

# NOTES FROM THE LEGAL HOTLINE

Massachusetts Association of Realtors®

**February 2021**

**Q. I've heard there were some changes to the REALTOR® Code of Ethics. What are these changes and how will they affect me?**

**A.** On November 13, 2020 the NAR Board of Directors voted to adopt Standard of Practice 10-5. Article 10 of the Code of Ethics requires REALTORS® to provide equal professional services to all persons regardless of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity. Standard of Practice 10-5 elaborates upon the requirements of the Article by prohibiting the use of “harassing speech, epithets, or slurs” based upon any of the enumerated protected classes. This Standard of Practice is narrowly defined to apply only to speech that reveals a bias towards protected classes, which in turn could result in the denial of equal professional services. This is not intended to punish purely political speech or speech related to genuinely held religious beliefs.

While Massachusetts laws prohibit discrimination against additional protected classes (ancestry, genetic information, marital status, veteran or active military status, age, and source of income), Article 10 of the Code of Ethics does not apply. Failing to provide equal professional services based on any of these additional protected classes, however, may subject a REALTOR® to liability under Massachusetts Fair Housing and licensing laws.

In addition to Standard of Practice 10-5, Policy Statement 29 of the Code of Ethics and Arbitration Manual was expanded to make the Code of Ethics applicable to all of a REALTOR®’s activities, not just those that occur within real estate-related activities and transactions involving REALTORS®. While the Code’s applicability has expanded, most Articles and Standards of Practice remain specific to real estate transactions and other real estate-related activities.

Lastly, the NAR Board of Directors approved expansion of the definition of public trust to include all discrimination against the protected classes under Article 10, as well as all fraud. As a result of this expansion, associations now must report to the Board of Registration for Real Estate Brokers and Salespersons any final ethics decisions holding REALTORS® in violation of the public trust.

These changes are not retroactive, so social media postings and other speech that occurred prior to November 13, 2020 are not subject to discipline under these revisions. Additional information on these changes may be found [here](#).

**Q. What laws are there in Massachusetts that govern how teams can legally operate?**

**A.** Massachusetts does not have any team-specific laws or regulations; however, MAR has worked closely with the Board of Registration of Real Estate Brokers and Salespersons to develop Frequently Asked Questions on Real Estate Teams. The FAQs provide important clarification and guidance on many issues surrounding how teams may legally operate within the Commonwealth. The newly published FAQs provide critical answers for teams on topics such as advertising, escrow, agency, compensation, incorporation, and more. Access the FAQs [here](#).

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