

Anonymous Complaints

A Grievance Subcommittee has been created in response to the results of a survey conducted by the California Association of REALTORS® (CAR). The survey found that, while over 60% of California REALTORS® have experienced a negative interaction with another REALTOR® during a transaction, only 4% of the responding REALTORS® filed an ethics complaint with the Grievance Committee. When REALTORS® were asked why they had not filed a complaint regarding this unethical behavior their answers were varied. Many REALTORS® responded that they were concerned about being retaliated against if they did file the complaint. Others responded that they were unable to allow for the time it took to file a complaint and follow it through the required procedures.

Based upon these troubling results, CAR felt it was time to develop a complaint procedure which would encourage the filing of valid complaints while limiting the involvement of the reporting party. The idea is that if the reporting party is ensured that their involvement will be minimal, the likelihood that unreported complaints will get filed is greater. Most important to the REALTOR® Associations and their members is the ability to ensure a higher standard of practice among all members.

These findings led to the creation of the Grievance Subcommittee whose sole purpose is to evaluate and investigate anonymous complaints. This notice is intended to explain how to file an anonymous complaint and the initial procedures that will be followed by the Grievance Subcommittee upon receipt of the anonymous complaint. The Grievance Subcommittee has several additional options available to it regarding responding to a report, which the Grievance Committee does not. Those options make the process more flexible and may decrease the delays that have become part of the process of handling complaints filed through the Grievance Committee.

Tulare County Association of REALTORS® Anonymous Complaint Subcommittee will only accept anonymous complaints regarding Article 12 of NAR's Code of Ethics pertaining to signage and advertising, and will take effect Friday, July 1st. Please note that this process is new. It will take evaluation and periodic modification to get to the desired results.

How to File an Anonymous Complaint:

The reporting party can download a PDF File of the "Anonymous Complaint Form" from our website www.tcmls.org. Once completed, it can be sent to TCAOR via mail or fax. The reporting party will not be asked to provide their name or any other personal information. The reporting party will be asked to provide as much information as they have available regarding the allegations, including such matters as:

- 1) Date the reporting party learned of the alleged misconduct;
- 2) Details of circumstances which created the complaint; and
- 3) If there are any sources of evidence which the Grievance Subcommittee could use to substantiate the reporting party's allegations.

Processing the Anonymous Complaint:

After the anonymous form is received by the Grievance Subcommittee, a panel, usually consisting of three members, will be appointed to review the report. The panel is chosen based upon a set of pre-established criteria to avoid bias and ensure due process. A member of the Grievance Subcommittee will not be allowed to participate on the panel reviewing an anonymous report if any of the following factors exist:

- (A) A panel member is connected with the same firm, business, partnership or corporation of another panel member or a party;
- (B) A panel member is related by blood or marriage to any party;
- (C) A panel member is an employer, partner, employee, or in any way associated in business with any party;
or
- (D) A panel member is a potential party to the hearing.

Once the panel has been chosen, it will review the information received from the reporting party. It is at this stage that some major differences between the Grievance Subcommittee and the Grievance Committee are most obvious. The panel weighs several factors when it reviews anonymous reports. One of the most important of these is whether or not the facts reported can be proven with the information submitted and/or obtained during the investigation conducted by the panel. Unlike traditional ethics complaints, the reporting party cannot be counted on to provide testimonial evidence so the panel must consider the likelihood of being able to prove the allegations(s) without that link. It is expected that most of the anonymous complaints will be filed regarding actions that the panelists can “see, touch or feel.” This basically means that the panel must be able to prove the allegations with tangible evidence. For example, if a reporting party provides a link to an offending webpage within the questionnaire form, the panelists can simply review the webpage and print the evidence that an ethics violation may, in fact, exist. If the panelists find that they need information above and beyond that which the reporting party provided they can conduct their own investigation.

Another innovative power the Grievance Subcommittee possesses is the ability to contact the party that was reported (a.k.a. the Respondent) prior to filing a formal complaint and starting a hearing proceeding. The Respondent can take several courses of action when he or she is contacted by the panel. The Respondent can fix the violation to the panel’s satisfaction or the Respondent can refuse to take the action requested by the panel. If the Respondent refuses to remedy the violation the panel may, if it feels it has adequate evidence to proceed, file an ethics complaint. At this point, one of the panelists will be appointed as the complainant and will present the complaint at the Professional Standards hearing.

Expected Outcome of the Anonymous Complaint Process:

The Association is going to organize all of the information received by the Grievance Subcommittee including the final outcomes. This data will allow the Association to see where more education would benefit the members. In the end, this will allow the members to better serve their clients. An expected outcome of this new program is the reestablishment of good rapport among REALTORS® based upon higher standards of practice. Above and beyond the conveniences the Anonymous Complaint creates for the reporting party, it also provides another self-policing process so that the Association can emphasize professionalism. Most importantly, this program will allow members to feel more secure in their dealings with other REALTORS® because more violations will be remedied.

TCAOR ANONYMOUS COMPLAINTS POLICY Re: Code of Ethics Article 12 Violations

Anonymous Complaints

Anonymous complaints will be accepted only under the Citation Policy which pertains to Advertising under Article 12 of the Code of Ethics. See CODE Section 24(j); ETHICS-MAN Sections B(1) and D

Citation Policy/Alternate to Ethics Hearings

(1) Beginning July 1, 2016, the Association will process certain less serious Advertising violations on a "Citation" basis. A "Citation" is a written notice to a member or MLS participant and their Responsible Broker that the Grievance Committee/ Anonymous Complaint Subcommittee has determined that there has been a violation of a specified advertising rule, and proposing that the violation may be satisfied by:

	Correctable Violation	Non-Correctable Violation
1 st Offense	15 Days to Correct	Warning
2 nd Offense	Fine #1- See Fine Schedule Below	Fine #1- See Fine Schedule Below
3 rd Offense	Fine #2- See Fine Schedule Below	Fine #2- See Fine Schedule Below
4 th Offense & Subsequent	Grievance Committee to send to Pro Standards	Grievance Committee to send to Pro Standards

(2) The Citation policy will be in affect indefinitely or until decided otherwise by the Board of Directors.

(3) The violations which are subject to a Citation are as follows:

- Failure to present a true picture in real estate communications and advertising. Warning/\$100/\$500
- Failure to disclose professional status in advertising and other representations. Warning/\$100/\$500
- Failure to disclose compensation from 3rd party for services provided free to a client. Warning/\$2500/\$5000
- Advertisement offering to sell/lease property without authority of owner or listing broker. Warning/\$500/\$1000
- Failure to disclose name of firm in advertisement for listed property. Warning/\$100/\$500
- Failure to disclose status as both owner/landlord and REALTOR® or licensee when advertising property in which REALTOR® has ownership interest. Warning/\$100/\$500
- Falsely claiming to have "sold" property. Warning/\$500/\$1000
- Registration or use of deceptive URL or domain name, electronic sharing of listings without attribution to the listing broker and/or agent Warning/\$500/\$1000

(4) The above violations apply to REALTOR® members ONLY.

MLS Violations will not be accepted, nor will they be forwarded to the MLS Committee.

(5) Upon receipt of a Citation, the REALTOR® has **10** days from the date of the Citation to indicate his or her acceptance of the above recommended discipline. If the recommendation contained in the Citation is refused, or if there is not response within **10** days, then the complaint shall be referred back to the Grievance Committee, who may, if the evidence warrants it, amend the complaint and add new or different charges. The file will then be handled as in the case of any other Complaint pursuant to the Professional Standards Rules.

(6) Upon acceptance of the recommended discipline, and the payment of the fine, if that is recommended, the matter will be considered closed.

(7) If more than three Citations are issued to a REALTOR® during any 18 month period, whether accepted or not, any subsequent complaint will be processed as in the case of any other ethical complaint. A record of accepted Citations will be maintained by the Association solely for purposes of tracking the number of Citations during said three-year period, and will not become part of the REALTOR® member's permanent file.

(8) If a Citation is accepted, there can be no appeal. In the event of any disagreement concerning the Citation rules, or their implementation, the Association may refer to the CAR Citation policy for guidance.

See CODE Section 8; ETHICS-MAN Section A(5)



ANONYMOUS COMPLAINT FORM

Code of Ethics, Article 12 Violations

ALLEGED VIOLATION: _____

Complaint being made about the following member: _____

Please explain the nature of the violation and attach additional sheets if necessary:

The complainant shall provide copies of **DOCUMENTARY** evidence of the alleged violation, such as: REALTOR® advertisements, business cards, flyers, website screenshots, newspaper clippings, or pictures of improper signage. The alleged violation may constitute a breach of the Code of Ethics.

HOW TO SUBMIT

You may submit this form by one of the following ways:

- **Mail:** Attn: Anonymous Complaint Subcommittee
Tulare County Association of REALTORS®
2424 E Valley Oaks Drive, Visalia CA 93292-6713
- **Fax:** (559) 627-9441
- **In Person:** Deliver to TCAOR
- **Email:** tcmls@tcmls.org

COMPLAINT PROCESS

Once TCAOR receives this complaint form and necessary documentation:

- Complaints are reviewed monthly
- Anonymous Complaint Subcommittee determines if there's a violation or dismisses the complaint
 - a. Letter of Explanation of Violation is mailed to the member and the Broker and Office Manager
 - b. Recipient is given 10 business days to respond and/or 15 days to correct
- Repeat offenders are immediately escalated to the Grievance Committee

REALTORS® pledge to observe the Code of Ethics and its related Standards of Practice. In order to uphold the Code of Ethics, and protect the reputation of the Tulare County Association of REALTORS® and its members, it is our duty to thoroughly investigate any such matter that may be a violation of the Code.