

# Bay East Governing Documents

## Harassment Policies

### Volunteer Leadership Agreement

33.05 Code of Conduct and Civility: Directors, Committee /Work Group / Task Force Members and Association staff gather to debate, discuss, vote, and share information at its events. Directors and Committee / Work Group / Task Force Members have a fiduciary duty to Bay East and as such should fulfill that duty with the utmost care which includes treating those attending the meetings with courtesy, respect and in a manner appropriate under the law. While it goes without saying, and is welcome, there will be disagreements – sometimes passionate ones – as well as social interaction. These must be kept within civil bounds and respect.

To that end, Bay East is committed to providing an environment, for all those attending Bay East events and meetings, free of discrimination, intimidation, retaliation, or harassment. In keeping with this commitment, Bay East does not condone, nor tolerate any form of harassment, including but not limited to harassment based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical conditions, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, pregnancy or pregnancy related condition or any other characteristic protected by state or federal law. For further definition, information and complaint and reporting procedures see Corporate Policy and Procedures Section 36 Anti-Harassment and Code of Conduct.

Improper conduct can include, but is not limited to, harassment that is verbal, physical, visual or through other means, (i.e., by email, voicemail, or any other electronic devices). Examples of harassment may include, but are not limited to derogatory comments, slurs, jokes, statements, gestures, pictures, drawings, cartoons, assault, impeding or blocking another's movement, unwelcome physical contact, such as hugging, kissing, patting, pinching, or brushing against another's body or otherwise physically interfering with a person's normal activities or attendance based upon the person's sex or other protected characteristic. Sexual harassment includes, but is not limited to, making unwanted sexual advances and requests for sexual favors where either:

- 1) submission to such conduct is made an explicit or implicit term or condition of advancing in the organization;
- 2) submission to or rejection of such conduct by an individual is used as the basis for appointments affecting such individual or the association affiliated with it; or 3) such conduct has the purpose or effect of substantially interfering with an individual's performance within the Bay East structure, attending an event or creating an intimidating, hostile or offensive environment including at the meetings. Sexual harassment conduct can be by a person of either the same or opposite sex.

Occasional appropriate compliments or voluntary relationships between members and staff are not covered by this Agreement but all parties should be clear with one another when conduct is unwelcomed. Conduct that is insulting or demeaning to the recipient is not appropriate at Bay East events. All members and staff are expected to behave accordingly and take appropriate measures to ensure that such unwelcome or inappropriate conduct does not occur.

If you believe that you are being, or have been, harassed in any way, please report the facts of the incident or incidents to the CEO or CFO. To protect victims and the accused alike, efforts will be made to use the utmost confidentiality, to the extent possible, regarding complaints. All claims will be thoroughly and promptly investigated, in a manner that treats all parties fairly, and will reach an appropriate conclusion and recommended action based on the evidence collected. Upon conclusion, appropriate action will be taken against the offender.

Directors, Committee / Work Group / Task Force Members and those attending the meetings, may be subject to removal from events and/or removal from the positions over which Bay East has authority and not allowed to attend future meetings. Of course, retaliation by Directors, Committee / Work Group / Task Force members, volunteers and association staff against any person for either reporting an incident or cooperating in an investigation is not consistent with this Agreement. If you have any questions concerning this Agreement, please feel free to contact the CEO or CFO.

Matters involving Bay East employees (as either the accused or the accuser) will be governed by the Bay East Employee Handbook and should be referred to the CEO or CFO.

## **Corporate Policy and Procedures**

### **Section 36 Anti-Harassment and Code of Conduct**

- 36.01 As a responsible Corporation, it is our intent that Bay East Association of REALTORS® (hereafter “The Association”) be committed to adhering to a code of conduct that supports a workplace that is free of illegal and unethical behavior. The Association defines unethical conduct as any behavior that is illegal or that violates Association assets, accepting gifts or gratuities of substantial value (substantial meaning any amount in excess of \$500) from vendors of the Association or from anyone who could be perceived as having a special interest. unethical Conduct also includes pressuring or causing any employee to perform any of these acts.
- 36.02 It is the responsibility of all directors, officers, employees, and volunteers to uphold the ethical standards of the Association and to be committed to the highest possible levels of openness and accountability. The Association encourages anyone with questions regards the applicability or interpretation of these standards to raise them with their manager, the Human Resources Department or Chief Executive Officer.
- 36.03 Any person may make a good faith (“good faith” means that the reported has a reasonably held belief that the disclosure is true, has some factual basis to believe it is true and has not made it either for personal gain or for any ulterior motive) complaint, report, or disclosure of unethical Conduct. Under no circumstances will any director or employee be subject to any disciplinary or retaliatory action for reporting a violation or potential violation in good faith. If an employee makes a disclosure in good faith pursuant to this policy and any facts alleged are not confirmed by subsequent investigation, no action will be taken against the person making the complaint. However, filing known false malicious reports will not be tolerated and anyone filing such reports will be subject to appropriate disciplinary action up to and including discharge.
- 36.04 Any person with concerns regarding unethical conduct including, but not limited to, potential violations of the law and or of Association rules, policies or procedures, financial or accounting matters, internal accounting controls, or auditing matters involving someone who is below the level of CEO may report their concerns on a confidential or anonymous basis to the CEO by calling 925 730-4073. In the event the concerns involve a person at the level of CEO or above, including members of the Board of Directors, the concerned party may contact the CFO or in the alternative, may send a confidential letter to the CEO or president of the Association. All good faith complaints shall be investigated and the person making the complaint will receive a follow up contact, either in writing, by phone or in person, if further details are required or needed.
- 36.05 Any member of Bay East may be reprimanded, placed on probation, suspended, or expelled for harassment of a Bay East or MLS employee or Bay East Officer or Director after an investigation in accordance with the established procedures of the Association. As used in this section, harassment means any verbal or physical conduct including but not limited to threatening or obscene language, unwelcome sexual advances stalking, actions including but not limited to strikes, shoves, kicks, or other similar physical contact, or threats to do the same, or any other conduct with the purpose or effect of unreasonably interfering with an individual’s work performance by creating a hostile, intimidating or offensive work environment.
- The decision of the appropriate disciplinary action to be taken shall be made by the investigatory team comprised of the President, President-Elect and one member of the Board of Directors selected by the highest-ranking officer not named in the complaint, upon consultation with legal counsel for Bay East.
- Disciplinary action may include any sanction authorized in the California Code of Ethics and Arbitration Manual. If the complaint names the President or President-Elect, they may not participate in the proceedings and shall be replaced by the Immediate Past President or, alternatively, by another member of the Board of Directors selected by the highest-ranking officer not named in the complaint.
- 36.06 Volunteers and/or employees are required to maintain the confidentiality of information entrusted to them, except when disclosure is authorized or legally mandated.
- 36.07 Prompt and appropriate corrective action will be taken when and as warranted in the judgment of the appropriate authority of the Association.
- 36.08 Appropriate action may include disciplinary action, up to and including but not limited to discharge and prosecution, if deemed necessary, against any person or persons found to have engaged in unethical Conduct as described above.

## Anti-Harassment

36.09 Directors, Committee / Work Group / Task Force Members and Association staff gather to debate, discuss, vote, and share information at its events. Directors and Committee / Work Group / Task Force Members have a fiduciary duty to Bay East and as such should fulfill that duty with the utmost care which includes treating those attending the meetings with courtesy, respect and in a manner appropriate under the law. While it goes without saying, and is welcome, there will be disagreements – sometimes passionate ones – as well as social interaction. These must be kept within civil bounds and respect.

To that end, Bay East is committed to providing an environment, for all those attending Bay East events and meetings, free of discrimination, intimidation, retaliation, or harassment. In keeping with this commitment, Bay East does not condone, nor tolerate any form of unlawful harassment, including but not limited to harassment based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical conditions, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, pregnancy or pregnancy related condition or any other characteristic protected by state or federal law.

36.10 Improper conduct can include but is not limited to, harassment that is verbal, physical, visual or through other means (i.e., by email, voicemail, or any other electronic devices). Examples of harassment may include, but are not limited to derogatory comments, slurs, jokes, statements, gestures, pictures, drawings, cartoons, assault, impeding or blocking another's movement, unwelcome physical contact, such as hugging, kissing, patting, pinching, or brushing against another's body or otherwise physically interfering with a person's normal activities or attendance based upon the person's sex or other protected characteristic. Sexual harassment includes, but is not limited to, making unwanted sexual advances and requests for sexual favors where either:

- (1) submission to such conduct is made an explicit or implicit term or condition of advancing in the organization;
- (2) submission to or rejection of such conduct by an individual is used as the basis for appointments affecting such individual or the association affiliated with it; or 3) such conduct has the purpose or effect of substantially interfering with an individual's performance within the Bay East structure, attending an event or creating an intimidating, hostile or offensive environment including at the meetings. Sexual harassment conduct can be by a person of either the same or opposite sex.

36.11 Occasional appropriate compliments or voluntary relationships between Members and staff are not covered by this Agreement but all parties should be clear with one another when conduct is unwelcomed. Conduct that is insulting or demeaning to the recipient is not appropriate at Bay East events. All Members, staff and their guests are expected to behave accordingly and take appropriate measures to ensure that such unwelcome or inappropriate conduct does not occur.

36.12 All Members are responsible for following this Policy and maintaining a work environment that is free from all types of harassment. Often the best way to stop offensive conduct is to simply tell the person/s of your objection to it. Bay East encourages you to do so.

While persons are encouraged to advise of unwelcome behavior, even if no one has told an alleged harasser that their conduct is offensive, the alleged harasser may still be subject to discipline as set forth in this Policy. To avoid the risk of violating this Policy, Members will want to follow these guidelines:

- Remember that another individual may consider touching to be unwelcome or offensive.
- Racial, religious, ethnic, age-related, and sexual jokes and epithets have no place in the work environment at work-related functions or events.
- Compliments to others should be kept general.
- Drinking impairs good judgment. When at work related social functions or events, whether on or off the premises, avoid having one drink too many.
- Do not behave in a way you would not want your spouse, significant other, parent, child or clergy to witness.

## Complaint and Reporting

36.13 Any Member of Bay East may be reprimanded, placed on probation, suspended, or expelled for harassment of a Bay East or MLS employee or Bay East Officer or Director after an investigation in accordance with physical conduct including but not limited to threatening or obscene language, unwelcome sexual advances stalking, actions including but not limited to strikes, shoves, kicks, or other similar physical contact, or threats to do the same, or any other conduct with the purpose or effect of unreasonably interfering with an individual's work performance by creating a hostile, intimidating or offensive work environment.

Any Member who believes they have experienced or witnessed harassment in any way, please promptly report the facts of the incident or incidents to the CEO or CFO by calling 925 730-4060. In the event the concerns involve a person at the

level of CEO or above, including members of the Board of Directors, the concerned party may contact the CFO or in the alternative, may send a confidential letter to the CEO/CFO or president of the Association. An accurate record of objectionable behavior or misconduct is encouraged to resolve a formal complaint. Individuals who believe that they have been or are currently being harassed, should attempt to maintain a record of objectionable conduct to effectively prefer and substantiate their allegations. To protect victims and the accused alike, efforts will be made to use the utmost confidentiality, to the extent possible, regarding complaints.

Bay East encourages a prompt reporting of complaints so that rapid response and appropriate action may be taken. This Policy not only aids the complainant, but also helps to maintain an environment free from harassment or inappropriate behavior contemplated by this Policy.

- 36.14 Upon receipt of a report of possible harassment or inappropriate behavior, Bay East will promptly conduct a review in consultation with counsel. Through this consultation, Bay East may determine whether the matter can be resolved by meeting with those involved, or whether the matter should be referred to an investigatory team for further processing.

In instances of referral to an investigatory team, Bay East will promptly investigate in consultation with counsel. Unless otherwise determined by Bay East in consultation with counsel, the investigatory team will be comprised of the President, President-Elect and one member of the Board of Directors selected by the highest-ranking officer not named in or directly connected by way of a close personal or business relationship, or otherwise posing a conflict of interest with one named in the complaint.

- 36.15 In pursuing the investigation, Bay East shall take the wishes of the complainant under consideration but shall thoroughly investigate the matter, keeping the complainant informed as to the general status of the investigation, while maintaining the confidentiality of the investigatory process. During the investigation, Bay East will involve only those deemed necessary to the investigation, and disclosures will only be made on an as-needed basis.

If, after its investigation, the investigatory team concludes there is sufficient evidence that a violation of this Policy has occurred, the investigatory team will determine any disciplinary action.

Bay East may, but is not obligated, to refer the investigation or the investigation and recommendation of discipline to another Association or outside investigator for handling.

Bay East reserves the right to take any necessary and appropriate disciplinary action against a member who engages in any form of harassment or inappropriate behavior in violation of this Policy. Disciplinary action may include but not limited to any sanction authorized in the California Code of Ethics and Arbitration Manual, prohibition from attendance at future Association meetings or events, removal from a committee appointment, Officer or Director position, probation, suspension or expulsion from membership or any other action deemed appropriate by Bay East. Bay East further reserves the right to consider any matter referred to it from the California Association of REALTORS® ("C.A.R.") as a result of a violation of C.A.R.'s Code of Conduct, Civility and Harassment Policy and has the discretion to determine whether further action should be taken against the member at issue by Bay East.

A written summary of the resolution, including whether this Policy was violated and whether the alleged perpetrator was disciplined, will be prepared, and shared with the alleged complainant and perpetrator(s), their Designated REALTOR® as deemed necessary and the Board of Directors.

## **Bylaws**

### **ARTICLE VI PRIVILEGES AND DUTIES OF MEMBERSHIP**

#### **SECTION 1— MEMBER COMPLIANCE WITH BYLAWS, POLICES, RULES AND REGULATIONS**

It shall be the duty of every Member of Bay East to abide by the Bylaws, Policies and Rules and Regulations of Bay East. Any Member of Bay East may be reprimanded, fined, placed on probation, suspended, or expelled by the Board of Directors for a violation of the Bylaws, Rules and Regulations of Bay East or for any other conduct which discredits Bay East or the real estate profession. If a hearing is required, it shall be held in accordance with the *California Code of Ethics and Arbitration Manual*.

Although only REALTOR® Members are subject to the Code of Ethics and its enforcement by Bay East, all Members are encouraged to abide by the principles established in the Code of Ethics and conduct their business and professional practices

accordingly. Further, any non-REALTOR® Member may, upon recommendation of a hearing panel of the Professional Standards Committee, be subject to discipline as described above, for any conduct, which in the opinion of the Board of Directors, reflects adversely on the real estate industry or the terms REALTOR® or REALTORS® and for conduct that is inconsistent with or adverse to the objectives and purposes of Bay East, C.A.R. or NAR.

## **SECTION 2 - MEMBER DISCIPLINE**

- a) Any REALTOR® Member of Bay East may be disciplined by the Board of Directors for violations of the Code of Ethics or other duties of membership after a hearing as described in the *California Code of Ethics and Arbitration Manual*, provided that the discipline imposed is consistent with NAR policy as set forth in the *California Code of Ethics and Arbitration Manual*.
- b) Any member of Bay East may be reprimanded, removed from any office or committee for violation of Bay East's Anti-Harassment Policy ([Corporate Policy and Procedures Section Anti-Harassment and Code of Conduct](#)) following an investigation and decision process as set forth in said Anti-Harassment Policy. Bay East's Anti-Harassment Policy may be amended at any time by majority vote of the Board of Directors, with such amendment effective for any conduct the last instance of which occurred after the date of the amendment to the Anti-Harassment Policy was adopted.