



The Voice for Real Estate™ in Delaware

## **Delaware Association of Realtors® Board of Directors Agreement to Serve**

*These policies were approved by the DAR Board of Directors on 9-6-18*

### **Definition and Role of the Board of Directors**

The Bylaws of DAR define the Board of Directors as the governing body of DAR. Essentially, it is the Association's most important committee. First and foremost, it is a policy-making body. Policy decisions are those that affect the organization as a whole, to determine mission, vision, goals, and programs on the broadest scale. On the other hand, operational decisions affecting individual programs, services, or people (employees), the efficiency and quality of services and day-to-day operations are the purview of the Chief Executive Officer.

The Board of Directors holds in trust the principal responsibility for fulfilling the Association's purpose and mission — as well as the legal accountability for its operations. This does not mean that members of the Board of Directors should fear liability for every Association loss or mishap that may occur, since DAR Board members are protected from liability for errors of judgment — as long as they act reasonably and in good faith, and with the basic interests of the association as the foremost objective.

### **Code of Conduct for the Board of Directors**

The Board of Directors has adopted the following Code of Conduct, and Board members are expected to adhere to the standards of loyalty, good faith, and the avoidance of conflict of interest as stated. Anyone who has concerns regarding compliance with the Code of Conduct should raise those concerns with the Executive Committee, who will determine what action shall be taken to deal with the concern. Should the Executive Committee determine that the member's removal from the Board of Directors is necessary, the Executive Committee shall make that recommendation to the Board of Directors. In the unlikely event that a waiver of elements in these policies for a Board member would be in the best interest of DAR, it must be approved by the Executive Committee. All Board members will annually sign a confirmation that they have read and will comply with this Code.

### **Preamble**

*The Delaware Association of Realtors® (“DAR” or the “Association”) is a not-for-profit, tax-exempt trade association formed to promote, develop, educate, and otherwise further the real estate industry. DAR's principal membership class consists of individuals engaged in real estate brokerage, property management, and appraisal. The business and affairs of the association are managed under the direction of the DAR Board of Directors (the “Board”). The Board of Directors Code of Conduct (the “Code”) serves as a code of conduct for members of the Board in their capacity as Board members.*

*Violations of the Code may result in sanctions including removal from the Board of Directors. The Executive Committee will make the final decision regarding any sanctions, up to and including removal from one or more workgroups, other than in the event that the Executive Committee determines that the member's removal from the Board of Directors is necessary, in which case the Executive Committee shall make that recommendation to the Board of Directors. The principles and requirements that comprise the Code are designed to ensure full compliance by DAR and its officers, directors and employees with the fiduciary duties imposed upon such individuals by state corporate law, the federal tax code's prohibition on private inurement and private benefit and other requirements of federal tax exemption, common law due process requirements, federal and state antitrust and unfair competition law, state tort law, and other legal precepts and prohibitions. Members of the DAR Board of Directors affirm their endorsement of the Code and acknowledge their commitment to uphold its principles and obligations by accepting and retaining membership on the Board.*

## **Board of Directors Code of Conduct**

Members of the Board (including ex officio members of the Board) shall at all times abide by and conform to the following code of conduct in their capacity as Board members:

1. Each member of the Board of Directors will abide in all respects by the DAR Board of Directors Code of Conduct and all other rules and regulations of the Association (including but not limited to the Association's Articles of Incorporation and Bylaws) and will ensure that their membership (or the membership of the entity for which they serve as officer, director, employee, or owner, as the case may be) in the Association remains in good standing at all times. Furthermore, each member of the Board of Directors will at all times obey all applicable federal, state and local laws and regulations and will provide or cause to provide the full cooperation of the Association when requested to do so by those institutions and their persons set in authority as are required to uphold the law.
2. Members of the Board of Directors will conduct the business affairs of the Association in good faith and with honesty, integrity, due diligence, and reasonable competence.
3. Except as the Board of Directors may otherwise require or as otherwise required by law, no Board member shall share, copy, reproduce, transmit, divulge or otherwise disclose any confidential information related to the affairs of the Association and each member of the Board will uphold the strict confidentiality of all meetings and other deliberations and communications of the Board of Directors.
4. Members of the Board of Directors will exercise proper authority and good judgment in their dealings with Association staff, suppliers and the general public and will respond to the needs of the Association's members in a responsible, respectful and professional manner.
5. No member of the Board of Directors will use any information provided by the Association or acquired as a consequence of the Board member's service to the Association in any manner other than in furtherance of his or her Board duties. Further, no member of the Board of Directors will misuse Association property or resources and will at all times keep the Association's property secure and not allow any person not authorized by the Board of Directors to have or use such property.
6. Each member of the Board of Directors will use his or her best efforts to regularly participate in professional development activities and will perform his or her assigned duties in a professional and timely manner pursuant to the Board's direction and oversight.
7. Upon termination of service, a retiring Board member will promptly return to the Association all documents, electronic and hard files, reference materials, and other property entrusted to the Board member for the purpose of fulfilling his or her job responsibilities. Such return will not abrogate the retiring Board member from his or her continuing obligations of confidentiality with respect to information acquired as a consequence of his or her tenure on the Board of Directors.
8. The Board of Directors dedicates itself to leading by example in serving the needs of the Association and its members, and in representing the interests and ideals of the real estate industry at large.
9. No member of the Board of Directors shall persuade or attempt to persuade any employee of the Association to leave the employ of the Association or to become employed by any person or entity other than the Association. Furthermore, no member of the Board of Directors shall persuade or attempt to persuade any member, exhibitor, advertiser, sponsor, subscriber, supplier, contractor, or any other person or entity with an actual or potential relationship to or with the Association to terminate, curtail or not enter into its relationship to or with the Association, or to in any way reduce the monetary or other benefits to the Association of such relationship.
10. The Board of Directors must act at all times in the best interests of the Association and not for personal or third-party gain or financial enrichment. When encountering potential conflicts of interest, Board members will identify the conflict and, as required, remove themselves from all discussion and voting on the matter. Specifically, members of the Board of Directors shall:
  - Avoid placing (and avoid the appearance of placing) one's own self-interest or any third-party interest above that of the Association; while the receipt of incidental personal or third-party benefit may necessarily flow from certain Association activities, such benefit must be merely incidental to the primary benefit to the Association and its purposes;
  - Not abuse their Board membership by improperly using their Board membership or the Association's staff, services, equipment, resources, or property for their personal or third-party gain or pleasure, and shall not represent to third parties that their authority as a Board member extends any further than that which it actually extends;

- Not engage in any outside business, professional or other activities that would directly or indirectly materially adversely affect the Association;
- Not engage in or facilitate any discriminatory or harassing behavior directed toward Association staff, members, officers, directors, meeting attendees, exhibitors, advertisers, sponsors, suppliers, contractors, or others in the context of activities relating to the Association;
- Not solicit or accept gifts, gratuities, free trips, honoraria, personal property, or any other item of value from any person or entity as a direct or indirect inducement to provide special treatment to such donor with respect to matters pertaining to the Association without fully disclosing such items to the Board of Directors; and,
- Provide goods or services to the Association as a paid vendor to the Association only after full disclosure to, and advance approval by, the Board, and pursuant to any related procedures adopted by the Board.

### **Conflict of Interest Policy – for Board of Directors and Workgroup Volunteers**

The Board of Directors has adopted the following Conflict of Interest Policy, and all Board members and Workgroup Volunteers are expected to adhere to the standards as stated. All Board members and Workgroup volunteers will sign the policy annually. Any violation may be reported to the DAR Officers, and consideration of a ban for a period of time from all appointments may also be considered. This policy clarifies the expectations of disclosure, abstaining from voting, handling of non-public information, and in some cases, removing oneself from the room during discussions.

#### **Actions and Checklist:**

1. Read the policies.
2. Be aware of potential conflicts, both in business and affiliations with other entities, with each issue being discussed at Committees, events, and at Board of Directors meetings.
3. Disclose potential conflicts to the Chair and other appropriate persons.
4. Before speaking to an issue, or prompting others to speak on your behalf, disclose potential conflicts and affiliations to the body.
5. Remove yourself from the room in instances in which it would be inappropriate for you to be present for the debate; look to the Chair and Legal Counsel if there is a question.
6. Abstain from voting if your financial or organizational interests create a conflict of interest. It may be appropriate to have the Chair or other designated person put the abstention on the record.
7. Complete the Compliance and Disclosure Certification Form

**Integrity:** DAR Directors and Committee Members shall vote in a manner that is in the best interests of the members. If you are also a member of another board of directors, or serve in any other decision-making capacity with another entity, your duties do not change as they relate to your duties to DAR. Members serving as DAR Directors or Committee Members shall NOT:

1. Engage in any undisclosed conflicts of interest
2. Take inappropriate advantage of their positions; nor,
3. Abuse their positions of trust and responsibility.

For example, DAR Directors and Committee members shall NOT:

- A. Use non-public information made known to them as a result of their volunteer position to benefit personally or to benefit another entity in which they are involved.
- B. Use information derived from the Committee or Directors meetings to the detriment of DAR or its members or use the information in a manner inconsistent with the fiduciary duty of a DAR Director or Committee Member.
- C. Disclose DAR's strategic or confidential information to any other entity.
- D. Make or maintain an investment in any entity or business with which DAR, its subsidiaries, or affiliated entities have a business relationship if the investment is of such a character (whether because of the size or value of the investment or for any other reason) as might create, or give the appearance of creating, a conflict of interest.
- E. Advocate for a public policy position for another policy organization without first fully disclosing the relationship with that organization (i.e., officer, director, member, consultant, attorney, etc.) which relates in any way to the matter being discussed before the DAR Committee or the Board of Directors.
- F. Use their name or allow use of their name with their DAR Committee or Director position on political or other materials in a manner that implies DAR support of a candidate or position when DAR or its sponsored PACs have either not taken a position or support a different position on the issue or candidate.

### **Disclosure of Ownership and Business Interests:**

1. Business (current or potential) with DAR. All DAR Directors and Committee Members must disclose any direct or indirect ownership and financial interest in any entity with which DAR, its subsidiaries, or affiliated entities are doing business or which are being considered as potential providers to DAR, its subsidiaries or affiliated entities.
2. Competing Businesses and Services. If a DAR Director or Committee Member has any direct or indirect ownership or financial interest in, or serves in a decision-making capacity with any entity, that competes with products and services offered by DAR, its subsidiaries, or affiliated entities, then the DAR Director or Committee Member must disclose that interest prior to speaking to a decision-making body about an issue involving those competing products or services.

Results of Disclosure: After the necessary disclosure, including disclosure to the body when debating the issue involving the interest, the DAR Director or Committee Member may still be able to debate the issue, depending on the issue and whether the conflict is significant enough to warrant abstention from voting, such as one that creates a conflict of interest (see policy on conflicts of interest).

### **Disclosure of Policy/Organization Affiliations:**

1. Use of Position and Confidentiality. DAR's Directors and Committee members may not use their position with DAR in order to achieve a financial, strategic, or political benefit for themselves or a third party to the detriment of DAR, its subsidiaries, or affiliated entities, nor may DAR Directors or Committee Members disclose strategic or confidential information regarding DAR and its policies, business, or organizational objectives.
2. Positions in Other Entities. If a DAR Director or Committee Member serves in a decision-making capacity with, or has any direct or indirect ownership or financial interest in, an entity that advocates public policies that are being considered by DAR, or which is doing business with entities that are advocating policies that are being considered by DAR, including any affiliated PACs or other entities, that DAR Director or Committee Member should disclose such position or business relationship prior to speaking to the related issue under consideration.

Results of Disclosure: After the necessary disclosure, including disclosure to the body when debating the issue involving the interest, the DAR Director or Member may still be able to debate the issue, depending on the issue and whether the conflict is significant enough to warrant abstention from voting, such as one that creates a conflict of interest (see policy on conflicts of interest).

### **Conflicts of Interest that Require Abstention or Exclusion:**

When you are a Director or Committee Member of DAR, you should vote in a manner that is in the best interest of the members. If you are a member of a board of directors of another entity, or have a role in that other entity in which interests conflict with this duty, it does not change your duty to the DAR members, and you may have to abstain from voting. In some instances, it is inappropriate for you to have confidential information, given your other organizational role, ownership or financial interest, in which case you should not be present to receive the information or listen to the debate.

**Personal Financial Benefit:** Directors and Committee members should not participate in the debate when the Director or Committee Member has a direct or indirect interest in an entity involved in an issue or when the DAR Director or Committee Member stands to financially benefit, either personally or through family\*, without full disclosure of such interest and its extent. In some instances, such Directors or Committee members should not be present for the debate. The financial interests must be material and do not include minor passive interests in investments (mutual funds, for example) or minor financial interests of less than 10% ownership or control.

**Organizational Benefit - Local Associations:** It is inappropriate for another organization in which you are a director to instruct you to vote in a manner which would violate your duties as a DAR Director or Committee Member. Rather than do so, you should recuse yourself from voting. Many DAR Directors and Committee Members are selected by Local Realtor® Associations, and it is anticipated they express the view from that area so that when the entire Board of Directors votes, it expresses the will of Realtors® across the state. Disclosure of the fact that you are in a leadership position with a Local Association is not required *unless there is something specific about the interest or activity of the Local Association involving the issue under discussion that does not apply to all Local Associations generally.*

**\*Direct or Indirect Family and Other Relationships (if known):** Sometimes the Director or Committee member is related to, or in a business relationship with, a person with a conflict of interest. To assure the highest level of integrity, these also must be disclosed. Financial or other conflicts of interest may be direct or indirect. Direct and indirect interests include any interest of any family member or significant person, and any organization in which the Director

or Committee member, or a family member or significant person, is a director or officer, has any ownership interest, financial interest, contract, employment or stands to benefit from the issue considered. For purposes of this policy, family members include an individual's spouse, domestic partner, his/her siblings and their spouses, his/her ancestors, and his/her descendants and their spouses.

**Violation of Policy:** Violation of these policies is a serious matter and may constitute cause for removal or termination as a DAR Director, Officer, or Committee Member, or the termination of any contractual relationship with the impacted entity. Any violation may be reported to the DAR Officers, and consideration of a ban for a period of time from all appointments may also be considered.

*As a member of the DAR Board of Directors during 2019, I agree to subscribe to this Code of Conduct and understand that violations of the Code may result in sanctions including my removal from any DAR workgroups, including the Board of Directors.*

Name: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_