



## Ethics Citation Program

- I. Preliminary Procedures/Review by Grievance Committee
  - A. OAR will establish a Citation Schedule of potential violations that are covered by the Ethics Citation Program, and the fines that apply to those violations. Information about the Ethics Citation Program, including the Citation Schedule, will be provided with the information sent to all potential complainants who are considering filing complaints through the Statewide Professional Standards Cooperative.
  - B. When a Grievance Panel receives a complaint, it shall review the complaint to determine if it includes allegations that are covered by the Citation Schedule.
    - 1) If the complaint does not include allegations covered by the Citation Schedule or it includes a mixture of those that are covered by the Citation Schedule and those that are not, the complaint shall be processed according to the usual terms of the Code of Ethics and Arbitration Manual.
    - 2) If the complaint includes only allegations covered by the Citation Schedule, the Grievance Panel will proceed under Subsection C. below.
  - C. If the complaint includes only allegations covered by the Citation Schedule, the Grievance Panel will review the information presented in the complaint and, taking all information in the complaint as true on its face, determine if there is a potential violation of the Code of Ethics. The Grievance Panel will not be permitted to add respondents or additional articles of the Code at this stage in the proceedings.
    - 1) If the Grievance Panel determines there is not a potential violation, the complaint shall be dismissed according to the usual terms of the CEAM, preserving the complainant's right to appeal the dismissal.
    - 2) If the Grievance Panel determines there is a potential violation of the Code of Ethics, it shall issue a citation to the respondent pursuant to Section II, below, which shall include the fine(s) established by the Citation Schedule.

II. Issuance of Citations

- A. The citation will be sent to the respondent, as well as to the REALTOR® principal (Broker) of the respondent's office.
- 1) A summary of the complaint will be included in order to provide the respondent with sufficient information to understand the basis of the citation.
  - 2) The complaint itself will not be provided nor will the identity of the complainant be provided.
- B. The respondent will have fifteen (15) days from receipt of the citation to provide notice whether the respondent will accept the citation and pay the fine, or whether the respondent requests a full hearing on the complaint.
- 1) If the respondent does not reply within ten (10) days of receiving the citation, a reminder shall be issued in which the respondent is reminded of the response deadline, the respondent's right to elect a hearing, and the fact that the hearing process will automatically be started if a response is not received in a timely manner.
  - 2) Acceptance of the citation by the respondent shall be deemed to be a final resolution of the complaint, which shall not be appealable or subject to any further review.
  - 3) If the respondent accepts the citation, payment must be received by OAR no later than thirty (30) days after the date of acceptance.
    - a) The case will be deemed to be closed upon receipt of payment, and notice will be provided to the complainant that the citation(s) has been issued and paid.
    - b) Failure to pay the citation amount within thirty (30) days of receipt will result in the automatic suspension of membership until the citation has been paid.**
- C. If the respondent requests a full hearing, or if the respondent fails to respond at all within the time allowed, the complaint shall be sent back to a new Grievance Panel for a full review as though it were a new complaint. The complaint shall contain a notation that it is not covered by the Citation Schedule, but the Grievance Panel will not be told any specifics of why it is not eligible.

III. Limitations

- A. Any individual REALTOR® is limited in the number and type of citations that he/she may receive, according to the following rules:
- 1) No more than two (2) citations within a consecutive twelve (12) month period, starting on the date the first complaint was filed.

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- 2) No more than three (3) citations within a consecutive thirty-six (36) month period, starting on the date the first complaint was filed.
  - 3) No more than three (3) citations for the same violation at any time.
  - 4) No additional citations are permitted where the cumulative fine for the citation, if issued, would be more than \$1,750.
- B. Should an individual respondent exceed the limits in subsection A, above, any further complaints will be processed as a regular complaint without the opportunity to participate in the citation program. The Program Administrator will review the citation history of a respondent to determine eligibility, and if the respondent is not eligible to receive a citation, the complaint will be forwarded to the Grievance Panel with a notation that the complaint is not covered by the Citation Schedule, but the Grievance Panel will not be told any specifics of why it is not eligible.
  - C. 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 for a complaint where the respondent rejected a citation.
  - D. Neither paid nor unpaid citations will be considered in any publication of violations should such rules be adopted by the Cooperative; only violations after a full hearing may be published.
  - E. Where a Hearing Panel has found a violation of the Code of Ethics after a full hearing, it may consider past citations paid by the respondent in establishing a sanction only if the citation was 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. The Hearing Panel shall not be informed of past citations for other violations.
  - F. The Program Administrator 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 OAR Board of Directors or to Participating Locals but will not include details about the complaints nor identify the respondents.
- IV. Citation Schedule
- A. The following violations are covered by the Ethics Citation Program:  
Article 3:
    - Failure to disclose existence of dual or variable rate commission (Standard of Practice 3-4)
    - Failure to disclose existence of accepted offers to cooperating brokers (Standard of Practice 3-6)

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- Providing access to listed property on terms other than those established by the owner or the listing broker. (Standard of Practice 3-10)

### Article 4:

- Failure to disclose REALTOR® interest in property being bought or sold (Article 4)

### Article 5:

- Providing professional service without disclosing interest in property (Article 5)

### Article 6:

- Accepting any commission, rebate or profit on expenditures without client's knowledge or consent (Article 6)

### Article 12:

- Failure to present a true picture in real estate communications and advertising (Article 12)
- Failure to disclose professional status in advertising and other representations (Article 12)
- Failure to disclose professional status in advertising or other real estate communications (Article 12)
- Advertisement offering to sell/lease property without authority of owner or listing broker (Standard of Practice 12-4)
- Failure to disclose name of firm in advertisement for listed property (Standard of Practice 12-5)
- Failure to disclose status as both owner/landlord and REALTOR® or licensee when advertising property in which REALTOR® has ownership interest (Standard of Practice 12-6)
- Falsely claiming to have "sold" property (Standard of Practice 12-7)
- Registration or use of deceptive URL or domain name (Standard of Practice 12-12)
- Representing that the REALTOR® has a designation, certification or other credential that the REALTOR® is not entitled to use (Standard of Practice 12-13)

### Article 14:

- Failure to cooperate in any professional standards proceeding or investigation (Article 14)

### Article 16:

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

## B. Fines for citations shall be as follows:

- 1) For the first violation: \$500
- 2) For a second violation: \$1,000
- 3) For a third violation: \$1,500

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- 4) For any violation that is repetitive of an earlier violation, the fine shall be increased by \$500 if it is the second violation, and by \$1,000 if it is the third.
- 5) For any violation after the third for which the respondent is eligible to receive a citation, an increase of \$1,000 from the amount of the third citation issued to the respondent.

EXAMPLE:

A first violation of X would be \$500. A second violation, this time for Y, would be \$1,000 and a third violation, this time for Z, would be \$1,500.

A first violation of X would be \$500. A second violation, also of X, would be \$1,500 ( $\$500 + \$1,000$ ). A third violation, this time of Y, would be \$1,500 (because the third is for a different offense).

A first violation of X would be \$500. A second violation of X would be \$1,500 ( $\$500 + \$1,000$ ). A third violation of X would be \$2,500 ( $\$1,000 + \$1,500$ ).