



The Texas Association of REALTORS® is a voluntary Association whose members agree to abide by the Code of Ethics of the National Association of REALTORS®. As a voluntary Association, we only have jurisdiction over active REALTOR® members for possible Code of Ethics violations and arbitrable issues. We cannot investigate claims of misconduct as the burden of proof is at all times upon the complainant. We also cannot affect a Texas Real Estate License as the Texas Real Estate Commission has jurisdiction over alleged violations of the Texas Real Estate licensing rules and regulations. The Texas Real Estate Commission may be contacted at 512.936.3000 to file a complaint.

We offer two separate services to resolve issues with REALTORS®: ethics and arbitration. An ethics complaint is the procedure by which a complainant may seek disciplinary action for a violation of the Code of Ethics. Arbitration is the procedure by which a complainant may file a monetary dispute (generally commission disputes).

The first step we suggest if you're having an issue with a REALTOR® is to contact the broker to see if you can resolve your issue. If you are unsatisfied with the results of that call, or not willing to try this step, you may file an ethics complaint or arbitration request with us.

We also offer an Ombudsman program that could possibly assist you with your ethical concerns or monetary dispute. The Ombudsman program is basically informal telephone mediation and an attempt to resolve your concerns through communication. Ombudsmen do not determine whether ethics violations have occurred or who is owed money; rather they anticipate, identify, and attempt to resolve misunderstandings and disagreements before matters ripen into possible charges of unethical conduct or arbitration (generally commission) disputes. If you wish to take advantage of this free service, please call us at 800/873-9155.

Please read "Before you file a complaint" that is enclosed as it has useful information.

If you wish to file an Ethics Complaint (seek disciplinary action), you must submit the following:

- the completed ethics complaint form (E-1) citing the specific article(s) numbers of the Code of Ethics (enclosed) that you believe the REALTOR® has violated. Be sure to sign and date it; and
- a brief written summary of the facts with a timeline of events; and
- a copy of documentation that supports the allegations.

If you wish to file a Citation Eligible Complaint, you must submit the same as above and:

- Cite **only** a specific Article(s) of the Code of Ethics that is eligible under the Citation Policy (enclosed);
- If filing anonymously, please put "**Anonymous**" as the complainant's name or leave blank and do not sign the ethics complaint form. Also it is your responsibility to make sure that any information in the complaint or documents submitted anonymously, that could identify you as the complainant are redacted/blacked out.

If you wish to file an Arbitration Request (seek a monetary award), you must submit the following:

- the completed Arbitration Request form (A-1 for REALTOR® members or A-2 for non-members), be sure to sign and date the form; and
- a brief written summary of the facts with a timeline of events; and
- copies of documentation that support the dispute; and
- a non-refundable arbitration filing fee made payable to the Texas Association of REALTORS® of **\$400 (effective 1/1/2016)**.

If you are a REALTOR®, the arbitration request must be filed by a REALTOR® Principal* or if filed in the name of the firm, the request must be signed by at least one of the REALTOR® Principals of the firm as a complainant. Your request must state the name of the REALTOR® Principal and/ or firm (or both) as Respondents that you have a claim against. Non-principal REALTORS® (agents) with a financial interest in the outcome of the proceedings should be named on line #10 of the A-1 form.

Please note definition: *“REALTOR® Principal includes licensed or certified individuals who are sole proprietors, partners in a partnership, officers or majority shareholders of a corporation, or office managers (including branch office managers) acting on behalf of the principals of a real estate firm who subscribe to the Code of Ethics as a condition of membership in a local board, state association and the national association.”

It is possible to file an arbitration request and an ethics complaint with regard to the same circumstances. If you decide to file both an arbitration request and an ethics complaint, the arbitration request will be considered first. Also, if you submit both an arbitration request and an ethics complaint, you must attach any and all supporting documentation to both of the forms, not just one. Separate tribunals consider ethics complaints and arbitration requests. Both an ethics complaint and an arbitration request ***must be filed within 180 days*** after the facts constituting the matter could have been known in the exercise of reasonable diligence. Note that the filing of an ethics complaint or arbitration request does not stop the clock for the filing of the other procedure. Therefore, it is recommended that if you are pursuing both an ethics complaint and arbitration request that you submit both to us at the same time.

Once we receive your complaint, it will be forwarded to a grievance tribunal for a preliminary review. The tribunal may decide any of the following:

- the charges do not concern a possible violation of the Code of Ethics, is not an arbitrable issue or was not filed in a timely manner; therefore, the case will be dismissed;
- the charges do concern a possible violation of the Code of Ethics or is an arbitrable issue and the case will be forwarded to the State’s Professional Standards Committee for a hearing; or
- the charges qualify under the Citation Program; whereby, a citation will be issued to the REALTOR® who can pay a fine or request a full hearing; or,
- more information is needed before a determination can be made.

If this matter is determined appropriate for a hearing, you will be responsible for presenting your case to the hearing panel. This means that you will be responsible for presenting testimony, documentation, and any witnesses necessary to support your case. Note that an ethics complaint must be proven by clear, strong, and convincing evidence, while an arbitration request must be proven by a preponderance of the evidence.

If the ethics complaint you file with the Texas Association of REALTORS® is involved in civil or criminal litigation or proceedings before the Texas Real Estate Commission or any other state or federal regulatory or administrative agency, it is our procedure to hold the evaluation of your ethics complaint in abeyance until such proceedings have been resolved. Therefore, it is your responsibility to inform us of any pending litigation and the final disposition of the litigation.

Should you have any questions, please do not hesitate to contact us at 800/873-9155.

Before you file an ethics complaint

Background

Associations of REALTORS® are responsible for enforcing the REALTORS® Code of Ethics. The Code of Ethics imposes duties above and in addition to those imposed by law or regulation which apply only to real estate professionals who choose to become REALTORS®.

Many difficulties between real estate professionals (whether REALTORS® or not) result from misunderstandings, miscommunication, or lack of adequate communication. If you have a problem with a real estate professional, you may want to speak with them or with a principal broker in the firm. Open, constructive discussion often resolves questions or differences, eliminating the need for further action.

If, after discussing matters with your real estate professional or a principal broker in that firm, you are still not satisfied, you may want to contact the association of REALTORS®. In addition to processing formal ethics complaints against its REALTOR® members, many boards and associations offer informal dispute resolving processes (e.g., ombudsman, mediation, etc.). Often parties are more satisfied with informal dispute resolution processes, as they are quicker, less costly, and often help repair damaged relationships. (Revised 11/15)

If, after taking these steps, you still feel you have a grievance, you may want to consider filing an ethics complaint. You will want to keep in mind that....

- Only REALTORS® are subject to the Code of Ethics of the National Association of REALTORS®.
- If the real estate professional (or their broker) you are dealing with is not a REALTOR®, your recourse may be the Texas Real Estate Commission (TREC) the state real estate licensing entity at 512.936.3000 or through the Texas courts.
- Associations of REALTORS® determine whether the Code of Ethics has been violated, not whether the law or real estate regulations have been broken. Those decisions can only be made by TREC or the courts.
- Association of REALTORS® can discipline REALTORS® for violating the Code of Ethics. Typical forms of discipline include attendance at courses and seminars designed to increase REALTORS® understanding of the ethical duties or other responsibilities of real estate professionals. Additional examples of authorized discipline are a letter of reprimand and appropriate fines. For serious or repeated violations, a REALTORS® membership can be suspended or terminated. Associations of REALTORS® cannot require REALTORS® to pay money to parties filing ethics complaints; cannot award “punitive damages” for violations of the Code of Ethics; and cannot suspend or revoke a real estate professional’s license.
- The primary emphasis of discipline for ethical lapses is educational; to create a heightened awareness of and appreciation for the duties the Code imposes. At the same time, more severe forms of discipline, including fines and suspension and termination of membership may be imposed for serious or repeated violations.

Filing an ethics complaint

The Association of REALTORS® can provide you with information on the procedures for filing an ethics complaint. Here are some good general principles to keep in mind.

- Ethics complaints must be filed with the association of REALTORS® within one hundred eighty (180) days from the time a complainant knew (or reasonably should have known) that potentially unethical conduct took place or within one hundred eighty (180) days after the conclusion of the transaction or event, whichever is later (unless the Boards informal dispute resolution processes (ombudsman) are invoked, in which case the filing deadline will momentarily be suspended).
- The REALTORS® Code of Ethics consists of seventeen (17) Articles. The duties imposed by many of the Articles are explained and illustrated through accompanying Standards of Practice or case interpretations.
- Your complaint should include a narrative description of the circumstances that lead you to believe the Code of Ethics may have been violated.
- Your complaint must cite one or more of the Articles of the Code of Ethics which may have been violated. Hearing panels decide whether the Articles expressly cited in complaints were violated – not whether Standards of Practice or case interpretations were violated.
- A member of the Professional Standards Committee may be appointed to provide assistance to a member of the public in preparing a complaint in proper form and with proper content.

Before the hearing

- Your complaint will be reviewed by a tribunal of the Professional Standards Committee. Their job is to review complaints to determine if the allegations made, if taken as true, might support a violation of the Article(s) cited in the complaint.
- If the Grievance Committee dismissed your complaint, it does not mean they don't believe you. Rather, it means that they do not feel that your allegations would support a hearing panel's conclusion that the Article(s) cited in your complaint had been violated. You may want to review your complaint to see if you cited an Article appropriate to your allegations.
- If the Grievance Committee forwards your complaint for hearing, that does not mean they have decided the Code of Ethics has been violated. Rather, it means they feel that if what you alleged in your complaint is found to have occurred by the hearing panel. That panel may have reason to find that a violation of the Code of Ethics occurred.
- If your complaint is dismissed as not requiring a hearing, you can appeal that dismissal to the Association within a specific time frame.

Preparing for the hearing

- Familiarize yourself with the hearing procedures that will be followed. In particular you will want to know about challenging potential panel members, your right to counsel, calling witnesses, and the burdens and standards of proof that apply.
- Complainants have the ultimate responsibility ("burden") of proving that the Code of Ethics has been violated. The standard of proof that must be met is "clear, strong and convincing" defined as "...that measure or degree of proof which will produce a firm belief or conviction as to the allegations sought to be established." Consistent with American jurisprudence, respondents are considered innocent unless proven to have violated the Code of Ethics.
- Be sure that your witnesses and counsel will be available on the day of the hearing. Continuances are a privilege – not a right.
- Be sure you have all the documents and other evidence you need to present your case.
- Organize your presentation in advance. Know what you are going to say and be prepared to demonstrate what happened and **how you believe the Code of Ethics was violated.**

At the hearing

- Appreciate that panel members are unpaid volunteers giving their time as an act of public service. Their objective is to be fair, unbiased, and impartial; to determine, based on the evidence and testimony presented to them, what actually occurred; and then to determine whether the facts as they find them support a finding that the Article(s) charged have been violated.
- Hearing panels cannot conclude that an Article of the Code has been violated unless that Article(s) is specifically cited in the complaint.
- Keep your presentation concise, factual, and to the point. Your task is to demonstrate what happened (or what should have happened but didn't), and how the facts support a violation of the Article(s) charged in the complaint.
- Hearing panels base their decisions on the evidence and testimony presented during the hearing. If you have information relevant to the issue(s) under consideration, be sure to bring it up during your presentation.
- Recognize that different people can witness the same event and have differing recollections about what they saw. The fact that a respondent or their witness recalls things differently doesn't mean they aren't telling the truth as they recall events. It is up to the hearing panel, in the findings of fact that will be part of their decision, to determine what actually happened.
- The hearing panel will pay careful attention to what you say and how you say it. An implausible account doesn't become more believable through repetition or, through volume.
- You are involved in an adversarial process that is, to some degree, unavoidably confrontational. Many violations of the Code of Ethics result from misunderstanding or lack of awareness of ethical duties by otherwise well meaning, responsible real estate professionals. An ethics complaint has potential to be viewed as an attack on a respondent's integrity and professionalism. For the enforcement process to function properly, it is imperative for all parties, witnesses and panel members to maintain appropriate decorum.

After the hearing

- When you receive the hearing panel's decision, review it carefully.
- Findings of fact are the conclusions of impartial panel members based on their reasoned assessment of all of the evidence and testimony presented during the hearing. Findings of fact are not appealable.
- If you believe the hearing process was seriously flawed to the extent you were denied a full and fair hearing; there are appellant procedures that can be invoked. The fact that a hearing panel found no violation is not appealable.
- Refer to the procedures used by the Association of REALTORS® for detailed information on the basis and time limits for appealing decisions.
- Appeals brought by ethics respondents must be based on (a) a perceived misapplication or misinterpretation of one or more Articles of the Code of Ethics, (b) a procedural deficiency or failure of due process, or (c) the nature or gravity of the discipline proposed by the hearing panel.
- Appeals brought by ethics complainants are limited to procedural deficiencies or failures of due process that may have prevented a full and fair hearing.

Conclusion

- Many ethic complaints result from misunderstandings or a failure in communication. Before filing an ethics complaint, make reasonable efforts to communicate with your real estate professional or a principle broker in the firm. If these efforts are not fruitful, the Association of REALTORS® can share options for dispute resolution, including the procedures and forms necessary to file an ethics complaint. (Revised 11/15)

To the Grievance Tribunal of the Texas Association of REALTORS®: Date _____, 2016

Complainant(s): ___ Member ___ Non-Member

Respondent(s)

Complainant(s) charge(s):

An alleged violation of Article(s) _____ (do not cite Standards of Practice) of the Code of Ethics or other membership duty as set forth in the Bylaws of the Association in N/A (Article, Section) and alleges that the above charge(s) (is/are) supported by the attached statement, which is signed and dated by the complainant(s) and which explains when the alleged violation(s) occurred and, if a different date, when the complainant(s) first knew about the alleged violations.

Address of property involved: _____

This complaint is true and correct to the best knowledge and belief of the undersigned and is filed within 180 days after the facts constituting the matter complained of could have been known in the exercise of reasonable diligence or within 180 days after the conclusion of the transaction, whichever is later.

Date(s) alleged violation(s) took place: _____

Date(s) you became aware of the facts on which the alleged violation(s)(is/are) based: _____

I (we) declare that to the best of my (our) knowledge and belief, my (our) allegations in this complaint are true.

Check one or more. Are the circumstances giving rise to this ethics complaint involved in: ___civil litigation, ___criminal litigation, ___filed with the Texas Real Estate Commission (TREC), ___filed with any other state or federal regulatory or administrative agency, if so, state the agency_____, or ___none of the above.

I understand that should the grievance tribunal dismiss this ethics complaint in part or in total, that I have twenty (20) days from transmittal of the dismissal notice to appeal the dismissal.

You may file an ethics complaint in any jurisdiction where a REALTOR® is a member or MLS participant. Note that the REALTORS® Code of Ethics, Standard of Practice 14-1 provides, in relevant part, "REALTORS® shall not be subject to disciplinary proceeding in more than one Board of REALTORS®...with respect to alleged violations of the Code of Ethics relating to the same transaction or event."

Have you (or intend to) file a similar or related complaint with another association of REALTORS®? ___Yes ___No
If so, when was the complaint filed? _____(date) Name of other Association(s): _____

In the event, the complainant (non-member) lives out of state:

If this complaint is forwarded to a hearing panel, will you be willing and able to attend the hearing? ___yes___no

Do you prefer communication regarding this complaint to be sent to you via ___mail or ___email?

Complainant 1: (Type/Print)

(Signature)

Address: _____

(Phone)

(Email)

Complainant 2: (Type/Print)

(Signature)

Address: _____

(Phone)

(Email)

General Instructions and Information for Filing and Replying to Ethics Complaints

1. Ethics complaints or reply must be neatly written or typed and submitted with the original and 8 additional copies. **If you are a member of the public**, you need only submit the original. Please print double-sided if possible.
2. The Professional Standards Administrator will forward the 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, the grievance tribunal will direct the Professional Standards Administrator to schedule a hearing before a hearing panel. If the grievance tribunal finds the complaint is lacking in form or does not, as alleged, indicate a possible violation of the Code of Ethics, the grievance tribunal will direct the Professional Standards Administrator to return the complaint to you with information regarding the procedures by which you may appeal the grievance tribunal's decision.
3. If the grievance tribunal forwards the complaint to a hearing, the respondent(s) may file a written reply within fifteen (15) days from the date that the request for response was transmitted. A copy of any reply will be sent to the complainant(s) and the hearing panel.
4. The Professional Standards Administrator 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.
5. The Professional Standards Administrator will provide the parties with a list of potential hearing panel members prior to the hearing. Within ten (10) days after the list is transmitted to the parties, either party may file 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.
6. The parties may be accompanied by legal counsel or a REALTOR® acting as counsel, or both. You must send written notice of your intention to be accompanied by counsel to all other parties and to the Secretary at least fifteen (15) days before the hearing. Failure to provide timely notice may result in a continuance of the hearing. It is the responsibility of the parties to keep their counsel informed of all proceedings and documentation.
7. It is the responsibility of each party to arrange for witnesses to be present at the hearing. You must send written notice of your intention to have witnesses to all other parties and to the Secretary 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. The parties appearing at the hearing may be called as witnesses without advance notice.
8. Parties are strongly encouraged to provide any and all documents and evidence they intend to introduce during the hearing to the other party (ies) and to the association prior to the day of the hearing. Providing documents and evidence in advance can expedite the hearing process and prevent costly unnecessary continuances. (Adopted 05/15)
9. 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.
10. An ethics hearing may not proceed in the absence of a complainant, but may proceed in the absence of a respondent.

General 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 (E-1) citing **only Article(s) 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 and must also include: Full name of respondent; date of incident and supporting documentation.
2. If an anonymous complaint is filed, the respondent will be notified, provided a copy of the complaint and asked to submit a reply within fifteen (15) days from receipt of notification. The TAR Staff will forward the citation complaint and reply (if any) to a Grievance Tribunal to determine whether the conduct is prohibited by the Citation Schedule as adopted by TAR. If so, they will consider whether the complaint supports a potential violation of the Code of Ethics with clear, strong and convincing evidential documentation. If the complaint meets these standards, 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, was not timely filed or is 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.
5. If the Grievance Tribunal issues a citation, the respondent will have fifteen (15) days from transmission of the citation to elect to accept the citation and abide by the sanctions as outlined in the citation OR to request a hearing.
6. 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. A member of the Grievance Tribunal will become the Complainant for the hearing if the complaint was filed anonymously.
5. If the complaint is not filed anonymously and the respondent requests a hearing, they will be given the opportunity to reply to the allegations within fifteen (15) of transmittal of the notice to respond. The reply must be neatly written or typewritten and submitted to the Texas Association of REALTORS®. A copy of any reply will be sent to the complainant and provided to 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 transmitted 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:
 - e. is related by blood or marriage to a party or a REALTOR® acting as counsel;
 - f. is an employer, partner, or employee, or in any way associated in business with a party or a REALTOR® acting as counsel;
 - g. is a party to the hearing, or a party or a witness in another pending case involving complainant or respondent; or
 - h. 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, or both. The parties must send written 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 written 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. Parties who are present at the hearing may be called as witnesses without advance notice.
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.

CITATION POLICY FOR CODE OF ETHICS VIOLATIONS

An ethics complaint may be eligible for the citation program if there is an alleged violation, identified under the Citation Schedule for Articles 3, 4, 5, 6, 12, 14 and/or 16, provided the complaint does not also include articles which are not included in the citation program (i.e. Articles 1, 2, 7, 8, 9, 10, 11, 13, 15 or 17).

Sanctions under the Citation Program are as follows:

(The offense sanctions apply when the same respondent (respondent) is named in the complaint not necessarily the same Article.)

First Offense – Fine of \$300.00* to be paid within 60 days of citation date, and completion of the NAR online Quadrennial Ethics Training course within 60 days of the citation date.

Second Offense – Fine of \$600.00* to be paid within 60 days of citation date.

Third Offense – Fine of \$900.00* to be paid within 60 days of citation date.

***The fine will be same whether one article has been cited or whether several Articles (under the citation program) have been cited on the complaint (i.e., there will be no increase in fine because more than one Article has been cited).**

A respondent will be eligible to receive only three (3) citations within any 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. The citations are to remain in the respondent's file indefinitely and will be available to the hearing panel at any future ethics hearings as well as in the Citation Program for use in progressive sanctions guidelines.

A respondent will be given sixty (60) days from receipt of citation notice to correct the violation.

If additional complaints are 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.

If a citation is issued, an explanation of the violation will be included in the letter to the respondent.

After the grievance tribunal has reviewed a complaint and determined there is a possible violation of the Code of Ethics and that the complaint meets the requirements of the citation program, the citation may be sent to the respondent, with a copy to the respondent broker, if applicable.

The respondent will have fifteen (15) days from receipt of the citation to elect to accept the citation and timely abide by the sanctions outlined in the citation. If the respondent does not accept the citation, the complaint will go to hearing in accordance with the procedures as outlined in NAR's Code of Ethics and Arbitration Manual.

If the respondent elects to accept the citation but fails to abide by the sanctions, the respondent's local association shall follow its bylaw provisions for enforcement.

Anonymous Complaints

An anonymous complaint must include the same information as required with an ethics complaint and the following information in order to be considered by a Grievance Tribunal:

- a. Full name of Respondent
- b. Date of incident
- c. Supporting documentation (clear, strong and convincing evidence)

If one of these elements is not included, the staff has the authority not to forward to the Grievance Tribunal for review.

Anonymous complaints may also be considered under the citation program for alleged violations of Articles 3, 4, 5, 6, 12, 14 and/or 16 providing the complainant has provided sufficient documentation giving evidence of the alleged violation. Anonymous complaints are those where the complainant does not provide his identity and no attempt by staff will be made to secure the identity. It is the complainants responsibility to ensure that any information in the complaint or documents submitted anonymously that could identify themselves as the complainant are redacted/blacked out.

The same procedures as outlined above are followed for the anonymous complaints with the exception that the respondent will provide a reply (within fifteen (15) days from receipt) before the citation complaint goes to the grievance tribunal and the grievance tribunal will make the determination as to whether there is sufficient evidential documentation to support the alleged violation in the event the respondent does not accept the citation. If the grievance tribunal determines there is sufficient evidential documentation, then the grievance tribunal will become the complainant in which case a member of that tribunal would present the case at the hearing. If the grievance tribunal determines there is insufficient evidential documentation, the tribunal shall dismiss the anonymous complaint. The staff has the authority to take additional steps to gather more information (in instances of Facebook/Web site issues) for the Grievance Tribunal to make an informed decision. Any additional information gathered by staff will be provided to the Grievance Tribunal and the respondent(s).

Mediation will not be offered to the parties in an anonymous citation complaint.

Texas Citation System for Code of Ethics Violations

Complaint alleging violation of the Code of Ethics is received by TAR and channeled through a Grievance Tribunal:

Decision whether conduct is subject to citation is made by the Grievance Tribunal:

Consider whether the conduct is prohibited by the Citation Schedule that has been adopted by TAR as a citable offense.

If so, consider whether the complaint supports a potential violation of the Code of Ethics with clear, strong and convincing evidential documentation.

If the respondent has been found in violation of an MLS rule, for the same event and/or conduct, then the action is not eligible for further citation. It is the responsibility of the respondent to notify and show proof of any prior violation of the MLS rules for the same event and/or conduct.

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.

If a citable offense:

Citation letter is sent to respondent, with copy to Designated REALTOR®, if applicable.

Citations can be used in consideration for determining discipline at future ethics hearings.

If not eligible for a citation, but potential violation of the Code of Ethics is alleged, the complaint will be processed in accordance with the *National Code of Ethics an Arbitration Manual*.

If a citation is issued and upon receipt of the citation, the respondent has fifteen (15) days to elect one of the following options:

Pay the fine and complete required education, if applicable, in accordance with the sanctions as defined in the citation letter and correct the violation within sixty (60) days from receipt of citation notice.

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*.

Respondent will be afforded a full due process hearing under the procedures approved by NAR for a disciplinary hearing.

The hearing panel will have the following options:

Dismiss the citation complaint;

Uphold the citation and corresponding fine and/or education;

Amend the complaint by adding additional articles, as supported by the evidence;

Increase or decrease the discipline as allowed in the *NAR Code of Ethics and Arbitration Manual*.

Any respondent found in violation of the Code of Ethics at a hearing will be assessed a \$500 administrative processing fee in addition to any other sanctions as determined by the Hearing Panel.

The results of a hearing can be appealed to the TAR Professional Standards Committee, as set forth in the Manual.

Failure to respond to the citation within fifteen (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.

If the complaint is not anonymous notification of the Grievance Tribunal's action will be given to the complainant.

Nature of Discipline that may be imposed for a violation of the Code of Ethics at Hearing

Possible recommendations for discipline in a Professional Standards Ethics Hearing (disciplinary action may consist of one or more of the following):

- Letter of warning with copy placed in Member's file. (hearing panel can determine length of time it remains in file)
- Letter of reprimand with copy placed in Member's file. (hearing panel can determine length of time it remains in file)
- Requirement that Member attends the ethics portion of the board indoctrination course or other appropriate courses or seminars specified by the hearing panel which respondent could reasonable attend, taking into consideration cost, location and duration.
- Appropriate and reasonable fine not to exceed \$15,000.
- Membership suspended for a stated period not less than 30 days or more than 1 year with automatic reinstatement of membership in good standing at the end of the specified period of time. The 30 day minimum and 1 year maximum do not apply where suspension is imposed for a remediable violation of a membership duty (e.g., failure to pay dues or fees or failure to complete educational requirements). The directors may order suspension unconditionally, or they may, at their discretion, give the disciplined member the option of paying to the board, within such time as the directors shall designate, an assessment in an amount fixed by the directors, which may not exceed \$15,000 and which can be utilized only once in any 3 year period, in lieu of accepting suspension. But, if the conduct for which suspension is ordered consists of failure to submit a dispute to arbitration, the directors may not permit the disciplined member to avoid suspension without submitting to the arbitration in addition to paying the assessment, unless in the meanwhile the dispute has been submitted to a court of law without any objection by any party that it should be arbitrated. *\$15,000 is the maximum fine that may be assessed regardless of the number of Articles of the Code of Ethics that a member is determined to have violated in any given hearing. It is noted that a "reasonable and appropriate" fine may vary from \$1 to \$15,000 and should relate to the gravity of the offense and objective of the proposed sanction.*
- Expulsion of membership with no reinstatement privilege for a specified period of one to three years, with reinstatement of membership to be by application only after the specified period of expulsion and based on the merits of the application at the time received. *(decision should be written clearly articulating all intended consequences, including denial of MLS participatory or access privileges)*
- Suspension or termination of MLS rights and privileges may also be utilized. Suspension of MLS services may be no less than 30 days nor more than 1 year; termination of MLS services shall be for a stated period of 1 to 3 years.
- REALTORS® who are not members of a board from which they purchase the multiple listing service and their users and subscribers remain obligated under the Code of Ethics on the same terms and conditions as REALTOR® members of that board. Discipline that may be imposed may be the same as but shall not exceed the discipline that may be imposed on that board's members. Boards entering into regional or reciprocal MLS agreements are encouraged to include provisions requiring signatory boards to respect, to the extent feasible, decisions rendered by other boards involving suspension or expulsion from membership or from MLS.
- Members may also be required to cease or refrain from continued conduct deemed to be in violation of the Code, or to take affirmative steps to ensure compliance with the Code, within a time period to be determined by the hearing panel. Where discipline is imposed pursuant to this subsection, the decision should also include additional discipline (e.g. suspension or termination of membership) that will be imposed for failure to comply by the date specified, and to continue to comply for a specified period not to exceed three (3) years from the date of required compliance. (Adopted 5/14)

In addition to imposing discipline, the Hearing Panel can also recommend to the Board of Directors that the disciplined member be put on probation. Probation is not a form of discipline. When a member is put on probation the discipline recommended by the Hearing Panel is held in abeyance for a stipulated period of time not longer than one (1) year. Any subsequent finding of a violation of the Code of Ethics during the probationary period may, at the discretion of the Board of Directors, result in the imposition of the suspended discipline. Absent any subsequent findings of a violation during the probationary period, both the probationary status and the suspended discipline shall be considered fulfilled, and the member's record shall reflect the fulfillment. The fact that one or more forms of discipline will be held in abeyance during the probationary period does not bar imposition of other forms of discipline which will not be held in abeyance. (Revised 5/14)

An Administrative fee of \$500 is required to be paid to the Texas Association of REALTORS® by each Respondent(s) found in violation of the Code (over and above any other fines or discipline)