

Texas Citation System for Code of Ethics Violations

1. Complaint alleging violation of the Code of Ethics is received by TAR and channeled through a Grievance Tribunal:
 - A. Decision whether conduct is subject to citation is made by the Grievance Tribunal.
 1. Consider whether the allegations of the complaint are true and support a potential violation of the Code of Ethics.
 2. Consider whether the conduct is prohibited by the Citation Schedule that has been adopted by TAR as a citable offense.
 - a. If the respondent has already received a citation for violation of an MLS rule, for the same event and/or conduct, then the action is not eligible for further citation.
 - b. If a complaint is filed against the same respondent within the 60 day citation timeline, alleging the same violation, the complaint will not be considered by the Grievance Tribunal. *(Approved 6/15/11)*
 - c. If a citable offense:
 - i. Citation letter is sent to respondent, with copy to Designated REALTOR®.
 - ii. Citations can be used in consideration for determining discipline at future ethics hearings.
 - d. If Conduct is not eligible for citation but possible violation of the Code of Ethics is alleged, the complaint will be processed in accordance with the *National Code of Ethics and Arbitration Manual*.
 - B. If conduct is a citable offense, upon receipt of citation, the respondent has 15 days to elect one of the following options:
 1. Pay the fine and complete required education, if applicable, in accordance with the sanctions as defined in the citation letter and correct the violation with 60 days from receipt of citation notice. *(Approved 6/15/11)*
 2. Elect full Ethics hearing to contest the citation and the hearing will be held in accordance with the *National Code of Ethics and Arbitration Manual*.
 - a. If hearing is elected, complaint is returned to Grievance Tribunal for further scrutiny and possible amendment with additional alleged violation of the Code of Ethics and/or MLS rules.

- i. If anonymous complaint- the Grievance Tribunal becomes the complainant.
 - ii. If identified complainant- he/she has full due process rights afforded under the procedures approved by NAR for disciplinary hearing.
 - c. Respondent will have a full due process hearing where hearing panel, made up of members of the Professional Standards Committee, has the following options:
 - i. Dismiss the citation and complaint
 - ii. Uphold the citation and corresponding fine
 - iii. Amend the complaint by adding additional articles, as supported by the evidence
 - iv. Increase or decrease the discipline as allowed in the *NAR Code of Ethics and Arbitration Manual*.
 - d. The results of the hearings can be appealed to the TAR Professional Standards Committee, as set forth in the Manual.
- C. Failure to respond to the citation within 15 days from receipt of citation automatically results in a full Ethics Hearing; which opens up the possibility of an allowable sanction(s) determined by the hearing panel, including greater fine and possible suspension or expulsion from membership.
- D. A Respondent may be issued only three (3) citations within a thirty-six (36) month period. After 3 citations have been issued and another complaint is filed within a thirty-six (36) month period, and forwarded to a hearing by the Grievance Tribunal the complaint will automatically go to a hearing and will not be eligible for the Citation Program. Citations will remain in the respondent's file indefinitely and will be available to hearing panels at any future hearings and can be used in the citation program for use in progressive sanctions guidelines.
- E. If the complaint is not anonymous notification of the Grievance Tribunal's action will be given to the complainant.
- F. T.A.R. has published a model citation fine schedule that does not exceed maximum allowable by NAR.

General Instructions and Information for Filing and Replying to a Citation Complaint

1. Citation complaints must be typewritten or clearly handwritten and submitted along with an Ethics Complaint form citing only Articles 3, 4, 5, 6, 12, 14, or 16. Sufficient documentation and dates should be included. The complaint must be filed within 180 days of the alleged event and must provide documentation of when the event occurred. Anonymous complaints may be submitted.
2. The TAR Staff will forward the citation complaint to a grievance tribunal. The grievance tribunal reviews the form of the complaint and other administrative matters. If the grievance tribunal finds, assuming all the facts stated in the complainant are true, that the matter could possibly constitute a violation of the Code of Ethics and that the complaint meets the requirements of the citation program, the grievance tribunal will direct the TAR Staff to issue a citation to the respondent with a copy to his/her broker. If the grievance tribunal finds the complaint lacking in form or does not, as alleged, indicate a possible violation of the Code of Ethics, the grievance tribunal will direct the TAR Staff to dismiss the complaint.
3. If the grievance tribunal issues a citation, the respondent will have fifteen (15) days from receipt of the citation to elect to accept the citation and abide by the sanctions as outlined in the citation OR to request a hearing.
4. If the respondent does not accept the citation or fails to respond in fifteen (15) days, the complaint will go to a hearing in accordance to the procedures as outlined in the NAR's Code of Ethics and Arbitration Manual. If the respondent does not accept the citation, the complaint will be returned to the grievance tribunal for further scrutiny and possible amendment with additional alleged violations of the Code of Ethics and/or MLS rules.
5. After requesting a hearing, the respondent will be given the opportunity to reply within fifteen (15) days to the allegations and the reply must be neatly written or typewritten and submitted to the Texas Association of REALTORS® with the original and 7 copies. A copy of any reply will be sent to the complainant (if not anonymous) and the hearing panel.
6. The TAR Staff will provide the parties with a list of potential hearing panel members prior to the hearing. Within ten (10) days from the date the list is mailed to the parties, either party may file with the TAR Staff a written request for disqualification of any potential member of the hearing panel if the potential member:
 - a. is related by blood or marriage to a party or a REALTOR® acting as counsel;
 - b. is an employer, partner, or employee, or in any way associated in business with a party or a REALTOR® acting as counsel;
 - c. is a party to the hearing, or a party or a witness in another pending case involving complainant or respondent; or
 - d. may not be able to render an impartial decision, as determined by the Hearing Officer.
7. The TAR Staff will notify the parties of the date and place of the hearing at least twenty-one (21) days in advance. The notice will include an outline of procedure for the hearing.
8. The parties may be accompanied by legal counsel or a REALTOR® acting as counsel. The parties must send notice of their intention to be accompanied by counsel to all other parties and to the TAR Staff at least fifteen (15) days before the hearing. Failure to provide timely notice may result in a continuance of the hearing as determined by the Hearing Officer. It is the responsibility of the parties to keep their counsel informed of all proceedings and documentation and to arrange for legal counsel or REALTOR® counsel to be present at the hearing.

9. It is the responsibility of each party to arrange for witnesses to be present at the hearing. The parties must send notice of their intention to have witnesses to all other parties and to the TAR Staff at least fifteen (15) days before the hearing. Failure to provide timely notice may result in a waiver of the right to call the witness or a continuance of the hearing as determined by the Hearing Officer.
10. The parties may not discuss the case with any member of the hearing panel, an appeal panel, or the board of directors outside the proceedings. Ethics decisions remain confidential after the ethics procedure is complete, except as required by the Code of Ethics and Arbitration Manual.
11. An ethics hearing may not proceed in the absence of a complainant, but may proceed in the absence of a respondent.