



Penalty Policy

Adopted January 29, 2009
Effective May 1, 2009

The **Arizona Regional Multiple Listing Service, Inc.** is responsible for the enforcement of ARMLS® Rules and Regulations. All written complaints involving violations of the ARMLS Rules and Regulations will be considered by the ARMLS staff in accordance with this policy. All complaints of unethical conduct or requests for arbitration may be referred to the association with which the Participant holds primary membership or to the Association within which Participant maintains its principal place of business.

Integrity of data is the most precious commodity that any MLS has. Protection of the integrity of the data is a challenging task, but paramount to providing our Subscribers with the best and most accurate data in order to serve the day to day needs of the consumers that are their clients.

In order to better serve our membership and safeguard the information contained in the MLS database, the Arizona Regional Multiple Listing Service has enacted the following Penalty Policy in accordance with Section 14 of the ARMLS Rules and Regulations.

This policy does not cover violations of the Code of Ethics which fall under the jurisdiction of the Arizona Association of REALTORS® or those local Associations which comprise the ARMLS Shareholders. Therefore, professional standards enforcement is administered through the appropriate local Association of REALTORS®.

Fines and other penalties will be administered according to this policy and penalty matrix and are subject to change by the ARMLS Board of Directors.

Summary of Penalty Process

Potential violations of the ARMLS Rules and Regulations are reported to or by ARMLS staff in a variety of ways. A subscriber may report a potential violation using the "Report a Violation" button located on each listing, or through other means of communication. ARMLS may require that verbal or phone reports be reduced to writing before action is taken. The automatic listing review software may identify one or more potential violations within a listing. Additionally, ARMLS staff may find potential violations by randomly checking listings or by researching listings due to another violation that has been reported.

SECTION 1 - Initiators of Alleged Violations:

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

- a. ARMLS Participants (as defined in the ARMLS Rules and Regulations);
- b. ARMLS Subscriber (as defined in the ARMLS Rules and Regulations);
- c. Staff of ARMLS or the staff of the Shareholder Associations

Violations may also be reported through the on-line MLS system using the tools available there for reporting violations.

Categories of Alleged Violations:

If a violation occurs, it will fall into one of the following categories:

- a. Minor Violations (Minor Violations may be corrected within 5 days without incurring a fine)
- b. Automatic Violations (Violations that incur an automatic fine)
- c. Lockbox Violations

SECTION 2 – Minor Violations

Minor violations are primarily factual errors that may or may not be intentional but lead to inaccurate listing data and often affect other fields or calculations within the listing. Some examples of minor violations include, but are not limited to, the following:

Rule Section	Infraction
8.1 – Types of listings	Failure to Enter Listing
8.1 – Types of listings	Late Entry of a New Listing
8.2 – Listing Agreement	Active Listing without Valid Listing Agreement
8.5 – Accuracy	Incorrect School Code (<u>not if code changes during listing</u>)
8.5– Accuracy	Incorrect Square Footage (assessor attributed)
8.5– Accuracy	Incorrect Grid
8.5– Accuracy	Incorrect Dwelling Type
8.5– Accuracy	Incorrect or Missing Assessor Number
8.5– Accuracy	Incorrect Lot Size Range
8.6 – Duplicate Listings	Duplicate Listing by Two or more Agents/Brokers
All other Section 8	Data errors
10.7 - Listing Status	Incorrect Listing Status (for all other statuses)
10.7 - Listing Status	Late Reporting of Closed Sale
10.9- Advertising	Advertising the Listing of Another Broker without permission
10.10 – Listing	Late Reporting of Cancellation of Pending Sale

Status	
11.7 – Information Fields	Inappropriate use of other fields
12.3 & 12.4 - Disclosures	Failure to disclose Owner-Agent Status using the proper field (e.g. stated in Remarks, but did not check appropriate box)
16.2 – Email Address	Failure to maintain current, accurate email address.

Failure to Correct a Listing – Minor Violations

When one of the violations listed above is alleged, the ARMLS staff will send a notice to correct (by email as per Section 5 to the Subscriber and the Participant). Minor violations will be fined if they are not corrected or if a request for correction is not received by ARMLS within 5 Days after Notice as defined in the Rules.

SECTION 3 – Automatic Violations

Automatic violations are those that cannot be corrected, or even if they are corrected may have already caused some degree of irreversible damage. Examples of such automatic violations include, but are not limited to, the following:

Rule Section	Infraction
7.1 – Participation	Waivers, Unlicensed personnel
7.1.1 – Access Credentials	Allowing MLS access by unauthorized person(s)
7.1.1 – Access Credentials	Unauthorized use of subscriber’s User ID and password:
7.1.2 – Full Participation	Non-subscribing Licensee – Penalty imposed on Participant if found.
7.2 – Standards of Conduct	All – subject to Compliance review
8.1 – Types of listings	Entry of Property not eligible to be placed in MLS
8.5– Accuracy	Manipulation of Days on Market
8.5– Accuracy	Incorrect Sales Price Data, or Cooperating Subscriber
8.5– Accuracy	Misuse of Data with Intent to Mislead
8.6 – Duplicate Listings	Duplicate Listing by same Agent/Broker
8.23 – Media Violation	Contact information in any media
8.23 – Media Violation	Unauthorized copied media,
8.24 – Photo Submission	Failure to submit photo within allowed period.
10.7 - Listing Status	Incorrect Listing Status (for SOLD listings)
11.1 - Prohibitions	Unauthorized Distribution of data (also 7.1.1, 18.0, and 20.1)
11.5 & 11.6 – Remarks	Inappropriate use of remarks fields (e.g. violations of

	fair housing, safety issues, security, contact information, and compensation disclosures or discussions)
12.1 – Commission	Publishing a Conditional Offer of Compensation
12.3 & 12.4 - Disclosures	Failure to disclose Owner-Agent Status using the proper field or stated in Remarks
20.3 – Reproduction	Unauthorized duplication or reproduction of compilation

When one of the violations listed above is found and the Subscriber is on Level 1 or Level 2 of the Fine Increments as explained in Section 4, the ARMLS staff will send a notice of violation by email only to the Subscriber with copy to the Participant. When one of the violations listed above is found and the Subscriber is on Level 3 or higher of the Fine Increments, the ARMLS staff will send a notice of violation by mail and email to the Subscriber with copy to the Participant. ARMLS staff will make the correction immediately where applicable. When 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 to all violations in that listing. When multiple listings for the same Subscriber are found or reported within short and reasonable period of time (e.g. one week), each listing shall be treated as an individual violation, however all shall be subject to the same incremental level of fine or penalty.

SECTION 4 – Fines and Fine Increments

Fines are levied for violations of either category based on the cumulative number of violations sent to the Subscriber within the most recent twelve (12) months of the most current violation. All fines for Minor Violations are waived if corrections are made within the allocated time, but the violation count is incremented for each violation, whether or not corrected. Fines associated with each increment of violations are as follows:

1st Violation: electronic letter of warning (copy to participant), \$0 fine assessed.

2nd Violation: electronic letter of reprimand (copy to participant), \$0 fine assessed.

3rd Violation: mandatory attendance at an MLS rules orientation class, OR a \$50 fine assessed

4th-Violation: mandatory attendance at an MLS rules orientation class, AND \$100.00 fine assessed

5th Violation: \$200.00 fine assessed

6th and Subsequent Violations: Minimum of \$400 fine assessed and referred to the ARMLS Board of Directors with Participant for decision regarding fine up to \$15,000 and suspension of service for Subscriber for a minimum of 30 days and a maximum of three years.

The fine schedule is per offense and billed to the Subscriber.

SECTION 5 – Lockbox Violations and Fines

Violations involving Electronic Keys and Lockboxes are by their more serious nature in a separate category. Examples of such violations are as follows:

Auto Y/N	Rule Section	Infraction
No	13.1 – Lockbox	Refer to Broker – Not an ARMLS issue to administer
Yes	13.2 – Lockbox	Removal of Key from Property/Failure to return key
Yes	13.3 – Lockbox	Carrying PIN with Lockbox Key or inside case
Yes	13.3 – Lockbox	Carrying PIN on Lockbox Key
	13.3	Repeat violations of section 13.3 will incur higher fines and suspension of privileges, according to actions by the board. Following examples pertain to first offenses only.
Yes	13.3 – Lockbox	Unauthorized use of Lockbox Key (<u>allowing key to be used by key-subscriber</u>) (First offense is \$500)
Yes	13.3 – Lockbox	Unauthorized use of Lockbox Key (<u>allowing key to be used by licensee who is not a key-subscriber</u>) (First offense is \$1000 and 30 days suspension)
Yes	13.3 – Lockbox	Unauthorized use of Lockbox Key (<u>allowing key to be used by non- licensee</u>) (First offense is \$2000 and 30 days suspension from MLS)
Yes	13.4 – Lockbox	Using Key to enter Listing without permission of listing subscriber
No	13.5 – Lockbox	Failure to Remove Lockbox in timely manner
Yes	13.7 – Lockbox	Special consideration of failure to comply with section 13

Lockbox and Key violations are all considered Automatic except as noted above. However, the number of violations and the severity of the penalties for each incremental violation are governed by a separate schedule. Unless otherwise indicated in the table of violations above, the fines for Lockbox/Key violations are as follows:

First Violation - \$500

Second and subsequent Violations – Minimum of \$1000 up to a maximum of \$15,000 and/or suspension from MLS and/or Lockbox system for a minimum of 30 days and up to a maximum of one year

Section 6 – Notice Process

For all violations, a Violation Notice will be sent to the Listing Agent and the Listing Broker.

Notices for **Minor Violations** will be sent only by email. For **Automatic and Lockbox/Key violations**, a written notice will be sent by both email and US Postal Service to the office addresses on file with ARMLS. Failure to maintain a current and accurate email address, home postal mailing address, or office postal address on file with your Association and with ARMLS 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.

For **Minor Violations**, if the violation is corrected by the subscriber before the due date stated in the Violation Notice (5 days), a fine will not be imposed. For violations that the subscriber cannot correct due to access restrictions on that listing, the subscriber shall instruct ARMLS, within the five day period, how to correct the listing or a subsequent violation shall be deemed to have occurred and the process will repeat. On the sixth day, a fine is imposed and an invoice for the fine amount is sent.

If subsequent Minor Violations of the same rule are found within twelve months of the original violation, the original violation and all other violations of the same rule will automatically be fined according to the category and fine progression in which the violation falls.

For **Automatic Violations** the violation shall be deemed to have occurred when discovered or reported and the appropriate fine shall be imposed based on the applicable increment calculated by counting all violations by that Subscriber within the most-recent previous twelve month period. (Example: Subscriber had three minor violations in previous twelve months and repaired all within the allowed period. No fines were levied. Subscriber now has an automatic violation. That violation is fined at the “4th Violation” level, which is mandatory attendance at an MLS rules orientation class, AND \$100.00 fine assessed.

For fine categories where suspension is an option, for reasons other than failure to pay a fine, the MLS Committee shall be informed of the infraction, the violation history of the subscriber, and any other pertinent information regarding the incident, and shall determine if a suspension is warranted and if so for what duration. The MLS Committee will make recommendation to the Board of Directors for an appropriate penalty and the Board of Directors shall make the final determination of the penalty.

SECTION 7 – Appeals Process

Appeals may be filed on any category fine/violation. The appeal will require an appeal fee equal to \$50 or 10% of the applicable fine, whichever is higher. The fee must be paid before the appeal can go forward. The fee will be returned if the appeal results in no penalty. The fee will be forfeited if the penalty is upheld on appeal. Only one fee will be charged for each infraction appealed. Fines shall be suspended while the appeal process is ongoing.

Appeals must be filed in writing and may be mailed to ARMLS at 130 S. Priest Drive, Suite 101, Tempe, AZ 85281 or may be faxed to (480) 967-0847 or may be sent via email to APPEALS@ARMLS.COM

The appeal letter must provide a detailed explanation (including any supporting documentation) on why the appellant feels that the fine should not be assessed. A copy of the invoice for the fine that is being appealed must be included with the letter. The appeal letter must be **received** by ARMLS **within five days of the date that the fine is due**, otherwise the appellant shall forfeit their right of appeal.

All appeal letters and fees received by ARMLS within the allotted time shall be submitted to the ARMLS MLS Committee at its next regularly scheduled meeting for consideration. The MLS Committee is responsible for deciding whether to waive or uphold the penalty. The appellant shall have the right to attend the committee meeting at which their appeal is being considered. ARMLS will notify appellant of the date and time of that meeting. The appellant must notify the Compliance Department of his/her intention to appear during the appeal no less than five (5) business days prior to the meeting.

The appellant shall have the right to be accompanied by Subscriber's Participant or legal counsel.

The appellant shall be notified of the decision of the MLS Committee. If the penalty is upheld, it shall be due and payable within ten days of the date that ARMLS notifies the appellant of this decision.

If the appellant disagrees with the decision of the MLS Committee, he/she may appeal that decision to the ARMLS Board of Directors ("BOD"). Appeals must be filed in writing and may be mailed to ARMLS at 130 S. Priest Drive, Suite 101, Tempe, AZ 85281 or may be faxed to (480) 967-0847 or may be sent via email to APPEALS@ARMLS.COM. The appellant must provide a detailed explanation, including any supporting documents, on why the appellant feels that the penalty should not have been affirmed. The appeal letter must be **received** by ARMLS **no later than the date upon which the fine is due**, otherwise, the appellant shall forfeit their right of

appeal. The appellant shall have the right to attend the BOD meeting at which their appeal is being considered. ARMLS will notify appellant of the date and time of that meeting. The appellant must notify the Compliance Department of his/her intention to appear during the appeal no less than five (5) Days prior to the meeting.

The appellant shall be notified of the decision of the Board of Directors. If the penalty is upheld, it shall be due and payable within ten days of the date that ARMLS notifies the appellant of this decision.

The decision of the BOD is final.

Failure to pay a fine amount within thirty (30) Days of the due date may result in suspension from the MLS. Such a suspension includes, but is not limited to, access to the MLS system and use of a lockbox key.