



EMERALD COAST ASSOCIATION OF REALTORS®



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2020 Citation Policy and Schedule of Fines

The citation policy by the Emerald Coast Association of Realtors® was adopted on May 21, 2020 to provide an expedited professional standards process when applicable. The citation process applies to specific articles and standards of practice of the Code of Ethics as set by the National Association of Realtors

Eligibility also includes whether previous citations have been issued. Respondents who are found eligible will have the option to pay the fine and/or attend educational courses or may opt for a full hearing before the Professional Standards Hearing Panel. The complaint must also only include articles and SOPs that are within the schedule of fines.

For more details and the schedule of fines see below.

Initial Review by Grievance Committee and Citation Panel

- I. When the 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 is a "citable offense".
 - A. 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.
 - B. 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.
 - 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 will be provided to the respondent, including the identity of the complainant.
- 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 5 calendar 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 calendar 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. Associations should determine in advance what information will be provided to complainants prior to citations being issued and paid, or respondents requesting a hearing, including the point at which complainants will be notified of the status of their complaint, and what information will be provided to complainants about citations issued, including the amount of any fine. 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 \$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.

Schedule of Fines

	Applicable Article and Standard of Practice	Fine 1st, 2nd, and 3rd offenses	Ethics Training required in addition to fine
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	\$250 \$500 \$1000	In person Code of Ethics Class
Failure to submit offers and counter-offers objectively and as quickly as possible	Article 1, supported by Standard of Practice 1-6	\$250 \$500 \$1000	In person Code of Ethics Class
Failure on the part of a listing broker to provide, as soon as practical, written affirmation that an offer was presented or written notification that the seller/landlord has waived the obligation to have the offer presented, upon written request of a cooperating broker submitting an offer.	Article 1, supported by Standard of Practice 1-7	\$250 \$500 \$1000	In person Code of Ethics Class
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	\$250 \$500 \$1000	In person Code of Ethics Class
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	\$250 \$500 \$1000	In person Code of Ethics Class
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	\$250 \$500 \$1000	In person Code of Ethics Class
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	\$250 \$500 \$1000	In person Code of Ethics Class
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	\$250 \$500 \$1000	In person Code of Ethics Class
Failing to disclose existence of dual or variable rate commission arrangements	Article 3, supported by Standard of Practice 3-4	\$250 \$500 \$1000	In person Code of Ethics Class
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	\$250 \$500 \$1000	In person Code of Ethics Class
Failing to disclose existence of accepted offers, including offers with unresolved contingencies, to cooperating brokers	Article 3, supported by Standard of Practice 3-6	\$250 \$500 \$1000	In person Code of Ethics Class
Misrepresenting the availability of access to show or inspect a listed property	Article 3, supported by Standard of Practice 3-8	\$250 \$500 \$1000	In person Code of Ethics Class
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	\$250 \$500 \$1000	In person Code of Ethics Class
Article 4			
Failing to disclose REALTOR®'s ownership or other interest in writing to the purchaser or their representative	Article 4 (second sentence)	\$250 \$500 \$1000	In person Code of Ethics Class
Article 5			

Providing professional services without disclosing REALTOR®'s present interest in property	Article 5 (limited to present interest, not contemplated)	\$250 \$500 \$1000	In person Code of Ethics Class
Article 6			
Accepting any commission, rebate, or profit on expenditures without client's knowledge or consent	Article 6 (first paragraph)	\$250 \$500 \$1000	In person Code of Ethics Class
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)	\$250 \$500 \$1000	In person Code of Ethics Class
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	\$250 \$500 \$1000	In person Code of Ethics Class
Article 12			
Failing to present a true picture in real estate communications and advertising	Article 12	\$250 \$500 \$1000	In person Code of Ethics Class
Failing to disclose status as real estate professional in advertising and other representations	Article 12	\$250 \$500 \$1000	In person Code of Ethics Class
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	\$250 \$500 \$1000	In person Code of Ethics Class
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	\$250 \$500 \$1000	In person Code of Ethics Class

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	\$250 \$500 \$1000	In person Code of Ethics Class
Advertising property for sale/lease without authority of owner or listing broker	Article 12, supported by Standard of Practice 12-4	\$250 \$500 \$1000	In person Code of Ethics Class
Failing to disclose name of firm in advertisement for listed property	Article 12, supported by Standard of Practice 12-5	\$250 \$500 \$1000	In person Code of Ethics Class
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	\$250 \$500 \$1000	In person Code of Ethics Class
Falsely claiming to have “sold” property	Article 12, supported by Standard of Practice 12-7	\$250 \$500 \$1000	In person Code of Ethics Class
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	\$250 \$500 \$1000	In person Code of Ethics Class
Failure to disclose firm name and state of licensure on REALTOR® firm website	Article 12, supported by Standard of Practice 12-9	\$250 \$500 \$1000	In person Code of Ethics Class
Misleading consumers through deceptive framing, manipulating content, deceptively diverting internet traffic, presenting other’s content without attribution or permission, or using misleading images	Article 12, supported by Standard of Practice 12-10	\$250 \$500 \$1000	In person Code of Ethics Class
Registering or using of deceptive URL or domain name	Article 12, supported by Standard of Practice 12-12	\$250 \$500 \$1000	In person Code of Ethics Class
Representing that the REALTOR® has a designation, certification, or other credential	Article 12, supported by Standard of Practice 12-13	\$250 \$500	In person Code of

they are not entitled to use		\$1000	Ethics Class
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	\$250 \$500 \$1000	In person Code of Ethics Class
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	\$250 \$500 \$1000	In person Code of Ethics Class
Placing for sale/lease sign on property without permission of seller/landlord	Article 16, supported by Standard of Practice 16-19	\$250 \$500 \$1000	In person Code of Ethics Class

NOTE: The amount of fine for any citation is at the option of the association, but aggregated fines levied against any member may not exceed \$5,000 in any three (3) year period.