



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 of Fines 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:

First Offense – Fine of \$300* to be paid within sixty (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* to be paid within sixty (60) days of citation date.

Third Offense** – Fine of \$900* to be paid within sixty (60) days of citation date.

**The fine will be the 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).*

***A second or third offenses is any qualifying offense committed by the same respondent. The same Article need not be cited.*

Limitations

No more than two (2) citations will be issued to a respondent within a consecutive twelve (12) month period, starting on the date the first complaint was filed.

A respondent will be eligible to receive only three (3) citations within any thirty-six (36) month period, starting on the date the first complaint was file. After three (3) citations have been issued and another complaint is filed within a thirty-six (36) month period, the complaint may only be forwarded to a hearing and will not be eligible for the Citation Program. The 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 sanctions guidelines, subject to the next paragraph.

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 sanction 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 the 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

If a citation is issued, an explanation of the violation will be included in the letter to the respondent.

After the Grievance Tribunal has reviewed a complaint and determined there is a possible violation of the Code of Ethics and 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.

If the respondent does not reply within ten (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 twenty (20) days after transmission of the citation notice.

If the respondent elects to accept the citation but fails to abide by the sanctions, the respondent's local association shall follow its bylaw provisions for enforcement.

Opportunity to Correct Violation

A respondent will be given sixty (60) days after transmission of the citation notice to correct the violation. If additional complaints are filed against the same respondent within the sixty (60) day citation timeline, alleging the same violation, the complaint 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 the 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 the Grievance Tribunal. Respondent shall have fifteen (15) days after transmission of the request to submit the reply.
- A citation may only be issued if the Grievance Tribunal determines there is sufficient documented evidence (i.e., clear, strong, and convincing evidence) to support the alleged violation. If the Grievance Tribunal determines there is insufficient documented evidence, 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, the Grievance Tribunal 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 Tribunal determines that the complainant's appearance is not essential for due process, the Grievance Tribunal will become the complainant and a member of the Tribunal would present the case at the hearing.
- 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.

Procedures – Oregon Citation System for Code of Ethics Violations

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 Tribunal.
- Decision whether conduct is subject to citation is made by the Grievance Tribunal.
 - If the respondent has been found in violation of an MLS rule, for the same event and/or conduct, then the action 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 and/or conduct.
 - If a complaint is filed against the same respondent within the sixty (60) day citation timeline, alleging the same violation, the complaint will not be considered by the Grievance Tribunal.
- Consider whether the conduct is prohibited by the Citation Schedule that has been adopted by Oregon 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 documented evidence (anonymous complaints only).
 - If a citable offense:
 - Citation letter is sent to respondent, with copy to Designated REALTOR®, 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 *NAR Code of Ethics and Arbitration Manual*.
- The complainant will be notified of the Grievance Tribunal's decision unless the complaint was anonymous.
- 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 sixty (60) days after transmission of the citation notice.
 - Elect a full Ethics hearing to contest the citation. The hearing will be held in accordance with the *NAR 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 \$500 administrative processing fee in addition to any other fine as determined by the Hearing Panel*
 - The results of the hearings panel can be appealed to the Board of Directors, as set forth in the *Manual*.

Qualifying Violations and Schedule of Fines

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)

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Second Offense** – Fine of \$600* to be paid within sixty (60) days of citation date.

Third Offense** – Fine of \$900* to be paid within sixty (60) 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).**

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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 Oregon REALTORS® within sixty (60) days of receipt of citation.