

Ocala Marion County Association of Realtors®
Citation Policy



Ocala Marion County Association of Realtors® Citation Policy will establish a Citation Panel, comprised of at least three (3) individuals, who will review complaints to determine eligibility for the citation program and the appropriate citations. The Citation Panel will be a subset of the association's Professional Standards Committee, and the individuals on the Citation Panel will have a high level of experience in hearing professional standards cases.

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.

Ocala Marion County Association of Realtors® cannot cite violations based on Articles or Standards of Practice other than those spelled out in this policy, cannot impose fines in excess of those in the policy, and cannot be utilized more frequently than provided for in this policy.

Initial Review by Grievance Committee and Citation Panel

- I. 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.
- II. 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 to determine if it includes 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 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.
 - C. When an ethics complaint and an arbitration request arising out of the same facts and circumstances are filed at the same time, the arbitration hearing shall be held first, and the citation(s) issued or ethics hearing held after the conclusion of the arbitration hearing consistent with Professional Standards Policy Statement #35, Separation of Ethics Complaint and Arbitration Request, *Code of Ethics and Arbitration Manual*.

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 will be kept confidential and unavailable to the respondent. If an association has adopted the practice of allowing the identity of the complainant to be kept confidential, the complainant shall be advised when filing a complaint that their identity will not remain confidential should the respondent request a hearing.
- 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 of the citation, a notice shall be transmitted 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 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 transmission of the citation, payment must be received by the association no later than 21 days (to be established by the association, but in any instance not more 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 that a citation has been issued and paid.
 2. Failure to pay the citation amount within 21 days (to be established by the association, but in any instance not more than 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.
 - 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.
 - E. Status of all complaints will be provided after all fines and additional attendance at Ethics training has been issued and the appeal process has expired. These procedures should be established in advance and followed consistently.

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.
 - 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 \$1,500 (not to exceed \$5,000) in any three (3) year period at the same association.
 - D. Associations may, at their discretion, adopt an escalating fine schedule for repeat citations. If an escalating fine schedule is used, the citation panel may only consider the past citations for the particular conduct alleged in the complaint.
- 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. Citations will not be considered in any publication of violations should such rules be adopted by the association.
- IV. 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.
- V. 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.
- VI. The allegations, discussions and decisions made in the citation process are confidential and shall not be reported or published by the board, any member of a tribunal, or any party under any circumstances except those established in Limitations, Section V of this policy and the *Code of Ethics and Arbitration Manual* of the National Association as from time to time amended.

Citation Schedule of Fines

| | Applicable Article and Standard of Practice | Fine | Ethics Training in addition to fine? |
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| Article 1 | | | |
| Failure to fully disclose and obtain consent from both parties when representing both the seller/landlord and buyer/tenant in the same transaction | Article 1, supported by Standard of Practice 1-5 | \$500.00 | YES |
| Failure to submit offers and counter-offers objectively and as quickly as possible | Article 1, supported by Standard of Practice 1-6 | \$500.00 | YES |
| Failure to advise sellers/landlords of information specified in Standard of Practice 1-12 prior to entering into a listing contract | Article 1, supported by Standard of Practice 1-12 | \$500.00 | YES |
| Failure to advise buyers/tenants of information specified in Standard of Practice 1-13 prior to entering into a buyer/tenant agreement | Article 1, supported by Standard of Practice 1-13 | \$500.00 | YES |
| Accessing or using, or allowing others to access or use, a property managed or listed on terms other than those authorized by the owner or seller | Article 1, supported by Standard of Practice 1-16 | \$500.00 | YES |
| 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 | \$500.00 | YES |
| 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 | \$500.00 | YES |
| Failing to disclose existence of dual or variable rate commission arrangements | Article 3, supported by Standard of Practice 3-4 | \$500.00 | YES |
| Failure to disclose to cooperating brokers differential that would result in dual or | Article 3, supported by Standard of Practice 3-4 | \$500.00 | YES |

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| variable rate commission arrangement if 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 | \$500.00 | YES |
| Misrepresenting the availability of access to show or inspect a listed property | Article 3, supported by Standard of Practice 3-8 | \$500.00 | YES |
| 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 | \$500.00 | YES |
| Article 4 | | | |
| Failing to disclose REALTOR®'s ownership or other interest in writing to the purchaser or their representative | Article 4 (second sentence) | \$500.00 | YES |
| Article 5 | | | |
| Providing professional services without disclosing REALTOR®'s present interest in property | Article 5 (limited to present interest, not contemplated) | \$500.00 | YES |
| Article 6 | | | YES |
| Accepting any commission, rebate, or profit on expenditures without client's knowledge or consent | Article 6 (first paragraph) | \$500.00 | YES |
| 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) | \$500.00 | YES |
| Failure to disclose REALTOR®'s direct interest in an organization or business entity when recommending to a client or customer that they use the services of that organization or business entity | Article 6, supported by Standard of Practice 6-1 | \$500.00 | YES |

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| Article 12 | | | |
| Failing to present a true picture in real estate communications and advertising | Article 12 | \$500.00 | YES |
| Failing to disclose status as real estate professional in advertising and other representations | Article 12 | \$500.00 | YES |
| 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 | \$500.00 | YES |
| 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 | \$500.00 | YES |
| 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 | \$500.00 | YES |
| Advertising property for sale/lease without authority of owner or listing broker | Article 12, supported by Standard of Practice 12-4 | \$500.00 | YES |
| Failing to disclose name of firm in advertisement for listed property | Article 12, supported by Standard of Practice 12-5 | \$500.00 | YES |
| 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 | \$500.00 | YES |
| Falsely claiming to have “sold” property | Article 12, supported by Standard of Practice 12-7 | \$500.00 | YES |
| 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 | \$500.00 | YES |
| Failure to disclose firm name and state of | Article 12, supported by | \$500.00 | YES |

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| licensure on REALTOR® firm website | 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 | \$500.00 | YES |
| Registering or using of deceptive URL or domain name | Article 12, supported by Standard of Practice 12-12 | \$500.00 | YES |
| 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 | \$500.00 | YES |
| 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 | \$500.00 | YES |
| 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 | \$500.00 | YES |
| Placing for sale/lease sign on property without permission of seller/landlord | Article 16, supported by Standard of Practice 16-19 | \$500.00 | YES |

Adopted July 27, 2017