

Multiple Listing Service of Southern Arizona

Policy #39 – Corrections and Compliance Policy

Policy Effective August 1, 2022

This Corrections Policy has been established in accordance with the MLSSAZ Rules & Regulations to ensure the integrity of the MLS and the MLS database. Sanctions will be issued in accordance with this policy. This policy is subject to change upon approval of the MLSSAZ Board of Directors. This policy is not all-inclusive, does not reflect violations of the Code of Ethics, and does not replace Professional Standards Enforcement through your local Association of REALTORS®. Requests for arbitration or REALTOR® Code of Ethics enforcement shall be administered by the Arizona Association of REALTORS®. The MLSSAZ Board of Directors understands that the MLS database is an integral part of the membership's day-to-day business and has instituted this Corrections and Compliance Policy to make a focused effort to increase the accuracy and protect the integrity of the MLS.

Participants and Subscribers, or any other entity authorized to have access to the information published by Tucson Association of REALTORS® Multiple Listing Service, Inc, are subject to MLSSAZ Rules and Regulations, MLSSAZ Bylaws, and any other MLSSAZ governance provisions. Failure to follow MLSSAZ rules will result in disciplinary actions.

Summary of Penalty Process

Violations are reported to the MLS in a variety of ways. When a violation is reported, MLS staff will verify the validity of the violation and send a Notice of Correction to the Participant and Subscriber indicating nature of the violation, any administrative action taken, and timetables for a resolution or response. The MLS Compliance Department may assess fines under these rules administratively, without a hearing, subject to a Participant's or Subscriber's right to appeal hereunder. A Participant's access to the Service may be suspended, or terminated, for failure to pay a fine and correct the finable offense in the Service subsequent to the exhaustion of appeal rights under these Rules and Regulations.

Section 1 - Violation Origination

Violations reported to the MLS are confidential. The most common methods of reporting violations are:

- Reported to MLS Staff
- Checks of the database
- Result of listing audit
- Reporting of concerns from the general public

Categories of Alleged Violations (See Section 6 for Definitions)

- Verifiable Violations
- Non-Verifiable Violations

Section 1.1 – Complaint Confidentiality

MLSSAZ processes complaints without revealing the complainant's identity. If a complaint is subsequently forwarded to a hearing, and the original complainant does not consent to participating in the process, the MLS will appoint a representative to serve as the complainant. (M)

Section 2 – Compliance with Rules - Authority to Impose Discipline

MLSSAZ may, through the administrative and hearing procedures established in these rules, impose discipline for violations of the rules and other MLS governance provisions. Discipline that may be imposed may only consist of one or more of the following:

- a) letter of warning
- b) letter of reprimand
- c) attendance at MLS orientation or other appropriate courses or seminars which the Participant or Subscriber can reasonably attend taking into consideration cost, location, and duration
- d) appropriate, reasonable fine not to exceed \$15,000
- e) suspension of MLS rights, privileges, and services for not less than thirty (30) calendar days nor more than one (1) year
- f) termination of MLS rights, privileges, and services with no right to reapply for a specified period not to exceed three (3) years.

Note 1: A Participant (or user/Subscriber, where appropriate) can be placed on probation. Probation is not a form of discipline. When a Participant (or user/Subscriber, where appropriate) is placed on probation the discipline is held in abeyance for a stipulated period of time of no longer than one (1) year. Any subsequent finding of a violation of the MLS rules during the probationary period may, at the discretion of the MLS Standards Committee, 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 are considered fulfilled, and the individual's record will reflect the fulfillment. The fact that one or more forms of discipline are held in abeyance during the probationary period does not bar imposition of other forms of discipline which will not be held in abeyance. (M)

Section 2.1 – Correction Process

When a violation is reported, MLS staff will verify the validity of the error and send a Notice of Correction to the Participant and Subscriber indicating the MLS listing, nature of the violation, timetables for a response and resolution, or where applicable the administrative action taken. If the violation is verifiable by an official trusted source, MLS staff may make the correction immediately where applicable. These violations will incur an immediate fine as outlined in the schedule of fines. MLSSAZ may take any steps necessary in its judgment, including deleting the Participant contribution or portions thereof, to avoid or remedy any violation of law, breach of the MLSSAZ Policies or infringement of intellectual property right. If the violation found is not verifiable or correctable by MLS staff, a Notice of Correction will be emailed to the Participant and Subscriber. The Notice of Correction will require the Participant or Subscriber to make the correction by the due date stated in the notice (three calendar days). If multiple violations are found in the same listing, they shall be treated as one violation and the most severe penalty available for any of the individual violations shall apply. In the event the MLS staff cannot make a definitive determination based on the evidence, the matter may be referred to the MLS Standards Committee for review of the potential violation at its next regularly scheduled meeting.

Section 2.2 Receipt of Notices

All notices are sent via e-mail only. Notices are sent to the primary e-mail address of the listing Subscriber and the primary e-mail address of the Participant that are listed in the MLS system. Notifications sent by MLSSAZ to a Subscriber and/or Participant will be presumed received on the date e-mailed unless a delivery failure message has been received. Final dates for receipt of replies from the Subscriber or Participant will be included in all correspondence from MLSSAZ. In calculating time periods, calculation of time begins on the day after notification.

Section 2.3 Failure to Address

If the requested correction has not been appropriately addressed within three (3) calendar days of the receipt of the Notice of Correction, on the following business day the Compliance Department may assess a minimum fine under these rules administratively, without any hearing, subject to a Participant's or Subscriber's right to appeal. If the violation remains unresolved, in addition to the fine assessed, a subsequent violation shall be deemed to have occurred. If a Participant fails to appeal a fine within the fifteen (15) calendar day period or pay the fine and fails to address the violation, there shall be an assessment of a \$200.00 fine. Thereafter, every thirty (30) calendar days another \$200.00 fine may be levied if the entry is not corrected. There shall be no appeal rights from any subsequent fines.

Section 2.4 – Due Date for Payment of Fines

Fines will be placed on the Subscriber's billing account upon assessment. Should an appeal request be submitted in accordance with current policy, the amount shall remain in the Subscriber's account pending final determination. If the fine is upheld, the amount will be subject to current MLSSAZ billing policies. If the appeal is approved the fine shall be removed from the Subscribers account.

Section 3 – Failure to Complete Sanctions

Failure of an MLSSAZ Subscriber to pay fines levied by MLSSAZ shall be subject to the terms of the MLSSAZ Nonpayment of Financial Obligation.

Any Participant or Subscriber failing to pay any fees, assessments, or other financial obligations owed to the MLS within thirty (30) calendar days of first notice shall become past due. All notices are sent via e-mail, and the MLS Gateway. When the account becomes thirty (30) calendar days past due, the account shall automatically be suspended, and all services shall cease. When the account of a Subscriber is sixty (60) calendar days past due, the Subscriber shall become a Non-Member licensee and all future financial obligations will become the responsibility of the Participant until all fees have been paid in full. When the account of the Participant becomes sixty (60) calendar days past due, the Participation of the delinquent Participant shall automatically terminate unless within that time the full amount due and owing is paid.

The MLS may, at its discretion, may charge the legal rate of interest on past dues fees and assessments and other Participant/Subscriber obligations due to the MLS. A Participant/Subscriber terminated for nonpayment of a financial obligation due the MLS may apply for reinstatement in the manner prescribed for new Applicants for Participation in Article IV, Section 3 of the MLSSAZ Bylaws, provided the full amount of the past due account plus the application fee and any other amounts which are required pursuant to Article V are paid at the time of the submission of the application for Participation. For full details see MLSSAZ Bylaws Section 4 - Nonpayment of Financial Obligation.

Section 4 – Repeat Offender/Offense Policy

The MLSSAZ Repeat Offender/Offense Policy (Repeat Policy) is a set of guidelines used by the MLS Standards Committee and MLS Staff regarding repeat violations of the MLSSAZ Rules and Regulations. One of the primary purposes of the MLS is to provide accurate and up to date information for the facilitation of cooperation and compensation between MLS Participants. With this in mind, the Repeat Offender/Offense Policy is designed to escalate potential sanctions placed on Participants and Subscribers for repeat violations of the Rules and Regulations.

MLS Participants and Subscribers can receive no more than 3 administrative sanctions in a calendar year before they are required to attend a hearing for their actions and potential violations of MLS rules, except that the MLS may allow more administrative sanctions for violations of listing information provided by Participants and Subscribers before requiring a hearing. The MLS must send a copy of all administrative sanctions against a Subscriber to the Subscriber's Participant and the Participant is required to attend the hearing of a Subscriber who has received more than 6 administrative sanctions within a calendar year.

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Repeat Offender and Offense Policy Defined

Repeat Offense

1. Definition:
A repeat offense is defined as any Participant as an Individual or Subscriber who has a total of three (3) or more violations of a specific rule within one calendar year.
2. Repeat offenses shall be subject to the following escalation scale:
 - a. Upon the 3rd violation a Letter of Concern will be issued to the Subscriber and their Participant as an educational opportunity.
 - b. If applicable an automatic issuance of the appropriate fine.
 - c. Fine amounts will continue to increase by a factor of 1 for each subsequent violation of the same type, and shall not exceed \$15,000, until no subsequent violations of the same type occur for calendar one year. (For Example: 1x\$50, 2x\$50, 3x\$50, etc.)

B. Repeat Offenders

1. Definition:
A repeat offender shall be defined as any Participant as an Individual or Subscriber who has had a total of twelve (12) or more violations of the MLSSAZ Rules and Regulations within one calendar year.
2. Repeat offenses shall be subject to the following: If any Participant as an Individual or Subscriber reaches a total of twelve (12) total within one calendar year.
 - a. The Participant or Subscriber, with his/her Participant, shall attend a mandatory hearing by the MLS Standards Committee for additional sanctions as described in Section 2- Compliance with Rules/Authority to Impose Discipline.
 - b. If applicable an automatic issuance of the appropriate fine.
 - c. Fine amounts will continue to increase by a factor of 1 for each subsequent violation of the same type, and shall not exceed \$15,000, until no subsequent violations of the same type occur for one year. (For Example: 1x\$50, 2x\$50, 3x\$50, etc.)

Section 5 – Right to Appeal Sanctions

5.1 Initial Request for Appeal

All Participants and Subscribers have the right to request an appeal of any sanction/fine issued by MLSSAZ. Administrative Sanctions shall be appealed to the MLSSAZ Standards Committee. The MLSSAZ Board of Directors may uphold the sanctions issued from the MLSSAZ Standards Committee, overturn or modify the decision from the MLSSAZ Standards Committee, or send the decision back to the MLSSAZ Standards Committee for reconsideration.

If it is found that the violation is 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. (M)

5.2 Requesting an Appeal

Requests for an appeal must be submitted on the Appeal Request form no later than twenty (20) calendar days after the date the notice of sanction/fine was issued and be accompanied by all supporting documentation for review at the appeal. Any required corrections must be made prior to requesting an appeal of a sanction. A request for appeal will not be considered “received” until all required information is complete and properly signed (if applicable). No additional documents or evidence can be presented after the request has been submitted.

5.3 Types of Appeal

The Subscriber will have the option of selecting either a “Documents Only” appeal or to appear in person at the MLS Standards Committee or MLS Board of Directors Meeting. A “Documents Only” appeal will consist of any documents submitted with the Request for Appeal, no additional evidence or statements relating to the alleged violation may be submitted during the appeal process.

5.4 Make Up of an Appeal Panel

A panel will consist of all members of the MLS Standards Committee or where applicable the MLS Board of Directors present at the scheduled meeting. If a quorum is not established at the meeting, the appeal will be rescheduled for the next MLS Standards Committee or MLS Board of Directors meeting. Members of the Standards Committee and Directors employed by the same firm as the Subscriber or any director that may have a conflict of interest will be excused from the Appeal Panel.

5.5 Appeal Dates

Appeals will be scheduled in conjunction with the MLS Standards Committee or MLS Board of Directors meetings.

5.6 Decision of Appeal Panel

The responsible Subscriber and/or Participant will be notified of the results of the Appeal. The decision of the MLS Board of Directors is considered final, unless the respondent believes they were denied Due Process. “Due Process” as defined in the National Association of REALTORS® Code of Ethics and Arbitration Manual (COEAM). A request for appeal must be filed within twenty (20) calendar days of the date on the decision notice.

Section 6 - Schedule of Fines

6.1 Non-Verifiable Violations

Non-Verifiable Violations are possible violations based on the initial evidence presented, MLS staff is unable to make a determination if an MLS rule was violated. Non-Verifiable Violations typically require a period for discovery. During the discovery process MLS staff may request additional documentation and further information from the complainant and or respondent. If the violation found is not correctable by MLS staff, a Notice of Correction will be emailed to the Participant and Subscriber. The Notice of Correction will require the Participant or Subscriber to address the alleged violation by the due date stated in the

notice. A Notice of Correction must be addressed within three (3) calendar days from the date the notice was sent. If the requested correction has not been appropriately addressed within three (3) calendar days of the receipt of the Notice of Correction, on the following business day the Compliance department will assess a minimum fine under these rules administratively. In the event that the complaint is not resolved within twenty (20) calendar days, the matter may be referred to the Standards Committee for review at its next regularly scheduled meeting. If multiple violations are found in the same listing, they shall be treated as one violation and the most severe penalty available for any of the individual violations shall apply.

Rule Section	Description	Fines
Section 1.4.2	Incorrect number of Bedrooms	\$50
Section 1.4.1	Incorrect Square Footage – Owner/Other Stated	\$25
Section 1.4.1	Incorrect Lot Size – Owner Stated	\$25
Section 1.4.1	Garage-Carport Count	\$25
Section 1.4.1	Distressed Info	\$25
Section 1.4.1	Inaccurate View	\$25
Section 1.4.1	Association Amenities	\$25
Section 2.6	Reporting Resolutions of Contingencies	\$25
Section 2.9	Availability of Listed Property	\$150
Section 4.3	Solicitation of Listing Filed with the MLS	\$250
Section 4.5	Use of the Terms MLS and Multiple Listing Service	\$250
Section 5.1	Failure to disclose Owner-Agent Status	\$500
Section 9.3	Unauthorized Use of Listing Content	\$250
Section 11	Copyright Infringement	\$250
Section 23.4	Securing Property	\$1000
Section 23.8	Simultaneous Unrelated Showings	\$250
Section 24	Sign-In Sheets	\$150

Section 6.2 – Verifiable Violations

Verifiable Violations are evident that an MLS rule was violated based on trusted official sourced information. These violations will incur an immediate fine as outlined in the table below. The Compliance Department may assess fines under these rules administratively, without a hearing, subject to a Participant’s or Subscriber’s right to appeal. A Notice of Correction and fine amount will be sent by email to the Subscriber and copy to the Participant. MLS staff will make the correction immediately where applicable. If MLS staff is unable to make a definitive determination, the alleged violation shall be subject to the rules of Section 6.2 Non-Verifiable Violations. Examples of such violations include, but are not limited to the following:

Rule Section	Description	Fines
Section 1	Listing Procedures – Late Listing Submission	\$150
Section 1	Active Listing without Valid Listing Agreement	\$1000
Section 1	Clear Cooperation Policy	\$500

Rule Section	Description	Fines
Section 1.4.1	Subdivision	\$25
Section 1.4.1	Zoning	\$25
Section 1.4.1	Schools	\$25
Section 1.4.1	Dwelling Type	\$25
Section 1.4.1	Property SqFt/Lot Size	\$25
Section 1.4.1	Incorrect Closed/Rented Information	\$50
Section 1.4.1	Accuracy of Listing Data – Data Errors	\$15
Section 1.4.3	Year Built	\$50
Section 1.7	Change Listing Status	\$150
Section 1.18	Restriction to Listing Information	\$150
Section 1.18.7	Fair Housing Violation	\$1000
Section 1.19	Submitting Photos to MLS	\$150
Section 1.19-B	No Primary Photo	\$50
Section 2.5	Reporting Sales to MLS	\$500
Section 2.7	Advertising of Listing Filed with the MLS	\$250
Section 2.8	Reporting Cancellation of Pending Sale	\$150
Section 2.10	Reporting of Team Listings	\$150
Section 2.11	Failure to Follow Showing Instructions	\$500
Section 4.1	For Sale Signs	\$150
Section 4.2	Sold Signs	\$150
Section 5	Cooperative Compensation Specified on Each Listing	\$500
Section 5.1	Participants as Principal	\$500
Section 23.3	Keybox Security	\$1000
Section 23.6	Removal of Keybox	\$500
Section 24.1	Sign-In Sheets - Sign In Required	\$150
Section 25	Unauthorized Access to MLS	\$1000