



Clark County Association of REALTORS®

CITATION POLICY FOR CODE OF ETHICS VIOLATIONS

Qualification

An ethics complaint may be eligible for the citation program if there is an alleged violation, identified under the Citation Schedule for *Articles 3, 4, 5, 6, 12, 14 and/or 16*, provided the complaint does not also include articles which are *NOT* included in the citation program (i.e., *Articles 1, 2, 7, 8, 9, 10, 11, 13, 15 or 17*).

Sanctions

Sanctions under the Citation Program are as follows:

(The offense sanctions apply when the same respondent is named in the complaint not necessarily the same Article)

- 1ST Offense: Fine of \$300.00* to be paid within thirty (30) days of citation date, and completion of a NAR approved Ethics Training course within sixty (60) days of the citation date.
- 2nd Offense: Fine of \$900.00* to be paid within thirty (30) days of citation date.
- 3rd Offense: Fine of \$2,700.00* to be paid within thirty (30) days of citation date.

***The fine will be same whether one article has been cited or whether several Articles (under the citation program) have been cited on the complaint (i.e., there will be no increase in fine because more than one Article has been cited).**

Limitations

1. Any REALTOR® is limited in the number and type of citations that he/she may receive, according to the following rules:
 - a) No more than two (2) citations will be issued to a member within a consecutive twelve (12) month period, starting on the date the first complaint was filed, at the same association.
 - b) No more than three (3) citations will be issued to a member within a consecutive thirty-six (36) month period, starting on the date the first complaint was filed, at the same association.
 - c) No additional citations are permitted where the cumulative fine for the citations issued would be more than \$5,000 in any three (3) year period at the same association.
 - d) For progressive discipline, the citation panel may only consider the past citations for the particular conduct alleged in the complaint.
2. The fact that a respondent has previously been issued a citation for any violation – whether or not it was paid – shall not be admissible in any ethics or arbitration hearing, including a hearing to consider a complaint where the respondent rejected a citation and requested a hearing. A hearing panel may consider citations previously issued to the respondent for the purpose of determining appropriate discipline as provided below.
3. Where a hearing panel finds a violation of the Code of Ethics after a hearing, it may consider past citations in determining an appropriate sanction only if the citation was issued for the same violation at issue in the hearing. By way of example, if a citation was issued for failure to disclose a dual or variable rate commission

under Standard of Practice 3-4, that citation could not be considered if a hearing panel later found a violation of Article 3 on some other grounds. Hearing panels will not be informed of past citations for other violations.

4. Association staff will track the number of citations issued, the number of citations paid, and the violations for which citations were issued. This information may be provided in the aggregate to the Board of Directors, but will not include details about the complaints, nor identify the complainants or respondents.

Issuance of Citations

1. Citations will be sent to respondents. A copy of the citation will also be sent to the REALTOR® Designated Broker or Branch Manager of respondents' office. If the respondent changes firms before or after the complaint is filed but before the citation is issued, both the former and current REALTOR® Designated Broker or Branch Manager will receive a copy of the citation.
2. The respondent will have twenty (20) days from receipt of the citation to request a full due process hearing on the complaint.
 - a. If the respondent does not reply within ten (10) days of receiving the citation, a notice shall be issued to the respondent reminding the respondent of the deadline for requesting a hearing.
 - b. If the respondent accepts the citation, or if the respondent does not request a hearing within twenty (20) days of receipt of the citation, this shall be deemed to be a final resolution of the complaint, which shall not be appealable or subject to any further review.
 - c. If the respondent accepts the citation, or if the respondent does not request a hearing within twenty (20) days of receipt of the citation, payment must be received by the association no later than thirty (30) days after the date of acceptance or time period to request a hearing has elapsed.
 - i. The case will be deemed to be closed upon receipt of payment, and notice will be provided to the complainant that a citation has been issued and paid.
 - ii. Failure to pay the citation amount within thirty (30) days after the date of acceptance or after the time period to request a hearing has expired will result in the automatic suspension of membership until the citation has been paid.
3. If the respondent requests a hearing within the time specified, the complaint shall be referred for a hearing. The complainant who initially filed the complaint shall be given the option to proceed as the complainant for the purposes of the hearing and will be afforded all due process rights provided for in the Code of Ethics and Arbitration Manual.

Obligation to Correct Violation

A respondent will be given thirty (30) days after transmission of the citation notice to correct the violation.

If additional complaints are filed against the same respondent within the 30-day citation timeline, alleging the same violation, the complaint will not be considered by the Grievance Panel.

Anonymous Complaints

The identity of the complainant, at the complainant's option, may be kept confidential and unavailable to the Grievance Panel and respondent(s). **Anonymous Complaints will only be considered under the citation program for alleged violations of Articles 3, 4, 5, 6, 12, 14 and/or 16.**

Anonymous complaints will follow the same procedures as outlined above except for the following procedures, which will only apply to anonymous complaints:

- A citation may only be issued if the Grievance Panel determines there is sufficient evidential documentation (i.e., clear, strong, and convincing evidence) to support the alleged violation. If the Grievance Panel determines there is insufficient evidential documentation, the panel shall dismiss the anonymous complaint. However, if the complaint is otherwise eligible for a hearing, the complaint may continue to be processed if the complainant has agreed to continue as a named complainant.
- The complainant will be advised when requesting to remain confidential that the complainant’s identity may not remain confidential in accordance with the following procedures:
 - In the event the respondent, after being issued a citation, requests the complaint be heard at a hearing, the Grievance Panel will determine if the anonymous complainant’s appearance at the hearing is essential to ensure due process. If the complainant is “essential”, the complaint will only be forwarded to a hearing if the complainant has agreed to participate at a hearing as a named complainant. If the complainant has refused to proceed as a named complainant, the complaint will be dismissed.
 - If the Grievance Panel determines that the complainant’s appearance is not essential for due process, the Grievance Panel will become the complainant and a member of that panel would present the case at the hearing. – *Gives the panel some flexibility.*
- Mediation will not be offered to the parties in an anonymous citation complaint. Anonymous complainants will not be provided with updates or notified of the outcome of the complaint unless their appearance at a hearing is necessary in accordance with these policies.

GENERAL CITATION PROCEDURES

The general procedures below are subject to the specific policies and limitations expressed above:

- Complaint alleging violation of the Code of Ethics is received by the Association and channeled through a Grievance Panel.
- When the Grievance Panel receives a written ethics complaint, it will review the complaint consistent with the current NAR Code of Ethics and Arbitration Manual. The Grievance Panel may add or delete articles or respondents at this stage in the proceedings.
 - If the complaint does not include alleged violations included in the Citation Schedule, or it includes some covered by the Citation Schedule and some that are not, the complaint shall be referred to the Professional Standards Committee for hearing consistent with the policies and procedures set forth in the Code of Ethics and Arbitration Manual for ethics hearings.
 - If the complaint includes only allegations of violations included in the Citation Schedule, the Grievance Panel will issue a citation pursuant to Section Issuance of Citations (above) and impose discipline consistent with the association’s Citation Schedule. In the event that the members of the Grievance Panel determine the conduct described in the complaint is sufficiently egregious to warrant a hearing rather than a citation, the complaint shall be referred to the Professional Standards Committee for a hearing consistent with the policies and procedures set forth in the *Code of Ethics and Arbitration Manual* for ethics hearings
- Decision whether conduct is subject to citation is made by the Grievance Panel.
 - If a complaint is filed against the same respondent within the 30-day citation timeline, alleging the same violation, the complaint will not be considered by the Grievance Panel.

- Consider whether the article cited is consistent with Citation Schedule that has been adopted by the Clark County Association of REALTORS® as a citable offense.
 - If so, consider whether the complaint supports a potential violation of the Code of Ethics with clear, strong, and convincing evidential documentation.
 - If a citable offense:
 - Citation letter is sent to respondent, with copy to REALTOR® Designated Broker or Branch Manager, if applicable.
 - Citations can be used in consideration for determining discipline at future ethics hearings.
- If not eligible for a citation, but potential violation of the Code of Ethics is alleged, the complaint will be processed in accordance with the National Code of Ethics and Arbitration Manual.
- The complainant will be notified of the Grievance Panel’s decision.
 - If the complainant is anonymous, they will not be notified of the outcome.
- If a citation is issued the respondent has twenty (20) days after transmission of the citation to elect one of the following options:
 - Pay the fine and complete required education, if applicable, in accordance with the sanctions as defined in the citation letter and correct the violation within thirty (30) days after transmission of the citation notice.
 - Request full Ethics hearing to contest the citation and the hearing will be held in accordance with the National *Code of Ethics and Arbitration Manual*.
 - Respondent will be afforded a full due process hearing under the procedures approved by NAR for a disciplinary hearing.
 - The hearing panel will have the following options:
 - Dismiss the citation complaint
 - Uphold the citation and corresponding fine and/or education
 - Amend the complaint by adding additional articles, as supported by the evidence
 - Increase or decrease the discipline as allowed in the NAR Code of Ethics and Arbitration Manual.
 - Any respondent found in violation of the Code of Ethics will be assessed a \$250 administrative processing fee in addition to any other fine as determined by the Hearing Panel.
 - The results of the hearings can be appealed to the Clark County Association of REALTORS® Professional Standards Committee, as set forth in the *Code of Ethics and Arbitration Manual* and the Policy and Procedures of the Clark County Association of REALTORS.

Model Citation Schedule

Article 3

- A. Failure to disclose existence of dual or variable rate commission. (SOP 3-4)
- B. Failure to disclose existence of accepted offers, including offers with unresolved contingencies, to cooperating brokers. (SOP 3-6)

Article 4

- Failure to disclose REALTORS® ownership or other interest in writing to the purchaser or their representative.

Article 5

- Providing professional services without disclosing REALTOR®'S interest in property.

Article 6

- Accepting any commission, rebate, or profit on expenditures without client's knowledge or consent.

Article 12

- A. Failure to present a true picture in real estate communications and advertising.
- B. Failure to disclose status as real estate professional in advertising and other representations.
- C. Failure to provide all terms governing availability of a "free" product or services in an advertisement or other representation. (SOP 12-1)
- D. Failure to disclose compensation or benefit from a third party when REALTOR® represents their services as "free" or without cost. (SOP 12-2)
- E. Advertising property for sell/lease without authority of owner or listing broker. (SOP 12-4)
- F. Failure to disclose name of firm in advertisement of real estate services or listed property in any medium. (SOP 12-5)
- G. Failure to disclose status as both owner/landlord and REALTOR® or licensee when advertising property in which REALTOR® has ownership interest. (SOP 12-6)
- H. Falsely claiming to have "Sold" the property. (SOP 12-7)
- I. Failure to take corrective action when it becomes apparent that information on a REALTOR®'s website is no longer current or accurate. (SOP 12-8)
- J. Failure to disclose firm name and state of licensure on REALTOR® firm website. (SOP 12-9)
- K. Misleading consumers through deceptive framing, manipulating content, deceptively diverting internet traffic, or presenting other's content without attribution or permission. (SOP 12-10)
- L. Registering or using of deceptive URL or domain name
- M. Representing that the REALTOR® has a designation, certification, or other credential they are not entitled to use

Article 14

- Failure to cooperate in a professional standard proceeding or investigation in circumstances when cooperation has been demanded by the association and the association has advised REALTOR® that failure to cooperate could result in an allegation of a violation of Article 14.

Article 16

- Placement of "For Sale/Lease" sign on property without permission of seller/landlord. (SOP 16-19)

Sanctions under the Citation Program are as follows:

- 1ST Offense: Fine of \$300.00* to be paid within thirty (30) days of citation date, and completion of the NAR online Triennial Ethics Training course within sixty (60) days of the citation date.
- 2nd Offense: Fine of \$900.00* to be paid within thirty (30) days of citation date.
- 3rd Offense: Fine of \$2,700.00* to be paid within thirty (30) days of citation date.

***The fine will be same whether one article has been cited or several Articles (under the citation program) have been cited on the complaint (i.e., there will be no increase in fine because more than one Article has been cited).**

The fines for the citations may not exceed the maximum fine allowed by NAR for violations of the Code of Ethics. Corrections to violation(s) must be furnished to Clark County Association of REALTORS® within 30 days of receipt of citation.