Code of ethics: This is a synopsis of *some* of the most important ethical considerations you need to be aware of as a real estate or mortgage industry professional. This has been adapted from Barell (2011) and the National Association of Realtors® Code of Ethics (2011; 2021).

Terminology:

Agency: The fiduciary relationship created between a principal and an agent whereby the agent can act on behalf of the principle for certain transactions. Agency is usually created when the principal signs a listing agreement to list their property for sale or a management contract to rent a property.

Agent: The broker or sales associate acting on behalf of the principal (see agency)

Client: The person with whom the broker or sales associate has a legal contract to represent.

Customer: The person not contractually bound to the industry professional.

Principal: The person who hires an agent to act on their behalf.

Code of ethics:
#1. The agent is responsible for promoting their client's interests and treating all involved in any real estate transaction honestly and fairly. They must disclose if they are a dual agent (representing both buyer and seller in a transaction), a designated agent (represent either the buyer or seller depending on state law), or a limited representative (will provide only certain duties in the transaction per state law).

#2. Agents must openly acknowledge to clients any personal interest they might have in any transaction before showing a property; they must acknowledge any personal relationships involved. For example, if an agent says, “I want to disclose to you before we look at it that this property belongs to my brother, and my sister-in-law and I am their agent.”

#3. The agent will not allow anyone that is not pre-authorized by the owner to access the client's property.

#4. Never overstate the benefits or attributes of a property or opportunity at any time. The agent must only state the facts.

#5. Terms of compensation with cooperating brokers must be stated before a purchase offer is made. Only the listing broker or owner can change the listing terms for realtor cooperation compensation. In addition, all listing brokers must disclose in accordance with the legal codes and statutes for their state, “the dual or variable rate commission” (National Association of Realtors®—NBR) if an agent other than the listing agent sells the property (Barell, 2011, p. 34, Article 3; NBR, 2021, Standards of Practice 3–4).

#6. No agent can receive kickbacks or payments without having provided a service. Payments for referrals to adjunct services like inspectors, design services, etc., are not allowed. Agents cannot receive a commission from more than one party without full disclosure and written consent from all involved in a transaction. A real estate professional cannot promote or recommend legal, banking, mortgage, appraiser, or home warranty services of any kind. They also may not make any false statements with regard to any other service firms.

#7. The monies kept for escrow for clients must be placed in a separate account from the broker's or lender's (Hondros Learning, 2018). There are specific state regulations that govern how this is to be documented and how funds are disbursed.

#8. All transactions should first be explained to any client signing any contract. Additionally, all problems or potential problems or deficiencies should be disclosed to the potential buyers. For example, if the seller who must disclose defects of a property when they list the property, has told the listing agent that there has been a severe leak in the main water pipe outside their home, they must disclose this to the agent, and the agent, in turn, must disclose this to the buyer. Another example would be a public easement allowing people in the neighborhood access to a pathway to access a park behind the subject property.

#9. Any changes, agreements, or disclosures should be written, signed, and dated by the parties involved. If not, there will be no documentation to corroborate what was agreed or disclosed when there are problems.

#10. There should be no discrimination of any kind. This should include the type of housing or neighborhood to be shown to a client. In other words, you may not steer a client to a particular neighborhood that predominantly houses that particular race, skin color, age, religious persuasion, national origin, sex, disability, or based on whether they are single, divorced, or widowed or a family with children, even if they ask for it. (See Fair Housing laws.)

#11. The agent will not mislead clients or misrepresent themselves or competitors or any facts or assistance they provide. An estimate of value is just that, it is not the value according to an appraiser, it is only an estimate. Any advertising must be factual and list the broker's name on any communicated medium (including websites, etc.). If there are any incentives or bonuses etc., they must be fully disclosed and explained how these monies or benefits might be obtained.

#12. All agents or real estate professionals should cooperate with their local real estate boards or associations if any ethics violations are charged against them or anyone else they may be familiar with through a real estate transaction. They may be asked to testify should an investigation be necessary. Agents are encouraged to report any such violations to their local boards and associations to improve professional conduct in the profession.

#13. The National Association of Mortgage Professionals code of ethics includes that unless they are also an attorney, the lending professional should not give any legal advice to any loan applicant (as cited in Hondros Learning, 2018, Chapter 13).

#14. The National Association of Mortgage Professionals code of ethics states that the lending institution professional should maintain the confidentiality of all of an applicant’s personal information and secure any client documentation (as cited in Hondros Learning, 2018, Chapter 13).

Reference

Barell, D. GRI, DREI (2011). *Know the code: Real estate ethics.* [Adapted from the National Association of Realtors® Code of Ethics] Kaplan, Inc.

Galaty, F. W., Allaway, W. J., & Kyle, R. C. (2010). *Modern real estate practices* (18th ed.). Kaplan, Inc.

Hondros Learning (2018). Ethics in the mortgage lending profession. In *Mortgage lending principles & practices* (8th ed., Chapter 13). Hondros Learning. Retrieved on June 3d, 2019 from https://www.learnmortgage.fastclass.com/docs/mortgage /MLPP4e_Ch13_PP.pdf

National Board of Realtors (2021). *Narrative explanation of each article with synthesis of related standards of practice and case interpretations*. https://www.nar.realtor/about-nar/policies/professionalism-in-real-estate-practice/