



CITATION POLICY FOR CODE OF ETHICS VIOLATIONS

Qualification

An ethics complaint may be eligible for the Texas REALTORS® Citation Program if there is an alleged violation identified under the Citation Schedule for Articles 3, 4, 5, 6, 12, 14 and/or 16. A ethics complaint will not be eligible for the Citation Program if it includes any other Articles (i.e., Articles 1, 2, 7, 8, 9, 10, 11, 13, 15 or 17).

Sanctions

Sanctions under the Citation Program are as follows:

- First Offense – Fine of \$300.00* to be paid within 60 days of citation date, and completion of the NAR online Triennial Ethics Training course within 60 days of the citation date.
- Second Offense – Fine of \$600.00* to be paid within 60 days of citation date.
- Third Offense – Fine of \$900.00* to be paid within 60 days of citation date.

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

Note: Second and Third Offenses apply when the same respondent accepts subsequent citations after accepting previous citations. The subsequent citations do not have to be for the same Article(s) as the previous citations.

Limitations

A respondent will be eligible to receive only 2 citations within any consecutive 12-month period or 3 citations within any consecutive 36-month period. After 2 or 3 citations have been issued within the applicable time period, any subsequent complaint will not be eligible for the Citation Program and may only be forwarded to a hearing by a Grievance Tribunal.

Citations are to remain in the respondent's file indefinitely and will be available to the hearing panel at any future ethics hearings as well as in the Citation Program for use in progressive sanctioning guidelines, subject to the following. Where a hearing panel finds a violation of the Code of Ethics after a hearing, the hearing panel 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.

If a Grievance Tribunal determines the conduct described in the complaint is sufficiently egregious to warrant a hearing rather than a citation, the complaint shall be forwarded to a hearing. If the case involves an anonymous complaint, the complaint shall only be forwarded to a hearing if the complainant is willing to be a named complainant at the hearing. If not, the Grievance Tribunal shall issue a citation.

Issuance of Citation

After a Grievance Tribunal has reviewed a complaint and determined that the complaint meets the requirements of the Citation Program, the citation will be sent to the respondent, with a copy to the respondent's Designated REALTOR®, if applicable. The citation will include an explanation of the violation.

The respondent will have 20 days after the citation has been transmitted to either:

- accept the citation; or
- request a hearing to be conducted in accordance with the procedures as outlined in NAR's *Code of Ethics and Arbitration Manual*.

If the respondent does not reply within 10 days after transmission of the citation, a notice shall be transmitted to the respondent reminding the respondent of the deadline for requesting a hearing.

The issuance of a citation will be considered the final resolution of the complaint, which shall not be appealable or subject to any further review, when the respondent either:

- accepts the citation, or
- fails to request a hearing within 20 days after transmission of the citation.

If the respondent elects to accept the citation, respondent must comply with the appropriate sanctions within 60 days after transmission of the citation. If respondent fails to timely comply with the sanctions, the respondent's local association will suspend respondent's membership and MLS rights and privileges until full compliance with the sanctions.

Opportunity to Correct Violation

A respondent will be given 60 days after transmission of the citation to correct the violation, where appropriate. If additional complaints are filed against the same respondent within the 60-day correction period, alleging the same violation, the complaints will not be considered by the Grievance Tribunal.

Anonymous Complaints

The identity of the complainant, at the complainant's option, may be kept confidential and unavailable to a Grievance Tribunal 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:

- The respondent may provide a reply before the anonymous complaint goes to a Grievance Tribunal. Respondent shall have 15 days after transmission of the request to submit the reply.
- A citation may only be issued if a Grievance Tribunal determines there is sufficient evidential documentation to support the alleged violation. "Sufficient evidential documentation" means enough documentation that makes it possible that a hearing panel could find clear, strong, and convincing evidence that a violation occurred. If a Grievance Tribunal determines there is insufficient evidential documentation, the tribunal 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, a Grievance Tribunal will determine if the anonymous complainant's appearance at the hearing is essential to ensure due process. If the complainant is determined to be "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 a Grievance Tribunal determines that the complainant's appearance is not essential for due process, a Grievance Tribunal will become the complainant and a member of that tribunal would present the case at the hearing.
- Mediation will not be offered to the parties in an anonymous 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 Procedures

Note: The general procedures below are subject to the Citation Policies expressed above.

- A complaint alleging a violation of the Code of Ethics is received by the Association and reviewed by a Grievance Tribunal.
- If the conduct is a citable offense under the attached Citation Schedule, a citation is sent to the respondent, with a copy to their Designated REALTOR®, if applicable.
 - For an anonymous complaint, a citation will only be issued if a Grievance Tribunal determines the complaint includes sufficient evidential documentation of a potential violation of the Code of Ethics.
 - If the respondent has been found in violation of an MLS rule for the same event or conduct, then the complaint is not eligible for further citation. It is the responsibility of the respondent to notify and show proof of any prior violation of the MLS rules for the same event or conduct.
 - If a complaint is filed against the same respondent within the 60-day correction period alleging the same violation, the complaint will not be considered by a Grievance Tribunal.
- If the complaint is not eligible for a citation but a potential violation of the Code of Ethics is alleged, the complaint may still be forwarded to a hearing in accordance with the NAR *Code of Ethics an Arbitration Manual*.
- The complainant will be notified of the Grievance Tribunal's decision (except for anonymous complaints).
- If a citation is issued, the respondent has 20 days after transmission of the citation to elect one of the following options:
 - Accept the citation. Respondent must pay the applicable fine, complete any required education, and correct the violation within 60 days after transmission of the citation; or
 - Request a full ethics hearing to contest the citation. Respondent will be afforded a full due process hearing under the procedures approved by NAR for a disciplinary hearing.

Texas REALTORS® 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 to any Broker seeking cooperation. (SoP 3-6)

Article 4:

- Failure to disclose REALTOR® interest in property being bought or sold.

Article 5:

- Providing professional service without disclosing 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 professional status in advertising and other representations.
- C. Failure to disclose compensation from 3rd party for services provided free to a client. (SoP 12-2)
- D. Advertisement offering to sell/lease property without authority of owner or listing broker. (SoP 12-4)
- E. Failure to disclose name of firm in advertisement of real estate services or listed property in any medium. (SoP 12-5)
- F. Failure to disclose status as both owner/landlord and REALTOR® or licensee when advertising property in which REALTOR® has ownership interest. (SoP 12-6)
- G. Falsely claiming to have "sold" property. (SoP 12-7)
- H. Registration or use of deceptive URL or domain name. (SoP 12-12)

Article 14:

- Failure to cooperate in any professional standards proceeding or investigation requested by the Association.

Article 16:

- A. Use of terms of an offer to modify listing broker's offer of compensation. (SoP 16-16)
- B. Placement of for sale/lease sign on property without permission of seller/ landlord. (SoP 16-19)

Sanctions under the Citation Program are as follows:

First Offense Fine of \$300.00* to be paid within 60 days of citation date, and completion of the NAR Online Triennial Ethics Training or other course as defined by Texas REALTORS®, within 60 days of the citation date.

Second Offense Fine of \$600.00* to be paid within 60 days of citation date.

Third Offense Fine of \$900.00* to be paid within 60 days of citation date.

***The applicable fine will be the same whether one or more Articles 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.

Notice of corrections to violation(s) must be received by Texas REALTORS® within 60 days of transmission of a citation.