

NAR MEMBER RESOURCE: DOS AND DON'TS WHEN WORKING WITH SELLERS

The practice changes required by NAR's settlement must be implemented in good faith. NAR opposes any attempt to circumvent the practice changes.

This resource will help you implement the practice changes and empower you to transact business consistent with the settlement, your ethical duties, and in the best interest of consumers. It is meant to provide clarity about business practices allowed under the settlement, as well as those that are not permitted. NAR members should not engage in the practices that are “don'ts” in this guide.

The consequences for failing to abide by the terms of the proposed settlement may be severe—including losing your released status under the settlement and losing NAR membership. Regardless of your NAR membership status, if you fail to abide by the terms of the settlement, you can lose MLS access or even face possible legal liability.

Below are important dos and don'ts to observe when working with sellers. Please continue to follow facts.realtor for the most up-to-date dos and don'ts and all updates on how to navigate the settlement and practice changes, as well as for resources to help you continue to deliver value to and assist homebuyers and sellers on the homeownership journey.

DOS WHEN WORKING WITH A SELLER

- ✓ **Clearly and frequently demonstrate your value.**
 - Early in the relationship, emphasize your unique expertise and experience and explain that one of the core reasons to use a REALTOR®, instead of just a real estate licensee, is that REALTORS® are required to act in the client's best interest under the Code of Ethics.
 - Consider sharing [this guide](#) with your client about “REALTORS®' Duty to Put Clients' Interests Above Their Own.”
- ✓ **Explain what an offer of compensation is and why a buyer may opt to seek buyer agent compensation from the seller.**
 - Inform the seller that covering all or a portion of the cost of the buyer's agent's services may increase the potential buyer pool for their home. This is because it reduces up-front costs that may be prohibitive for some prospective buyers, particularly first-time buyers, low-income buyers, or those from underserved communities.
 - Make sure to emphasize that it is the seller's choice whether an offer of compensation is made, when the practice of offers of compensation is consistent with your business practices.
 - If an offer of compensation is made, inform your sellers that offers of compensation may be marketed off MLSs and consider sharing [this guide](#) on offers of compensation with them to help them make an informed choice.
 - You should also inform your seller that buyers may ask the seller to cover some or all of the buyer agent's fee as part of a purchase agreement. It is always up to the seller whether to accept this type of request.
- ✓ **Prior to signing a listing agreement, ensure the seller understands their options.**

- Help them understand their options while continuing to seek fair compensation for your services. Ensure they know compensation is fully negotiable and not set by law.
- ✓ **Get prior written approval from the seller before offering compensation.**
 - Clearly disclose and get approval in writing from the seller before offering any compensation or making a payment to another agent representing a buyer.
- ✓ **Inform the seller that a buyer may seek compensation for their agent.**
 - Even if a seller decides not to offer compensation to a buyer's agent, inform the seller that it is possible that a buyer may request compensation for their agent.
- ✓ **Present all offers to the seller and always treat all buyers fairly and equitably.**
 - Under fair housing laws and the Code of Ethics, real estate professionals have a duty to treat every buyer fairly and equitably.
 - Discrimination in housing based on race, color, religion, sex (including gender identity and sexual orientation), familial status, national origin, and disability is prohibited.
- ✓ **Keep lines of communication open with your fellow industry professionals when it is to your client's advantage.**
 - Communicating with other brokers and agents helps you identify the best offer for your seller and fulfill your duty as their agent.
 - Answer the phone when appraisers call, as they need to know the details of the transactions they are analyzing, including the sales they consider as potential comparables.
- ✓ **Know and follow state and local laws.**
 - There may be additional requirements, including those for certain types of agent representation, based on state law and local practice.

DON'TS WHEN WORKING WITH A SELLER

- ✗ **Don't use MLSs to make offers of compensation.**
 - The settlement practice changes prohibit offers of compensation from being made on an MLS that has opted into the settlement.
 - This prohibition applies to *any* MLS field. Relatedly, do not use MLS data or data feeds to establish another platform to host offers of compensation.
- ✗ **Don't share your listing agreement with competitors.**
 - Do not provide the signed written listing agreement to competitors because it will contain your compensation and other confidential information that may be competitively sensitive, material to a transaction, and critical to a successful negotiation on behalf of the seller.
- ✗ **Don't communicate the amount of an offer of compensation without your seller's instruction.**
 - If the seller decides to authorize an offer of compensation, the seller decides whether and when their agent can communicate the amount of compensation.

- Listing agents should follow the seller's instructions when it comes to communicating offers of compensation.
- For instance, a seller may want the buyer or the buyer's agent to initiate negotiation on the amount of buyer-agent compensation before disclosing the amount authorized.
- Conversely, the listing agent should not withhold the offer of compensation from the buyer broker when the seller has instructed the listing agent to make the offer known off-MLS to attract buyers.

✖ **Don't ask for copies of written buyer agreements.**

- The written buyer agreement requirement is an MLS policy and therefore enforced by the MLS.
- As with all MLS policies and rules, a consumer or other party can file a complaint with the MLS if an agent fails to comply.
- Under the Code of Ethics, access to a property should be given to other brokers when it is in the seller's best interest.

Consult your state and local REALTOR® association for detailed information about state and local law where you operate your business. For more helpful resources, please visit facts.realtor and explore our [Consumer Guide series](#) catered directly to home buyers and home sellers.