

GAR Citation Policy

The Gaston Association of REALTORS® is committed to upholding the highest principles of our association. One of the best ways to achieve this goal is to hold our members accountable by self-policing, utilizing our REALTOR® Code of Ethics as a guide.

Filing an ethics complaint can be a lengthy and time-consuming process. With a Citation Policy, respondents can elect to avoid the hearing process when a complaint is filed against them.

The Citation Policy only deal with Article 12. All other violations are handled in compliance with NAR's Code of Ethics Manual.

Article 12

REALTORS® shall be honest and truthful in their real estate communications and shall present a true picture in their advertising, marketing, and other representations. REALTORS® shall ensure that their status as real estate professionals is readily apparent in their advertising, marketing, and other representations, and that the recipients of all real estate communications are, or have been, notified that those communications are from a real estate professional. (Amended 1/08)

Citation Policy Procedure

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 adopted by the Gaston Association of REALTORS® 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

1. When a Grievance Committee receives a written ethics complaint, it will review the complaint to determine if it includes allegations that are covered by the Citation Schedule.
2. 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.
3. If the complaint includes *only* allegations of violations included in the Citation Schedule, the Grievance Committee will issue a citation and impose discipline consistent with the association's Citation Schedule. In the event the members of the Grievance Committee 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.

4. 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

1. 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.
2. The respondent will have twenty (20) days from transmission of the citation to request a full due process hearing on the complaint.
3. 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.
4. 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.
5. 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 3 days after the date of acceptance or time period to request a hearing has elapsed.
6. 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. Failure to pay the citation amount within 3 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.
7. If the respondent requests a hearing within the time specified, the complaint shall be referred for hearing.
 - A. 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.

- B. 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

1. 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.
2. 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.
3. Citations will not be considered in any publication of violations should such rules be adopted by the association.
4. 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.
5. 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.
6. 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.

GAR Citation Escalating Schedule of Fines

1st Offense - \$250

2nd Offense - \$500 & Education

3rd Offense - \$1,000 & Education

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