

Lakeshore REALTORS® Association Citation Policy

This citation policy and schedule of fines was adopted by the Lakeshore REALTORS® Association on July 1, 2021. The policy includes information on the process, how citations are issued, and the circumstances where they can be used. The schedule of fines details “citable” conduct so the LSRA can determine in advance the fines or education requirements applicable for each citable offense.

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.
- 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 practice of the Lakeshore REALTORS® Association is to provide the complaint itself 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 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 the 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.
- E. All relevant documentation will be provided to both the complainant and the respondent. Complainants will be notified of the status of their complaint either after a citation has been paid, or when a complaint moves on to a full hearing panel. The complainant will be invited to participate in any case where a hearing panel is convened. The fines levied is specified on the fine schedule and is available to all parties at any time.

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.

Model Citation Schedule of Fines

	Applicable Article and Standard of Practice	Fine	Second Offense
Article 12			
Failing to present a true picture in real estate communications and advertising	Article 12	\$100	\$250
Failing to disclose status as real estate professional in advertising and other representations	Article 12	\$100	\$250
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	\$250
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	\$250
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
Advertising property for sale/lease without authority of owner or listing broker	Article 12, supported by Standard of Practice 12-4	\$100	\$250
Failing to disclose name of firm in advertisement for listed property	Article 12, supported by Standard of Practice 12-5	\$100	\$250
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	\$500	\$1000
Falsely claiming to have “sold” property	Article 12, supported by Standard of Practice 12-7	\$250	\$500
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
Failure to disclose firm name and state of licensure on REALTOR® firm website	Article 12, supported by Standard of Practice 12-9	\$500	\$1000

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	\$500	\$1000
Registering or using of deceptive URL or domain name	Article 12, supported by Standard of Practice 12-12	\$500	\$1000
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	\$250	\$500

NOTE: Associations may adopt all or some of the above citations. No additional citations may be added. Fines for each citable offense, as well as any possible training requirements, must be established in advance and should be followed consistently.

Associations, at their discretion, may adopt an escalating fine schedule for repeat citations and also may impose a training requirement in addition to or as an alternative to payment of a fine for any of the citable offenses adopted. If an escalating fine schedule is adopted, it may only be used in circumstances where citations are issued by the same association.

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.