

CAAR MLS PENALTY POLICY

The Central Arizona Association of Realtors (“CAAR”) rules and regulations are designed to guide participants and avoid arbitrary restrictions on business practices. They are based on experience and not restrictive upon the personal rights of participating individuals.

This policy does not cover violations of the Code of Ethics which fall under the jurisdiction of the Arizona Association of REALTORS®. Therefore, professional standards enforcement is administered separately. MLS fines and other penalties will be administered according to this policy and are subject to change by the CAAR Board of Directors

Summary of Penalty Process

Potential violations of the MLS Rules and Regulations are reported to or by CAAR staff in a variety of ways. An MLS Subscriber (“Subscriber”) may report a potential violation using the “Report a Violation” link located on each listing, or through other means of communication. CAAR may require that verbal or phone reports be reduced to writing before action is taken. Our automatic listing review software may identify one or more potential violations within a listing. Additionally, CAAR staff may find potential violations by randomly checking listings or by researching listings due to another violation that has been reported. Not all violations will incur a penalty, as described herein.

Initiators of Alleged Violations:

Alleged violations of the CAAR Rules and Regulations must be made in writing and may be initiated by:

- a. MLS Subscribers and Participants in the MLS
- b. Staff of CAAR
- c. The on-line MLS system using the tools available there for reporting violations.

Anonymity of Whistleblowers When Filing Complaints

When requested by a complainant, CAAR provides a process for processing complaints without revealing the complainant’s identity. If the complaint is forwarded to hearing, then the MLS Committee, Grievance Committee, MLS staff or other representative must serve as the complainant when the original complainant does not consent to participating in the process or the disclosure of his or her name.

Categories of Violations:

There are four (4) distinct categories of violations, each category will be discussed in a separate Section:

- a. Non-Penalty Violations
- b. Penalty Violations
- c. Participation Violations
- d. Lockbox and Electronic Key Violations

NON-PENALTY VIOLATIONS

Non-penalty violations are primarily factual errors that lead to inaccurate listing data and often affect other fields or calculations within the listing. These violations do not incur a penalty. Some examples of Non-Penalty Violations that may be enforced by CAAR include, but are not limited to, the following:

Issue	Violation
Types of Property	Failure to Enter Listing
Accuracy	Incorrect Square Footage (assessor attributed)
Accuracy	Incorrect Dwelling Type
Accuracy	Incorrect or Missing Assessor Number
Accuracy	Incorrect Lot Size Range
Accuracy	Data Errors (area, sub-code, flood zone, etc.)
Disclosures	Failure to Disclose Owner-Agent or Client status

When a Non-Penalty Violation has been alleged and sustained, the CAAR staff will make the correction immediately where applicable. CAAR staff will send a notice of the correction made to the Subscriber with a copy to the Participant, via email only. If a Failure to Enter Listing violation is sustained, the Subscriber will have one (1) business day to correct the violation.

PENALTY VIOLATIONS

Penalty Violations involve violations that are more severe than Non-Penalty Violations, which are not as easily corrected and which may have caused some degree of damage, which may be potentially irreversible. Except for the first Penalty Violation against a subscriber, Penalty Violations that are sustained will subject the Violator to an immediate fine. The CAAR Penalty Review Panel will address each violation independently, or cumulatively, depending on the Violator's conduct or pattern of conduct. Egregious and/or repetitive conduct may result in the immediate revocation of membership. The violations and fines in the following table are guidelines only, and not binding on the CAAR Board.

Issue	Violation	Fines
Access Credentials	Allowing MLS access by unauthorized person(s)	TBD
Access Credentials	Unauthorized use of Subscriber's User ID and password	TBD
Standards of Conduct	Failure to Adhere to Standards of Conduct	TBD
Clear Cooperation	Failure to Enter Listing in MLS after marketing the property to the public within 1 additional business day.	TBD
Compensation	The MLS Prohibits subscribers of making any type of offers of compensation between listing brokers or sellers to buyer brokers or other buyer representatives on the MLS.	TBD Violators will incur an immediate fine and their MLS feed will be immediately terminated until correction is made.
Types of Property	Entry of Property not eligible to be placed in MLS	TBD
Listing Agreement	Active Listing without Valid Listing Agreement	TBD
Accuracy	Manipulation of Days on Market	TBD
Accuracy	Incorrect Sales Price Data, or Cooperating Subscriber, etc.	TBD
Accuracy	Misuse of data/photographs that misleads	TBD
Duplicate Listings	Duplicate Listing by same Agent/Broker	TBD
Listing Price Error	Incorrect List Price that remains uncorrected following 24 hours of notification	TBD
Media Violation	Incorrect information in any media that remains uncorrected following 24 hours of notification	TBD
Media Violation	Unauthorized copied media	TBD
Photo Submission	Failure to submit photo when listing is activated	TBD
Listing Status Errors	All Incorrect Listing Statuses	TBD
Advertising	Advertising Violations, including advertising the listing of another broker	TBD

	without permission or not removing yard sign within 2 days of closing, canceled or expired listing	
Unauthorized Disclosures	Unauthorized disclosure of data including commission and/or agent bonus information, access code, conditional offer of compensation, and/or offering a zero-commission amount	TBD Violators will incur an immediate fine and their MLS feed will be immediately terminated until correction is made.
Third-Party Requirement	Requiring, or attempting to require, the use of a specific Title Company or other Third Party	TBD
Inappropriate Content	Inappropriate Language, violations of fair housing, safety or security issues, or other inappropriate content	TBD
Accuracy of Contact Information	Failure to maintain accurate contact information, including, but not limited to, the failure to maintain current email address	TBD
Reproduction	Unauthorized duplication or reproduction of any records	TBD

CAAR staff will make corrections immediately, wherever applicable. If the violation is not correctable by CAAR staff, notice of violation will be sent with a deadline to correct the violation. If the violation remains after the due date outlined in the notice, a subsequent violation will be deemed to have occurred and the process will repeat.

PARTICIPATION VIOLATIONS

Participation violations occur when a Participant fails to comply with the requirements for participation as outlined by the CAAR Rules and Regulations. Examples of these violations include, but are not limited to, the following:

Issue	Violation	Fine
Participation	Non-subscribing Licensee Participating in MLS	\$250.00 (per licensee)
Reporting	Failure to report changes of Waiver Applicants	\$500.00 (per applicant)

When a Participation Violation is found, CAAR staff will send a notice of the violation by email only to the firm's Participant. The violation notice will grant the Participant a time period of three (3) calendar days to correct the violation. If the violation is corrected on or before the due date, a fine will not be imposed.

If the violation is not corrected by the due date on the violation notice, a fine will be imposed on the Participant. If the violation remains unresolved, in addition to the original fine assessed, a new violation shall be deemed to have occurred, and the process will repeat.

LOCKBOX POLICY

Violations involving Lockboxes and Electronic Keys are more serious in nature, and fall in a separate category, such that all CAAR members have access.

Repeat violations will incur higher fines, suspension of privileges, or removal from membership and potential referral to ADRE for an ethics violation. Examples of Lockbox and Electronic Key Violations and Fines are as follows:

Issue	Violation	Fine
Lockbox	Authorization to use a Lockbox	TBD
Lockbox	Removal of Key/Failure to return Key in a timely manner	TBD
Lockbox	Carrying PIN with Lockbox Key, or inside case	TBD
Lockbox	Carrying PIN on Lockbox Key	TBD
Lockbox	Unauthorized use of Lockbox Key: allowing key to be used by another key subscriber	TBD
Lockbox	Unauthorized use of Lockbox Key: allowing key to be used by licensee who is not a key subscriber	\$1000.00 AND thirty (30) day suspension
Lockbox	Unauthorized use of Lockbox Key: allowing key to be used by non-licensee	\$2000.00 AND thirty (30) day suspension
Lockbox	Use of Lockbox Access without permission of Listing Subscriber	TBD
Lockbox	Disclosure of Lockbox code(s) to a Non-CAAR Subscriber without written	TBD

	permission of the Listing Subscriber	
Lockbox	Failure to remove lockbox within 2 days of listing closed, canceled, or expired.	TBD
Lockbox	Failure to have a CAAR Lockbox on a listing when any other Mechanical Box or Lockbox is on the property.	TBD

Notice of Violation Process

For most Penalty and Participation Violations, notice will be sent by email only, to the Participant's email address on file with CAAR. If the violation is not corrected within the 3-day period a fine will be imposed by the CAAR Penalty Review Panel, and an invoice for the fine amount is sent. If the violation remains unresolved, in addition to the fine assessed, a subsequent violation shall be deemed to have occurred, and the process will repeat. In the event of an offering of compensation the fine will be instituted immediately upon discovery, and the Participant's MLS feed shall be terminated until the violation is corrected. For Non-Penalty and Penalty Violations, notice will be sent only by email to the email address on file with CAAR. However, if the email is returned undeliverable or when a Subscriber does not have a valid, working (including if the returned message states the Subscriber's email account is full), or current email address on file with CAAR, the written notice will be sent via the US Postal Service to the office addresses on file with CAAR. Additionally, the Subscriber will be subject to a separate Penalty Violation for failure to have a current email address.

Failure to maintain a current and accurate email address, home postal mailing address, or office postal address on file with your CAAR will not exempt any Subscriber from having been sent notice, nor may the absence of a current and accurate mailing address of any kind be used as the grounds for appeal. All invoices sent to Subscribers for violations of the Rules shall be due to be paid in full 10 days from the date of the invoice unless a hearing is requested. The actual due date shall be included on the invoice

Administrative Sanctions

In any instance where a participant in an association multiple listing service is charged with violation of the MLS rules and regulations of the service as outlined in the MLS, the CAAR MLS Penalty Review Panel may impose administrative sanctions pursuant to this penalty policy. The CAAR MLS Penalty Review Panel shall send written notice to the participant of any administrative sanction. Recipients of an administrative sanction may request a hearing before the CAAR MLS Penalty Review Panel within ten (10) days of imposition of the sanction by the MLS Penalty Review Panel.

Transmitting devices, Cellular phones, two-way radios, personal digital assistants including email and SMS messaging devices, and other transmitting devices may not be operated during any MLS Penalty Review Panel hearing absent specific, advance authorization from the panel Chair.

Qualification for CAAR Hearing Panel

No more than one person licensed with any firm, partnership, or corporation may serve on the same hearing panel. A person shall automatically be disqualified as a member of a hearing panel in any case in which the person is (1) related by blood or marriage to the Subscriber or a person acting as REALTOR® counsel for the Subscriber; (2) an employer, partner, employee, or in any way associated in business with the Subscriber, or a person acting as counsel for the Subscriber

Appeals

If the participant refuses to accept any sanction or discipline proposed by the CAAR MLS Penalty Review Panel at a requested hearing, the circumstances and the discipline proposed shall be appealed to the board of directors of the Central Arizona Association of Realtors which may if it deems the finding of violation proper and the sanction appropriate to the offense, delay the effective date of sanction until final entry by a court of competent jurisdiction in a suit filed by the association for declaratory relief, except in those states where declaratory relief is not available, declaring that the disciplinary action and proposed sanction violates no rights of the multiple listing service participant.

Complaints of Unethical Conduct

Alleged violations of the Code of Ethics or the Standards of Conduct for MLS participants shall be referred to the association's grievance committee for processing in accordance with the professional standards procedures of the association. If the charge alleges a refusal to arbitrate, such charge shall be referred directly to the board of directors of the association of REALTORS®.

Suspension and/or Termination to be Used Sparingly

Generally, warning, censure, and the imposition of a moderate fine is sufficient to constitute a deterrent to violation of the rules and regulations of the multiple listing service. Suspension or termination is an extreme sanction to be used in cases of extreme or repeated violation of the rules and regulations of the service.

Fine Penalty not to Exceed \$15,000.00

Notwithstanding the limitations established in the National Association of REALTORS® Code of Ethics and Arbitration Manual or in other National Association policy, the Central Arizona Association of Realtors is authorized to impose financial penalties on participants or subscribers as discipline for violations of MLS rules or other MLS governance provisions not greater than fifteen thousand (\$15,000) dollars.

MLS Disciplinary Guidelines

Associations of REALTORS® and their multiple listing services have the responsibility of fostering awareness, understanding, and appreciation for the duties and responsibilities of MLS participants and subscribers, and of receiving and resolving complaints alleging violations of the rules and regulations. The REALTOR® organization is firmly committed to vigorous, fair, and uniform enforcement. Enforcement achieves a number of goals. Where participants or subscribers are wrongly or mistakenly charged with violations, the hearing process provides personal and professional vindication. Where violations are determined, the enforcement process educates participants and subscribers about their duties and obligations and serves as a meaningful deterrent of future violations.

Allegations of conduct inconsistent with the rules are often viewed by respondents as threats to their professional and personal reputations. This can result not only in their mounting vigorous defenses but also, at times, to threats of legal challenge should a violation be determined and discipline imposed. Given that MLS participation can have significant economic value, associations and their MLSs need to strictly adhere to their established procedures when considering potential violations. This caution ensures that the rights of the parties will be observed, and legal exposure of associations and their MLSs will be minimized.

At the same time, well-founded caution should not be confused with reservation, reluctance, or hesitancy. Rules become aspirations at best, and potentially meaningless, if not enforced with vigor and determination.

Fundamental to fair and consistent enforcement is reasonable and judicious use of discipline, as both an educational device and as punishment. Associations and their MLSs have a wide variety of sanctions available to them that may be imposed for violations. These range from simple letters of warning to termination of MLS rights and privileges. Between these extremes are mandatory attendance at remedial education sessions, financial penalties, probation, and suspension.

The National Association does not recommend specific penalties for certain offenses or for violations of particular rules. This is in deference to the wisdom and autonomy of the hearing panel privy to the details of complaints coming before them; in recognition of the fact that no two complaints are identical; and in view of the facts that the details of each hearing, including the experience of respondents, their history of prior violations, and mitigating or extenuating circumstances, may all come into play in determining an appropriate penalty. At the same time, there are key points to be considered with respect to imposition of discipline.

- Discipline that can be imposed is strictly limited to those forms authorized in the National Association of REALTORS® *Code of Ethics and Arbitration Manual* and to any additional form authorized by the National Association's board of directors.
- Discipline should be commensurate with the offense. Unintentional or inadvertent violations should result in penalties designed to educate respondents about the conduct expected of them. Only authorized forms of discipline may be utilized.

- Discipline should be progressive. The disciplinary emphasis on violations by new members or by long-standing members with no history of prior violations should be primarily educational. Repeated or subsequent violations should be addressed with more serious forms of discipline, including substantial fines, suspension, and termination of MLS rights and privileges.
- A gray area can exist with respect to “first time violations” that are clearly not the result of ignorance or mistake but rather demonstrate flagrant disregard for the rules. While the educational aspect of enforcement cannot be disregarded, the fact that the rules exist to protect clients and customers, the public, and to ensure effective, efficient functioning of the MLS, must also be considered in determining commensurate discipline.
- Mitigating or extenuating circumstances should be considered in determining appropriate discipline. The fact that a respondent recognizes or acknowledges inappropriate conduct or took steps to remediate or minimize harm or injury, should be considered in determining appropriate discipline.
- Respondent’s records of earlier violations or, conversely, the fact that they have not violated the rules in the past, can be considered in determining appropriate discipline. Hearing panels cannot consider past violations in deciding whether the conduct currently complained of violates the rules.

Crafting appropriate, meaningful discipline can challenge panels that have concluded the rules have been violated. This discussion is offered as guidance, rather than as a hard and fast template, to assist panels in meeting their responsibility in ensuring the rules’ viability and vitality through vigorous and evenhanded enforcement.

Progressive Discipline

Discipline imposed for violation of the rules should be progressive. The severity of discipline should increase incrementally for subsequent violations. The disciplinary emphasis where first time violations occur should be primarily educational. Repeated or subsequent violations should result in more serious forms of discipline being utilized, including substantial fines, suspension, and termination of MLS rights and privileges. At the same time, a gray area can exist where a first-time violation is not attributable to ignorance or oversight, but rather to blatant disregard for the rules. While the educational emphasis of enforcement cannot be disregarded, the fact the rules exist to protect clients and customers, the public, and to ensure the effective, efficient functioning of the MLS must be carefully considered in determining appropriate discipline.

Factors hearing panels should consider in determining appropriate discipline include, but are not necessarily limited to:

- The nature of the violation
- Harm caused by the violation. Was the violation a minor mistake causing little or no harm or, alternatively, was a client, customer, member of the public, or another participant harmed?

- Was the violation inadvertent or unintentional or, conversely, was it the result of knowing disregard for the obligations of MLS participants and subscribers?
- How much real estate experience did the violator have? Did he, or should he, have known better?
- Has the violator been found in violation of the rules previously? How often? How recently? Is the current violation related or similar to earlier violations?
- Are there mitigating or extenuating circumstances that should be considered in determining appropriate discipline?
- Did the violator acknowledge the violation? Did the violator express remorse or contrition?
- Are there other factors that ought to be considered?

Administrative Sanctions

The following is guidance for issuing administrative sanctions for MLS rule violations:

- **Category 1** violation means a rule violation relating to listing information provided by a participant or subscriber.
- **Category 2** violation means a rule violation relating to IDX and VOW displays.
- **Category 3** violation means a rule violation relating to cooperation with a fellow participant or subscriber, and mandatory submission of listings to the service.

First Category 1 violation (or first violation within three [3] years):

Possible discipline:

- Letter of warning
- Fine of \$500 or less
- Attendance at relevant education session

Any combination of the above.

Repeat Category 1 violation (within three [3] years):

Possible discipline:

- Attendance at relevant education session(s) or course
- Fine of \$2,000 or less

Any combination of the above.

First Category 2 violation (or first violation within three [3] years):

- Possible discipline

- Letter of reprimand
- Fine of \$2,000 or less
- Attendance at relevant education session(s)

Any combination of the above.

Repeat Category 2 violation (within three [3] years):

Possible discipline:

- Attendance at relevant education session(s) or course
- Fine of \$10,000 or less
- Suspension from the MLS or from the MLS' lockbox key access for three (3) months or less

Any combination of the above.

First Category 3 violation (or first violation within three [3] years):

Possible discipline:

- Letter of reprimand
- Fine of \$10,000 or less
- Attendance at relevant education session(s)
- Suspension from MLS or from use of the MLS' lockbox key access for ninety (90) days or less

Any combination of the above.

Repeat Category 3 violation (within three [3] years):

Possible discipline:

- Attendance at relevant education session(s) or course
- Fine of \$15,000 or less
- Suspension from MLS or from use of the MLS' lockbox key access for six (6) months or less
- Termination from MLS or from use of the MLS' lockbox key access for 1 to 3 years

Any combination of the above.

