

Kent County Association of REALTORS®
CITATION POLICY

The Citation Panel of the Kent County Association of REALTORS® shall be comprised of at least five (5) individuals, appointed by the President and President-Elect, of which three (3) would comprise a Citation panel, who will review complaints to determine eligibility for the citation program and the appropriate citations. Panel members must have a minimum of two (2) years' experience on the Professional Standards Committee. The initial panel will serve the rest of the 2017 and 2018. The initial panel will consist of 3 members appointed to a term ending in 2018 and 2 members appointed to a 3-year term ending in 2019. Thereafter, the President and President-Elect will appoint the appropriate number of new panel members to serve two (2) year terms for the vacancies that were created by the expiring terms.

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.

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 includes allegations covered by the Citation Schedule, i.e., if it is a "citable offense".
 - a. If the complaint includes any alleged violations that are not included in the Citation Schedule of Fines, the complaint will be referred by the Citation Panel 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. If a violation occurs within an agent's first year as a licensee, the citation panel will cite the Broker of Record who then will become the respondent. In the event the members of the Citation Panel determine the conduct described in the complaint warrants 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/Broker of respondents' office. In the event the respondent changes firms before or after the complaint is filed but before the citation is issued, both the former and current REALTOR® Principal/Broker 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 shall be kept confidential and unavailable to the respondent. The complainant shall be advised when filing a complaint that should the respondent request a hearing their identity will no longer remain confidential.
- II. The respondent will have twenty (20) days from transmission of the citation to the Principal Broker and/or Respondent 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 business 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 business days (not including days Association is closed) 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. See attached Appendix A, copy of Section 21(f)(3).

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. Any additional complaints will be immediately sent to the Grievance Committee.
 - c. No additional citations are permitted where the cumulative fine for the citations issued would be more than \$5000.00 in any three (3) year period at the same association.
 - d. Kent County Association of REALTORS® adopts an escalating fine schedule for repeat citations. Since 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, except in aggregate data provided for the Board of Directors per #V below.
- 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.

**Kent County Association of REALTORS®
Schedule of Fines**

	Applicable Article and Standard of Practice	Fine	Ethics Training available in lieu of or 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	1st - \$250 2nd - \$500 3rd -\$1,000	Yes with 2nd Fine with No CE credit
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	1st - \$250 2nd - \$500 3rd -\$1,000	
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	1st - \$250 2nd - \$500 3rd -\$1,000	
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	1st - \$250 2nd - \$500 3rd -\$1,000	
Failing to disclose existence of dual or variable rate commission arrangements	Article 3, supported by Standard of Practice 3-2	1st - \$250 2nd - \$500 3rd -\$1,000	
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	1st - \$250 2nd - \$500 3rd -\$1,000	
Failing to disclose existence of accepted offers, including offers with unresolved contingencies, to cooperating brokers	Article 3, supported by Standard of Practice 3-4	1st - \$250 2nd - \$500 3rd -\$1,000	
Misrepresenting the availability of access to show or inspect a listed property	Article 3, supported by Standard of Practice 3-8	1st - \$250 2nd - \$500 3rd -\$1,000	
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	1st - \$250 2nd - \$500 3rd -\$1,000	

Article 4			
Failing to disclose REALTOR®'s ownership or other interest in writing to the purchaser or their representative	Article 4 (second sentence)	1st - \$250 2nd - \$500 3rd -\$1,000	
Article 5			
Providing professional services without disclosing REALTOR®'s present interest in property	Article 5 (limited to present interest, not contemplated)	1st - \$250 2nd - \$500 3rd -\$1,000	
Article 6			
Accepting any commission, rebate, or profit on expenditures without client's knowledge or consent	Article 6 (first paragraph)	1st - \$250 2nd - \$500 3rd -\$1,000	
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)	1st - \$250 2nd - \$500 3rd -\$1,000	
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	1st - \$250 2nd - \$500 3rd -\$1,000	
Article 12			
Failing to present a true picture in real estate communications and advertising	Article 12	1st - \$250 2nd - \$500 3rd -\$1,000	
Failing to disclose status as real estate professional in advertising and other representations	Article 12	1st - \$250 2nd - \$500 3rd -\$1,000	
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	1st - \$250 2nd - \$500 3rd -\$1,000	
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	1st - \$250 2nd - \$500 3rd -\$1,000	
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	1st - \$250 2nd - \$500 3rd -\$1,000	
Advertising property for sale/lease without authority of owner or listing broker	Article 12, supported by Standard of Practice 12-4	1st - \$250 2nd - \$500 3rd -\$1,000	

Failing to disclose name of firm in advertisement for listed property	Article 12, supported by Standard of Practice 12-5	1st - \$250 2nd - \$500 3rd -\$1,000	
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	1st - \$250 2nd - \$500 3rd -\$1,000	
Falsely claiming to have “sold” property	Article 12, supported by Standard of Practice 12-7	1st - \$250 2nd - \$500 3rd -\$1,000	
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	1st - \$250 2nd - \$500 3rd -\$1,000	
Failure to disclose firm name and state of licensure on REALTOR® firm website	Article 12, supported by Standard of Practice 12-9	1st - \$250 2nd - \$500 3rd -\$1,000	
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	1st - \$250 2nd - \$500 3rd -\$1,000	
Registering or using of deceptive URL or domain name	Article 12, supported by Standard of Practice 12-12	1st - \$250 2nd - \$500 3rd -\$1,000	
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	1st - \$250 2nd - \$500 3rd -\$1,000	
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	1st - \$250 2nd - \$500 3rd -\$1,000	
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	1st - \$250 2nd - \$500 3rd -\$1,000	
Placing for sale/lease sign on property without permission of seller/landlord	Article 16, supported by Standard of Practice 16-19	1st - \$250 2nd - \$500 3rd -\$1,000	

The amount of fine for any citation against any member may not exceed \$5,000 in any three (3) year period.

Kent County Association of REALTORS® Citation Policy
Appendix A

NAR Code of Ethics and Arbitration Manual – 21(f)(3)

In the event that the complaint scheduled for a hearing is from a member of the public who refuses or is unable to attend the hearing and who has not requested a continuance in writing or who has not been granted a continuance, the complaint shall be referred back to the Grievance Committee. If the Grievance Committee determines that there is sufficient information for a Hearing Panel to consider (i.e., that there is clear, strong and convincing proof), the complaint shall be amended to name the Grievance Committee as complainant and the hearing shall be continued to a new date. The respondent shall be provided with a copy of the amended complaint in such cases. (Revised 5/12)

If the Grievance Committee determines that there is insufficient information for a Hearing Panel to consider, the complaint shall be dismissed.

In the event the complaint schedule for hearing is from a REALTOR® or REALTOR-ASSOCIATE® who has not requested a continuance in writing or who has not been granted a continuance, and who refuses or is unable to attend the hearing, the complainant shall be advised that refusal to participate in the hearing, absent a satisfactory reason, may result in a charge that the complainant has violated Article 14's obligation to place all pertinent facts before an appropriate tribunal of the Board (Revised 5/12)

If the REALTOR® or REALTOR-ASSOCIATE® complainant continues to refuse a duly noticed request to appear, or if the complainant is excused from appearing for reasons deemed valid by the Hearing Panel, the hearing shall not take place, but rather the complaint shall be referred back to the Grievance Committee. If the Grievance Committee determines that there is sufficient information for a Hearing Panel to consider (i.e., that there is clear, strong, and convincing proof), the complaint shall be amended to name the Grievance Committee as complainant and the hearing shall be continued to a new date. The respondent shall be provided with a copy of the amended complaint in such cases. (Revised 11/98)