

The policy changes, agreed to by NAR leadership, were reviewed and updated with the changes as outlined below:

- Eliminate and prohibit any requirement of offers of compensation in the MLS between listing brokers or sellers to buyer brokers or other buyer representatives.
- Retain, and define, "cooperation" for MLS Participation.
- Eliminate and prohibit MLS Participants, Subscribers, and sellers from making any offers of compensation in the MLS to buyer brokers or other buyer representatives.
- Require the MLS to eliminate all broker compensation fields and compensation information in the MLS.
- 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.
- 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.
- 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.
- Require compensation disclosures to sellers, and prospective sellers and buyers.

- Require MLS Participants working with a buyer to enter into a written agreement with the buyer prior to touring a home.

MLS Value

MLSs have always provided significant value beyond communicating offers of compensation.

MLSs:

- Enable comprehensive marketplaces: Access to inventory and widespread advertising incentivizes local broker participation.
- Ensure reliable data access: NAR guidelines for local MLS broker marketplaces enable hubs of trusted, verified information where all participants have equitable access.
- Create connections: Local MLS broker marketplaces create the largest opportunity for connections between real estate agents with properties to sell and those with clients looking to buy.
- Advance small business: Compiling housing information that is accessible to all businesses, in one place, allows smaller real estate brokerages to compete with larger ones.
- Encourage entrepreneurship: Because of lower barriers to entry enabled by local MLS broker marketplaces, new market entrants can advance technology, consumer service and other innovations.

New Definition of an MLS Participant!

The definition has been amended to remove any references to offers of compensation and to establish that a Participant has the duty to cooperate, which is 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 interest of their clients.

Effective August 17, 2024

Listing Brokers Advise Clients About Prohibition of Offers of Compensation on an MLS

- Listing brokers should inform their clients that offers of compensation will no longer be an option on an MLS.
- This change will not prevent offers of cooperative compensation off an MLS. And it will not prevent sellers from offering buyer concessions on an MLS (ex. concessions for buyer closing costs).
- Compensation would continue to be negotiable and should always be negotiated between agents and the consumers they serve.

Miscellaneous – Listing Agreements

- If the listing agreement instructs the listing broker to make an offer of compensation without reference to the MLS, no change to the listing agreement is needed, as the listing broker can comply with that instruction without violating the MLS policy change.
- But if the listing agreement specifies that offers of compensation be made “on the MLS,” then the listing broker should work with

the seller to amend the listing agreement before the MLS policy change is implemented, to make it clear the listing broker will not make an offer of compensation on the MLS and will not be violating the listing agreement by failing to make an offer of compensation on the MLS.

- If the sales contract is executed before the MLS policy change, the buyer broker should be able to rely upon the offer of compensation even if closing occurs after the date of the policy change.
- But if a sales contract is not executed before the date the participant's MLS implements the policy changes, the offer on the MLS will not be valid and buyers and buyer brokers may wish to protect themselves in writing with the listing broker or seller through a broker agreement or by including the offer of compensation in the sales contract.
- After the new rule goes into effect, listing agreements should be amended to reflect that offers of compensation cannot be communicated via the MLS.
- The settlement expressly provides that sellers may communicate seller concessions—such as buyer closing costs—via the MLS provided that such concessions are not conditioned on the use of or payment to a buyer broker.
- The buyer broker may not receive compensation for brokerage services from any source that exceeds the amount or rate agreed to in the agreement with the buyer.
- No. A buyer can always ask their buyer broker to make it a term of an offer to purchase that the seller pay certain compensation to the buyer broker.

- Standard of Practice 16-16 prohibits a REALTOR® from attempting to modify the terms of a listing agreement through the terms of an offer because the listing agreement is a contractual matter between the seller and the listing broker. However, the seller and the listing broker may independently choose to amend the listing agreement or take any other action they deem appropriate based on the seller's negotiations with the buyer. Standard of Practice 16-16 also prohibits a REALTOR® from delaying or withholding delivery of a buyer's offer while attempting to negotiate a buyer broker compensation.
- MLS Participants may augment MLS data or data feeds with offers of compensation to buyer brokers or other buyer representatives for only listings of their own brokerage.
- 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.