

Executive Summary

Pursuant to the requirements of the proposed Settlement Agreement, the MLS policies and model MLS governing documents were reviewed and updated with the key changes below.

1. Eliminate and prohibit any requirement of offers of compensation in the MLS between listing brokers or sellers to buyer brokers or other buyer representatives.
2. Retain, and define, "cooperation" for MLS Participation.
3. Eliminate and prohibit MLS Participants, Subscribers, and sellers from making any offers of compensation in the MLS to buyer brokers or other buyer representatives.
4. Require the MLS to eliminate all broker compensation fields and compensation information in the MLS.
5. Require the MLS to not create, facilitate, or support any non-MLS mechanism (including by providing listing information to an internet aggregator's website for such purpose) for Participants, Subscribers, or sellers to make offers of compensation to buyer brokers or other buyer representatives.
6. Prohibit the use of MLS data or data feeds to directly or indirectly establish or maintain a platform of offers of compensation from multiple brokers or other buyer representatives. Such use must result with the MLS terminating the Participant's access to any MLS data and data feeds.
7. Reinforce that MLS Participants and Subscribers must not, and MLSs must not enable the ability to, filter out or restrict MLS listings that are communicated to customers or clients based on the existence or level of compensation offered to the cooperating broker or the name of a brokerage or agent.
8. Require compensation disclosures to sellers, and prospective sellers and buyers.
9. Require MLS Participants working with a buyer to enter into a written agreement with the buyer prior to touring a home.

These policy changes were approved by the NAR Leadership Team and will be effective on August 17.

For additional information go to: <https://www.nar.realtor/the-facts>.

SUMMARY OF MLS POLICY CHANGES

Section #	Policy Language
<p>Section 1 Multiple Listing Service (MLS) Defined</p>	<p>A multiple listing service is:</p> <ul style="list-style-type: none"> • a facility for the orderly correlation and dissemination of listing information so Participants may better serve their clients and customers and the public • a means of enhancing cooperation among Participants • a means by which information is accumulated and disseminated to enable authorized Participants to prepare appraisals, analyses, and other valuations of real property for bona fide clients and customers • a means by which Participants engaging in real estate appraisal contribute to common databases <i>(Revised)</i> M
<p>Section 2 Definition of MLS Participant (Policy Statement 7.9)</p>	<p>Where the term REALTOR® is used in this explanation of policy in connection with the word member or the word Participant, it shall be construed to mean the REALTOR® principal or principals, of this or any other association, or a firm comprised of REALTOR® principals participating in a multiple listing service owned and operated by the board. Participatory rights shall be held by an individual principal broker unless determined by the association or MLS to be held by a firm. It shall not be construed to include individuals other than a principal or principals who are REALTOR® members of this or any other association, or who are legally entitled to participate without association membership. However, under no circumstances is any individual or firm, regardless of membership status, entitled to MLS membership or participation unless they hold a current, valid real estate broker's license and cooperate, or are licensed or certified by an appropriate state regulatory</p>

	<p>agency to engage in the appraisal of real property. Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients. Use of information developed by or published by an association multiple listing service is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited.</p> <p>Mere possession of a broker's license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm cooperates means that the Participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS, shares information on listed property, and makes property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients, and to cooperate. "Actively" means on a continual and ongoing basis during the operation of the Participant's real estate business. The "actively" requirement is not intended to preclude MLS participation by a Participant or potential Participant that operates a real estate business on a part-time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a Participant or potential Participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the Participant or potential Participant as long as the level of service satisfies state law.</p>
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	<p>The key is that the Participant or potential Participant cooperates with respect to properties of the type that are listed on the MLS in which participation is sought. Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their client(s). This requirement does not permit an MLS to deny participation to a Participant or potential Participant that operates a “Virtual Office Website” (VOW) (including a VOW that the Participant uses to refer customers to other Participants) if the Participant or potential Participant actively endeavors to cooperate. An MLS may evaluate whether a Participant or potential Participant actively endeavors during the operation of its real estate business to cooperate only if the MLS has a reasonable basis to believe that the Participant or potential Participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner to all Participants and potential Participants. M</p>
<p>Section 2 Association and MLS Compliance with National Association Policy (Policy Statement 7.17)</p>	<p>Those associations or multiple listing services found by the National Association to be operating under bylaws or rules and regulations not consistent with mandatory policies of the National Association are not entitled to errors and omissions insurance coverage and their charters are subject to review and revocation. I</p>
<p>Section 4 Inclusion of Exclusive Agency Listings in MLS Compilations and Databases (Policy Statement 7.41)</p>	<p>Multiple listing services shall not establish or maintain any rule or policy prohibiting inclusion of exclusive agency listings that would be otherwise acceptable for inclusion in the compilation of current listing information.</p> <p>Explanation: This policy shall not be construed as requiring Participants to accept exclusive agency listings if they</p>

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	<p>determine acceptance is not in their best interest or the best interest of clients or customers. However, this policy does preclude collective agreements between Participants affiliated with different firms or others to refuse to accept exclusive agency listings. This policy contemplates multiple listing services will clearly distinguish between exclusive right-to-sell and exclusive agency listings in multiple listing compilations and databases to prevent confusion about the rights and obligations of brokers who cooperate in the sale of such listings. <i>(Amended)</i> M</p>
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<p>Section 8 Categorization of MLS Services, Information, and Products (Policy Statement 7.57)</p>	<p>Core: Core MLS information, services, and products are essential to the effective functioning of MLS, as defined, and include:</p> <ul style="list-style-type: none"> • active listing information M
<p>Section 18 Compensation Notice (Policy Statement 7.39)</p>	<p>It is recommended that MLSs publish the following notice to their general membership at least annually.</p> <p style="text-align: center;">Compensation Notice</p> <ol style="list-style-type: none"> <i>1. A broker's compensation and fees for services are not set by law and are fully negotiable.</i> <i>2. A broker's compensation for services rendered to a seller or for services rendered to a buyer is solely a matter of negotiation between the broker and their client, and is not fixed, controlled, recommended, or maintained by any persons not a party to the brokerage service agreement.</i> <i>3. The compensation paid by a listing broker to a cooperating broker in respect to any listing is established by the listing broker and is not fixed, controlled, recommended, or maintained by any persons other than the listing broker. (Amended</i> <p><i>(Amended) M</i></p>
<p>Section 21 Non-filtering of Listings (Policy Statement 8.5)</p>	<p>MLS Participants and Subscribers must not, and MLSs must not enable the ability to, filter out or restrict MLS listings that are communicated to customers or clients based on the existence or level of compensation offered to the</p>

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	cooperating broker or the name of a brokerage or agent. (Amended) M
Section 6 Services Advertised as “Free”	MLS Participants and Subscribers must not represent that their brokerage services to a client or customer are free or available at no cost to clients, unless the Participant or Subscriber will receive no financial compensation from any source for those services. M
Section 1 Statewide Data Sharing Defined (Policy Statement 8.10)	<p>A statewide data share should deliver MLS data through a common technology interface (e.g., API) of all data fields to all Participants of MLSs in the statewide data share. However, the data should not include MLS-only data fields that are viewable only to the listing Participant and the respective local MLS.</p> <p>Note: Considerations should be given to:</p> <ul style="list-style-type: none"> • Inclusion of local data fields (non-RESO Standard fields). • Individual MLS’s “attached document” retention policies and state laws regarding the sharing and retention of documents related to a previous transaction (privacy laws). <p>R</p>
Section 4 MLS Participation by Brokers Acting as Agents of Potential Purchasers (Policy Statement 7.40)	No association or association MLS may make or maintain a rule which would preclude an individual or firm, otherwise qualified, from participating in an association MLS solely on the basis that the individual or firm functions, to any degree, as the agent of potential purchasers under a contract between the individual (or firm) and the prospective purchaser (client). However, in instances where the Participant is representing the potential purchaser as an agent, the Participant cannot function simultaneously as the

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	<p>subagent of the listing broker without buyer and seller consent or as provided by state law; and must make his true position clearly known to all interested parties at first contact. <i>(Amended)</i> M</p>
<p>NEW MLS POLICY STATEMENT 8.11</p> <p>No Compensation Offers in MLS</p>	<p>The MLS must not accept listings containing an offer of compensation in the MLS to other MLS Participants and Subscribers. Further, the MLS may not create, facilitate, or support any non-MLS mechanism (including by providing listing information to an internet aggregator's website for such purpose) for Participants, Subscribers, or sellers to make offers of compensation to buyer brokers or other buyer representatives.</p> <p>Use of MLS data or data feeds to directly or indirectly establish or maintain a platform of offers of compensation from multiple brokers to buyer brokers or other buyer representatives is prohibited and must result in the MLS terminating that Participant's access to any MLS data and data feeds.</p> <p>The multiple listing service must not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his listing contract, and the multiple listing service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a participant. The multiple listing service must prohibit disclosing in any way the total commission negotiated between the seller and the listing broker, or total broker compensation (i.e. combined compensation to both listing brokers and buyer brokers).</p> <p>The multiple listing service must not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his listing contract, and the multiple listing</p>

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	<p>service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a participant. The multiple listing service must prohibit disclosing in any way the total commission negotiated between the seller and the listing broker, or total broker compensation (i.e. combined compensation to both listing brokers and buyer brokers).</p> <p>Note 1: Multiple listing services must give Participants the ability to disclose to other Participants any potential for a short sale. As used in MLS rules, short sales are defined as a transaction where title transfers, where the sales price is insufficient to pay the total of all liens and costs of sale, and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies. Multiple listing services may, as a matter of local discretion, require Participants to disclose short sales when Participants know a transaction is a potential short sale. <i>(Amended)</i> M</p>
<p>NEW POLICY STATEMENT 8.12</p> <p>Required Consumer Disclosure</p>	<p>Disclosure of Compensation: MLS Participants and Subscribers must:</p> <ol style="list-style-type: none"> 1. Disclose to prospective sellers and buyers that broker compensation is not set by law and is fully negotiable. This must be included in conspicuous language as part of any listing agreement, buyer written agreement, and pre-closing disclosure documents (if any). 2. Conspicuously disclose in writing to sellers, and obtain the seller's authority, for any payments or offer of payment that the listing Participant or seller will make to another broker, agent, or other representative (e.g. real estate attorney) acting for

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	<p>buyers. This disclosure must include the amount or rate of any such payment and be made in writing in advance of any payment or agreement to pay. M</p>
<p><u>NEW POLICY STATEMENT 8.13</u></p> <p><u>Written Buyer Agreements Required</u></p>	<p><u>Unless inconsistent with state or federal law or regulation, all MLS Participants working with a buyer must enter into a written agreement with the buyer prior to touring a home. The written agreement must include:</u></p> <ul style="list-style-type: none"> a. <u>a specific and conspicuous disclosure of the amount or rate of compensation the Participant will receive or how this amount will be determined, to the extent that the Participant will receive compensation from any source.</u> b. <u>the amount of compensation in a manner that is objectively ascertainable and not open-ended.</u> c. <u>a term that prohibits the Participant from receiving compensation for brokerage services from any source that exceeds the amount or rate agreed to in the agreement with the buyer; and</u> d. <u>a conspicuous statement that broker fees and commissions are not set by law and are fully negotiable.</u> <p>M</p>

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<p>Section 2 Purpose</p>	<p>A multiple listing service is a means by which cooperation among Participants is enhanced; by which information is accumulated and disseminated to enable authorized Participants to prepare appraisals, analyses, and other valuations of real property for bona fide clients and customers; by which Participants engaging in real estate appraisal contribute to common databases; and is a facility for the orderly correlation and dissemination of listing information so Participants may better serve their clients and the public. <i>(Amended)</i> M</p>
<p>Section 3 (or 4) Participation</p>	<p>Any REALTOR® of this or any other association who is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal, without further qualification, except as otherwise stipulated in these bylaws, shall be eligible to participate in multiple listing upon agreeing in writing to conform to the rules and regulations thereof and to pay the costs incidental thereto.* However, under no circumstances is any individual or firm, regardless of membership status, entitled to multiple listing service membership or participation unless they hold a current, valid real estate broker's license and cooperate, or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property.** Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients. Use of information developed by or published by an association multiple listing service is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed by or published by an</p>

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	<p>association multiple listing service where access to such information is prohibited by law. <i>(Amended)</i></p> <p>Mere possession of a broker’s license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm cooperate means that the Participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS, share information on listed property and make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their client(s). “Actively” means on a continual and ongoing basis during the operation of the Participant’s real estate business. The “actively” requirement is not intended to preclude MLS participation by a Participant or potential Participant that operates a real estate business on a part-time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a Participant or potential Participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the Participant or potential Participant as long as the level of service satisfies state law.</p> <hr/> <p>*Optional qualifications which may be adopted at the local association’s discretion: Any applicant for MLS participation and any licensee (including licensed or certified appraisers) affiliated with an MLS participant who has access to and use of MLS-generated information shall complete an orientation program of no more than eight (8) classroom hours devoted to the MLS rules and regulations and computer training related to MLS information entry and retrieval within thirty (30) days after access has been provided. <i>(Amended 11/96)</i></p>
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	<p>Associations are not required to establish prerequisites for MLS participation beyond holding REALTOR® (principal) membership in an association. However, if the association wishes to establish these requirements for MLS participation or for access to MLS-generated information, the requirement of attendance at an orientation program is the most rigorous requirement that may be established. <i>(Amended 2/94)</i></p> <p>**Generally, associations of REALTORS®, when there is more than one principal in a real estate firm, define the chief principal officer of the firm as the MLS participant. If each principal is defined as a participant, then each shall have a separate vote on MLS matters. Brokers or salespersons other than principals are not considered participants in the service, but have access to and use of the service through the principal(s) with whom they are affiliated.</p> <p>The key is that the Participant or potential Participant actively endeavors to cooperate with respect to properties of the type that are listed on the MLS in which participation is sought. Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients. This requirement does not permit an MLS to deny participation to a Participant or potential Participant that operates a “Virtual Office Website” (VOW) (including a VOW that the Participant uses to refer customers to other Participants) if the Participant or potential Participant actively endeavors to cooperate. An MLS may evaluate whether a Participant or potential Participant actively endeavors during the operation of its real estate business to cooperate only if the MLS has a reasonable basis to believe that the Participant or potential Participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner to all Participants and potential Participants.</p> <p>Optional Provision for Establishing Nonmember Participatory Rights (Open MLS)* A nonmember applicant</p>
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	<p>for MLS participation who is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal, shall supply evidence satisfactory to the membership committee that he has no record of recent or pending bankruptcy; has no record of official sanctions involving unprofessional conduct; agrees to complete a course of instruction (if any) covering the MLS rules and regulations and computer training related to MLS information entry and retrieval, and shall pass such reasonable and non-discriminatory written examination thereon as may be required by the MLS; and shall agree that if elected as a Participant, he will abide by such rules and regulations and pay the MLS fees and dues, including the nonmember differential (if any), as from time to time established. Under no circumstances is any individual or firm entitled to MLS participation or membership unless they hold a current, valid real estate broker's license and cooperate or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients. Use of information developed by or published by an association multiple listing service is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed by or published by an association multiple listing service where access to such information is prohibited by law. <i>(Amended)</i></p>
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*Only adopt the following paragraph if the association's MLS is open to nonmember Participants (otherwise qualified individuals who do not hold REALTOR® membership anywhere).

Mere possession of a broker's license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm offers or cooperate means that the Participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS, share information on listed property and make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their client(s). "Actively" means on a continual and ongoing basis during the operation of the Participant's real estate business. The "actively" requirement is not intended to preclude MLS participation by a Participant or potential Participant that operates a real estate business on a part-time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a Participant or potential Participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the Participant or potential Participant as long as the level of service satisfies state law. *(Adopted 11/08)*

The key is that the Participant or potential Participant cooperate with respect to properties of the type that are listed on the MLS in which participation is sought.

Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in

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	<p>the best interests of their clients. This requirement does not permit an MLS to deny participation to a Participant or potential Participant that operates a “Virtual Office Website” (VOW) (including a VOW that the Participant uses to refer customers to other Participants) if the Participant or potential Participant actively endeavors to cooperate. An MLS may evaluate whether a Participant or potential Participant actively endeavors during the operation of its real estate business to cooperate only if the MLS has a reasonable basis to believe that the Participant or potential Participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner to all Participants and potential Participants. M</p>
<p>Section 1 Listing Procedures</p>	<p>Listings of real or personal property of the following types, which are listed subject to a real estate broker’s license, and are located within the service area of the multiple listing service, and are taken by Participants on <i>(indicate form[s] of listing[s] accepted by the Service — See Notes 1 and 2)</i> shall be delivered to the multiple listing service within _____ (usually 48) hours after all necessary signatures of seller(s) have been obtained: <i>(Amended 11/17)</i></p> <ul style="list-style-type: none"> a. single family homes for sale or exchange b. vacant lots and acreage for sale or exchange c. two-family, three-family, and four-family residential buildings for sale or exchange <p>Note 1: The multiple listing service shall not require a Participant to submit listings on a form other than the form the Participant individually chooses to utilize provided the listing is of a type accepted by the service, although a property data form may be required as approved by the multiple listing service.</p>

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	<p>However, the multiple listing service, through its legal counsel:</p> <ul style="list-style-type: none"> • may reserve the right to refuse to accept a listing form which fails to adequately protect the interests of the public and the Participants • assure that no listing form filed with the multiple listing service establishes, directly or indirectly, any contractual relationship between the multiple listing service and the client (buyer or seller) <p>The multiple listing service shall accept exclusive right-to-sell listing contracts and exclusive agency listing contracts, and may accept other forms of agreement which make it possible for the listing broker to cooperate with other Participants of the multiple listing service acting as subagents, buyer agents, or both. <i>(Amended)</i></p> <p>The listing agreement must include the seller's written authorization to submit the agreement to the multiple listing service. <i>(Amended 11/96)</i></p> <p>The different types of listing agreements include:</p> <ul style="list-style-type: none"> • exclusive right-to-sell • exclusive agency • open • net <p>The service may not accept net listings because they are deemed unethical and, in most states, illegal. Open listings are not accepted, except where required by law, because of the inherent nature of an open listing. Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients.</p>
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	<p>The exclusive right-to-sell listing is the form of listing where the seller authorizes exclusive authorization to the listing broker to cooperate with other brokers in the sale of the property. <i>(Amended)</i></p> <p>The exclusive agency listing also authorizes the listing broker as exclusive agent, to cooperate with other brokers in the sale of the property, but also reserves to the seller the general right to sell the property on an unlimited or restrictive basis.</p> <p>Exclusive agency listings and exclusive right-to-sell listings with named prospects exempt should be clearly distinguished by a simple designation such as a code or symbol from exclusive right-to-sell listings with no named prospects exempt, since they can present special risks of procuring cause controversies and administrative problems not posed by exclusive right-to-sell listings with no named prospects exempt. Care should be exercised to ensure that different codes or symbols are used to denote exclusive agency and exclusive right-to-sell listings with prospect reservations. <i>(Amended 4/92)</i></p> <p>Note 2: A multiple listing service does not regulate the type of listings its members may take. This does not mean that a multiple listing service must accept every type of listing. The multiple listing service shall decline to accept open listings (except where acceptance is required by law) and net listings, and it may limit its service to listings of certain kinds of property. But, if it chooses to limit the kind of listings it will accept, it shall leave its members free to accept such listings to be handled outside the multiple listing service.</p>
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	<p>Note 3: A multiple listing service may, as a matter of local option, accept exclusively listed property that is subject to auction. If such listings do not show a listed price, they may be included in a separate section of the MLS compilation of current listings. M</p>
<p>Section 1.9 No Control of Commission Rates or Fees Charged by Participants</p>	<p>The multiple listing service shall not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by participants. Further, the multiple listing service shall not fix, control, recommend, suggest, or maintain the division of commissions or fees between cooperating participants or between participants and nonparticipants. M</p>
<p>Section 4.5, Services Advertised as “Free”</p>	<p>MLS participants and subscribers must not represent that their brokerage services to a client or customer are free or available at no cost to their clients, unless the participant or subscriber will receive no financial compensation from any source for those services. <i>(Amended 11/21)</i> M</p>
<p>NEW RULE UNDER “PROHIBITIONS</p> <p>Section 4.6, No Filtering of Listings</p>	<p>Participants and Subscribers must not filter out or restrict MLS listings that are communicated to customers or clients based on the existence or level of compensation offered to the cooperating broker or the name of a brokerage or agent. M</p>
<p>Section 5 No Compensation Specified on MLS Listings</p>	<p>Participants, Subscribers, or their sellers may not make offers of compensation to buyer brokers and other buyer representatives in the MLS.</p> <p>Use of MLS data or data feeds to directly or indirectly establish or maintain a platform to make offers of compensation from multiple brokers to buyer brokers or other buyer representatives is prohibited and must result in</p>

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	<p>the MLS terminating that Participant’s access to any MLS data and data feeds.</p> <p>Note 1: The multiple listing service must not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his listing contract, and the multiple listing service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a participant. The multiple listing service must prohibit disclosing in any way the total commission negotiated between the seller and the listing broker, or total broker compensation (i.e. combined compensation to both listing brokers and buyer brokers).</p> <p>Note 2: The multiple listing service shall make no rule on the division of commissions between Participants and non-Participants. This should remain solely the responsibility of the listing broker.</p> <p>Note 3: Multiple listing services must give Participants the ability to disclose to other Participants any potential for a short sale. As used in these rules, short sales are defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies. Multiple listing services may, as a matter of local discretion, require Participants to disclose potential short sales when Participants know a transaction is a potential short sale. <i>(Amended)</i> M</p>
<p>NEW SECTION 5.0.0 Required Consumer</p>	<p>Disclosures of Compensation: MLS Participants and Subscribers must:</p>

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<p>Disclosure</p>	<ol style="list-style-type: none"> 1. Disclose to prospective sellers and buyers that broker compensation is not set by law and is fully negotiable. This must be included in conspicuous language as part of any listing agreement, buyer written agreement, and pre-closing disclosure documents (if any). 2. Conspicuously disclose in writing to sellers, and obtain the seller's authority, for any payments or offer of payment that the listing Participant or seller will make to another broker, agent, or other representative (e.g. real estate attorney) acting for buyers. This disclosure must include the amount or rate of any such payment and be made in writing in advance of any payment or agreement to pay. M
<p><u>NEW SECTION 5.0.1</u></p> <p><u>Written Buyer Agreement</u></p>	<p><u>Unless inconsistent with state or federal law or regulation, all MLS Participants working with a buyer must enter into a written agreement with the buyer prior to touring a home. The written agreement must include:</u></p> <ol style="list-style-type: none"> a. <u>a specific and conspicuous disclosure of the amount or rate of compensation the Participant will receive or how this amount will be determined, to the extent that the Participant will receive compensation from any source;</u> b. <u>the amount of compensation in a manner that is objectively ascertainable and not open-ended.</u> c. <u>a term that prohibits the Participant from receiving compensation for brokerage services from any source that exceeds the amount or rate agreed to in the agreement with the buyer; and</u> d. <u>a conspicuous statement that broker fees and commissions are not set by law and are fully negotiable.</u> M
<p>Standard 16.15</p>	<p>On unlisted property, MLS Participants acting as buyer/tenant representatives or brokers shall disclose that relationship to the seller/landlord at first contact for that</p>

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	<p>buyer/tenant and shall provide written confirmation of such disclosure to the seller/landlord not later than execution of any purchase or lease agreement. <i>(Amended)</i> ○</p>
<p>Appendix 1 Section 2 National Association's Interest</p>	<p>The concept of cooperation in real estate transactions can be enhanced by a mechanism such as the multiple listing service which enables a REALTOR® to cooperate with other REALTORS®. Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their client(s). <i>(Amended)</i>. I</p>

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LINE EDITS

Section #	Policy Language
<p>Section 1 Multiple Listing Service (MLS) Defined</p>	<p>A multiple listing service is:</p> <ul style="list-style-type: none"> • a facility for the orderly correlation and dissemination of listing information so Participants may better serve their clients and customers and the public • a means by which authorized participants make blanket unilateral offers of compensation to other participants (acting as subagents, buyer agents, or in other agency or nonagency capacities defined by law) • a means of enhancing cooperation among Participants • a means by which information is accumulated and disseminated to enable authorized Participants to prepare appraisals, analyses, and other valuations of real property for bona fide clients and customers • a means by which Participants engaging in real estate appraisal contribute to common databases <i>(Revised 11/04)</i> <p>Entitlement to compensation is determined by the cooperating broker's performance as procuring cause of the sale (or lease). <i>(Revised 11/94)</i></p> <p>While offers of compensation made by listing brokers to cooperating brokers through MLS are unconditional,* a listing broker's obligation to compensate a cooperating broker who was the procuring cause of sale (or lease) may be excused if it is determined through arbitration that, through no fault of the listing broker and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the listing broker to collect a commission</p>

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	<p>pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through MLS would be a question to be determined by an arbitration hearing panel based on all relevant facts and circumstances including, but not limited to, why it was impossible or financially unfeasible for the listing broker to collect some or all of the commission established in the listing agreement; at what point in the transaction did the listing broker know (or should have known) that some or all of the commission established in the listing agreement might not be paid; and how promptly had the listing broker communicated to cooperating brokers that the commission established in the listing agreement might not be paid. <i>(Revised 11/98)</i></p> <hr/> <p>*Compensation is unconditional except where local MLS rules permit listing brokers to reserve the right to reduce compensation offers to cooperating brokers in the event that the commission established in a listing contract is reduced by court action. Refer to Part Two, G., Section 7, Information Specifying the Compensation on Each Listing Filed with a Multiple Listing Service of an Association of REALTORS®, Handbook on Multiple Listing Policy. <i>(Adopted 11/98, Revised 11/09)</i> M</p>
<p>Section 2 Definition of MLS Participant (Policy Statement 7.9)</p>	<p>Where the term REALTOR® is used in this explanation of policy in connection with the word member or the word Participant, it shall be construed to mean the REALTOR® principal or principals, of this or any other association, or a firm comprised of REALTOR® principals participating in a multiple listing service owned and operated by the board. Participatory rights shall be held by an individual principal broker unless determined by the association or MLS to be held by a firm. It shall not be construed to include individuals other than a principal or principals who are REALTOR® members of this or any other association, or who are legally entitled to participate without association membership. However, under no circumstances is any individual or firm,</p>

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	<p>regardless of membership status, entitled to MLS membership or participation unless they hold a current, valid real estate broker's license and offer or accept cooperation and compensation to and from other participants, or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property. <u>Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients.</u> Use of information developed by or published by an association multiple listing service is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. <i>(Amended 11/08)</i></p> <p>Mere possession of a broker's license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm offers or accepts cooperation and compensation <u>cooperates</u> means that the Participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS, <u>shares information on listed property, and makes property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients,</u> and/or to accept offers of cooperation and compensation made by listing brokers or agents in the MLS. "Actively" means on a continual and ongoing basis during the operation of the Participant's real estate business. The "actively" requirement is not intended to preclude MLS participation by a Participant or potential Participant that operates a real estate business on a part-time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by</p>
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	<p>market conditions. Similarly, the requirement is not intended to deny MLS participation to a Participant or potential Participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the Participant or potential Participant as long as the level of service satisfies state law. (Adopted 11/08)</p> <p>The key is that the Participant or potential Participant actively endeavors to make or accept offers of cooperation and compensation<u>cooperates</u> with respect to properties of the type that are listed on the MLS in which participation is sought. <u>Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their client(s).</u> This requirement does not permit an MLS to deny participation to a Participant or potential Participant that operates a “Virtual Office Website” (VOW) (including a VOW that the Participant uses to refer customers to other Participants) if the Participant or potential Participant actively endeavors to make or accept offers of cooperation and compensation<u>cooperate</u>. An MLS may evaluate whether a Participant or potential Participant actively endeavors during the operation of its real estate business to offer or accept cooperation and compensation<u>cooperate</u> only if the MLS has a reasonable basis to believe that the Participant or potential Participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner to all Participants and potential Participants. M</p>
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<p>Section 2 Association and MLS Compliance with National Association Policy (Policy Statement 7.17)</p>	<p>Those associations or multiple listing services found by the National Association to be operating under bylaws or rules and regulations not <u>consistent with mandatory policies of approved by</u> the National Association are not entitled to errors and omissions insurance coverage and their charters are subject to review and revocation. I</p>
<p>Section 4 Inclusion of Exclusive Agency Listings in MLS Compilations and Databases (Policy Statement 7.41)</p>	<p>Multiple listing services shall not establish or maintain any rule or policy prohibiting inclusion of exclusive agency listings that would be otherwise acceptable for inclusion in the compilation of current listing information.</p> <p>Explanation: This policy shall not be construed as requiring Participants to accept exclusive agency listings if they determine acceptance is not in their best interest or the best interest of clients or customers. However, this policy does preclude collective agreements between Participants affiliated with different firms or others to refuse to accept exclusive agency listings. <u>or to refuse to accept offers of compensation extended through the multiple listing service or otherwise.</u> This policy contemplates multiple listing services will clearly distinguish between exclusive right-to-sell and exclusive agency listings in multiple listing compilations and databases to prevent confusion about the rights and obligations of brokers who cooperate in the sale of such listings. (Amended 7/04) M</p>

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<p>Section 8 Categorization of MLS Services, Information, and Products (Policy Statement 7.57)</p>	<p>Core: Core MLS information, services, and products are essential to the effective functioning of MLS, as defined, and include:</p> <ul style="list-style-type: none"> • active listing information • information communicating compensation to potential cooperating brokers... M
<p>Section 18 Compilation of Current Listing Information Compensation Notice (Policy Statement 7.39)</p>	<p>Any compilation of current listing information shall display the following notice in a conspicuous manner:</p> <p><u>It is recommended that MLSs publish the following notice to their general membership at least annually.</u></p> <p style="text-align: center;"><u>Compensation Notice to Association Members</u></p> <p>Under the long-established policy of this association, the (state) association of REALTORS®, and the NATIONAL ASSOCIATION OF REALTORS®:</p> <p><u>1. A broker's compensation and fees for services are not set by law and are fully negotiable.</u></p> <p>2. The A broker's compensation for services rendered in respect to any listing to a seller or for services rendered to a buyer is solely a matter of negotiation between the broker and his or her their client, and is not fixed, controlled, recommended, or maintained by any persons not a party to the brokerage listing agreement service agreement.</p> <p>2.</p>

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	<p>2.3. <i>The compensation paid by a listing broker to a cooperating broker in respect to any listing is established by the listing broker and is not fixed, controlled, recommended, or maintained by any persons other than the listing broker. (Amended 4/92)</i></p> <p>In addition, it is recommended that all associations publish this notice to their general membership at least annually. Every association operating a multiple listing service is required to certify to the National Association that the notice to association members concerning the negotiability of brokerage commissions, subagency compensation, and compensation to buyer's agents has been reproduced in their compilation of current listing information. Further, associations that do not operate an MLS shall publish the notice to association members in their newsletter or other vehicle for membership information dissemination and shall so certify to the National Association. (Amended 11/88) M</p>
<p>Section 21 Non-filtering of Listings (Policy Statement 8.5)</p>	<p>MLS Participants and Subscribers must not, and MLSs must not enable the ability to, filter out or restrict MLS listings that are searchable by and displayed- <u>communicated</u> to consumers- customers or clients based on the <u>existence or</u> level of compensation offered to the cooperating broker or the name of a brokerage or agent. (Amended Adopted 11/21) M</p>
<p>Section 6 Services Advertised as “Free”</p>	<p>MLS Participants and Subscribers must not represent that their brokerage services to a client or customer are free or available at no cost to clients, unless the Participant or Subscriber will receive no financial compensation from any source for those services. M</p>
<p>Section 1 Statewide Data Sharing Defined (Policy Statement 8.10)</p>	<p>A statewide data share should deliver MLS data through a common technology interface (e.g., API) of all data fields; including offers of compensation; to all Participants of MLSs in the statewide data share. However, the data should not</p>

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	<p>include MLS-only data fields that are viewable only to the listing Participant and the respective local MLS.</p> <p>Note: Considerations should be given to:</p> <ul style="list-style-type: none"> • Inclusion of local data fields (non-RESO Standard fields). • Any different compensation models such as a percentage of the net vs. gross sales price, tiered commission arrangements, and other models that are used by Participants in MLSs. • Individual MLS’s “attached document” retention policies and state laws regarding the sharing and retention of documents related to a previous transaction (privacy laws). <p>R</p>
<p>Section 4 MLS Participation by Brokers Acting as Agents of Potential Purchasers (Policy Statement 7.40)</p>	<p>Since the MLS is an association service by which the participants make a blanket unilateral offer of compensation to the other participants with respect to listings for which they are an agent, nNo association or association MLS may make or maintain a rule which would preclude an individual or firm, otherwise qualified, from participating in an association MLS solely on the basis that the individual or firm functions, to any degree, as the agent of potential purchasers under a contract between the individual (or firm) and the prospective purchaser (client). However, in instances where the Participant is representing the potential purchaser as an agent, the Participant cannot function simultaneously as the subagent of the listing broker without buyer and seller consent or as provided by state law; cannot accept compensation from the listing broker without the express consent of all parties to the transaction; and must</p>

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	<p>make his true position clearly known to all interested parties at first contact. (Amended 11/96) M</p>
<p>Section 5 Facilitators/Intermediaries as MLS Participants (Policy Statement 7.53)</p>	<p>In states where real estate brokers are authorized by law to act in a defined non-agency capacity such as facilitators or intermediaries, or where the state attorney general or the state authority regulating licensees indicates in writing that acting in such a capacity is consistent with state law, multiple listing services may adopt rules and procedures to enable participants, as listing brokers, to offer cooperation and compensation to such individuals or firms. (Amended 11/94) O</p>
<p>G. Commission/Cooperative Compensation Offers</p> <p>Section 1 Information Specifying the No Offer of Compensation on Each Listings Filed with a Multiple Listing Service of an Association of REALTORS® (Policy Statement 7.23)</p> <p><u>NEW MLS POLICY STATEMENT 8.11</u></p> <p><u>No Compensation Offers in MLS</u></p>	<p>In filing property with the multiple listing service, participants make blanket unilateral offers of compensation to the other MLS Participants. The MLS must not accept listings containing an offer of compensation in the MLS to other MLS Participants and Subscribers. Further, the MLS may not create, facilitate, or support any non-MLS mechanism (including by providing listing information to an internet aggregator's website for such purpose) for Participants, Subscribers, or sellers to make offers of compensation to buyer brokers or other buyer representatives.</p> <p><u>Use of MLS data or data feeds to directly or indirectly establish or maintain a platform of offers of compensation from multiple brokers to buyer brokers or other buyer representatives is prohibited and must result in the MLS terminating that Participant's access to any MLS data and data feeds.</u></p> <p>The multiple listing service shall<u>must</u> not have a rule requiring the listing broker to disclose the amount of total</p>

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	<p>negotiated commission in his listing contract, and the multiple listing service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a participant. The multiple listing service shall not <u>must prohibit</u> disclosing in any way the total commission negotiated between the seller and the listing broker, <u>or total broker compensation (i.e. combined compensation to both listing brokers and buyer brokers).</u></p> <p>shall therefore specify on each listing filed with the service the compensation being offered by the listing broker to the other MLS participants. This is necessary because cooperating participants have the right to know what their compensation will be prior to commencing their efforts to sell.* (Revised 11/04)</p> <hr/> <p>*Relates to Point No. 2 of the MLS antitrust compliance policy.</p> <p>The listing broker retains the right to determine the amount of compensation offered to subagents, buyer agents, or to brokers acting in other agency or nonagency capacities, which may be the same or different. (Revised 11/96)</p> <p>This shall not preclude the listing broker from offering any MLS participant compensation other than the compensation indicated on his listings as published by the MLS, provided the listing broker informs the other broker in writing in advance of their submitting an offer to purchase and provided that the modification in the specified compensation is not the result of any agreement among all or any other participants in the service. Any superseding offer of compensation must be expressed as either a percentage of the gross sales price or as a flat dollar amount. (Amended 05/10)</p>
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~~While offers of compensation made by listing brokers to cooperating brokers through MLS are unconditional (except where MLS rules create specific exceptions as specified elsewhere in this policy statement), a listing broker's obligation to compensate a cooperating broker who was the procuring cause of sale (or lease) may be excused if it is determined through arbitration that, through no fault of the listing broker and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the listing broker to collect a Commission pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through MLS would be a question to be determined by an arbitration hearing panel based on all relevant facts and circumstances including, but not limited to, why it was impossible or financially unfeasible for the listing broker to collect some or all of the Commission established in the listing agreement; at what point in the transaction did the listing broker know (or should have known) that some or all of the Commission established in the listing agreement might not be paid; and how promptly had the listing broker communicated to cooperating brokers that the Commission established in the listing agreement might not be paid. (Amended 11/98)~~

The multiple listing service must not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his listing contract, and the multiple listing service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a participant. The multiple listing service shall must prohibit disclosing in any way the total commission negotiated between the seller and the listing broker, or total broker

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	<p><u>compensation (i.e. combined compensation to both listing brokers and buyer brokers).</u></p> <p>Note 1: The compensation specified on listings filed with the multiple listing service by the participants of the service shall be expressed as a percentage of the gross sales price or as a definite dollar amount. Multiple listing services may, as a matter of local discretion, allow participants to offer cooperative compensation as a percentage of the net sales price, with net sales price defined as the gross sales price minus buyer upgrades (new construction) and seller concessions (as defined by the MLS unless otherwise defined by state law or regulation). The essential and appropriate requirement by a multiple listing service is that the information to be published shall clearly inform the participants as to the compensation they will receive in cooperative transactions unless advised otherwise by the listing broker in writing in advance of their submitting an offer to purchase. <i>(Amended 5/10)</i></p> <p>Multiple listing services shall not publish listings that do not include an offer of compensation expressed as a percentage of the gross selling price or as a definite dollar amount, nor shall they include general invitations by listing brokers to other participants to discuss terms and conditions of possible cooperative relationships. <i>(Amended 11/96)</i></p> <p>Note 2: Multiple listing services, at their discretion, may adopt rules and procedures enabling listing brokers to communicate to potential cooperating brokers that gross Commissions established in listing contracts are subject to court approval, and that compensation payable to cooperating brokers may be</p>
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	<p>reduced if the gross Commission established in the listing contract is reduced by a court. In such instances, the fact that the gross Commission is subject to court approval and either the potential reduction in compensation payable to cooperating brokers or the method by which the potential reduction in compensation will be calculated must be clearly communicated to potential cooperating brokers prior to the time they submit an offer that ultimately results in a successful transaction. <i>(Amended 5/10)</i></p> <p>Note 3: Multiple listing services must give Participants the ability to disclose to other Participants any potential for a short sale. As used in MLS rules, short sales are defined as a transaction where title transfers, where the sales price is insufficient to pay the total of all liens and costs of sale, and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies. Multiple listing services may, as a matter of local discretion, require Participants to disclose short sales when Participants know a transaction is a potential short sale. In any instance where a participant discloses a potential short sale, they may, as a matter of local discretion, be permitted to communicate to other participants how any reduction in the gross Commission established in the listing contract required by the lender as a condition of approving the sale will be apportioned between the listing and cooperating participants. Where participants are permitted to communicate to other participants how any reduction in the gross Commission established in the listing contract required by the lender as a condition of approving the</p>
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	<p>sale will be apportioned between the listing and cooperating participants, multiple listing services may, as a matter of local discretion, require listing participants to disclose to cooperating participants in writing the total reduction in the gross Commission and the amount by which the compensation payable to the cooperating broker will be reduced within _____ hours of receipt of notification from the lender. All confidential disclosures and confidential information related to short sales, if allowed by local rules, must be communicated through dedicated fields or confidential “remarks” available only to participants and subscribers. (Amended 5/10) M</p>
<p>Section 3 Display of the Listing Broker’s Offer of Compensation (Policy Statement 8.8)</p>	<p>MLSs must include the listing broker’s offer of compensation for each active listing displayed on its consumer facing website(s) and in MLS data feeds provided to participants and subscribers and must permit MLS participants or subscribers to share such information through IDX and VOW displays or through any other form or format provided to clients and consumers. The information about the offer of compensation must be accompanied by a disclaimer stating that the offer is made only to participants of the MLS where the listing is filed. (Amended 11/21) M</p>
<p>NEW POLICY STATEMENT 8.12</p> <p>Required Consumer Disclosure</p>	<p>Disclosure of Compensation: <u>MLS Participants and Subscribers must:</u></p> <ol style="list-style-type: none"> 1. <u>Disclose to prospective sellers and buyers that broker compensation is not set by law and is fully negotiable. This must be included in conspicuous language as part of any listing agreement, buyer written agreement, and pre-closing disclosure documents (if any).</u>

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	<p><u>2. Conspicuously disclose in writing to sellers, and obtain the seller’s authority, for any payments or offer of payment that the listing Participant or seller will make to another broker, agent, or other representative (e.g. real estate attorney) acting for buyers. This disclosure must include the amount or rate of any such payment and be made in writing in advance of any payment or agreement to pay. M</u></p>
<p><u>NEW POLICY STATEMENT</u> <u>8.13</u></p> <p><u>Written Buyer Agreements Required</u></p>	<p><u>Unless inconsistent with state or federal law or regulation, all MLS Participants working with a buyer must enter into a written agreement with the buyer prior to touring a home. The written agreement must include:</u></p> <ul style="list-style-type: none"> <u>a. a specific and conspicuous disclosure of the amount or rate of compensation the Participant will receive or how this amount will be determined, to the extent that the Participant will receive compensation from any source.</u> <u>b. the amount of compensation in a manner that is objectively ascertainable and not open-ended.</u> <u>c. a term that prohibits the Participant from receiving compensation for brokerage services from any source that exceeds the amount or rate agreed to in the agreement with the buyer; and</u> <u>d. a conspicuous statement that broker fees and commissions are not set by law and are fully negotiable.</u> <p>M</p>

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<p>Section 2 Purpose</p>	<p>A multiple listing service is a means by which authorized participants make blanket unilateral offers of compensation to other participants (acting as subagents, buyer agents, or in other agency or nonagency capacities defined by law); by which cooperation among Participants is enhanced; by which information is accumulated and disseminated to enable authorized Participants to prepare appraisals, analyses, and other valuations of real property for bona fide clients and customers; by which Participants engaging in real estate appraisal contribute to common databases; and is a facility for the orderly correlation and dissemination of listing information so Participants may better serve their clients and the public. Entitlement to compensation is determined by the cooperating broker's performance as procuring cause of sale (or lease). (Amended 11/04) M</p>
<p>Section 3 (or 4) Participation</p>	<p>Any REALTOR® of this or any other association who is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal, without further qualification, except as otherwise stipulated in these bylaws, shall be eligible to participate in multiple listing upon agreeing in writing to conform to the rules and regulations thereof and to pay the costs incidental thereto.* However, under no circumstances is any individual or firm, regardless of membership status, entitled to multiple listing service membership or participation unless they hold a current, valid real estate broker's license and offer or accept compensation to and from other participants cooperate, or are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property.** <u>Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in</u></p>

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	<p><u>the best interests of their clients.</u> Use of information developed by or published by an association multiple listing service is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed by or published by an association multiple listing service where access to such information is prohibited by law. (Amended 11/08)</p> <p>Mere possession of a broker's license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm offers or accepts cooperation and compensation cooperate means that the Participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS, and/or to accept offers of cooperation and compensation made by listing brokers or agents in the MLS. <u>share information on listed property and make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their client(s).</u> "Actively" means on a continual and ongoing basis during the operation of the Participant's real estate business. The "actively" requirement is not intended to preclude MLS participation by a Participant or potential Participant that operates a real estate business on a part-time, seasonal, or similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a Participant or potential Participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service</p>
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	<p>provided by the Participant or potential Participant as long as the level of service satisfies state law.</p> <hr/> <p>*Optional qualifications which may be adopted at the local association's discretion: Any applicant for MLS participation and any licensee (including licensed or certified appraisers) affiliated with an MLS participant who has access to and use of MLS-generated information shall complete an orientation program of no more than eight (8) classroom hours devoted to the MLS rules and regulations and computer training related to MLS information entry and retrieval within thirty (30) days after access has been provided. <i>(Amended 11/96)</i></p> <p>Associations are not required to establish prerequisites for MLS participation beyond holding REALTOR® (principal) membership in an association. However, if the association wishes to establish these requirements for MLS participation or for access to MLS-generated information, the requirement of attendance at an orientation program is the most rigorous requirement that may be established. <i>(Amended 2/94)</i></p> <p>**Generally, associations of REALTORS®, when there is more than one principal in a real estate firm, define the chief principal officer of the firm as the MLS participant. If each principal is defined as a participant, then each shall have a separate vote on MLS matters. Brokers or salespersons other than principals are not considered participants in the service, but have access to and use of the service through the principal(s) with whom they are affiliated.</p> <p>The key is that the Participant or potential Participant actively endeavors to make or accept offers and compensation <u>cooperate</u> with respect to properties of the type that are listed on the MLS in which participation is sought. <u>Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients.</u> This requirement does not permit an MLS to deny participation to a Participant or potential Participant that operates a "Virtual Office Website" (VOW) (including a VOW that the</p>
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	<p>Participant uses to refer customers to other Participants) if the Participant or potential Participant actively endeavors to make or accept offers of cooperation and compensation <u>cooperate</u>. An MLS may evaluate whether a Participant or potential Participant actively endeavors during the operation of its real estate business to offer or accept cooperation and compensation <u>cooperate</u> only if the MLS has a reasonable basis to believe that the Participant or potential Participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner to all Participants and potential Participants. <i>(Adopted 11/08)</i></p> <p>Optional Provision for Establishing Nonmember Participatory Rights (Open MLS)* A nonmember applicant for MLS participation who is a principal, partner, corporate officer, or branch office manager acting on behalf of a principal, shall supply evidence satisfactory to the membership committee that he has no record of recent or pending bankruptcy; has no record of official sanctions involving unprofessional conduct; agrees to complete a course of instruction (if any) covering the MLS rules and regulations and computer training related to MLS information entry and retrieval, and shall pass such reasonable and non-discriminatory written examination thereon as may be required by the MLS; and shall agree that if elected as a Participant, he will abide by such rules and regulations and pay the MLS fees and dues, including the nonmember differential (if any), as from time to time established. Under no circumstances is any individual or firm entitled to MLS participation or membership unless they hold a current, valid real estate broker's license <u>and cooperate</u> and offer or accept compensation to and from other participants, or are licensed or certified by an appropriate state regulatory agency to engage in the</p>
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	<p>appraisal of real property. <u>Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients.</u> Use of information developed by or published by an association multiple listing service is strictly limited to the activities authorized under a Participant's licensure(s) or certification and unauthorized uses are prohibited. Further, none of the foregoing is intended to convey participation or membership or any right of access to information developed by or published by an association multiple listing service where access to such information is prohibited by law. <i>(Amended 7/08)</i></p> <hr/> <p>*Only adopt the following paragraph if the association's MLS is open to nonmember Participants (otherwise qualified individuals who do not hold REALTOR® membership anywhere).</p> <p>Mere possession of a broker's license is not sufficient to qualify for MLS participation. Rather, the requirement that an individual or firm offers or accepts cooperation and compensation cooperate means that the Participant actively endeavors during the operation of its real estate business to list real property of the type listed on the MLS, <u>share information on listed property and make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their client(s) and/or to accept offers of cooperation and compensation made by listing brokers or agents in the MLS.</u> "Actively" means on a continual and ongoing basis during the operation of the Participant's real estate business. The "actively" requirement is not intended to preclude MLS participation by a Participant or potential Participant that operates a real estate business on a part-time, seasonal, or</p>
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	<p>similarly time-limited basis or that has its business interrupted by periods of relative inactivity occasioned by market conditions. Similarly, the requirement is not intended to deny MLS participation to a Participant or potential Participant who has not achieved a minimum number of transactions despite good faith efforts. Nor is it intended to permit an MLS to deny participation based on the level of service provided by the Participant or potential Participant as long as the level of service satisfies state law. <i>(Adopted 11/08)</i></p> <p>The key is that the Participant or potential Participant actively endeavors to make or accept offers of cooperation and compensation <u>cooperate</u> with respect to properties of the type that are listed on the MLS in which participation is sought. <u>Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients.</u> This requirement does not permit an MLS to deny participation to a Participant or potential Participant that operates a “Virtual Office Website” (VOW) (including a VOW that the Participant uses to refer customers to other Participants) if the Participant or potential Participant actively endeavors to cooperate, make or accept offers of cooperation and compensation. An MLS may evaluate whether a Participant or potential Participant actively endeavors during the operation of its real estate business to cooperate offer or accept cooperation and compensation <u>cooperate</u> only if the MLS has a reasonable basis to believe that the Participant or potential Participant is in fact not doing so. The membership requirement shall be applied in a nondiscriminatory manner to all Participants and potential Participants. <i>(Adopted 11/08)</i></p>
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<p>Section 1 Listing Procedures</p>	<p>Listings of real or personal property of the following types, which are listed subject to a real estate broker's license, and are located within the service area of the multiple listing service, and are taken by Participants on <i>(indicate form[s] of listing[s] accepted by the Service — See Notes 1 and 2)</i> shall be delivered to the multiple listing service within _____ (usually 48) hours after all necessary signatures of seller(s) have been obtained: <i>(Amended 11/17)</i></p> <ul style="list-style-type: none"> a. single family homes for sale or exchange b. vacant lots and acreage for sale or exchange c. two-family, three-family, and four-family residential buildings for sale or exchange <p>Note 1: The multiple listing service shall not require a Participant to submit listings on a form other than the form the Participant individually chooses to utilize provided the listing is of a type accepted by the service, although a property data form may be required as approved by the multiple listing service. However, the multiple listing service, through its legal counsel:</p> <ul style="list-style-type: none"> • may reserve the right to refuse to accept a listing form which fails to adequately protect the interests of the public and the Participants • assure that no listing form filed with the multiple

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	<p>listing service establishes, directly or indirectly, any contractual relationship between the multiple listing service and the client (buyer or seller)</p> <p>The multiple listing service shall accept exclusive right-to-sell listing contracts and exclusive agency listing contracts, and may accept other forms of agreement which make it possible for the listing broker to offer compensation cooperate with to the other Participants of the multiple listing service acting as subagents, buyer agents, or both. <i>(Amended 11/96)</i></p> <p>The listing agreement must include the seller's written authorization to submit the agreement to the multiple listing service. <i>(Amended 11/96)</i></p> <p>The different types of listing agreements include:</p> <ul style="list-style-type: none"> • exclusive right-to-sell • exclusive agency • open • net <p>The service may not accept net listings because they are deemed unethical and, in most states, illegal. Open listings are not accepted, except where required by law, because of the inherent nature of an open listing. <u>Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their clients</u> is such as to usually not include the authority to cooperate and compensate other brokers and inherently provides a disincentive for cooperation. <i>(Amended 4/92)</i></p> <p>The exclusive right-to-sell listing is the conventional form of listing submitted to the multiple listing service in that where the seller authorizes <u>exclusive authorization to</u> the listing</p>
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	<p>broker to cooperate with and to compensate other brokers <u>in the sale of the property</u>. (Amended 4/92)</p> <p>The exclusive agency listing also authorizes the listing broker, as exclusive agent, to offer cooperation with other brokers in the sale of the property and compensation on blanket unilateral bases, but also reserves to the seller the general right to sell the property on an unlimited or restrictive basis.</p> <p>Exclusive agency listings and exclusive right-to-sell listings with named prospects exempt should be clearly distinguished by a simple designation such as a code or symbol from exclusive right-to-sell listings with no named prospects exempt, since they can present special risks of procuring cause controversies and administrative problems not posed by exclusive right-to-sell listings with no named prospects exempt. Care should be exercised to ensure that different codes or symbols are used to denote exclusive agency and exclusive right-to-sell listings with prospect reservations. (Amended 4/92)</p> <p>Note 2: A multiple listing service does not regulate the type of listings its members may take. This does not mean that a multiple listing service must accept every type of listing. The multiple listing service shall decline to accept open listings (except where acceptance is required by law) and net listings, and it may limit its service to listings of certain kinds of property. But, if it chooses to limit the kind of listings it will accept, it shall leave its members free to accept such listings to be handled outside the multiple listing service.</p>
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	<p>Note 3: A multiple listing service may, as a matter of local option, accept exclusively listed property that is subject to auction. If such listings do not show a listed price, they may be included in a separate section of the MLS compilation of current listings. <i>(Adopted 7/92)</i> M</p>
<p>Section 1.9 No Control of Commission Rates or Fees Charged by Participants</p>	<p>The multiple listing service shall not fix, control, recommend, suggest, or maintain commission rates or fees for services to be rendered by participants. Further, the multiple listing service shall not fix, control, recommend, suggest, or maintain the division of commissions or fees between cooperating participants or between participants and nonparticipants. M</p>
<p>Section 4.5, Services Advertised as “Free”</p>	<p>MLS participants and subscribers must not represent that their brokerage services to a client or customer are free or available at no cost to their clients, unless the participant or subscriber will receive no financial compensation from any source for those services. <i>(Amended 11/21)</i> M</p>
<p>NEW RULE UNDER “PROHIBITIONS</p> <p>Section 4.6, No Filtering of Listings</p>	<p><u>Participants and Subscribers must not filter out or restrict MLS listings that are communicated to customers or clients based on the existence or level of compensation offered to the cooperating broker or the name of a brokerage or agent.</u> M</p>
<p>Division of Commissions</p> <p>Section 5 <u>No Compensation Specified on MLS Each Listings</u></p>	<p>The listing broker shall specify, on each listing filed with the multiple listing service, the compensation offered to other multiple listing service participants for their services in the sale of such listing. Such offers are unconditional except that entitlement to compensation is determined by the cooperating broker’s performance as the procuring cause of the sale (or lease) or as otherwise provided for in this rule.</p>

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~~The listing broker's obligation to compensate any cooperating broker as the procuring cause of the sale (or lease) may be excused if it is determined through arbitration that, through no fault of the listing broker and in the exercise of good faith and reasonable care, it was impossible or financially unfeasible for the listing broker to collect a commission pursuant to the listing agreement. In such instances, entitlement to cooperative compensation offered through MLS would be a question to be determined by an arbitration hearing panel based on all relevant facts and circumstances including, but not limited to, why it was impossible or financially unfeasible for the listing broker to collect some or all of the commission established in the listing agreement; at what point in the transaction did the listing broker know (or should have known) that some or all of the commission established in the listing agreement might not be paid; and how promptly had the listing broker communicated to cooperating brokers that the commission established in the listing agreement might not be paid.~~
(Amended 11/98)

~~In filing a property with the multiple listing service of an association of REALTORS®, the participant of the service is making blanket unilateral offers of compensation to the other MLS participants, and shall therefore specify on each listing filed with the service, the compensation being offered to the other MLS participants. Specifying the compensation on each listing is necessary, because the cooperating broker has the right to know what his compensation shall be prior to his endeavor to sell.*~~ *(Amended 11/96)*

~~*The compensation specified on listings filed with the multiple listing service shall appear in one of two forms. The essential and appropriate requirement by an association multiple listing service is that the~~

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	<p>information to be published shall clearly inform the participants as to the compensation they will receive in cooperative transactions, unless advised otherwise by the listing broker, in writing, in advance of submitting an offer to purchase. The compensation specified on listings published by the MLS shall be shown in one of the following forms:</p> <ol style="list-style-type: none"> 1. by showing a percentage of the gross selling price 2. by showing a definite dollar amount. <i>(Amended 5/10)</i> <p>Note: MLSs may also, as a matter of local discretion, allow participants to offer cooperative compensation as a percentage of the net sales price, with the net sales price defined as the gross sales price minus buyer upgrades (new construction) and seller concessions (as defined by the MLS unless otherwise defined by state law or regulation). <i>(Adopted 5/08)</i></p> <p>While MLSs are not required to authorize participants to offer cooperative compensation based on net sale prices, those that do permit such offers must define "seller concessions" for purposes other than new construction, unless that term is defined by applicable state law or regulation. The following definition of "seller concessions" is suggested but not required for adoption:</p> <p>Points paid by seller on behalf of buyer, seller paid buyer closing costs, cash or cash allowances not escrowed, down payment assistance, additions or alterations not considered deferred maintenance, and personal property not usual and customary to such transactions conveyed from seller to buyer having an agreed upon monetary value. <i>(Adopted 05/12)</i></p> <p>The listing broker retains the right to determine the amount of compensation offered to other participants (acting as subagents, buyer agents, or in other agency or nonagency capacities defined by law) which may be the same or different. <i>(Amended 11/96)</i></p> <p>This shall not preclude the listing broker from offering any MLS participant compensation other than the compensation indicated on any listing published by the MLS, provided the listing broker informs the other broker, in writing, in advance</p>
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	<p>of submitting an offer to purchase, and provided that the modification in the specified compensation is not the result of any agreement among all or any other participants in the service. Any superseding offer of compensation must be expressed as either a percentage of the gross sales price or as a flat dollar amount. (Amended 5/10)</p> <p><u>Participants, Subscribers, or their sellers may not make offers of compensation to buyer brokers and other buyer representatives in the MLS.</u></p> <p><u>Use of MLS data or data feeds to directly or indirectly establish or maintain a platform to make offers of compensation from multiple brokers to buyer brokers or other buyer representatives is prohibited and must result in the MLS terminating that Participant's access to any MLS data and data feeds.</u></p> <p>Note 1: The multiple listing service shall<u>must</u> not have a rule requiring the listing broker to disclose the amount of total negotiated commission in his listing contract, and the association-multiple listing service shall not publish the total negotiated commission on a listing which has been submitted to the MLS by a participant. The association-multiple listing service shall<u>must prohibit not</u> disclose in any way the total commission negotiated between the seller and the listing broker, <u>or total broker compensation (i.e. combined compensation to both listing brokers and buyer brokers).</u></p> <p>Note 2: The listing broker may, from time to time, adjust the compensation offered to other multiple listing service participants for their services with respect to any</p>
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	<p>listing by advance published notice to the service so that all participants will be advised. (Amended 4/92)</p> <p>Note 3: The multiple listing service shall make no rule on the division of commissions between Participants and non-Participants. This should remain solely the responsibility of the listing broker.</p> <p>Note 4: Multiple listing services, at their discretion, may adopt rules and procedures enabling listing brokers to communicate to potential cooperating brokers that gross commissions established in listing contracts are subject to court approval, and that compensation payable to cooperating brokers may be reduced if the gross commission established in the listing contract is reduced by a court. In such instances, the fact that the gross commission is subject to court approval and either the potential reduction in compensation payable to cooperating brokers or the method by which the potential reduction in compensation will be calculated must be clearly communicated to potential cooperating brokers prior to the time they submit an offer that ultimately results in a successful transaction. (Amended 5/10)</p> <p>Note 5: Nothing in these MLS rules precludes a listing participant and a cooperating participant, as a matter of mutual agreement, from modifying the cooperative compensation to be paid in the event of a successful transaction. (Adopted 11/05)</p> <p>Note 36: Multiple listing services must give pParticipants the ability to disclose to other pParticipants any potential for a short sale. As used in these rules, short sales are</p>
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	<p>defined as a transaction where title transfers, where the sale price is insufficient to pay the total of all liens and costs of sale and where the seller does not bring sufficient liquid assets to the closing to cure all deficiencies. Multiple listing services may, as a matter of local discretion, require Participants to disclose potential short sales when Participants know a transaction is a potential short sale. In any instance where a participant discloses a potential short sale, they may, as a matter of local discretion, also be permitted to communicate to other participants how any reduction in the gross commission established in the listing contract required by the lender as a condition of approving the sale will be apportioned between listing and cooperating participants. All confidential disclosures and confidential information related to short sales, if allowed by local rules, must be communicated through dedicated fields or confidential "remarks" available only to participants and subscribers. (Amended 5/09) M</p>
<p><u>NEW SECTION 5.0.0</u></p> <p><u>Required Consumer Disclosure</u></p>	<p><u>Disclosures of Compensation:</u> <u>MLS Participants and Subscribers must:</u></p> <ol style="list-style-type: none"> 1. <u>Disclose to prospective sellers and buyers that broker compensation is not set by law and is fully negotiable. This must be included in conspicuous language as part of any listing agreement, buyer written agreement, and pre-closing disclosure documents (if any).</u> 2. <u>Conspicuously disclose in writing to sellers, and obtain the seller's authority, for any payments or offer of payment that the listing Participant or seller</u>

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	<p><u>will make to another broker, agent, or other representative (e.g. real estate attorney) acting for buyers. This disclosure must include the amount or rate of any such payment and be made in writing in advance of any payment or agreement to pay. M</u></p>
<p>Section 5.0.1 Disclosing Potential Short Sales</p>	<p>For Options #1 or #2: As a matter of local discretion, MLSs may, but shall not be required to, adopt the following rule:</p> <p>When disclosed, participants may, at their discretion, advise other participants whether and how any reduction in the gross commission established in the listing contract, required by the lender as a condition of approving the sale, will be apportioned between listing and cooperating participants. (Adopted 5/09)</p> <p>MLSs that adopt the discretionary provision shown immediately above may, but are not required to, adopt the following rule: Where participants communicate to other participants how any reduction in the gross commission established in the listing contract required by the lender as a condition of approving the sale will be apportioned between the listing and cooperating participants, listing participants shall disclose to cooperating participants in writing the total reduction in the gross commission and the amount by which the compensation payable to the cooperating broker will be reduced within _____ hours of receipt of notification from the lender. (Adopted 5/10)</p>

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<p><u>NEW SECTION 5.0.21</u></p> <p><u>Written Buyer Agreement</u></p>	<p><u>Unless inconsistent with state or federal law or regulation, all MLS Participants working with a buyer must enter into a written agreement with the buyer prior to touring a home. The written agreement must include:</u></p> <ul style="list-style-type: none"> <u>a. a specific and conspicuous disclosure of the amount or rate of compensation the Participant will receive or how this amount will be determined, to the extent that the Participant will receive compensation from any source;</u> <u>b. the amount of compensation in a manner that is objectively ascertainable and not open-ended.</u> <u>c. a term that prohibits the Participant from receiving compensation for brokerage services from any source that exceeds the amount or rate agreed to in the agreement with the buyer; and</u> <u>d. a conspicuous statement that broker fees and commissions are not set by law and are fully negotiable. M</u>
<p><u>Section 5.3 – Dual or Variable Rate Commission Arrangements</u></p>	<p><u>The existence of a dual or variable rate commission arrangement (i.e., one in which the seller/landlord agrees to pay a specified commission if the property is sold/leased by the listing broker without assistance and a different commission if the sale/lease results through the efforts of a cooperating broker; or one in which the seller/landlord agrees to pay a specified commission if the property is sold/leased by the listing broker either with or without the assistance of a cooperating broker and a different commission if the sale/lease results through the efforts of a seller/landlord) shall be disclosed by the listing broker by a key, code, or symbol as required by the MLS. The listing broker shall, in response to inquiries from potential cooperating brokers, disclose the differential that would result in either a cooperative transaction or, alternatively, in a sale/lease that results through the efforts of the seller/landlord. If the cooperating broker is a buyer/tenant representative, the buyer/tenant representative must</u></p>

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	<p><u>disclose such information to their client before the client makes an offer to purchase or lease. (Amended 5/01) M</u></p>
<p>Section 5.4, Display of Listing Broker's Offer of Compensation</p>	<p>Participants and subscribers who share the listing broker's offer of compensation for an active listing must display the following disclaimer or something similar.</p> <p><i>The listing broker's offer of compensation is made only to participants of the MLS where the listing is filed.</i> (Amended 11/21) M</p>
<p>Section 6 Service Fees and Charges</p>	<p>Optional: It is a matter of agreement between the listing and selling brokers as to whether or not the cooperating broker shall reimburse the listing broker for the listing fee. The multiple listing service shall not be concerned because this is an arrangement between cooperating brokers, and the multiple listing service rules do not dictate the compensation offered to cooperating brokers by the listing broker. (Amended 4/92). O</p>

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<p>Standard 16.3</p>	<p>MLS participants acting as subagents or as buyer/tenant representatives or brokers shall not attempt to extend a listing broker's offer of cooperation and/or compensation to other brokers without the consent of the listing broker. (Amended 1/04) ●</p>
<p>Standard 16.11</p>	<p>In cooperative transactions, MLS participants shall compensate cooperating MLS participants (principal brokers) and shall not compensate nor offer to compensate, directly or indirectly, any of the sales licensees employed by or affiliated with other MLS participants without the prior express knowledge and consent of the cooperating broker. ●</p>
<p>Standard 16.15</p>	<p>On unlisted property, MLS Participants acting as buyer/tenant representatives or brokers shall disclose that relationship to the seller/landlord at first contact for that buyer/tenant and shall provide written confirmation of such disclosure to the seller/landlord not later than execution of any purchase or lease agreement. (Amended 1/04)</p> <p>MLS participants shall make any request for anticipated compensation from the seller/landlord at first contact. ●</p>
<p>Standard 16.18</p>	<p>MLS participants, acting as subagents or buyer/tenant representatives or brokers, shall not use the terms of an offer to purchase/lease to attempt to modify the listing broker's offer of compensation to subagents or buyer/tenant representatives or brokers, or make the submission of an executed offer to purchase/lease contingent on the listing broker's agreement to modify the offer of compensation. (Amended 1/04) ●</p>

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<p>Standard 16.21</p>	<p>These rules are not intended to prohibit ethical, albeit aggressive or innovative business practices, and do not prohibit disagreements with other MLS participants involving commission, fees, compensation, or other forms of payment or expenses. ❶</p>
<p>Appendix 1</p> <p>Section 2 National Association's Interest</p>	<p>The concept of cooperation in real estate transactions can be enhanced by a mechanism such as the multiple listing service which enables a REALTOR® to cooperate with other REALTORS®. <u>Cooperation is the obligation to share information on listed property and to make property available to other brokers for showing to prospective purchasers and tenants when it is in the best interests of their client(s).</u> by extending to them a blanket unilateral offer of compensation. If any significant group of REALTORS® desires to establish a means of extending blanket unilateral offers of compensation, the association should establish an MLS to enable them to achieve such objective. (Amended 11/96). I</p>
<p>Appendix 2</p> <p>Merging an Independent MLS with an Association of REALTORS®</p>	<p>The association MLS offers its REALTOR® participants the advantages of being able to clearly identify those persons to whom they offer compensation, knowing that they as REALTORS® and REALTOR-ASSOCIATE®s are all bound and directed by the Code of Ethics, knowing that they have agreed to arbitrate in the event of a dispute and have obligated themselves, as membership duties, to abide by the constitution and bylaws of the local association, the state and National Association. (Amended 11/96). I</p>