

IAR Citation Policy

In order to facilitate a more efficient and streamlined process to handle certain ethics violations, the Indiana Association of REALTORS® has adopted the Ethics Citation Program, effective January 1, 2019.

A Respondent electing to pay a citation avoids an uncomfortable and often time-consuming hearing process. Respecting the right for due process, a Respondent may instead elect to request a hearing. The Ethics Citation Program is as confidential as the hearing process.

A Complainant may have less time involved, yet justice will still be served, thereby protecting the industry from unethical behavior. If the Respondent elects to have a hearing, the Complainant would need to attend.

The Citation Policy shall establish an Ethics 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 Ethics Citation Panel will be a subset of the association's Professional Standards Committee, and the individuals on the Ethics Citation Panel will have a high level of experience in hearing professional standards cases.

Ethics citation 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 citation policy 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 of an ethics complaint by the Grievance Committee

- I. When the Grievance Committee receives a written ethics complaint, they 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. The Grievance Committee will consider the following when forwarding a complaint:
 - A. If the complaint does not include alleged violations included in the Citation Schedule, or if 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, and the evidence is clear, strong, and convincing, the Grievance Committee will forward the complaint to the Ethics Citation Panel.
- III. When an ethics complaint/ethics citation 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*.

Initial Review of an ethics citation complaint by the Ethics Citation Panel

An ethics citation complaint will be reviewed by the Ethics Citation Panel within 5 days of receipt or as soon as practicable thereafter.

If the Ethics Citation Panel believes a violation has occurred, they will issue a citation and impose discipline consistent with the association's Citation Schedule. In the event the members of the Ethics 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 Grievance Committee to determine if the complaint should be forwarded to the Professional Standards Committee for a hearing consistent with the policies and procedures set forth in the *Code of Ethics and Arbitration Manual*.

There is no language in the policy that would allow for an appeal of a dismissal of an ethics citation complaint. The Complainant may, however, file an ethics complaint with the Grievance Committee for their review.

Issuance of Citations

- I. Citations will be sent to respondents including the identity of the complainant. A copy of the citation shall also be sent to the Managing Broker of the 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 Managing Broker will receive a copy of the citation.
- 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 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.
 - 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, 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 an automatic suspension of membership until the citation has been paid.
 - C. The complainant will be notified of the resolution of the complaint within 5 days of its conclusion, including what citations were issued and the amount of any fine.
 - D. If the respondent requests a hearing within the time specified, the complaint shall be referred to the Grievance Committee for review to determine if the complaint should be forwarded to the Professional Standards Committee for hearing. If the complaint is forwarded, the complainant who initially filed the complaint will be notified 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. The escalating fine schedule for repeat citations may only be used in circumstances where citations are issued by the same association.
 - E. An escalating fine schedule is in place for repeat citations, however; the Ethics 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 Executive Committee, 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 association, 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.