

## **CWBR Citation Policy**

Associations adopting this Citation Policy model must also adopt a “Citation Schedule” of potential violations covered, and must specify the fines that apply to those violations. Information about the Ethics Citation Program, including the Citation Schedule, will be provided as part of the information sent to potential complainants considering filing ethics complaints with the association.

Associations adopting this Citation Policy shall 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. It is recommended that the Citation Panel be a subset of the association’s Professional Standards Committee, and that the individuals on the Citation Panel 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.

Any citation policy adopted by local or state associations after approval of this policy by the NAR Board of Directors 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.

### **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. *At the option of the association*, the complaint itself may be provided to the respondent, including the identity of the complainant. *Alternatively*, the complaint itself and the identity of the complainant may be kept confidential and unavailable to the respondent. The practice of the association should be established in advance and followed consistently. 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. **The complainant's identity shall remain confidential for the citation progress. 9/9/15**
- II. The respondent will have twenty (20) days from receipt 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 receiving 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 receipt 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 receipt 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 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.
- 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.

### **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 \$5,000 (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.