

Policy #4.11.1.7 Ethics Citation Policy

The Reno/Sparks Association of REALTORS® Board of Directors has adopted the following Ethics Citation Policy and a “Citation Schedule” of potential violations covered which shall be made a part of this Policy. Only those citable offenses identified under Articles 3, 4, 5, 6, 12, 14, and 16 shall be considered under the Ethics Citation Policy, provided the complaint does not also include articles which are not included in the Ethics Citation Policy, ie. Articles 2, 7, 8, 9, 10, 11, 13, 15 and/or 17. This information will be provided as part of the information sent to potential complainants considering filing ethics complaints.

Appointment of a Citation Panel

The President shall appoint with the approval of the Board of Directors a Citation Panel, comprised of at least five (5) individuals, 3 of which will review complaints to determine eligibility for the citation program and the appropriate citations. The Citation Panel shall be a subset of the association’s Professional Standards Committee. Individuals appointed to the Citation Panel shall have a high level of experience in hearing professional standards cases. Those qualified may include past presidents, past members of the Board of Directors and members of the Professional Standards Committee.

Initial Review by Grievance Committee and Citation Panel

- I. Complaints must be filed within one hundred eighty (180) days after the facts constituting the matter complained of could have been known in the exercise of reasonable diligence or within one hundred eighty (180) days after the conclusion of the transaction or event, whichever is later.
- II. When a Grievance Committee receives a written ethics complaint, it will review the complaint consistent with Sections 19 and 20 of the current NAR *Code of Ethics and Arbitration Manual*. The Grievance Committee may add or delete articles or respondents at this stage in the proceedings.
- III. If the Grievance Committee determines that the complaint should be forwarded for a hearing, the Grievance Committee will first forward the complaint to the Association’s Citation Panel if it includes Articles and allegations covered by the Citation Schedule, i.e., if it is a “citable offense”.

- A. 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.
- B. If the complaint includes *only* allegations of violations included in the Citation Schedule, the Citation Panel will issue a citation pursuant to Section III (below) and impose discipline consistent with the association's Citation Schedule. In the event the members of the Citation 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 hearing consistent with the policies and procedures set forth in the *Code of Ethics and Arbitration Manual* for ethics hearings.

Issuance of Citations

- I. Citations will be sent to respondents. A copy of the citation shall also be sent to the REALTOR® principal 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® principal will receive a copy of the citation.
 - A. Staff will prepare a written summary of the complaint and the summary will be included with the citation to give the respondent sufficient information to understand the basis of the citation.
 - B. The complaint itself and the identity of the complainant may be kept confidential and unavailable to the respondent. This practice has been established effective June 1, 2015, and shall be followed consistently. If an anonymous complaint is filed the identity of the complainant shall remain anonymous. Anonymous complaints are those where the complainant does not provide his identity and no attempt by staff will be made to secure the identity.

- C. See section on Anonymous Complaints for procedure.
- II. The respondent will have twenty (20) days from transmission 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 transmission 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 transmission of the citation, this shall be deemed to have been acceptance by the respondent and the final resolution of the complaint, after which it 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 transmission of the citation, payment must be received by the association no later than five (5) days after the date of acceptance or time period to request a hearing has elapsed.
 - 1. The case will be deemed to be closed upon receipt of payment, and notice will be provided to the complainant and the respondent's broker that a citation has been issued and paid.
 - 2. Failure to pay the citation amount within five (5) 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. When it is possible to correct a violation, ie. advertising, a respondent shall provide evidence to the Association that the violation has been corrected as soon as practicable but not to exceed 30 days from receipt of the citation notice.
 - 4. If the complaint is not anonymous, the Complainant will be notified of the Citation Panel's action.
 - D. If the respondent requests a hearing within the time specified, the complaint shall be referred for 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*. Should the complainant be a member of the public who refuses or is unable to participate in the hearing, or should the complainant be a REALTOR® member who refuses or is unable to participate in the hearing, the provisions of Section 21(f)(3) in the NAR *Code of Ethics and Arbitration Manual* shall apply.

Anonymous Complaint Process

- I. An anonymous complaint must include the following:
 - a. Full name of Respondent
 - b. Date of incident
 - c. Supporting documentationIf one of these elements is not included, the staff has the authority not to forward to the Grievance Committee for review.
- II. Anonymous complaints may only be considered under the citation program for alleged violations of Articles 3, 4, 5, 6, 12, 14 and/or 16 provided the complainant has provided sufficient documentation giving evidence of the alleged violation.
- III. The same procedures as outlined above are followed for anonymous complaints with the following exception:
 - a. Anonymous complaints alleging other than citable offenses under Articles 3, 4, 5, 6, 12, 14 and/or 16 shall automatically be dismissed by the Grievance Committee.
 - b. In the event the respondent does not accept the citation, the respondent will provide a reply before the citation complaint goes to the Citation Panel, and the Citation Panel will make the determination as to whether there is sufficient evidential documentation to support the alleged violation. If the Citation Panel determines there is sufficient evidential documentation, the Citation Panel will become the complainant. A member of the Citation Panel will present the case as the complainant at the hearing. If the Citation Panel determines there is insufficient evidential documentation, the Panel shall dismiss the anonymous complaint.
- IV. Reno/Sparks Association of REALTORS® staff has no authority to, and is prohibited from, taking additional steps to gather more information on behalf of the Citation Panel.
- V. Mediation will not be offered to the parties in anonymous citation complaint.
- VI. No assistance shall be provided by either an Ombudsman or a member of the Grievance Committee in filing an anonymous complaint.

Limitations

- I. 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. After two (2) citations within a consecutive twelve (12) month period of the same citable offense, the alleged violation will be referred to the Grievance Committee and processed in preparation for an ethics hearing. The member will not be eligible for the Citation Program.
 - 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. An allegation of the same citable offense within a consecutive thirty-six (36) month period, will result in the matter being automatically referred to a hearing. After three (3) citations within a consecutive thirty-six (36) month period of the same citable offense, the alleged violation will be referred to the Grievance Committee and processed in preparation for an ethics hearing. The member will not be eligible for the Citation Program.
 - C. No additional citations are permitted where the cumulative fine for the citations issued would be more than \$1,800.00 in any three (3) year period at the same association.
 - D. The Reno/Sparks Association of REALTORS® has adopted an escalating fine schedule for repeat citations. The Citation Panel may only consider the past citations for the particular conduct alleged in the complaint.
 - E. Escalating fine shall be as follows:
 - a. First Offense - \$300 plus additional education at the option of the Citation Panel
 - b. Second Offense - \$600, plus additional education the option of the Citation Panel
 - c. Third Offense - \$900, plus additional education at the option of the Citation Panel

- d. The citation shall be the same whether one article has been cited or several articles have been named as citable offenses, ie. there will be no increase in the citation because more than one Article has been cited.
- II. 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 in Subsection IV below.
- III. 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.
- IV. 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 and the membership, but will not include details about the complaints, nor identify the complainants or respondents.
- V. The allegations, discussions and decisions made in the citation process are confidential and shall not be reported or published by the Association, or any member of a tribunal, or any party under any circumstances excepted those established in the Limitations Section of this policy and the Code of Ethics and Arbitration Manual of the National Association of REALTORS® as from time to time amended. (Added as an amendment by NAR 5/15)

Approved by the PAG on Ethics 02/12/15

Approved by the Board of Directors 02/24/15

Approved by NAR 3/18/15 with amendments per NAR 5/15

Part II of Policy # 4.1.1.7 Ethics Citation Policy

Citation Schedule of Fines

	Applicable Article and Standard of Practice	Fine	Ethics Training
		<p>The following escalating fines shall apply:</p> <p>1st offense - \$300</p> <p>2nd offense - \$600</p> <p>3rd offense - \$900</p>	<p>Additional education can be applied at the discretion of the Citation Panel at any tier of an offense.</p>
Article 3			
Failure to communicate a change in compensation for cooperative services prior to the time that REALTOR® submits an offer to purchase/lease the property	Article 3, supported by Standard of Practice 3-2		
As a listing broker, attempting to unilaterally modify the offered compensation with respect to a cooperative transaction after a REALTOR® has submitted an offer to purchase or lease that property	Article 3, supported by Standard of Practice 3-2		
Failing to disclose existence of dual or variable rate commission arrangements	Article 3, supported by Standard of Practice 3-4		
Failure to disclose to cooperating brokers differential that would result in dual or variable rate commission arrangement if	Article 3, supported by Standard of Practice 3-4		

sale/lease results through efforts of seller/landlord			
Failing to disclose existence of accepted offers, including offers with unresolved contingencies, to cooperating brokers	Article 3, supported by Standard of Practice 3-6		
Misrepresenting the availability of access to show or inspect a listed property	Article 3, supported by Standard of Practice 3-8		
Providing access to listed property on terms other than those established by the owner or the listing broker	Article 3, supported by Standard of Practice 3-9		
Article 4			
Failing to disclose REALTOR®'s ownership or other interest in writing to the purchaser or their representative	Article 4 (second sentence)		
Article 5			
Providing professional services without disclosing REALTOR®'s present interest in property	Article 5 (limited to present interest, not contemplated)		
Article 6			
Accepting any commission, rebate, or profit on expenditures without client's knowledge or consent	Article 6 (first paragraph)		
Failure to disclose to a client or customer REALTOR®'s financial benefits or fees received as a direct result of recommending real estate products or services	Article 6 (second paragraph)		
Failure to disclose REALTOR®'s direct interest in an organization or business entity when recommending to a client or	Article 6, supported by Standard of Practice 6-1		

customer that they use the services of that organization or business entity			
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Article 12			
Failing to present a true picture in real estate communications and advertising	Article 12		
Failing to disclose status as real estate professional in advertising and other representations	Article 12		
Failure to provide all terms governing availability of a “free” product or service in an advertisement or other representation	Article 12, supported by Standard of Practice 12-1		
Failure to disclose potential to obtain a benefit from third party when REALTOR® represents their services as “free” or without cost	Article 12, supported by Standard of Practice 12-2		
Failure to exercise care and candor when communicating the terms and conditions of premiums, prizes, merchandise discounts or other inducements to list, sell, purchase, or lease	Article 12, supported by Standard of Practice 12-3		
Advertising property for sale/lease without authority of owner or listing broker	Article 12, supported by Standard of Practice 12-4		
Failing to disclose name of firm in advertisement for listed property	Article 12, supported by Standard of Practice 12-5		
Failing to disclose status as both owner/landlord and REALTOR® or licensee when advertising property in which REALTOR® has ownership interest	Article 12, supported by Standard of Practice 12-6		
Falsely claiming to have “sold” property	Article 12, supported by Standard of Practice 12-7		

Failure to take corrective action when it becomes apparent that information on a REALTOR®'s website is no longer current or accurate	Article 12, supported by second sentence of Standard of Practice 12-8		
Failure to disclose firm name and state of licensure on REALTOR® firm website	Article 12, supported by Standard of Practice 12-9		
Misleading consumers through deceptive framing, manipulating content, deceptively diverting internet traffic, or presenting other's content without attribution or permission	Article 12, supported by Standard of Practice 12-10		
Registering or using of deceptive URL or domain name	Article 12, supported by Standard of Practice 12-12		
Representing that the REALTOR® has a designation, certification, or other credential they are not entitled to use	Article 12, supported by Standard of Practice 12-13		
Article 14			
Failing to cooperate in a professional standards proceeding or investigation in circumstances when cooperation has been demanded by the association and association has advised REALTOR® failure to cooperate could result in an allegation of a violation of Article 14	Article 14		
Article 16			
Conditioning submission of a buyer's offer on additional compensation from a listing broker	Article 16, supported by Standard of Practice 16-16		
Placing for sale/lease sign on property without permission of seller/landlord	Article 16, supported by Standard of Practice 16-19		

NOTE: Reno/Sparks Association of REALTORS® has adopted the above citations. Fines for each citable offense, as well as any possible training requirements, have been established in advance and shall be followed consistently.

The Reno/Sparks Association of REALTORS® has adopted an escalating fine schedule for repeat citations and also may impose a training requirement in addition to payment of a fine for any of the adopted citable offenses. The escalating fine schedule may only be used in circumstances where citations are issued by Reno/Sparks Association of REALTORS®. If a member held membership in a prior Association or holds membership in more than one Association and have been found in violation of a citable offense in the another Association, the Reno/Sparks Association of REALTORS® Citation Panel may not consider that in assessing an escalating fine.

The aggregated fines levied against any member may not exceed \$1,800 in any three (3) year period.

Bylaws & Policy	<u>04/16/16</u>
Approved by PAG	<u>02/12/15</u>
Approved by Board of Directors	<u>02/24/15</u>
Approved by NAR	<u>3/18/15</u>