

## DISCIPLINARY COMPLAINT PROCEDURES

1. Any person, whether or not a member, participant or subscriber, may file a complaint against a member alleging a violation of the current NAR Code of Ethics and Standards of Practice. The Association can only accept complaints that fall within the authority and jurisdiction of the Association.
2. The Complaint must be in writing, signed by the complainant and state the facts upon which the complaint is based. A complaint meeting all filing requirements must be legible and submitted on a Santa Clara County Association of REALTORS® (SCCAOR) Disciplinary Complaint Form (D-1) and filed within one hundred and eighty (180) calendar days after the facts constituting the wrongful conduct could have been known in the exercise of reasonable diligence. The disciplinary complaint should allege specific Article(s) from the current NAR Code of Ethics and Standards of Practice and must be accompanied by an attached statement, marked Exhibit 1, which states the facts supporting the allegations. If the alleged specific Article(s) are not identified, the Grievance Committee will assign the alleged Articles on your behalf. Copies of contracts, agreements and other documents must be included. SCCAOR does not independently investigate complaints.
3. Complaints are referred to the Grievance Committee. The committee may: 1) designate the complaint for a Citation; 2) dismiss the complaint; 3) amend the complaint by deleting or adding Article(s) of the current NAR Code of Ethics and Standards of Practice or 4) refer the complaint to a Professional Standards disciplinary hearing as presented. The Grievance Committee initially considers allegations of unethical conduct. The Grievance Committee does not determine guilt or innocence. In the event the Grievance Committee dismisses the entire complaint or deletes Article(s); the Complainant may request a Directors review of the Grievance Committee's decision. When the Directors review the Grievance Committee's decision, the Complainant does not have the right to be present at the Directors Review.
4. Code of Ethics violations under the Association Citation Policy shall only be from those Article(s) authorized by the SCCAOR Board of Directors. Any REALTOR® receiving a Citation may either 1) complete specified training (at the option of the Association); 2) pay the amount specified on the Citation; or 3) request a full hearing to contest the Citation.

Citation violation Article(s) authorized by the Association Board of Directors are listed below:

**Article 3**

1. Failure to disclose the existence of dual or variable rate commission

**Article 12**

1. Failure to disclose professional status in advertising and other representations.
2. Failure to present a true picture in advertising and other representations to the public, including internet content, URLs, and domain names.
3. Failure to disclose the name of the firm in advertisement for listed property in a reasonable and apparent manner.
4. Falsely claiming to have "sold" property.

**The Amount of the fine for a citable offense is as follows:**

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|-------------------|----------|
| 1. First offense  | \$ 250   |
| 2. Second offense | \$ 500   |
| 3. Third offense  | \$ 1,000 |
5. If the complaint is referred to a disciplinary hearing, the Respondent(s) will be mailed a copy of the Complaint. A response is due within fifteen (15) calendar days of the date the complaint is mailed. Complainant(s) will be mailed a copy of the response. Complainant(s) and Respondent(s) are given a list of potential panelists and may challenge the qualification of any member for cause. Panel members may be excused for any of the following reasons: a) is related by blood or marriage (to the fourth degree) to either Complainant(s) or Respondent(s); b) is an employer, partner, employee or in any way associated in business with either party; or c) is a party; or d) knows of any reason which may prevent them from rendering an impartial decision.
  6. Parties will be notified in writing at least twenty-one (21) calendar days in advance of the time, date and place of the hearing. The hearing will be tape-recorded and a copy will be available to any party, at cost for the purpose of a Director Review. Parties may be represented by legal counsel and must give written notice of attendance at least fifteen (15) calendar days prior to the hearing. It is the responsibility of the parties to have their documents and witnesses with them on the day of the hearing.

7. The hearing will be conducted in the English language. Interpreters are allowed to assist any party at the hearing. Arrangements and cost for having an interpreter is the responsibility of the party requiring the service. The California Judicial Council maintains a list of certified and registered interpreters from which courts can make their selection. The Association uses this master list of certified and registered interpreters to find qualified, neutral interpreters and translators who would be able to assist parties and witnesses in professional standards hearings.
8. The hearing panelists do not have the authority to order payment of moneys, return of deposits, payment of damages, enforcement or cancellation of contracts, suspension or revocation of real estate licenses. The California Bureau of Real Estate, Complaint Intake Unit, 320 W. 4<sup>th</sup> St., Ste. 350, Los Angeles, CA 90013-1105, telephone: 510 622-2552 is the licensing agency for the State of California. Violations of real estate law should be referred to this agency.
9. Disciplinary recommendations are limited to: 1) letter of warning; 2) letter of reprimand; 3) fine commensurate with the gravity of the determined violation not to exceed \$15,000 payable to the Santa Clara County Association of REALTORS®; 4) required training course or other educational course; 5) requirement for the respondent to “cease or refrain” from continued conduct deemed to be in violation of the current NAR Code of Ethics and Standards of Practice, within a time period to be determined by the hearing panel; 6) suspension or expulsion of Association membership for a stated period of time. More than one type of discipline is permitted, per party, per hearing. **There is an administrative fee of \$500 for parties found in violation of the NAR Code of Ethics to be paid within 15 calendar days.**
10. All discipline will be published on the C.A.R. website except warnings, desist and refrain order, or education that does not include a fine, letter of reprimand, suspension or expulsion. If the respondent is found in violation of the current NAR Code of Ethics and Standards of Practice, C.A.R. shall publish the following information on their website 1) name and photo of the member found in violation (but not the name of the firm the member is affiliated with; 2) if the responsible broker is also found in violation, the name of the responsible broker will also be published; 3) if a member’s name is similar to another member’s name, the member’s real estate license number and/or office address may also be included; 4) the Article(s) violated; 5) a brief factual synopsis of the matter with names redacted except the respondent; 6) discipline imposed; 7) the effective date and duration of the discipline. The information will be removed from the C.A.R. website three (3) years after initial publication.

**The above procedures are extracts of the 2022 California Code of Ethics and Arbitration Manual. Please refer to this manual for complete and detailed procedures.**