

# Mid-State Association of REALTORS® Citation Policy

January 2019

The Mid-State Association has established 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 is 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.

The Mid-State Association 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 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 heard 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 applicable. 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. 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 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 transmission of the citation, payment must be received by the association no later than 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 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 **\$2500** 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.
  - E. The Association will mandate that any ethics complaint levied against an individual who has previously paid a citation for the same offense within a three (3) year period will automatically be forwarded to the Professional Standards committee for a hearing
  - F. A Code of Ethics class will be required if a second or third citation is issued for the same Citable offense.
- 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, but will not include details about the complaints, nor identify the complainants or respondents.
  
- V. The allegations, discussions and decision made in the citation process are confidential and shall not be reported or published by the association, any member of the 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.

**Mid-State Association of REALTORS  
Citation Schedule of Fines and Citable Offenses**

	<b>Applicable Article and Standard of Practice</b>	<b>Fine 1<sup>st</sup> offense/2<sup>nd</sup> offense/ third offense</b>
<b>Article 1</b>		
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	\$100/\$300/\$750
Failure to submit offers and counteroffers objectively and as quickly as possible	Article 1, Supported by Standard of Practice 1-6	\$100/\$300/\$750
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	\$100/\$300/\$750
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	\$100/\$300/\$750
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	\$100/\$300/\$750
<b>Article 3</b>		
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	\$100/\$300/\$750
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	\$100/\$300/\$750
Failing to disclose existence of dual or variable rate commission arrangements	Article 3, supported by Standard of Practice 3-4	\$100/\$300/\$750
Failure to disclose to cooperating brokers differential that would result in dual or variable rate commission arrangement if sale/lease results through efforts of seller/landlord	Article 3, supported by Standard of Practice 3-4	\$100/\$300/\$750
Failing to disclose existence of accepted offers, including offers with unresolved	Article 3, supported by Standard of Practice 3-6	\$100/\$300/\$750

contingencies, to cooperating brokers		
Misrepresenting the availability of access to show or inspect a listed property	Article 3, supported by Standard of Practice 3-8	\$100/\$300/\$750
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	\$100/\$300/\$750
<b>Article 4</b>		
Failing to provide disclosure of REALTOR's interest in a property being bought or sold or the interest of anyone in their immediate family, their firm or any member thereof or any entity that they have an ownership interest to the purchaser or the purchase's representative.	Article 4 (second sentence)	\$100/\$300/\$750
<b>Article 5</b>		
Providing professional services without disclosing REALTOR's present interest in property	Article 5 (limited to present interest, not contemplated)	\$100/\$300/\$750
<b>Article 6</b>		
Accepting any commission, rebate, or profit on expenditures without client's knowledge or consent	Article 6 (first paragraph)	\$100/\$300/\$750
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)	\$100/\$300/\$750
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	\$100/\$300/\$750
<b>Article 12</b>		
Failing to present a true picture in real estate communications and advertising	Article 12	\$100/\$300/\$750
Failing to disclose status as real estate professional in advertising and other representations	Article 12	\$100/\$300/\$750
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	\$100/\$300/\$750

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	\$100/\$300/\$750
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	\$100/\$300/\$750
Advertising property for sale/lease without authority of owner or listing broker	Article 12, supported by Standard of Practice 12-4	\$100/\$300/\$750
Failing to disclose name of firm in advertisement for listed property	Article 12, supported by Standard of Practice 12-5	\$100/\$300/\$750
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	\$100/\$300/\$750
Falsely claiming to have “sold” property	Article 12, supported by Standard of Practice 12-7	\$100/\$300/\$750
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	\$100/\$300/\$750
Failure to disclose firm name and state of licensure on REALTOR® firm website	Article 12, supported by Standard of Practice 12-9	\$100/\$300/\$750
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	\$100/\$300/\$750
Registering or using of deceptive URL or domain name	Article 12, supported by Standard of Practice 12-12	\$100/\$300/\$750
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	\$100/\$300/\$750
<b>Article 16</b>		
Conditioning submission of a buyer’s offer on additional compensation from a listing broker	Article 16, supported by Standard of Practice 16-16	\$100/\$300/\$750

**NOTICE TO RESPONDENT OF CITATION**  
**MID-STATE ASSOCIATION OF REALTORS®**

Case No: \_\_\_\_\_

Date: \_\_\_\_\_

To: \_\_\_\_\_ CC: \_\_\_\_\_

Pursuant to the enclosed Mid-State Association of REALTORS® Citation Policy, this is to inform you that you have been issued a Citation for a violation of \_\_\_\_\_ of the Code of Ethics.

The complaint was reviewed on \_\_\_\_\_ by the Grievance and Citation Committees, which issued the citation. Also enclosed is a summary of the complaint that was filed in support of this Citation. Notification of this Citation is being sent to your Designated Realtor if applicable.

Please choose one of the following options by marking the appropriate box and return this form to the Association no later than twenty (20) calendar days from the date specified below.

Failure to return this form within the allotted time could result in a full Ethics Hearing in accordance with the National Association of REALTORS® *Code of Ethics and Arbitration Manual*

I accept the Citation and my check for \_\_\_\_\_ is enclosed.

I deny any wrong doing and wish to have a full Ethics Hearing.

If you accept the Citation or do not request a hearing within twenty (20) days of transmission of the Citation, payment of the fine must be received by MSAOR no later than thirty (30) days after the date of acceptance.

Additionally, a Code of Ethics class (online or in classroom from an approved instructor of MSAOR) can be required to be taken within 90 days of the receipt of the citation. It is the Respondent's responsibility to provide proof of attendance of the required course.

a) Failure to pay the Citation amount within thirty (30) days of transmission will result in the automatic suspension of membership until the Citation has been paid.

b.) The case will be deemed closed upon receipt of payment and completion of the education requirement, if required, and notice will be provided to the complainant that the Citation(s) have been issued and paid and the education requirement has been completed if required.

If you have chosen any option other than agreement to the Citation, you will be notified of the appropriate next steps. Should you have any questions, please call Sue Pzyznski at 860-793-9414

Mid-State Association of REALTORS

Attn: Sue Pzyznski

73 E. Main St. Plainville, CT 06062