority final ethics decision holding REALTORS® in violation of the Code of Ethics in instances involving real estate activities and transactions where there is reason to believe the public trust may have been violated...

Definition of Public Trust Revised

Article IV, Section 2 of National Association's Bylaws Revised

...The “public trust,” as used in this context, refers to demonstrated misappropriation of client or customer funds or property, ~~willful~~ discrimination against the protected classes under the Code of Ethics, or fraud ~~resulting in substantial economic harm~~...

Appendix VII to Part Four, *Code of Ethics and Arbitration Manual*, Revised

Sanctioning Guidelines

Hearing panels privy to all facts and circumstances take into consideration the entire course of events, weighing a respondent's experience, prior violations, and mitigating or extenuating circumstances.

Interested in Learning More About the PS Changes?

Breaking Down the Code of Ethics Webinar Series

To learn more, please go to nar.realtor and search on “Breaking Down the Code of Ethics” or call 1-800-874-6500



...The term REALTOR® has come to connote competency, fairness, and high integrity resulting from adherence to a lofty ideal or moral conduct in business relations...

Preamble, Code of Ethics and Standards of Practice, NATIONAL ASSOCIATION OF REALTORS®