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The Answer Book

The Source
for REALTOR®
Association
Management
Leaders





The Answer Book

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INTRODUCTION

Whether you are a new or seasoned association executive (AE), developing effective leadership and management skills are crucial to your professional success. Strong AEs understand how to work effectively with volunteer leaders, provide direction to staff members, build community partnerships and capitalize on opportunities to strengthen the organization.

Becoming an effective AE involves a mix of tangible and intangible skills. For instance, an association leader can learn about strategic planning, budgeting, marketing, advocacy, and membership development in various chapters of *The Answer Book*.

AEs also need to know why real estate associations are different from other nonprofit organizations as well as businesses in the private sector. This is particularly important for executives who have previously worked in other fields. Topics like association structures, governing documents, and real estate practices are covered in *The Answer Book*.

Strong AEs need to stay current with economic, market, social and technology developments, which are covered in the Real Estate Trends and Technology chapters of *The Answer Book*.

The many intangible leadership skills (sometimes called “soft skills”) include speaking, listening and presenting. This introductory chapter focuses on these aspects of leadership, with more information available in the Communications chapter (1.1), and the Volunteer, Staff, and Partner Relationships chapter (1.14) of *The Answer Book*.

Learning leadership skills is essential to advancing your personal and professional development as an AE. Best of all, these skills will carry over to all aspects of your life, while benefiting your co-workers, team members, volunteer leadership and community.

WHAT IS A LEADER?

Successful AEs provide inspiration and guidance to their associations. They are confident, courageous and committed to serving their members. They nurture the strengths and talents of their people and build teams committed to achieving common goals. Like many things in life, this is easier said than done!

To turn those lofty aspirations into practical results, an AE needs to be able to do several things:

- Collaborate with volunteer leaders to articulate a vision for the association
- Motivate and inspire both volunteer leaders and staff members
- Set long- and short-term goals
- Develop strategies to reach those objectives
- Recruit, retain and reward volunteer leaders and staff members
- Monitor progress and maintain accountability
- Build a positive culture of acceptance and inclusion

Leaders must also be agile and flexible in their thinking to respond to new challenges and changing circumstances, such as the dramatic changes resulting from the COVID-19 pandemic.

Studies have shown that the volunteer leaders of the future are looking for AEs who are visionaries, strategic thinkers, collaborators, unifiers, mentors and problem solvers. Leaders want executives who understand not only association management but also the real estate industry. There will be a greater demand for AEs to be leaders, not administrators.

WHAT IS A MANAGER?

A strong manager finds innovative and effective strategies to implement the association's vision, monitors progress and fosters individual and team responsibility and accountability. Being able to delegate tasks to the right people at the right time is one of the fundamental aspects of good management.

Typical management skills include:

- **Analysis**—determining the cause of a problem or identifying a potential opportunity
- **Decision-making**—keeping the association on track
- **Technical knowledge**—using your financial, marketing, technology skills, for example

- **Team-building**—fostering collaboration in the association
- **Communication**—setting goals, rewarding success, addressing problems
- **Development**—helping staff and volunteer leaders develop their career skills
- **Empathy**—recognizing what team members may be experiencing
- **Risk management**—protecting the association
- **Delivering results**—achieving clear, measurable goals and objectives

As an AE, you need to be both a leader and a manager, so it is important to understand the difference between the two roles. In an article, “Managers or Leaders?” executive coach David Brookmire looked at both aspects:

Typically, mid-level supervisors are managers who are more focused on project management and execution. They are expected to manage their teams and functions to achieve short-term results. The emphasis is on execution of the strategy that originates at the highest levels. Companies must work hard and execute well to ensure consistent, high quality products and customer service that reflect their desired brand attributes.

As the managers become upper-level directors (and higher), they need to develop specific skills to become leaders and shift into a more visionary and strategic role, demonstrating the confidence, skills and behaviors that inspire others to follow their direction.

To maximize your successes, you need strong managers who excel at execution and oversee day-to-day efforts. You also need inspirational, visionary leaders who bring a big-picture perspective. It's not an either/or situation—both leaders and managers are necessary players on any winning team.

THE IMPORTANCE OF SOFT SKILLS

As leaders and managers, AEs need to pay attention to their “soft skills”—the intangible factors that drive their ability to deliver positive results for their organizations.

Consultant Jerry Matthews focused on the importance of soft skills in his 2017 book, “Reach Zenith.” He surveyed state and local AEs asking two questions: Who are the most successful AEs in the country and what is it about them that makes them so successful? He then interviewed 35 AEs, as well as volunteer leaders, and came up with the following five pairs of intangible skills of success:

1. Relationships and Connections

- Relationship is the ability to connect with a variety of personalities, under different situations, and establish a positive personal or working situation. It is often called “people skills.” Relationship is influence through individuals.
- Connection is the ability to build a network of people to accomplish specific goals. It is influential contacts for business or personal reasons. Connection is influence through groups.

2. Vision and Innovation

- Vision is the ability to see concepts evolving that will have impact in the future; it is foresight. It can be a personal skill or the ability to leverage the thoughts of others. The visionary sees the future.
- Innovation is the ability to create a new idea, method or product. The innovator practically applies visionary concepts of their own, or of others. The innovator creates the future.

3. Communications and Presence

- Communication is the ability to deliver information, feelings or thoughts effectively and forcefully, creating a desired effect. It uses the written and spoken word. The communicator advances the message.
- Presence is the ability to draw others to you; it is charisma. It is subtle, and most observed in personal interactions with others. Confidence and impression are often components. Presence implies the message.

4. Passion and Culture

- Passion is the ability to display intense positive enthusiasm. It is often accompanied with high energy and strong beliefs. Passion is individual values.
- Culture is the ability to establish a set of values and beliefs for a group. It defines parameters, as well as expected behaviors, and becomes a common ground for decisions and actions. Culture is group values.

5. Leadership and Influence

- Leadership is the ability to inspire others to follow a direction that you define. Leaders have followers that do so voluntarily. The leader says, “Follow me.” Leaders direct.
- Influence is the ability to sway others. The influencer does so subtly, without force or coercion. The influencer says, “Consider this.” Influencers persuade.

The following “Circle of Skills” illustrates the relationships between these skills and personality characteristics, such as introvert or extrovert, as well as whether these skills are practiced on a one-to-one or group basis.



DEVELOPING PERSONAL SKILLS

One of the keys to being an effective leader or manager is understanding yourself. Everyone has a unique set of personality traits, preferences, biases, attitudes and mindsets that determine how you exercise leadership skills. Therefore, there is no one-size-fits-all approach to being a leader.

So envision the kind of leader you are, or want to be, and think about the best path toward that goal. Perhaps you want to work with a coach or mentor whose leadership style you admire, or you may consider enrolling in classes that focus on areas where you need to grow, or you might commit to earning the RCE designation.

To begin your leadership journey, you should consider conducting a self-assessment. What are your career goals? What are your current strengths? What skills do you need to develop? And remember that learning about yourself is a voyage of discovery that will pay off in your personal life as well.

Here are some good questions to ask yourself when taking a personal inventory. Think about your responses and write them down so you have a record for the future.

- What are your personal and career goals for the next 3-5 years?
- What are your strongest leadership skills?
- How would you describe your leadership style?
- What are your biggest accomplishments?
- What are your biggest failures—and what did you learn from them?
- How do you like to learn new material?
- How would you assess your listening skills?
- How would you assess your speaking skills?
- How would you assess your presentation skills?
- Do you avoid conflict or wade right into things?
- Are you comfortable delegating, or do you feel a need to stay in control?
- Are there professional experiences that could expand your personal skills?

If you feel courageous, confident and committed, go ahead and share your answers with a close family member or friend. You may be surprised by the feedback you receive! But hearing another person's perspective can add to your self-awareness and help you take another step forward on your journey.

BUILDING INTERPERSONAL SKILLS

Along with a personal self-assessment, you should also take a close look at your interpersonal skills. After all, being a leader means inspiring, motivating and persuading other people to take appropriate actions on behalf of the association.

As an AE, your interpersonal skill set should also include the following abilities:

- Recruiting and retaining talented people
- Building teams with staff members and volunteer leaders
- Helping individuals develop their skills
- Creating a positive, supportive culture
- Communicating goals, expectations and responsibilities

- Monitoring individual and team performance
- Emphasizing the importance of learning
- Providing coaching and mentoring when needed
- Being engaged in the community and the REALTOR® family

Being able to navigate the complex currents of interpersonal relationships is one of the most important steps to becoming an effective AE.

BECOMING AN INCLUSIVE LEADER

Today's workplace includes talented professionals from very different backgrounds, cultures, education and experiences. As a leader, you need to understand how to create a climate of inclusivity that supports individual strengths and creates a powerful sense of teamwork.

In an article, "Why Leading Inclusively Has Never Been More Important Than It Is Now," executive coach Susie Keller offers the following tips on being an inclusive leader:

The time for thoughtful, inclusive leadership is now. Never have we needed inclusive leaders more than we do at this pivotal time. In order to lead inclusively, leaders must:

1. Create a safe environment where people can bring their full authentic selves to work. When we ask people to assimilate to the dominant culture, it can drive fear, uncertainty and exhaustion, and there is simply too much fear, uncertainty and exhaustion right now. Leaders shouldn't add to it. Instead, they must shift their focus to creating cultures where every person feels safe to live authentically and express themselves fully at work.

2. Find and shine a spotlight on the uniqueness and potential of others. As a leader, your job is to pull that out of them and lift every member of your team by helping them see what they are truly capable of.

3. Make the effort to get to know everyone on your team well. Truly inclusive leaders understand the values, goals and fears of their people. They pay attention to how and whom they spend their time with and identify ways to connect with their teams on a deeper level.

4. Foster communities and teams where everyone feels they belong and has a unique and valuable role. Now that we are all participating in virtual meetings, the dynamic may have shifted—and not in a positive way. Is everyone on the video call speaking equally? Are you acknowledging their contributions? Are you using video to get face-to-face time with your people? Take an audit of how your in-person leadership style has evolved in the new virtual landscape.

5. Understand that everyone is in a different place, mentally and physically. Inclusive leaders meet the employees where they are, without judgment. Compassionately coach your teams through this.

6. Practice intentional inclusion. Be aware of your language and choices to avoid unintentional diminishing comments that may leave others feeling excluded or invalidated. This is even more important in a virtual environment.

7. Be aware of how stress is impacting your actions. You may now be living the “stress-response cycle.” When we experience a stressful situation, either environmental or psychological, it can trigger stress hormones that produce well-orchestrated physiological changes. These changes can lead us to act in a highly reactive and exclusionary way. A critical part of leading inclusively is knowing how to manage our own stress response.

8. Get feedback on how you are doing. Nothing can be more valuable than the gift of feedback. During busy or uncertain times, we can’t neglect to do the type of thoughtful thinking about our own limitations that can help us grow as leaders.

Good intentions are not enough. As leaders, it’s our job to get this right, which means continuing to learn ways to be inclusive and reflecting and assessing ourselves daily.

As leaders, our teams and organizations are looking to us for inspiration and support during these critical times. How are we rising to the occasion? With these inclusive leadership practices, we can create cultures of inclusion where all voices are heard, and team members can realize their full potential.

LEADING WITH INTEGRITY

Whatever your personal skills or experience, you should strive to be a leader with integrity. As President Dwight D. Eisenhower said, “The supreme quality for leadership is unquestionably integrity. Without it, no real success is possible, no matter whether it is on a section gang, a football field, in an army, or in an office.”

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1 ASSOCIATION MANAGEMENT AND BUSINESS OPERATIONS

1.1 Communications

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INTRODUCTION

Communicating effectively with members, volunteer leaders, affiliated professionals and the public is essential for any successful REALTOR® association. Effective communication programs help ensure that the interests of association leaders and members are aligned with those of homeowners and business, civic and nonprofit organizations in the community.

As a general rule, there are five basic elements to consider in an association's communications program:

- **The audience.** Who are you trying to reach? Association members, prospective members, the news media, etc.
- **The message.** What are you trying to convey? Do you want to educate your audience, inform them about a recent event or persuade them to take action?
- **The sender.** Who is sending, posting, recording or videoing the message? The association, an officer, a committee chair?
- **The vehicle.** What is the best way to send the message? Face to face, phone call, email, text, print, social media or all of the above?

- **The response.** What feedback did you receive from the message? Did it fulfill its objective? Were there positive or negative comments that could be applied to future messages?

Since almost everyone uses multiple communications channels—video, voice, text, email and social media—REALTOR® associations need to take a comprehensive approach to structuring a program that succeeds in educating, informing and engaging members and other target audiences.

It is also vital for association leaders to acquire important and timely information to communicate to their members and other audiences. Therefore, AEs should ensure that the president, president-elect and staff subscribe to relevant communication vehicles from the National Association of REALTORS® (NAR), such as newsletters, magazines, blogs, podcasts, videos, The Hub and social media groups.

DEVELOPING A COMMUNICATIONS PLAN

Today, there are a variety of communication vehicles available to reach target audiences. They include:

- Video (online meetings, virtual education and live streaming)
- Social media (Facebook, X [formerly Twitter], LinkedIn, etc.)
- Voice (face-to-face or phone conversations)
- Email
- Texts
- Messaging applications (Skype, Slack, Teams, WhatsApp, FaceTime)
- Digital or print newsletters, magazines, etc.
- Blogs
- Podcasts
- Websites

Each of these vehicles is best suited for delivering certain types of messages. For instance, texts and X posts are ideal for brief communications (“meeting canceled, return to office”). Newsletters and magazines are ideal for feature articles, profiles, market updates and other types of in-depth information. Videos can use movement, music and sounds to engage audiences in different ways. It’s always important to think about the nature of message and the interest and engagement level of the audience in determining the most effective communications vehicle.

Associations also need to set clear and consistent policies and guidelines for all types of communications, from emails and texts to blogs and social media posts. Consistency helps an association build its brand, increases member awareness, promotes engagement and reduces the risk of communication errors.

Because there are multiple communications options and different potential audiences, AEs should develop an effective communications plan and review it annually since technology continues to change rapidly.

Here are some considerations for developing a communications plan:

- Be sure the plan reflects the association’s long-term strategic plan, business plan and immediate goals. For example, if the strategic plan calls for a 10 percent annual growth in membership, the communications plan should include a strategy for reaching real estate professionals who have not yet joined the association.
- Develop a strategy for communicating with members, volunteer leaders, affiliate professionals and the public. (For more about communicating with the media and the public, see the Public Relations chapter of *The Answer Book*.)
- Determine how frequently to communicate with members, leaders and other professionals. A survey can be helpful in this regard (see Learning About Your Members on page 4).
- Take advantage of evolving technology and consumer trends, and incorporate social media, texting and mobile apps in your plan.
- Be aware of member preferences in communication vehicles. For instance, many members of all ages now prefer texting to email or voice calls.
- Be consistent in your communications. Don’t skip a monthly newsletter, for instance.
- Be sure your communications with members and leaders reinforce an association’s key messages.
- Be sure to prepare all messages with the member audience in mind.

Following are some other suggestions for increasing your association’s communication effectiveness.

Conduct a Communication Review

A consistent, clear communications program takes planning and coordination between association leadership and staff. A good place to start is with an overall communications review. During this process, the association should carefully evaluate every method or vehicle it uses, and also how those vehicles are used, always keeping the member's perspective in mind. Short online surveys or member focus groups can be great tools for assessing the effectiveness of current communications and identifying improvement opportunities. Some of the critical information that should be gathered includes the following:

- Where do members receive most of their information about the association's programs? Is it from emails, social media, newsletter, website, membership meetings, brokers or others in their office?
- What's their preferred method of receiving association communications—emails, texts, newsletter, the website?
- How often do they want to hear from their association? Daily, weekly, monthly?
- What types of information are most important and useful to them?
- What's their perception of how well the association communicates with them?

Build an Association Brand

Building a brand for your association means more than just tacking the association's logo onto everything. It means adopting internal policies and guidelines that will give a uniform look and feel to everything the association produces—from videos, websites and Facebook pages to business cards, newsletters and everyday items like agendas, committee reports, invoices and membership applications.

The goal is to have anything communicated to members instantly recognizable as coming from the association. This helps underscore the association's unique identity in the minds of its members and the community or region it serves. Graphic design policies and communications guidelines provide the foundation for building your brand.

Associations with sufficient resources can consider hiring a public relations or marketing firm to assist with developing the guidelines. A larger local and state REALTOR® association might be willing to share its branding manuals. An association may also have members whose backgrounds include experience in corporate branding and communications.

Break Through the “Clutter”

Like all of us, members are bombarded with hundreds of informational, advertising, marketing and promotional messages from a variety of sources competing for attention. The challenge is breaking through that clutter so messages register with members.

Unfortunately, there just isn't one “silver bullet” type of communication that works best in every case. However, delivering an important message via multiple channels—videos, email, social media, automated voice/text calls and print—can help make sure it is received. That's because one can never be sure exactly which communication method will be most effective in reaching a member.

The bottom line: Planning how to disseminate an important message is almost as important as the time spent in creating an event or in composing the message itself.

Remember: It's all about the recipient.

One of the most common pitfalls when associations attempt to communicate is simply failing to focus on the recipient. In other words, communication must be an activity oriented toward the listener, reader or viewer—not the person creating the message. This concept is essential to all communications but especially to associations, since the members are actually stakeholders in the organization. Here are some things to keep in mind when communicating with members.

Reinforce Ownership

Even though they may also be customers of an association's products and services, members want to feel this is their organization and that they are receiving benefits for their dues.

One way to reinforce that sense of ownership in member communications is to adopt a more informal, personalized and “member of the family” tone of voice through the use of terms such as “your association” or “your board of directors” when referring to the organization. For example, which of these two newsletter notices would make a member feel more a part of the organization?

The Metropolitan Association of REALTORS® will hold its next membership meeting on Wednesday, June 13. Attorney Fred Jones will speak on risk management. The officers and board of directors cordially invite all members to attend. Members may register online at www.metrorealtors.org or call the association at 515.555.5555. This will be your only notice of the meeting.

or...

Our next general membership meeting will be Wednesday, June 13. Attorney Fred Jones will talk about what you can do to reduce your chances of being sued. Your officers and board of directors look forward to seeing you there. To register, just visit www.metrorealtors.org to or call us at 515.555.5555.

Same message, same facts, but an entirely different and more member-friendly tone.

Target Self-Interest

Journalists have defined “news” as “timely information that affects people’s lives.” Every news story strives to answer six questions for the reader: who, what, when, where, why and how. For association members, it’s vital to add another “W”—“WIIFM” (What’s in it for me?). In other words, why is this information (or perhaps this event, seminar or public policy position) important to members? What does it mean to their working lives and how will it benefit them to know about it, attend it or support it?

At every opportunity, be sure to clearly identify the personal benefit to members of any activity, event or information. Emphasizing the “WIIFM” also serves to constantly reinforce the value of association membership.

Remember to KISS

Given their busy lives, many REALTORS® simply scan association messages. Whether it’s a text, email, online post, newsletter or promotional flyer, the use of tightly edited copy, bullet-point lists and short sentences and paragraphs are just some of the ways to increase the chances of catching the scanner’s eye. Think of texting and X as examples, as they force you to send brief, to-the-point messages. In other words, “KISS” (Keep it simple, stupid!) when communicating.

Watch the Non-Verbal Messages

In its broadest sense, communication involves more than just the written or spoken word. Much of it takes place at what the experts call the non-verbal level where subtle messages are being sent, some of which may be unintentional.

In written communication, this includes the choice of fonts, layouts, colors, paper quality, graphics and photos.

Likewise, in video and face-to-face communication, messages are being sent by the speaker’s choice of clothing, hairstyle or mobile device. It also includes the physical aspects of the speaker’s body language, such as speech mannerisms, tone of voice, amount of eye contact, use of gestures and overall bearing.

In their communications, associations transmit many non-verbal messages that help shape members’ opinions: how often the website is updated, the number of blog posts, whether or not there are pages on Facebook or LinkedIn, the physical appearance of the association offices, the time it takes to get a question answered and how the phone is answered.

As an example, a veteran state AE whose job was visiting local associations said he could tell a lot about the staff’s overall member friendliness just from the number of impersonal, negatively worded signs in the building, all telling members what not to do: No Food or Drink Allowed in Auditorium; No One Allowed Behind Counter, No Applications Taken after 4PM; No Members Beyond This Point, Credit Cards or Checks Only; No Refunds on Store Products; and on and on.

The simple “message” here is that associations also need to review the non-verbal side of their communication efforts. AEs should make sure the professional staff is aware that often it’s not what you say as much as how you say it.

Privacy Laws

A communication plan for members, other professionals, the media or the public needs to be developed and executed in compliance with federal and state privacy laws. The goal of these laws is to protect individuals’ personal data and provide a process for them to stop unwanted voice, fax, text and email messages. Therefore, it is essential to offer an “opt-out” or “unsubscribe” option for all recipients of association email, digital, mobile or print communications.

Because privacy rules and regulations are becoming more important to the public, AEs also need to be familiar with the latest laws and rules, including:

- Do-not-call registries
- Do-not-fax registries
- The Federal CAN-SPAM Act of 2003, which sets requirements for email marketing

For more information about privacy laws, see the Legal and Regulatory chapter of *The Answer Book*.

LEARNING ABOUT YOUR MEMBERS

The more you know about your members, the better you can put this information to good use in everything from committee appointments to tailoring the marketing of your programs, products and services. Solid information also provides volunteer leaders with insights that can be used in their decision-making about policies and programs.

Two primary methods of data gathering are analyzing information you already have about members and soliciting feedback through membership surveys and other methods.

Analyzing Existing Information

A wealth of information is right there at your fingertips—your membership database. Some simple sorting and analysis of membership characteristics can yield an amazing and useful amount of “demographic” information.

Here are some examples of basic membership data points that can be revealing, especially when tracked over time:

- **Gender.** Include separate breakdowns on brokers vs. agents as well.
- **Age.** What is the breakdown of Baby Boomers versus Gen Xers and Gen Ys (sometimes called Millennials)
- **Percentage of broker vs. agent members.**
- **Length of time in real estate: three years or less, five years or less, 10 years or less, etc.?** Where is the biggest dropoff? This might surprise you.
- **How many members hold at least one REALTOR® designation (GRI, CRS, CCIM, CIPS, etc.)?**
- **Annual membership turnover rate.** How many enter and leave your membership each year? What months have the most gains and losses?
- **Brokerage firms.** How many one-person firms? What percentage have 1-5 agents, 6-10, 11-20, 20-39, etc.? How many firms come and go each year?
- **Geography.** Using pushpins and a map, what’s the geographic distribution of your members and offices?
- **Sales activity.** How many members participated in a sale through the MLS last year, either as a listing or buyer agent? Rank them by number of sales, i.e. what percentage of your members accounted for 50 percent of all sales? This also might surprise you.
- **Member participation.** What were your total seminar or event registrations last year? Better yet, how many unique individuals do these represent? What percentage of members were REALTOR® Store customers last year?
- **The “80-20 Rule.”** A rule of thumb for many businesses is that 80 percent of sales come from 20 percent of customers. Can you identify the 20 percent of your members who are highly active and engaged in the association? Perhaps those findings will help you mobilize other members with similar characteristics.

Gathering Member Feedback

Obtaining member feedback can be as simple as a short evaluation form for a seminar or member event. Or it can come in the form of an annual member survey, through convening focus groups of brokers or agents, or at a member forum that concentrates on a single issue, such as MLS policies or a nettlesome city ordinance.

Surveys can be general or specific in scope, such as a brief online survey of most-used website offerings. While the short answer to finding out what members think is “just ask them,” there are still plenty of questions to consider: How do you ask, who do you ask, what do you ask and when?

In this section, we’ll focus on the most common type of feedback solicitation, the member survey.

A well-designed survey can yield critical information about the association’s performance and the needs of its members. Conversely, a poorly designed survey can result in resources being misdirected for programs or services that members don’t want or need.

In today’s electronic age, online surveys are the only way to go. Using a service such as Zoomerang or Survey Monkey allows you to conduct multiple surveys in a year and send targeted surveys to special groups, such as principal brokers, buyers’ agents, MLS users, committee members, etc. The results can be accessed day-to-day to check response rates. But, best of all, the systems produce professional-looking results and can easily be set up to run cross tabulations on important demographic segments.

Basic Survey Terminology

Here are some explanations of basic survey terminology:

- **Universe and sample size.** In survey terminology, the survey’s “universe” is the total population that possibly could be surveyed. For associations, that would be the entire membership. The sample size is that percentage of the universe chosen to receive the survey. With today’s electronic survey techniques, these can now be almost identical and would exclude only those for whom the association lacks a valid email address, those who have “unsubscribed” to association emails and those with spam filters blocking association messages.
- **Return and reliability.** These terms refer to the percentage of members responding and the accuracy of the results. In general, the higher the return the more reliable the results will be in gauging members’ needs and wants. Rates of return between five and 20 percent are the norm and can be considered accurate, especially if the respondents’ demographics (age, sex, license status, etc.) resemble those of the general membership.

- **Validity.** This is the ability of the questions to accurately test what you're trying to find out. (See "Drafting the Survey" below.)
- **Cross tabulations.** While it's important to know how members in general respond to a question, often the most telling insights result from analyzing how certain membership segments responded. For example, a proposed program that requires broker involvement to succeed may rate high with the general membership but low with the brokers on whom it depends. That's where cross tabulations of individual question results against the demographics of those answering it comes in. While most online survey programs, such as Zoomerang and Survey Monkey, quickly and easily perform these calculations, manually calculated surveys will require more pre-planning and effort to determine this information.

Drafting the Survey

Surveys are both an art and a science. The science lays in such things as the mathematical calculations of sample size and tabulation of the responses. However, the "art" is in assembling the survey. Here are some useful tips on constructing an effective survey:

- **How many questions to ask.** Given the busy lives of most members, shorter is better when it comes to surveys. A rule of thumb is that the average member who chooses to respond is willing to invest five to seven minutes, which loosely translates to a survey of 10 to 15 questions, depending on their complexity. One or two can be added if the overall questions tend to be short and easy to answer.
- **What to ask.** Ask what you will do with the information from every question, why you need to know it and how it will be used to improve the association or program. Is it something you "must know," or would it be just "nice to know"? If you cannot give yourself a satisfactory answer, leave it out. Avoid the temptation to add a few more questions just because you are doing a survey anyway.
- **Demographics.** At a minimum, the survey should include four or five quickly answered demographic questions that provide basic information about the respondent: age (asked in ranges), gender, license status (e.g. broker, agent, associate broker, manager), time in the industry and whether real estate is their primary source of income (as a way to differentiate full- from part-time practitioners).

- **Question writing.** Properly phrasing a question is critical to eliciting an accurate and, most of all, usable response. For example, if the question is so vaguely worded that the respondent is not sure what he or she is being asked, or if it leads them to answer in one direction or another, then it has little or no value.
- **Question order.** Ideally, the first few questions in a survey should be easy and "non-threatening" to encourage people to continue. Grouping questions on the same topic also makes the questionnaire easier to answer.
- **Sensitive questions.** Whenever possible, leave difficult or sensitive questions until near the end as any rapport and trust that have been built by then will make it more likely people will answer them.
- **Question formats.** Just as important as determining what topics to cover is choosing the best format for each question. If there is a logical or natural order to answer choices, use it—such as always presenting "agree-disagree" choices that way. Presenting them in "disagree-agree" order will seem backward to most people. When using numeric ratings, higher numbers should mean a more positive or more agreeing answer.

Here are some examples of question formats:

- **Multiple choice.** "Which of the following answers most closely describes..."
- **Ranking.** "From this list, select the top three reasons you would..." or "Please rank these five services in order of their importance..."
- **Rating.** "On a scale of 1 to 7, with 7 being the highest, please rate the usefulness of these programs or services..."
- **Open-ended.** While often revealing, narrative responses are usually difficult or impossible to categorize and cross-tabulate beyond their basic demographics. One open-ended question per survey is a good rule of thumb.

Test It First

Finally, before releasing the survey, field test it on a small group (none of whom had a hand in writing it) as a way to uncover inconsistencies, unclear wording or confusing directions.

Here are some tips for boosting response rates:

- Write a brief, sincere introduction to accompany the survey stating why the association is seeking responses and what it will do with the information gained.
- Alert your members via email to expect to receive a survey.

- Post reminder notices on your website and in subsequent mailings.
- Make it easy to respond. If promoting it in an email, use a clickable link to take readers directly to the survey.
- Have staff ask all members who call or visit during the survey period if they've responded.
- Another possibility is to include the people who return completed surveys in a drawing for a prize or offer a copy of the (non-confidential) result highlights.
- Offer a discount seminar, event or store coupon as a thank you gift. (Better yet, find affiliate sponsors who will agree to either offer their own coupons or underwrite or subsidize the association's coupons.) Insert the coupons on the "Thank you for taking the survey" page.

Feedback on the Feedback

Publish the survey results (with conclusions and analysis) to the members. Report or tie actions taken in response to the survey to let respondents know that their ideas and input were valuable.

VERBAL COMMUNICATIONS

Effective communication among the association staff, its members, the public and the media is based as much on verbal as on written communication. Even with the rise of texting, the phone is still one of the most important tools for conducting business. An AE should raise awareness among staff and volunteers about the importance of properly approaching telephone calls and any form of verbal communications. Encourage staff to practice good telephone manners, including respect for the caller and high regard for the needs and questions expressed.

These verbal skills, including showing respect for others, are also important in other types of communication, such as conference calls involving multiple participants, video conferences and web conferences. While being able to see each other's faces in a video/web session is helpful, remember the audio factors as well. Things like your tone of voice and the speed at which you speak can make a big difference in how well others understand your message.

Phone Etiquette

Here are some recommendations for telephone etiquette to help maintain good relations with members and with the public:

- Answer calls before the third ring, if possible.
- Speak clearly and distinctly.

- Avoid eating, drinking or chewing gum while talking on the phone.
- Provide callers with an option for continuing the conversation in Spanish (in areas with a significant Hispanic/Latino community).
- Use hold button so callers don't accidentally hear nearby conversations.
- Before transferring a call, explain to the caller what you are doing.
- If a caller has been transferred incorrectly, try to resolve the situation immediately, rather than sending the caller back to the operator/receptionist.

Voicemail

While voicemail is still a necessity, many people no longer leave messages, preferring text or a messaging application if no one answers a call. Another option is to use "follow me" functions to forward office calls to a mobile number after a certain number of rings. Both approaches improve the caller's chance of connecting and avoiding time-wasting "telephone tag."

Nevertheless, AEs should review these tips for effectively using a voicemail system:

- **Change voicemail greetings regularly.** Consider letting callers know where to send a text or an email message as an alternative.
- **Listen to messages.** Return calls as soon as possible.
- **Leave clear messages.** If your call winds up in voicemail, leave a clear and concise reason for the call, along with your name and number.
- **Provide "human" service in the office.** Allow a caller to speak to a live staff member. Some callers may need urgent assistance or prefer to leave a paper message with a real person.

VIDEO COMMUNICATIONS

Today, video is one of the most important communication channels for associations and their members. Associations can use video applications in several ways, including:

- Virtual education programs
- Virtual meetings
- Virtual conferences
- Live streaming of events
- Employment interviews
- Public relations activities and media interviews

These topics will be covered more fully in other chapters of *The Answer Book*.

Benefits and Drawbacks of Video Sessions

For association staff and members, video sessions offer a number of potential communications advantages, including:

- Lower cost
- Saving time
- Faster set-up
- Recording sessions for future use
- Inviting a larger group of attendees than would fit into a physical meeting
- Increasing engagement with the association

On the other hand, virtual sessions have disadvantages compared with face-to-face activities, including:

- Less personal interaction, an important consideration for many real estate professionals
- Less social conversation, as moderators may need to mute observers
- Inability to see all participants
- Difficulty in reading body language
- Reluctance to speak up on a controversial topic when sessions are recorded
- Difficulty in seeing diagrams or text in a presentation when viewed on a smaller screen

Other Considerations

Along with these issues, AEs should pay attention to other aspects of video communications, including verbal, nonverbal and written skills. For instance, an AE might need to speak a little more slowly than usual to be sure members with slower online connections can understand the words. Reading skills are also important, as attendees tend to type their comments in a chat box, rather than speak up during a session. Additional considerations include:

- **Access.** Be sure all attendees have downloaded the video application and understand how to use it.
- **Appearance.** It is important to project a professional appearance on screen.
- **The background.** Be aware of what attendees will see on their screens.
- **Branding.** Putting the association name, logo and other branding elements on the screen can reinforce the association's messaging.
- **Setting a time limit.** Video sessions generally should not last more than an hour without a break.

Video Messages

Video sessions and messages can be posted to the association website or social media site. They can be created with smart phones, webcams or camcorders, as well as professional equipment. There are multiple ways to store videos online and embed them into web pages.

Video is likely to become an even more important communications channel in the years ahead, so stay current with timely articles and posts from NAR and other business sources.

GUIDELINES FOR EXCELLENT WRITING

Every written communication—digital or print—reflects on the association. Outstanding, professional, and articulate communications require a consistent approach to writing. Everyone who writes needs at least some assistance in polishing the words and making a letter, article or publication shine. This is why it is recommended that an association use the *AP Style Manual* or another such resource to assist with all written (and often verbal) communications. A good thesaurus also is extremely useful, along with Strunk and White's book, *The Elements of Style*.

Here are some basic suggestions on how to achieve excellence in writing. Keep them in mind when developing a first draft, a second draft and even a third draft, and use them as a checklist for developing polished, professional and effective communications.

- Keep sentences short and succinct.
- Use familiar words rather than lofty or difficult to pronounce words.
- Limit industry acronyms or jargon.
- Avoid unnecessary words.
- Use active not passive verbs.
- Use a variety of words and thoughts, but strike a balance between simple and complex language.
- Write to express, not to impress.

Other Considerations

Written communications take many different forms from simple texts and tweets to emails, blogs, articles and website content. Therefore, it is important to match the writing with the communications channel. For instance, simple words and abbreviations are fine for texts and messaging applications. However, you may need to use longer sentences and paragraphs for magazine articles.

Scripts and speeches also require an appropriate writing style that is often different from written communications because they are spoken aloud. For instance, using “I” and “we” in a speech could convey a personal tone that might not be appropriate for a blog, video or podcast.

In general, short texts and email notes can have an informal tone, compared with blogs and magazine articles. But always remember that anything texted, posted or published will have an indefinite shelf life. Never write anything that could come back to haunt you in the future!

Proper Use of the Term “REALTOR®”

Proper use of the term “REALTOR®” is essential to any communication shared by a REALTOR® association. Employing proper use of the term REALTOR® and overseeing its use in publications outside of the association is the job of an AE and staff. Be sure that all association staff, members and the public become educated about the REALTOR® trademark, use, importance and meaning.

NOTE: For more information about use of the REALTOR® trademark, see the Legal and Regulatory chapter of *The Answer Book* or visit the Logos and Trademarks Rules at www.nar.realtor/logos-and-trademark-rules.

Generally, newspapers and other publications do not print membership marks properly. However, a newspaper might be willing to print a footnote that defines the term “REALTOR®”. Such a footnote should be included in all association publications.

Sample Footnote

REALTOR® is a registered collective membership mark which may be used only by real estate professionals who are members of NAR and who subscribe to its strict Code of Ethics.

Equally important is the pronunciation of the word, “REALTOR®”. It is a two-syllable word (“REAL-TOR®”) with the second syllable pronounced like that of “doc-tor” or “ore”. Pronouncing “REALTOR®” as “Real-TER” or “Real-a-tor” is incorrect.

USING EMAIL EFFECTIVELY

Due to convenience, low-cost and rapid response time, email is the preferred communications method for most real estate associations and their members. Here are some suggestions for getting the most from this communications vehicle:

- Be able to access email messages from your mobile devices.
- Consider enabling features like “voice to email.”
- Keep emails brief and to the point.
- Use effective subject lines.
- Don’t over-design the message; if keeping a document format is critical, attach it to the email with a cover note
- Use proper spelling and grammar.
- Include a signature line with the sender’s name, title, association, phone number, email and website address; most applications will allow you to do this automatically.
- Use attachments appropriately.
- Use folders to sort your emails.
- Set up spam filters for junk email.
- Use an auto-response system if you will be unavailable for a day or longer.
- Send “blast” emails, such as announcements or event invitations to your members.
- Include an “unsubscribe” option so recipients can be removed from your email mailing list.

Create an Email Policy

Be sure to have a written association policy on emails that staff sign and agree to follow. This can be done as part of a new employee’s orientation or at annual reviews.

Make sure that everyone understands that “emails are forever.” Any email can be quickly forwarded to dozens of individuals for whom the message was not intended, even if unintentionally. If someone is harmed or upset by what you write, those standard legal disclaimers at the bottom of your email won’t help. In a worst case, a person’s entire email correspondence files can be subpoenaed for use in court. That makes it even more important to take a professional, business-like approach to every email you send.

Some examples of email etiquette include the following:

- Never put in email what you would not put on a postcard. Unless using encryption software, assume that all mail on the Internet is not secure. No one is ever anonymous on the Internet; email can always be traced to the source.
- Begin an email with a salutation rather than jumping directly into the message.

- Laws of email ownership vary from place to place. For instance, employers might actually “own” emails sent from their computers.
- Don’t type in all capital letters because it is perceived as SHOUTING.
- Delete irrelevant information from the bottom of a forwarded email so that the recipient will not be confused by extra, unnecessary messages.
- Do not waste a recipient’s time by copying him or her on irrelevant notes.
- Avoid the use of “emoticons” in business correspondence.
- Respect the copyright on material reproduced, especially if cutting and pasting news articles or photos into a member newsletter. Read all copyright policies on news websites or services and follow correct approval procedures before reprinting stories.
- If forwarding or reposting a message, do not change the wording. If the message is personal and is reposted to a group, ask permission first.

Email Newsletter Tips

- **Notify, notify, notify.** Notify members via email before sending out the newsletter. If they expect it, they are less likely to delete it. Provide them with an option to send the newsletter to a different email address if preferred.
- **Keep it short.** Remember, members tend to be “scanners” more than readers so think in terms of capsule stories, bullet lists and short “squibs” that provide the basic information but also tell them where they can go to learn more, such as links to the NAR site.
- **Format the email cleanly.** Use a “responsive design” format, so the newsletter will be easily readable regardless of screen size (computer, tablet or smartphone). As a test, send a draft or test newsletter to a friend with a different device or software to see whether the graphics and text are displayed properly.
- **Use links.** Include links in the newsletter with any additional information items (a link in a highlighted address that when clicked brings the recipient directly to that website).
- **Include a subject.** Use a descriptive subject line with each newsletter, such as “Association News.” Most email programs can be set up to personalize each email message to the recipient with a greeting (“Good morning, Sue,” for example). This eliminates having 50 or 60 email addresses at the top of the message, and the members think the email is sent to them personally.

BUILDING ONLINE COMMUNITIES

Most REALTOR® associations are building online communities on social media sites like Facebook, LinkedIn, X, Instagram and YouTube.

The goals of building these types of online communities include:

- Staying connected with members, particularly those who are active in social media
- Reaching non-members and affiliated professionals
- Making associations more visible and “findable” online
- Building association brands

For real estate associations, the potential benefits include strengthening member loyalty, recruiting new volunteer leaders and opening new channels for conversations with members. Since more agents and brokers are participating in online communities, AEs who have not yet taken advantage of social networking opportunities will need to consider joining these sites. After all, members are communicating with each other in these communities, and associations should be sure they are part of that conversation.

While social networking can help generate business for agents and brokers, the benefits for associations may be harder to quantify; however, they can be a valuable channel for communications. Today, associations are using social media for many reasons:

- Listening to what members are saying
- Marketing and public relations
- Using the tools members are using
- Participating in existing conversations and identifying what conversations associations need to initiate
- Adding social media functionality to the association website
- Using social media strategies to reach out to consumers on members’ behalf

Social Media Guidelines

Here is a general outline for AEs considering how to approach the world of social networking and online communities:

- Develop a social media policy. Be clear about who is allowed to post to an association page, upload videos and photos and provide updates. The policy should also note that it is not acceptable to post certain types of content, such as personal messages and photos or derogatory comments, on an association site. For more information and a model for drafting a social media policy, see the section on “Drafting a Blog Policy” below.

- Survey members to see what they are doing, and where they are, in the online world. If a significant percent of members have Facebook pages or belong to LinkedIn, for example, the association should consider creating a group on the appropriate site.
- Identify the incremental resources needed to take part in an online community: staff time, technology support or out-of-pocket costs.
- Be clear about your reasons for creating an online community. Do you want to present association views and opinions? Do you want to simply create a neutral gathering place for members? Are you seeking to help members generate new business? Know which direction you're going before you start.
- Cross-promote your community. Let members know what you are doing via traditional media (postcards, newsletters, email, etc.). Carefully explain the procedure step by step—and outline the potential benefits for them.
- Set measurable goals. Use member surveys and online measuring tools to determine the degree of participation in your online community. Is it drawing traffic? Are members commenting or contributing ideas? Is it drawing attention from the community and local media?

The ABCs of Social Networking

A social networking site focuses on bringing together communities of people who share similar interests and activities. Most sites provide a variety of ways for users to interact, such as chat, messaging, email, video, voice chat, file sharing, blogging and discussion groups. In general, social networking sites are highly interactive and attract users who are interested in interacting frequently with others for business or personal reasons. They can also be linked easily to other popular sites.

Here is a brief look at some of the most important social networking sites for professionals:

- **Facebook (Facebook.com)**. Facebook is a powerful worldwide communications vehicle. Individuals can join groups based on geography, industry, background, personal hobby or other criteria.
- **LinkedIn (LinkedIn.com)**. A business networking site, LinkedIn focuses on fostering ties among professionals. Members can create and join groups, participate in online discussions, request information or provide recommendations for others.
- **YouTube (Youtube.com)**. This is the premier video sharing site—everything from a presidential address to a pet's trick can be seen on YouTube. Associations can post videos of annual meetings, special events, interviews with leaders or other activities.
- **X (Twitter.com)**. A service for friends, family, co-workers and business associates to communicate through short messages based on one question: What are you doing? X members in real estate might let you know they're showing a home, just closed a transaction or heard an interesting piece of news.
- **Pinterest (Pinterest.com)**. This site is like an online scrapbook, where individuals can post graphics, charts, maps and photos related to a particular topic. Real estate professionals can use the site to highlight points in a neighborhood, local housing market trends or other timely information.
- **Instagram (Instagram.com)**. This is one of the most versatile sites for sharing photos and videos. Many real estate professionals use this site for neighborhood, listing or personal photos, reaching a wide national and international audience.
- **Flickr (Flickr.com)**. This is one of the most popular photo sharing sites. An individual can take digital photos of a person, property or event and post them immediately afterwards with no follow-up costs.

DIGITAL AND MOBILE COMMUNICATION TOOLS

Technology continues to provide new ways for associations to communicate with members and broader audiences. Today, the most important digital and mobile communications tools include:

- Texts
- Messaging applications
- Blogs
- Podcasts
- Mobile applications

Web-related communication tools are covered in the next section.

(For more about using digital and mobile tools to reach the media, consumers and other external audiences, see the Public Relations chapter of *The Answer Book*.)

Texts

In today's mobile world, texting is one of the most popular choices for personal and business communications. Texts are ideal for conveying short bits of information at any time from any location. But texting should not be used for more complicated messages. In those cases it's better to leave a voice message or send an email.

Many of the points regarding effective use of emails also apply to texts. However, the following points should be emphasized:

- Be sure your communications policy includes texts, as well as email messages.
- Avoid derogatory or negative comments that could come back to haunt you.
- Know how to send a “group” text message.
- Never text when driving a vehicle—it can wait.
- Be aware of your surroundings when texting, particularly if you are in a public setting.
- “Autocorrect” can be a helpful feature, but it can also make mistakes
- Use the dictation feature for longer texts to save time
- Always read your messages again before hitting send

Remember that text messages can often “get through” to the recipient in areas with poor wireless reception. If an urgent voice message isn’t going through, try sending a text instead.

Messaging Applications

A wide range of messaging applications are now available for individuals and groups, including FaceTime, WhatsApp, Slack, and Microsoft Teams. These applications support texting and sending attachments like photos, videos and documents quickly and conveniently to recipients close to home or around the world. As long as the recipient has the same app, there are no fees or charges for messaging. As a result, they are now a preferred method of communication for real estate professionals serving international clients, as well as anyone who likes sharing photos, videos and comments with family and friends.

From an association’s standpoint, all the rules about phone, email and text etiquette apply to these messaging apps. In other words, think carefully before you tap “send.” Because your messages are recorded and can be retrieved in the future, don’t say anything that shouldn’t be part of a permanent record. If you want to have a confidential chat with someone, it’s better to talk face to face or over the phone.

Blogs

A regular blog written by an AE or volunteer leader can help an association connect with its members as well as the media and the public. A blog is generally a personalized column relating to one or more key real estate issues that is posted daily, weekly or monthly on the association’s website and linked to Facebook, LinkedIn or Instagram. Topics can be related to association activities, market trends or other events affecting the local community.

If you are considering creating an association blog, there are several questions to consider:

- What are the goals of the blog?
- How often will it appear?
- Who will write it?
- How much will it cost in terms of staff time or outside resources?
- How can members or the public respond to the blog?

In many cases, a blog is launched with a great deal of energy and enthusiasm. If managed correctly, that blog can become a long-term asset helping to advance the organization’s goals. Posting readers’ comments online, along with the blog, can stimulate discussion of important topics. However, if the blog becomes a time-consuming task or it becomes difficult to find topics, it’s better to discontinue the blog and use other communication tools.

Drafting a Blog Policy

The following checklist for drafting an association’s blog policy was prepared by NAR Legal Affairs staff.

Terms of Use (TOU)

- Will the blog have the same terms of use (TOU) as the association’s website?
- Does the association have the right to refuse, move or remove any material a member submits?
- If there is a dispute, how will it be resolved?
- Will the blog be hosted on the association website or on a third-party website such as Blogger.com or Wordpress.com?
- Will the blog be open to the public for comments?
- The blogger must agree not to defame, abuse, harass or stalk anyone, engage in illegal activities or publish profane, obscene or inappropriate content.
- Does the association policy have a suitable disclaimer (i.e., “Without limitation, the association is not responsible for postings by users in the user opinion, message board, or feedback sections of the website.”)?

Managing the Blog

- Will the association review each comment before posting it below the blog? If so, what criteria will be used to evaluate the content of the comment?
- Will the association offer users the opportunity to request that content be removed from the blog? If so, how will this determination be made?

Copyright Policy

- Who owns the copyright of material that is posted to the blog by an association employee?
- Who owns the copyright of material that is posted to the blog by a non-employee?
- What type of permission, if any, does the association want to give others for using the content?
- What use of the content will be permitted?

Retention of the Blog Posts

- How long must the association keep a record of a blog post?
- What is the document retention/deletion policy?
- Is the blog post a business record and therefore discoverable for the purpose of litigation?

Employee Guidelines for Posting

- Does the association want to create guidelines that employees must follow when blogging on their own time or on non-association websites?
- What type of communication, if any, should be restricted (i.e. anonymous posts, gossip, etc.)?
- Has the association informed employees that they should have no expectation of privacy when using employer-provided equipment?

Note: In view of the potential liability, the association's attorney should review these issues prior to launching an association blog.

Podcasts

Podcasting is the process of creating an audio file, such as an interview with one of the association's officers. The audio file is then posted on the association's website (or other site). An email with a link can then be sent to association members for easy access. Recipients can download the podcast and listen from an iPod or any other MP3 player, or directly from a computer.

Creating a podcast is simple: just use a smart phone or other digital voice recorder to capture the words of the person being interviewed or the people participating in a discussion. The best podcasts are relatively short (2-5 minutes) and should include new information or ideas that are important to the recipients.

Mobile Applications

Many associations have developed their own mobile applications for members, which can be downloaded to smart phones, tablets or computers. These apps provide new opportunities to communicate with members, in addition to enabling access to association services.

For association members, the ideal application provides important mobile business functions, such as fast access to MLS data. Therefore, an association considering development of a new app (or adding new functions to an existing app) should survey members to see if there is a solid need for a new service. The association should also track the number of members who have downloaded its app, and how often the app is used.

Other aspects of mobile communications technology that associations should follow, even if they have no plans to implement these tools, include:

- QR codes (modular black-and-white codes that can be scanned or photographed by a smart phone and provide a link to a website)
- Popular applications in the consumer market, as there may be new attention-getting features or functions that associations may be able to adapt for their own applications

DEVELOPING AN ONLINE PLATFORM

Today, most real estate associations have websites that serve as an online platform for reaching other users. However, there are always new features, enhancements, and functions that may provide benefits to members.

Today, a website should be integrated with online communities, mobile applications and other digital and mobile tools. In that regard, association staff and leaders should develop a comprehensive communications plan that addresses issues like:

- Design updates for the site
- Functional updates and additions
- Data security
- Individual privacy
- E-commerce opportunities
- Search engine optimization
- Links to Facebook, LinkedIn, Instagram and X

Before rolling out a new site, investing in a redesign or adding a new web feature or function, it is essential to determine the goals and create a development plan designed to achieve those objectives. After all, the intended audience(s) must *use* the site once it has been created. With this goal in mind, an association and its web development planning and implementation team should address the following questions, and more:

- What does the association want the site to accomplish?
- What functions and features do members want?
- How will decisions about the site be made, such as who determines what functions are needed, what graphics will be used, what the timeline is for changes, how much money will be spent, etc.?
- How can the site generate revenue?
- What is the most effective way to disseminate information?

Key Development Issues

One of the key issues when planning an update to an association's online platform is selecting decision-makers to help. To address this issue, an association could charge a new or existing committee with the responsibility of carrying out the requirements requested by members and approved by leadership.

Determine the Audience

The next step in the process is to pinpoint and define the audience for the new service or function:

- Members only
- Real estate professionals who are non-members
- The media
- The public

Determine the Content

An online platform development plan should focus on the new content and services. Some potential components/features that can be geared toward the public, association members or both, depending on the identified purpose of the site, include the following. (In many cases, this content can be re-purposed and used on social media sites for greater exposure.)

- Properties for sale, rent or both
- Open house schedules
- Association member roster
- Buying/selling tips
- Current mortgage rates
- Association business and information
- Minutes and committee reports

- Agendas
- Meeting announcements and notices
- Meeting and event calendars
- Education schedules
- Course descriptions (GRI, e-PRO, etc.)
- REALTOR® Store
- Surveys
- Promotions
- Meet the staff
- Meet the officers
- About the association
- Job opportunities
- Information about the community
- Weather
- Maps
- Governmental affairs/legislative updates
- Online voting capabilities
- Photo gallery (frequently updated and kept current)
- News reports
- Links to *www.realtor.com* and *www.nar.realtor*
- Blogs
- Podcasts
- Links to social media sites
- Updated privacy policy
- Option to subscribe or unsubscribe to association messages

Determine Site Maintenance Procedures

Key questions to answer about site maintenance are:

- Who enters the data? Members? Staff?
- Who approves information to be posted to the site?
- Who should make the actual changes—an outside consultant/vendor or staff?
- Who should review and update the content on the site?

Build in Site Security

Security is a major consideration for an association's online platform, particularly if there is an e-commerce component. Many association platforms are set up such that members who wish to access REALTOR® specific information (such as class schedules or the MLS) go to a REALTOR® specific site through the association's "public" website (for instance, *Realtor.com*® is for the public, and *nar.realtor* serves members and the public).

If members are required to use a password to reach the REALTOR® specific information, a certain level of security must be included on the association's site. An association should consider the levels of site security necessary, the cost of providing site with security, what information needs to be protected and why it needs to be protected before the capital is expended.

Cost Considerations

Cost considerations for site development include:

- Initial plan and design
- Programming
- E-commerce functionality
- Ongoing oversight and maintenance
- Changes, additions, deletions
- Technical assistance needs—7 days a week, 24 hours a day
- Security
- Hardware requirements

Determine Revenue Potential

A site can generate revenue by offering customer services such as:

- E-commerce
- Access to non-dues services, such as educational seminars
- Online webinars
- Access to forms online
- Domain sale offerings
- e-PRO offerings
- Continual marketing of association and its site (such as Realtor.com® being synonymous with REALTORS® and home purchasing/selling)

Determine Types of Advertising for Site

Types of advertising or advertisers that might be included on an association's site are:

- “Pay per click” programs
- Local businesses
- “Cross-promotion”
- Relevant magazines
- Upcoming trade shows
- Upcoming educational events
- Domain registrations

Platform Management

Online platform management issues that should be considered include:

- Traffic count
- Browser support
- User entry and exit points
- Determining busiest days and why, then using that information to maximize advertising/messages
- Annual or semi-annual review of all elements—site design, user friendliness, traffic count, etc.
- Maximization of marketing
- Finding new ways to profit from the site

Driving Traffic to the Site

The flow of traffic to an association's website is crucial. As such, it is recommended that the site's address be included in all communications and promoted at every opportunity, especially:

- New member orientation sessions
- Educational programs
- Board of directors and membership meetings
- Newsletter, business cards and forms

Search Engine Optimization

Many associations seek to drive traffic to their site through a search engine optimization (SEO) program. However, other associations do not see SEO as a priority and are primarily focused on generating visitors from the membership. SEO is a specialized web service designed to place the site high on the list of results when someone uses Google, Yahoo or another service to search for specific words. Associations should carefully consider the potential benefits, disadvantages and costs before embarking on a SEO program.

ASSOCIATION PUBLICATIONS

Today, many association newsletters, magazines and other publications exist in both a digital and traditional print format. In most cases, the digital format is less time-consuming and less expensive. On the other hand, print publications can reach a broad audience, including people who don't use email frequently, and have more impact, thanks to more opportunities for graphic design. If you need to “wow” an audience, there's still no substitute for print.

Whether digital or print, an association publication should be produced and distributed on a consistent basis, whether weekly, monthly or quarterly. That demonstrates a professional commitment to serving the information needs of members.

The following list of questions and considerations can help an association determine what form of communication—print, online or both—will best meet its members' needs:

- What is the purpose of the publication?
- To whom is the publication directed?
- What is the best format for communicating the specific information?
- How frequently should the publication be distributed?
- What resources are available in-house, and which functions should be outsourced?
- What information should be included?
- What image does the association wish to convey?

- What is the availability of staff?
- What is the budget?
- Can some of the costs be offset by generating advertising revenue?

Producing Quality Digital and Print Publications

Because of the ease of distribution and the reduced costs (no printing or postage), many associations today are producing digital newsletters, flyers, announcements and other publications, and using printed pieces only for special occasions. However, both digital and print publications need the same attention to quality, and many of the print concepts discussed below also apply to digital communications.

The various print options include:

- **Newsletter/Newspaper.** A newsletter or newspaper is as simple as a one-page online, double-sided publication, or as sophisticated as a foldout piece featuring color and photos. It should be quick and easy to read and can be published in a folded and stapled format in print, or delivered online as an HTML or PDF document. There is potential for advertising revenue and/or costs can be subsidized through members' dues, so such a publication could be made available to members at no charge!
- **Magazine.** A magazine is a periodical containing feature articles and regular "departments." Magazines are comprised of articles that cover various subjects in depth and can present visual variety and emphasis. This is an ambitious form of communication and can be quite expensive and difficult to staff in-house, but there are a variety of publication companies that can write, design and print very professional publications and save the cost of an editorial and design staff. An "e-magazine" is a less expensive option and can be delivered via email.
- **Use pictures and graphics to break up copy.** Avoid a text-heavy layout with tight-fitting, justified columns and little white space. Use well-placed visuals, white space, and a "clean" layout to appeal to the readers.
- **Use subheadings and lots of white space.** Cramming too much on one page detracts from the message and distracts readers.
- **Use photographs properly.** Balance the use of photographs but change the "pace" of photo layout by using different sizes. Look for photos of people in action rather than people standing around or posing. Avoid photos with too many people in them. Crop photos to avoid unnecessary space around the photo subjects.
- **Typeset headlines, headings and subheads proportionately.** Make sure that the size and layout of title headlines, headings, and subheadings are proportionate to the flow of text and to the type used.
- **Avoid using all caps.** Use both uppercase and lowercase letters in headlines to increase readability. Avoid using all uppercase letters because it is difficult to read a word that is all caps and all capital letters are construed as SHOUTING in terms of email etiquette.
- **Use action verbs in headings and in all text.** Example: In the sentence, "John Smith is nominated for president," the word "is" is an active verb, making the heading active.
- **Avoid using passive phrases in headings and in text.** Example: In the sentence, "John Smith has been nominated," the words "has been" are passive and indicate past tense.
- **Spell-check, then spell-check again.** Before sending copy to print, always, always, always check the text for spelling errors with a computer spell-check function or by preparing a first draft with corrections.
- **Edit three times, and proofread at the end.** Editing is different than proofreading. Editing involves rewriting and restructuring writing to make it more clear and comprehensive. Before sending copy to print, copy should be edited at least three times, using three different pairs of eyes. This provides an effective system of checks and balances and lowers an association's liability, which can be affected by misprints, misspellings, mistakes, etc.
- **Proofread.** After three edits, one proofreading session should take place to catch small mistakes such as misplaced punctuation, forgotten punctuation, and minor grammar and word placement issues. This is the last step before sending a piece to be formatted for online distribution or to be uploaded to the printer.

Suggested Digital/Print Editorial Guidelines

- **Create a format and a template.** Use one or two basic layouts and stick to them. Changing a format too often will confuse readers.
- **Use fonts/typestyles sparingly and consistently.** Select one or two types of fonts. Too many varieties of type size, style or width distract readers.
- **Use a stylebook for editorial consistency.** One of the most popular reference books is the *AP Stylebook*.

Production Tips

- **Develop a production schedule with deadlines.** Update this schedule monthly to respond to the flow of information and to know contributors' schedules.
- **Prioritize the process and break it down into steps.** Plan each newsletter carefully and determine what priorities will control the publication process from an editorial and advertising standpoint, then convert this into a timeline. An editor must make major decisions based on these priorities. For example, if timeliness is a priority, will late advertisements or missed deadlines be acceptable?
- **Educate everyone involved.** Help publication staff and frequent contributors understand the editorial process and the problems that often arise during production such as space and design limitations.
- **Control deadlines.** Do not reveal the very final deadline to contributors, because this allows room for coping with the last-minute changes and emergencies.

Advertising Know How

- **Establish a policy.** If an association newsletter accepts advertising, establish an advertising policy and stick to it.
- **Cover all potential advertising issues.** Discuss potential problems that might arise because of advertising, such as late submissions, the issue of accepting member versus nonmember ads, and including special inserts.
- **Standardize how such ad issues will be handled.** If possible, prepare a standard response to advertising issues before problems actually arise. Such a response will show advertisers that all decisions regarding the publication are professional.

Layout and Design Guidelines

The difference between a well-designed and a poorly designed product is the combination and quality of components employed in its production. Following are some guidelines for creating an appealing and effective digital or print publication.

- **Design.** If an association does not have a consistent “look” or design for its publications and written materials, it is recommended that staff become educated about how to employ design elements or that the services of a publication design consultant be used to create a consistent and appealing look.
- **Size.** Establish a uniform size and use it every time the publication is produced.
- **Paper.** Select a paper stock that feels good to the touch, will hold ink well so that the ink does not run, and that will serve the purpose of the publication (such as a mailer, which must be on paper stock that can be folded easily).

- **Ink.** Use different colors of ink on headings and subheadings to draw the reader's attention and move the eye through a piece. Red, violet and blue are generally more eye-catching than green, orange and yellow.
- **Facing Pages/Columns.** When designing a print piece, remember that the eyes first see facing pages as a whole, not individually. Align columns of type horizontally at the top margin so that a reader more easily can scan each column up and down rather than side to side.
- **White Space.** Use plenty of white space to draw a reader's attention to the copy and to offer easy reading.
- **Margins.** Allow at least a 3/8” to 5/8” margin at the top, bottom and sides of a publication.

Page Composition—Specifications

Keep the following tips in mind for easy page design.

- **Left-aligned text.** It is recommended that left alignment be used whenever possible, because it is easy on the eye and typically will not cause a reader to have to go back and re-read the text.
- **Justified text.** This is not recommended for use in letters, reports and any “daily” correspondence or writing.
- **Centered.** Centering text is only advisable for headlines, report titles, cover titles, chapter titles and other major headings.
- **Single spacing.** Typically, a publication is single-spaced within paragraphs and double-spaced between paragraphs.
- **Double-spacing.** Speeches and reports are often double-spaced for easier reading.

Fonts/Typefaces

- **Avoid combining too many fonts within the text and headlines of a printed piece.** Arial and Times Roman are the two most widely used fonts, but the number of choices is in the thousands. Each font is available in a variety of sizes, forms and styles, such as italic, bold, condensed, etc.
- **Serif vs. sans serif.** For dense copy, use a serif (think of letters with “little feet”) typeface such as Times Roman to improve readability. Sans serif (without “feet”) typefaces include Helvetica and Arial (example of Arial: ABCDEF).
- **Use readable point sizes.** Text set in 10-point, 11-point, or 12-point size type is best for readability.

Printing

- Develop a good working relationship with a printer when publishing a print newsletter or magazine. Ask for advice and follow directions. Follow the printer's design and production schedule to avoid last-minute issues.
- Many associations use the digital process called "print on demand." With this technique, you can print only the number of copies as needed at a particular time. Then, you can go back and print more copies in another few weeks or months if necessary. You can also adjust the content of the publication before printing it again.

Following are tips for preparing a print piece for publication. Many of these tips can also be applied to digital newsletters or magazines:

- **Use a word processing/desktop publishing program.** This allows you to establish a basic format, then update the content for each issue.
- **Submitting files.** Ask the printer what electronic format is preferred. PDF file or "native" version with the original document and artwork. Determine the printer's requirements during the planning stages of a print project.
- **Prepare a "mock-up."** Once the publication is designed, print out the file or send it to a review person or committee. The goal is to be sure all errors have been corrected and that internal approval has been received—the best way to avoid any unpleasant last-minute surprises.
- **Review the printer's proof.** Before the final printing takes place, staff in charge of a publication will be asked to review a "blueline" proof. Carefully review this proof and indicate every item that does not appear as expected. The printer will correct any problems noted, such as broken serifs on letters, blemishes, spots, etc.
- **Avoid requesting changes after signing off.** Once you approve the blueline or proof, any further changes are made at the association's expense.
- **Conduct a press check, if necessary.** If a print piece is particularly complicated, an association representative may wish to visit the print shop for a "press check." Carefully review the printed materials for white spots, evenness of color application (are there streaks?), and trueness of color (does the ink match the color selected from the color matching system?).

Mailing a Newsletter or Magazine

Whether mailing a newsletter, magazine or other board publication, the following tips can help save time and money:

- **Don't limit mailings to members only.** Send them to real estate or business editors of newspapers or magazines as a source for feature stories.
- **Exchange print pieces.** Especially exchange newsletters with other associations in the state.
- **Share printed materials with the public.** Keep them "in the know" about association accomplishments, activities and accolades.
- **Keep mailing lists current.** Compile the most current mailing list and make it more current by eliminating duplicates and updating addresses. Update all mailing lists every three to six months.
- **Request address corrections.** Print on all envelopes "Address Correction Requested" beneath the return address. Although an association pays for each piece returned with a new address, the savings on subsequent mailings make this expense worthwhile.
- **Work with a mailing service.** Because of frequent changes to U.S. Postal Service (USPS) mailing regulations, you should contact a mailing service prior to finalizing the design and printing the piece in order to be sure of compliance. NOTE: Do not underestimate the importance of planning the mailing. An incorrect bulk mail label, for instance, might result in having to reprint the entire piece.
- **Monitor the mailing process.** If a print shop handles a mailing, add the association's name to the mailing list so the association also receives a copy to ensure that all work is being completed on schedule.

1.2

Education

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INTRODUCTION

Educational programs that help members become true real estate professionals are core offerings of successful REALTOR® associations and should be given a high priority by the AE and the entire leadership team. Strong associations also offer education and training programs for their staff, building their career skills.

In both cases, associations need to consider educational programs as an integral aspect of their product and service offerings. Therefore, AEs should develop an annual education plan with a corresponding budget, rather than taking a session-by-session approach. In many ways, the education plan is like a marketing plan. It should have goals and measurable objectives to assess how well the association is delivering the most useful information and training to members. For instance, an annual plan might include sessions on technology, legal issues, property management, working with investors or addressing subconscious biases or attitudes. Including a financial budget also helps AEs assess the overall costs and revenue potential for program.

Because consumer behaviors, technology tools, legal decisions, licensing regulations, environmental factors and market conditions are constantly changing, associations should evaluate their educational offerings on a regular basis and introduce new topics and programs whenever they can benefit members or staff. They should also examine current member demographics to identify potential challenges or opportunities that could be addressed with a new offering. As with any new product or service, the following steps need to be taken:

- Assess whether there is a need for the educational program
- Develop the program, including its content
- Have the legal department or association attorney review the program content
- Prepare a budget for the program
- Find the right instructor and channel to deliver the program (classroom, online, etc.)

- Market the program to members, other professionals or associations
- Conduct the program in an appropriate setting
- Evaluate the program and assess its impact

When planning an educational program, AEs should review the resources available through the NAR. Start with the Education home page (www.nar.realtor/education), or search the NAR site for specific information.

Associations may also want to develop educational partnerships with other local or state associations. Because real estate professionals have similar needs for training and education, sharing ideas, resources and programs may be a cost-effective strategy for serving members.

REALTOR® MEMBER EDUCATION

There are two main types of education related to REALTORS®. The first is mandatory education required for a real estate professional to earn and maintain a license/certification, or required for a real estate professional to maintain REALTOR® membership. The other type of education is elective, offered to help increase a member's knowledge, skills and overall professionalism.

Many associations try to provide a balanced offering of education programs by assembling an annual program comprised of courses REALTORS® need to maintain licensure and courses to improve professional or business skills.

Mandatory Education/Continuing Education

There is no national accreditation system for real estate practitioners. Instead, each state has its own real estate commission (also known as a professional regulatory agency) that mandates specific education necessary for real estate professionals to earn and maintain their real estate licensure. Generally, as a service to their members, REALTOR® associations offer education courses that count for state continuing education or "CE" credit. Prior to offering a CE-type program, the association will need to apply and receive approval from the appropriate authority, such as a state real estate commission. Other steps may be necessary to ensure attendees receive appropriate credit. After a CE program is completed, an association staff will certify attendance and update the continuing education records for each participating member. To learn more about your state's continuing education requirements, visit your state real estate commission's website.

If an association intends to offer an online course, another step may be necessary. The Association of Real Estate License Law Officials (ARELLO), a national, nonprofit association, now approves ARELLO Certified Distance Education Courses. About 40 states' real estate commissions require ARELLO approval for online courses before they will approve a course at the state level. ARELLO also certifies instructors as Certified Distance Education Instructors (CDEI), a requirement for instructors affiliated with ARELLO certified online courses. For more information, go to: www.arello.org.

The body that sponsors a continuing education course (such as a local association or a real estate school) is required to maintain accurate attendance records and to provide documentation to both the state regulatory agency and the participants. State rules vary regarding what constitutes a "record" (paper or electronic file) and how long those records must be maintained. For the most up-to-date information about the requirements for maintaining continuing education records, contact your state's real estate commission or ARELLO at www.arello.org.

NAR's Mandatory Code of Ethics Training

Once a professional becomes a member, he or she must complete mandatory training to maintain membership. Every REALTOR® is now required to complete 2.5 hours of NAR Code of Ethics training every three years. REALTORS® who have completed this training as a requirement of membership at another association or who have completed the New Member Orientation during any three-year cycle are not required to complete additional ethics training until a new cycle begins. Members who earn the REALTORS® Commitment to Excellence (C2EX) endorsement have also satisfied the Code of Ethics training requirement.

NOTE: More detailed information about the Code of Ethics training is available online at: <http://www.nar.realtor/code-of-ethics/code-of-ethics-training-home>.

REALTOR® Code of Ethics New Member Orientation Course

New members of local associations must complete the New Member Orientation course when they first join. The course was developed by the NAR and is available online. This course meets all of the learning objectives and criteria for NAR's Code of Ethics requirement. A new member who has completed the New Member Orientation is not required to complete additional ethics training until the next three-year cycle.

Elective Education

Elective education is in demand by REALTORS® who wish to increase their knowledge, add specialized credentials and stay at the forefront of the ever-changing real estate industry. Effective REALTOR® associations are adept at determining what type of education programs their members want and providing appropriate courses. Examples of elective education topics currently offered by local associations include: property management, multi-family housing, “green” construction and development, commercial leasing, site development, or NAR designation/certification courses such as ABR[®], AHWD, ALC, BPOR, CCIM, CIPS, CPM, CRB, CRE, CRS, e-PRO[®], GREEN, GRI, MRP, PMN, RSPS, SFR[®], SIOR, SRES[®], and SRS. For more information, visit: <https://www.crd.realtor>.

NAR Academy

NAR has partnered with Columbia College in Columbia, Missouri, providing members with opportunities to complete a variety of associate, bachelor’s and master’s degrees. The offerings include a Master of Business Administration degree with an emphasis in real estate, based on the award-winning Master of Real Estate degree curriculum developed by the association for its members through the prior REALTOR® University program. NAR members can receive a \$100 per eligible course scholarship.

For more information on NAR Academy, visit: <https://www.nar.realtor/nar-academy>.

To learn more about online NAR designations and certifications, visit: <https://www.nar.realtor/education/designations-and-certifications>.

SELECTING THE RIGHT PROVIDER AND INSTRUCTOR

Many REALTOR® associations, along with outside providers, plan and offer courses for members. Check NAR’s Education home page (www.nar.realtor/education) for information on topics like Code of Ethics Training, Commercial Real Estate Education, Distance Education, Continuing Education, and more.

Selecting a Provider

Here are some potential providers for real estate educational programs:

- NAR’s Institutes, Societies, and Councils (www.nar.realtor/education)

- Center for REALTOR® Development (www.crd.realtor)
- Association affiliate members, such as local mortgage lenders, title companies, etc.
- Other local or regional associations, franchises, brokers or real estate schools that wish to partner or cosponsor training
- Speakers and trainers who are qualified to cover topics based on local needs and the status of the real estate market
- Attorneys, multiple listing service (MLS) experts, government affairs directors (GADs) and AEs themselves may have the right combination of expertise and teaching skills to deliver education programs to members. Take advantage of these in-house resources in the association.

Note that education providers may need licenses, certification, and/or approval from state or other regulatory authorities in order to offer real estate programs. Before entering into a contract, be sure that the education provider is qualified to conduct the program and has met all necessary requirements.

Selecting an Instructor

Selecting the right instructor is one of the most important elements of a successful education program. But selecting the right instructor can be a daunting task. They’re available in every fee range and specialty topic—including professionals within the association itself. Advance planning is essential, since many high-profile instructors book engagements up to a year in advance. Factor those fees into your annual budget early. Your search for an instructor can be narrowed or broadened on the basis of your budget.

These tips, adapted from the National Speakers Association, can help you find an instructor who will strike just the right chord with your target audience:

- **Know what your audience wants.** Does your seminar require that the audience leave with specific information required for continuing education credits, or do you need someone who will motivate and inspire?
- **Match your speaker to the audience.** A speaker’s expertise in a given field may be the big draw, but partnering with a lively staff person or member may help you deliver a better program.
- **Seek referrals.** Personal referrals are a great way to narrow your search. Speakers’ bureaus can also be a valuable resource, but be sure to ask about fees.
- **Ask for references.** Candidates should be able to provide references, along with a biography, testimonials and videos of their presentations.

- **Think local.** Successful local REALTORS® can be more of a draw than well-known speakers, especially when they promise to divulge their secrets to success.
- **Look inside your association.** Take the time to identify potential instructors from within your organization and see if they would be suited for an educational program.

Once you've chosen a speaker, whether it's a professional or a local expert, write a contract that clearly outlines the expectations and responsibilities of both you and your speaker. Be sure to include a statement in your contract about appropriateness of language, advising the speaker to refrain from using any ethnic, obscene, profane, religious, sexual or political humor or content in the presentation.

See the Meeting Management chapter in *The Answer Book* for more details.

TRAINING THE INSTRUCTOR

Your instructors need to become familiar with your association to help them customize their presentations. Even if you've chosen members to conduct classes, don't assume they understand all association policies and goals. Give the instructor a clear outline of what you expect and be specific about the size and demographics of your audience, as well as the topics for any other presenters on the program to avoid duplication.

Real estate associations should strive to build strong ongoing relationships with their instructors. Here are some suggestions for establishing and nurturing these instructor relationships:

- Put a process in place for selecting, training and evaluating instructors. Don't rely on informal procedures, because they tend to be "hit or miss" and can produce uneven results.
- Be sure to explain the association's policies in presenting educational programs, such as keeping the "commercials" to a minimum.
- Audition new instructors using your current staff as an audience. If necessary, you can provide coaching or training before the instructor steps in front of an audience.
- Assess an instructor's online teaching skills and "presence." Some people are more effective teaching in front of an audience, while others are comfortable leading a webinar or other online session.

- Consider a shared teaching or team teaching approach. New instructors might present part of the content for a program alongside an experienced teacher.
- Give instructors as much feedback as possible about their content, voice inflections, gestures and other body language. Be sure they pronounce "reel-tor" correctly!
- Assess how well new instructors are engaging students. Do they simply review a PowerPoint presentation? Or do they ask questions and invite participants to respond?
- Support both new and experienced instructors in their own learning.
- Consider holding an annual retreat with instructors to review common issues, make suggestions and share fresh ideas.
- Share participant feedback—both positive and negative—to help instructors learn and grow as teachers.
- Remind your instructors that teaching a real estate program is an exciting professional opportunity with significant benefits for them. A positive spirit can lead to big dividends.

DETERMINING THE DELIVERY SYSTEM

Online delivery of educational programs through platforms like Zoom, GoTo Meeting or Webex is now the primary option for many real estate associations. Because of the cost savings for associations and the time and hassle savings for members, online and hybrid programs will continue to be a preferred option for educational programs. When deciding which delivery channel to use for an education session, association staff should examine the effectiveness of each option and perform a cost-benefits analysis.

Live Programs

There is still much to be said for live, face-to-face training and education. We know that adults learn best from their experiences, and there is nothing like being in a classroom, learning from a knowledgeable instructor. An added benefit is the networking component; real estate professionals enjoy personal interaction, and the ability to meet with people face to face cannot be underestimated. Live training sessions can include:

- Training at the association's facility (media room or meeting room)
- Brown-bag lunch seminars in the association meeting room
- Program held at a local meeting facility, such as a hotel, restaurant or library

Hybrid Programs

An association can add a live streaming/webcast component to an in-person meeting. This hybrid approach can increase attendance, by providing content to members who could not attend in person.

Online Programs

Online training can provide both cost and time benefits to the association and program participants. There are several formats for online programs.

Webinars

Webinars work well for many types of educational seminars. Materials can be distributed to participants in advance by email. Participants can watch the instructor, see presentations and interact through the chat box. This format can eliminate travel, meal and lodging costs, not to mention saving time for all participants.

Along with live-streaming the educational program, associations can also record the sessions. That allows attendees to review the content later if they feel a need. Associations could also “recycle” the session, perhaps offering it at a reduced fee to members who were unable to attend the live session.

To simplify the delivery process and reduce or eliminate vendor fees, AEs should consider using the association’s current virtual meeting and collaboration platforms to offer educational programs.

Podcasts

Podcasts are audio files (typically MP3 format) that can be played on a smart phone, tablet, laptop or desktop computer. While they lack interactive capabilities, podcasts do provide a highly convenient way for members to access educational information, such as business or marketing best practices, to take just one example. The key benefit is that members can access the information at a time and location of their choosing, pausing the podcast to resume listening later if necessary.

Videos

Videos add the visual component to an audio podcast. A video educational program can be recorded and posted on the association website, YouTube or social media platforms. Like a podcast, members can access the educational video at any convenient time or location. Generally, videos (and podcasts) are more suited to shorter programs, although the length is limited only by the file size—and members’ likely attention spans!

For more information on meetings, please see the Meeting Management chapter in *The Answer Book*.

FINANCIAL CONSIDERATIONS

Once you have figured out WHAT your members want or need to learn and determined HOW to deliver the training and WHERE it will take place, you need to consider the FINANCES. Following are three options to consider.

Free Education

Some associations decide that some information is so core to their offerings it should be covered in members’ dues; thus there is no additional cost to the member.

Cost-Covering Education

Another way of running education programs is simply to charge an attendance fee that covers the direct costs of putting on the program. Consider adding the indirect costs, as well.

For-Profit Education

Education programs can be significant income generators. An association can charge a fee that includes a profit margin along with covering the costs. Before setting a fee, however, be sure to look at the cost of similar educational programs, as well as the value your association can offer.

Shared Service Arrangements

Shared service arrangements with local and state real estate associations, as well as NAR’s Institutes, Societies and Councils, can provide a cost-effective approach to offering a new educational program. It may be possible to purchase or “rent” a program developed by another association, rather than develop it yourself or purchase it from an outside vendor. In other cases, your association might be able to share the revenue with another association to your mutual benefit.

Sponsorships for Education

The costs for some types of educational programs may be defrayed through sponsorships. For instance, an area mortgage lender or attorney may want to participate in an association seminar on “short sales.” That presenter may be willing to underwrite or share some of the costs, particularly for in-person programs.

Determining Program Costs

There is no set formula for determining program costs. Some fees or costs are negotiable, and some are not. Costs to be considered when determining the price of an education program include:

- The cost-per-person, to “rent” a program—for instance, when sponsoring a program with or for an NAR designation/certification or other organization, often a per-person fee is charged
- Instructor’s fees and expenses
- Room/equipment rental
- Office overhead, including publicity and staff time
- Course materials
- Food/beverage

The key to negotiating fees for educational programs is to ask the right questions, such as the following:

General Program Planning Questions

- Has the association completely or partially developed the course content/materials?
- Are the course materials considered to be “turnkey,” or will the facilitator retain the rights and control of the content and materials he or she develops?
- How large is the audience who will use the program materials?
- Will the facilitator be able to use some or all of the content/materials again?
- Will the facilitator provide a participant’s guide “original” to be reproduced by the association, or will the facilitator provide the participants’ copies of such a guide?
- Can and will the course be repeated at the same location?

Instructor’s Fees/Expenses Questions

- For in-person sessions, determine what are the instructor’s travel costs to the course location?
- Can the instructor combine several appearances in the association’s local area so that the costs for travel may be shared?
- What is the “exposure” factor for that instructor? Is it possible to obtain future business referrals or bookings from one or more of the participants?
- Has this instructor been hired by the association before? Are there references from other organizations that have utilized the speaker’s services?
- How did the association learn about the instructor?

Room Rental/Logistics Questions

- If a meeting room or hotel or conference center is necessary for an in-person course, does the facilitator require a room?
- If it is a multiple-day event, will the room setup remain the same each day?
- What audiovisual or electronic equipment will be required?
- Will food and beverage service be necessary?
- Can the association commit to multiple dates at the rented facility for the year?

Remember, the “more” of something needed (more time, more rooms, more equipment, more food), the better the association’s position when negotiating with vendors.

Online Session Questions

- What will the online service provider charge for the session?
- Is there suitable bandwidth to support the desired number of attendees?
- If the session is recorded, who holds the rights for future use?
- Can the recording be stored securely to avoid unauthorized use?

NOTE: For more detailed information about how to determine program costs, refer to the Financial, Budget and Tax Management chapter of *The Answer Book*.

MARKETING CONSIDERATIONS

After developing an educational program, finding an instructor, and determining the delivery channel, the next step is marketing. It takes a strong, coordinated marketing effort to “fill the seats” whether in-person or online. Members need to be made aware of the educational program using the entire range of media. They should be told about the benefits and urged to register or reserve their places.

The ways to market an association’s educational program include:

- Email messages
- Newsletter articles
- Group texts
- Social media (Facebook, LinkedIn, X, YouTube, TikTok, etc.)
- An association’s mobile application

If sponsors are supporting the program, they should be encouraged to market the event/activity to their members and audiences. Instructors and speakers can also market the program using email and social media to reach their “friends” and “followers.” In fact, many associations now request that speakers help promote the course via their social media channels.

For other promotional tips, see the Marketing chapter of *The Answer Book*.

EVALUATING THE PROGRAM

Before your students leave the classroom or online session, you need their feedback. You need to know how they liked the program—the speaker, the room set, the program content, the program promotion, etc. How are you going to get that information?

Have the audience complete evaluations on every speaker, trainer and educator in your program. Have quick multiple-choice ranking forms available, and if your response rate is low, call attendees and ask for their input. That will allow you to gauge your results and plan for future programs. Send copies of the evaluations to your speakers.

Two methods for increasing evaluation returns are to ask the facilitator to distribute evaluations a few minutes before the end of the program and to consider pulling one evaluation from the pool, then award that person an incentive; rules regarding this practice vary from state to state, so be sure to check with legal counsel.

Finally, be sure to read and assess the program evaluations. Understanding the impact of the session, the clarity of the material, the effectiveness of the speaker and the appeal of the delivery channel can provide valuable feedback for future educational programs.

STAFF EDUCATION AND TRAINING

Typically, REALTOR® association staff are not licensed to practice real estate, so mandatory training is not required for them. However, successful association leaders have learned that employees who are educated and in tune with industry trends can better serve the members.

Following is a list of the current educational options for association staff to enhance their professionalism and understanding of the REALTOR® organization.

AE Designations/Certifications/Courses/Events

<https://www.nar.realtor/education/designations-and-certifications>

RCE (REALTOR® association Certified Executive) Designation

The RCE is a professional designation for REALTOR® AEs recognizing those who have attained a wide variety of skills through education and experience. Earning the RCE signifies accomplishment, initiative and professional development. It also signifies an AE who is committed to the organization.

<https://www.nar.realtor/designations-and-certifications/rce-designation>

Certified International Property Specialist (CIPS) for Association Executives

AEs must complete the one-day Global Programs Course for Associations, complete two core courses and complete three elective courses.

<https://www.nar.realtor/education/designations-and-certifications/certified-international-property-specialist-cips#cipsaeed>

Commitment to Excellence (C2EX)

The NAR Commitment to Excellence (C2EX) program empowers REALTORS® to evaluate, enhance and showcase their highest levels of professionalism. It's not a course, class or designation—it's an endorsement that REALTORS® can promote when serving clients and colleagues. Association staff can also take this training.

<https://www.nar.realtor/realtors-commitment-to-excellence>

e-PRO® Certification

The e-PRO® certification gives association staff a better understanding about how associations can connect with their members, how to manage an association's online reputation, and other relevant topics. Day 1 can be taken in a classroom or online; day 2 can be taken online only.

<https://www.nar.realtor/education/designations-and-certifications/e-pro>

REALTOR® Association Management Self-Study Course

This self-study course is designed to increase one's awareness and understanding of pertinent REALTOR® association management and policy issues. The free course only is available online, where participants review and/or download questions, submit answers electronically and receive instant results. A participant has one year to complete this course.

<https://reg.realtor.org/BasicAdm.nsf/StartCourse?OpenForm>

Advanced REALTOR® Association Management Self-Study Course

This online, interactive self-study course goes beyond the information taught in the REALTOR® Association Management Self-Study Course. It prepares candidates for the REALTOR® association Certified Executive (RCE) designation examination. Participants have one year to complete the course and earn 75 points toward the RCE designation.

<https://reg.realtor.org/AdvRam.nsf/CourseIntro?OpenForm>

AE Institute (AEI)

This is a four-day annual education conference for AEs, focusing on aspects of REALTOR® association management and real estate industry issues and trends. Attendance at the AEI earns 25 points toward the RCE designation.

<https://www.nar.realtor/events/ae-institute>

Leadership Summit

To unify the National Association's message for the incoming year, this annual meeting brings incoming local and state president and AE leadership teams together for a full day of issue updates and collective brainstorming.

<https://www.nar.realtor/events/leadership-week/leadership-summit>

AE Competencies / RCE Body of Knowledge

This document identifies the competencies in which an AE shall be proficient to successfully serve the evolving REALTOR® association.

<https://www.nar.realtor/ae/professional-development/ae-competencies-and-rce-body-of-knowledge>

AEI Year-Round Virtual Sessions

This is a monthly webinar series for REALTOR® association professional staff. These 60-minute webinars cover timely and informative topics to help enhance staff knowledge, skills and abilities.

<https://www.nar.realtor/aei-year-round-virtual-sessions>

NOTE: For more information about AE continuing education and professional development opportunities, contact Renee Holland, Manager, Professional Development, NAR, 312.329.8545 or rholland@nar.realtor.

SOURCES

- AE Education and Professional Development
<https://www.nar.realtor/ae/professional-development>
- Education Events, Conferences, and Institutes
<https://www.nar.realtor/news-events>

1.3

Facilities and Equipment

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INTRODUCTION

An association's needs for office facilities are based on a number of factors, including the size of the membership and staff, its activities and programs, and its financial resources. The ideal facility will provide sufficient space, equipment and furnishings to accommodate an association's day-to-day activities with the flexibility to meet future requirements.

Keep in mind that the office also serves as the public face of the association for its members and for the local community, and should be designed and maintained in an appropriate manner. The location of the office, signage, reception area and the availability of parking are among the factors that can create a positive or negative impression on members or other visitors. In general, the association's office should present an attractive face to the world without expensive exterior or interior features that might draw criticism from some cost-conscious members.

When considering options for their office space and facilities, associations should be mindful of the future. Many associations are also looking at mergers, consolidations and other forms of collaboration, such as shared services. (See Association Structures and Relationships chapter of *The Answer Book*.) Any real estate or technology investments should be evaluated carefully in light of the association's strategic plan.

Leasing office space or paying a mortgage loan can be a major expense for local and state associations. Therefore, AEs should review their space needs on a regular basis and consider their options in regard to facilities and equipment. Paying attention to current trends and conditions is vital for making sound decisions for your staff and members.

OFFICE FACILITIES

Owning Versus Leasing

Some associations lease office space, while others own their real estate, either as the only or single occupant, or as a landlord, leasing space to other businesses or organizations. There are advantages and disadvantages to both leasing and ownership strategies. An experienced commercial broker or a real estate attorney may be able to offer advice and assist with office purchase or leasing negotiations.

Leasing can provide flexibility for increasing or decreasing space to accommodate changes in staff size and/or activities. However, the association does not benefit from any appreciation in the property's value and could be vulnerable to future rent increases. Before making a decision, an AE should analyze current and future staffing levels, leasing rates in the local market, the projected term of the lease and other factors that could make this option more or less attractive than owning the facility.

Ownership generally provides less flexibility but offers the potential advantage of an appreciation in the property's value. Ownership can take the form of "single" or "condominium" ownership. Under single ownership, the association is the sole owner of the property, and it can rent space to other tenants if desired. With condominium ownership, an association owns the space it occupies, but not the land, and would be subject to the covenants of the building or condominium association.

When an association owns its office space, it will need to make arrangements to manage the property as well. One strategy is to engage a full-service property management company that handles all the details. Another approach is to hire individual service providers, such as a janitorial company, landscaping firm, parking valet company, etc. Deciding on a property management strategy usually involves the following steps:

- Analyze the association's financial and human resources. Is it cheaper, in terms of dollars and staffing time, to hire a full-service company? Or does it make more sense for the association to directly manage individual service providers?
 - Identify potential service providers and obtain competitive bids (see Requests for Proposals and Vendor Relationships section below).
 - Negotiate and sign the appropriate contract(s).
 - Track the services and their cost.
- Review the performance of the service provider on a regular basis, and make a decision whether or not to review the contract well before its expiration date.
 - Maintain an up-to-date list of all service providers for the building and include them in the association's emergency plans.

Whether an association owns or leases its facility, you should know the current state and local health and safety requirements, including evacuation routes, fire sprinkler requirements and occupancy limits, as well as zoning for the property.

The Americans with Disabilities Act (ADA) and other federal, state and local regulations may apply to the office space, whether owned or leased. For more information on ADA access requirements, see the "ADA Checklist for Existing Facilities," <https://www.adachecklist.org/>. For more information and resources related to the ADA, refer to the Legal and Regulatory Activities chapter of *The Answer Book*.

Conducting a Needs Assessment

When considering a change in size, location or ownership of an office facility, an association should perform a careful needs assessment using the following criteria:

- Review the association's strategic plan to evaluate the facilities that may be needed to support those goals and objectives.
- Consider the projected number of staff members, as well as any expansion/contraction of services, in evaluating future space requirements.
- Examine the flow of work among employees or departments. Involve staff in this discussion, which could be informal or in a professional setting with a space planner.
- Review any previous studies conducted for this purpose. Sources could include meeting minutes or reports, or discussions with members who participated in the studies. However, past studies may or may not be relevant to the current working environment.
- Visit other association offices or the offices of other industries to get ideas.
- Analyze how the facility meets current needs and determine any shortcomings and modifications that might be made to accommodate those needs.
- If an association owns a building that must be sold, arrange for a market analysis to determine its value in the present market.

- Analyze whether leasing or owning is more suitable, depending on an association's resources. If ownership is an option, compare whether it might be better to purchase existing space or build new space, which might provide more flexibility.
- Begin searching for suitable facilities or locations for building, and preview them.
- Create a report summarizing this process, the various facility options and any recommendations for the association's leadership.

HYBRID OFFICES

In 2020, the COVID pandemic upended traditional office space demand, as a large segment of the workforce began working from home or other remote locations. Videoconferencing and online collaborations replaced face-to-face meetings, and far fewer employees commuted to work.

Since then, many REALTOR® associations—like other organizations around the world—have adopted the hybrid workplace concept, giving employees more flexibility in their weekly schedules. As a result, AEs may need to rethink their overall space requirements, as well as office configurations and technology requirements. If there are fewer staff in the office each day, for example, there may be less need for individual offices. On the other hand, the demand may be higher for shared workspaces and meeting rooms with videoconferencing technology.

In the post-pandemic world, hybrid working is here to stay, according to Rui Stoffel, CEO of BusUp, in an April 19, 2022, *Forbes* article, “Hybrid Working—Time to Rethink the Office.” He noted that 83% of workers would prefer a hybrid model, citing *Accenture's Future of Work study*. “Hybrid working models call for a new approach to asset management,” he said. “Real Estate costs and related expenses are usually the second or third largest outlay for companies, after their payroll. Companies that hope to remain competitive will need to start shedding their unnecessary office space as soon as possible.”

A hybrid office accommodates both remote and in-office workers. It's a flexible space that empowers individuals and teams with the right environment and tools for the task at hand, according to a 2022 article from Expansive, “Hybrid Offices: Creating Space for How Employees Want to Work.”

“A successful approach requires more than setting up a physical office for people doing the exact same work they could be doing at home or in a coffee shop,” the article said. “Companies are turning to intentionally designed office spaces that meet a variety of employee needs, fulfill organizational goals, and bring back the desirable elements of in-person work. In other words, making the office a place employees actually want to return to—no coercion necessary.”

Some of the considerations in creating hybrid offices include:

- Setting up quiet spaces for those who want to work undisturbed
- Adding breakout rooms for collaboration
- Creating a lounge space for casual meetings and spontaneous conversation
- Equipping conference rooms for multiple purposes
- Purchasing comfortable ergonomic furniture
- Deploying large video screens, whiteboards, audio systems and lighting
- Studying parking requirements, as fewer spaces may be needed
- Reviewing access controls (if any) to be sure only authorized individuals enter the office

Remember that moving to a hybrid office is about much more than just changing processes and moving office dividers. It's a huge cultural shift that requires strategic thinking, empathy and imagination.

EQUIPMENT PURCHASING, LEASING AND MANAGED SERVICES

An association's equipment needs will vary, based on staff size, programs, activities and other factors. The basics include an office network and wi-fi service. Other equipment may include desktop or laptop computers, copiers, printers, scanners, fax machines or multi-functional equipment that performs all these functions.

Fortunately, the cost of most office technology continues to fall, while capabilities increase. However, it still makes good sense for an association to conduct a needs assessment to determine the best approach for equipment purchasing or leasing. Another option is to engage a managed service provider (MSP) who can provide a cloud-based platform for network administration, data storage, security, disaster recovery and other functions. Before making a decision to purchase or lease office equipment, associations should evaluate the costs and benefits of outsourcing these functions to an MSP.

Along with a needs assessment, an association should maintain a list of all capital equipment, along with the date purchased and the vendor. This list can also be used to determine depreciation for the equipment, projected end-of-use date and potential replacement costs. Any equipment that is no longer being used may be discarded (in accordance with local recycling or disposal rules) or donated to a charitable organization. Be sure to cancel any related service contracts and look for other potential savings. For instance, discarding a dedicated fax machine may allow the association to cancel that phone line as well.

Based on this assessment, an AE can prepare a capital asset replacement plan. This will help determine any funds that need to be set aside on a monthly or annual basis to replace the association's equipment and any other capital assets.

Purchase or Lease?

Once an equipment needs assessment has been completed, the next steps involve making a lease/purchase decision and selecting a vendor. Before making a lease/purchase decision, consider the following questions:

- What is the upfront cost of the equipment?
- What is its expected life span?
- Are there any license fees associated with the technology purchase, such as software applications for a voice/data system?
- Will a lease cover replacement technology or future upgrades?
- Will the lease cover ongoing supplies, such as toner for a copier?
- What will be the tax impact? For example, there may be depreciation benefits from purchasing office equipment.
- Does the association have special accounting needs?
- What is the association's net cash flow?
- Have funds been budgeted for a large capital purchase?

When considering the purchase or lease of new office equipment, associations should also conduct the following steps:

- Analyze the responsibilities of staff by reviewing their job descriptions and day-to-day duties with them. Consider how this technology could be used to improve their performance in the future versus how they currently use it.

- Track the flow of information and develop a “road map” illustrating how information moves through the association's office. Review the processes used to manage that information and consider how technology can improve them. Look at what your peers use, then compare those options as well.
- Review available technology to determine what equipment will suit the association's needs. Do not be tempted by unnecessary technological capabilities. Involve association staff in shopping and making decisions, because they can best evaluate how equipment will help them, and their buy-in is also important.
- Develop a request for proposals (RFP) for needed equipment. Once proposals are gathered, analyze them and arrange for equipment demonstrations from the most viable potential vendors.
- Package the results of the equipment needs assessment. Outline the benefits of any equipment or service. Before distributing the results to association leaders, ask staff to thoroughly critique the findings.
- Link the needs assessment and all recommendations to the association's ongoing budgeting process. Outline future costs, volume and functions of potential equipment purchases. Justify feasibility, as well. Consider a plan for installing the equipment and training office staff.
- Examine the “people” factor of any equipment purchase. Many organizations fail to capitalize on their investments in technology and equipment because no one considers who will provide, use, train, market and support the equipment.

Finally, prepare to address any concerns expressed by members or staff about a potential equipment purchase by responding in a positive, optimistic and thoughtful manner. Some concerns might be:

- Employee apprehension about the end result (“You won't need me any longer,” or “It will create extra work.”)
- Inflexibility of the product, system, supporting software, or design—not tailored to the organization or easy to use
- Under-budgeting for it (not considering all costs for training, supplies, support, etc.)
- Unreliable vendors (use one that is well-established, financially secure, with a good reputation)
- Hidden costs
- Underestimating needs

Leasing Equipment

In the equipment leasing world, there are two types of leases—an operating or “true” lease and a capital or finance lease. An operating lease is a lease whose term is short compared to the useful life of the asset or piece of equipment (such as a car or delivery truck) being leased. An operating lease is commonly used to acquire equipment on a relatively short-term basis. A finance lease (also called a capital lease) effectively allows an organization to finance the purchase of an asset, and ownership transfers to the organization at the end of the lease term.

The Equipment Leasing and Finance Association (<https://www.elfaonline.org/>) is one of many sources that offer information and statistics about the equipment leasing industry and products.

Managed Services

Along with purchase or leasing options, MSPs can handle important functions for an association, including:

- Maintenance of databases (members and other groups)
- Network administration
- Network security
- Software licensing (renewals and approvals)
- Software updates (done automatically)
- Online training on new functions and features

The specific scope of these services will vary, depending on the vendor and the association’s needs. Typically, the association will negotiate a service-level agreement (SLA) that includes the MSP’s services, the association’s fees, the length of the contract and other terms and conditions.

The benefits to the association include a greatly reduced need for capital expenditures for new equipment on the office premises, as well as hiring and retaining staff members to manage these functions in-house. This approach also allows staff to focus on their primary responsibilities (member services, marketing, finance, etc.) rather than on basic tasks like installing software updates or new security patches.

Hiring a managed services provider can also simplify and streamline an association’s disaster recovery plan. Because the data and applications are stored in the cloud rather than on site, staff members can access the tools and information they need to continue serving members, even if the office facility is destroyed or damaged.

Selecting a Vendor

Whether you plan to purchase, lease or hire an MSP, there are three critical rules to follow when selecting an office technology vendor:

- Ask questions until you understand the function and are satisfied with the product or service. Ask questions about the size of the system and ease of use, as well as its ability to fulfill the association’s needs.
- Remain in control of the process, overseeing a vendor’s actions. This is particularly important for a major network installation or software deployment, because the association that hires that vendor ultimately is responsible for the system’s success. Stay on top of the process, and demand regular reports and explanations.
- Get it in writing. Legal principles dictate that anything not written into a contract is not enforceable.

When it is time to purchase and implement a new technology function, follow these steps.

- Obtain several bids.
- Be sure there is a place for the equipment and any supporting technology.
- Be sure that staff can learn how to use the equipment and applications.
- Be sure that all agreements are in writing and that all parties clearly understand the terms.
- Make sure there is an implementation time frame agreed on by all parties.
- Arrange for a legal review of all documents and agreements before they are signed.
- Make provisions for user training if necessary.

Service Contracts

When associations purchase office equipment, they also need to consider whether it makes sense to purchase a service or maintenance contract. (Generally, leasing vendors include service as part of the lease agreement.) It may help to look at service contracts like insurance policies, protecting against unexpected downtime. But be sure you understand just what is included in the service contract—and what is extra.

Regarding printers, copiers, fax machines and/or multi-functional (MF) equipment, the key issue is usage. If you produce thousands of printouts or copies each month, your equipment will break down faster than if you only make a few copies a day. If you’re not sure about the printer/copier volume, check to see how many reams of copy paper you order each month. This will provide at least a rough estimate of usage.

It's a good idea to prepare a comparative cost analysis to see whether it makes more financial sense to purchase a service contract or to plan for self-maintenance, budgeting a certain amount each month.

REQUESTS FOR PROPOSALS (RPFs) AND VENDOR RELATIONSHIPS

A request for proposal or RFP is a document that initiates a process used to invite vendors to submit competitive bids for products and services. If an association is seeking a specific product/service, it should develop and send an RFP to prospective vendors, inviting them to submit their proposed bids for providing that product/service.

An RFP is extremely useful in helping to establish the goals for a major capital project, product, or service being sought, and providing a basis for communicating expectations to vendors. It may not be necessary for smaller-scale purchases. Keep in mind that the quality and quantity of the proposals submitted by vendors are directly related to the quality of the RFP.

Typically, an RFP:

- Is a formatted, structured document, clearly laid out.
- Describes exactly the product or service desired, including the absolutely necessary elements and any elements that are desirable but not necessary.
- Provides a specific time frame—when the product/service must be delivered.
- Explains how and when the organization requesting the product/service will decide which vendor to use.
- Explains areas where a vendor is permitted creative license and where the vendor must follow specifications.
- Provides a budget, if possible.
- Outlines a specific deadline when all vendors must respond with their proposals.

Here are other suggestions for a successful RFP process:

- Ask vendors for ideas, suggestions and possible solutions for your problem before creating an RFP.
- Send out your RFP well in advance of your requested submission date. Writing a detailed proposal takes time; give potential vendors time to think about and respond to your request for proposals. Then, distribute the RFP to a short list of potential vendors.
- Provide background information to the vendor.
- Make yourself available to answer questions from prospective vendors about what you want.

- Ask the vendor for a demonstration of a new product or service, including how it can specifically address the association's needs.
- Review the contract before awarding a bid.
- Don't make price the only consideration in choosing a vendor. Strive to build a mutually beneficial relationship.

ASSET RISK REDUCTION AND INSURANCE

Protection of an association's assets, including both real and personal property, is a fiduciary obligation. Association staff should work with one or more insurance agencies to provide adequate coverage for the premises and the equipment, as well as any association property that may be located off-site.

There are two common types of insurance an association might want to purchase to cover its facilities and equipment: general property insurance and liability insurance. Following are some basic definitions of the types of insurance. Be sure to consult with an insurance agent for more detailed information about coverage options.

Property insurance pays for losses when real or personal property is damaged, stolen or destroyed by an insured event (such as fire, wind or vandalism). For instance, if a fire destroys an association's building, and the association's property insurance policy covers damage caused by fire, then a claim would be made against that association's property insurance policy. Note that separate policies must be purchased in some states and at-risk areas to cover specific hazards, such as hurricane (windstorm) coverage in Florida, earthquake coverage in California and federal flood insurance (low-lying areas throughout the U.S.) Again, talk with your insurance agent to be sure you have adequate coverage for the association's physical assets.

Liability insurance covers the financial damages awarded to third parties, either to themselves or their property. If an association is sued, the cost of defending and/or resolving the claim could be covered by a general liability insurance policy.

Business interruption insurance provides an association with financial protection if its facilities are closed for an extended period after a fire, flood, hurricane, tornado, earthquake or other disaster. Even if the association's office is undamaged, normal operations may be impossible due to a prolonged power outage, flooded streets or other conditions that make it dangerous for staff or members to work at the facility. Business interruption insurance is designed to make up the difference between an association's normal income and its lack of income during and after a shutdown. It can also help the association pay its ongoing bills, such as rent, mortgage and utilities, and may also cover costs associated with establishing a temporary operations location and related expenses.

Although the following two types of insurance are not geared toward facilities and equipment, AEs should be aware of their existence.

Worker's compensation insurance provides compensation for wage losses and medical expenses that arise from injuries incurred by an employee during the course of employment. Most states have established policies that require or strongly encourage employers to carry this type of coverage.

Directors and Officers (D&O) liability insurance—known as association professional liability insurance—protects an association and its paid staff and volunteer leadership from errors, omissions, or allegations that occur during everyday operations. Be aware that there are differences between D&O insurance policies written for not-for-profit organizations versus those written for for-profit businesses. The NAR provides, subject to the terms of the insurance policy, a blanket policy covering member associations and the officers, directors and volunteer members against many of these risks. Review the insurance program at <https://www.nar.realtor/legal/nar-insurance-program>.

Because there is no one-size-fits-all type of insurance policy, AEs must study the risks their associations could potentially encounter and work with a professional to ensure that full protection is in place. For more detailed information about risk reduction and insurance activities, refer to <https://www.nar.realtor/legal/nar-insurance-program>.

To further reduce risk when considering the purchase or lease of any equipment or services, it is essential to ask the question, "Are Occupational Safety and Health Administration (OSHA—U.S. Department of Labor) and other legal, safety and environmental requirements applicable?" For more information about OSHA standards, refer to www.osha.gov.

DISASTER PLANNING AND RECOVERY

Associations must be prepared for various types of disasters and put plans in place for getting back to business as rapidly as possible. The lessons learned in the COVID-19 pandemic, as well as those learned during hurricanes, floods, wildfires and earthquakes indicate that local and state associations are the go-to places for REALTOR® members in an emergency. Therefore, every association needs to be prepared and ready to help its members get back to business as well as reopening its own facility.

Disaster prevention and recovery plans come in many shapes and sizes, depending on the nature of the association and its scope of services. It may be helpful to look at the various scenarios that are likely to occur, such as an infectious disease outbreak, a fire in the building or flooding in the community. The plan should also take into account a possible evacuation of the facility in an emergency, as well as a lockdown in the event that police are tracking a dangerous suspect in the area.

Regardless of those individual scenarios, there are several common rules to follow:

- Draft a plan, put it into place, and update it regularly.
- Be sure everyone at the association understands his or her responsibilities.
- Maintain up-to-date contact information for all staff and volunteer leaders, including home and office phones, mobile phones, email addresses and social media activity (Facebook and LinkedIn).
- Include sites for emergency response resources, such as local, state and national websites.
- Be sure the plan includes steps to provide virtual services to members during the emergency period.
- Be sure all staff members have both an electronic and a print copy of the plan, as well as the contact information. If the power goes out for several days, it may not be possible to access electronic data.

An Emergency Preparedness Standard

AEs should be familiar with the Emergency Preparedness and Business Continuity Standard (NFPA 1600) developed by the National Fire Protection Association and endorsed by the American National Standards Institute and the Department of Homeland Security. For more detailed information and worksheets, checklists, and case studies go to ready.gov/business.

SOURCES

- *Occupational Safety and Health Administration Standards*, U.S. Department of Labor: www.osha.gov.
- “Ready Business.” U.S. Department of Homeland Security. www.ready.gov/business.
- “ADA Checklist for Existing Facilities,” Institute for Human Centered Design, www.ADAchecklist.org
- “Hybrid Offices: Creating Space for How Employees Want to Work” from Expansive, 2022. <https://expansive.com/your-guide-to-the-hybrid-office-space-model/>
- “Hybrid Working—Time to Rethink the Office,” by Rui Stoffel, CEO of BusUp, in *Forbes* April 19, 2022 <https://www.forbes.com/sites/forbestech-council/2022/04/19/hybrid-working-time-to-rethink-the-office/?sh=41eb7cd67b0a>

1.4

Financial, Budget and Tax Management

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INTRODUCTION

Effective financial management is essential for every REALTOR® association. This includes determining the appropriate tax structure for associations and their subsidiaries and affiliates, as well as preparing budgets and setting up internal financial controls.

The ongoing financial management process should go hand-in-hand with an association's strategic planning. After all, virtually every type of strategic goal will affect the association's finances. If there is a demand from members for new services, for instance, how can additional revenue be generated to cover those services? Will the association membership grow or decline? If the regional economy is in a downward cycle, what association costs can be trimmed without jeopardizing the essentials?

Another aspect of strong financial management involves identifying risk factors that could impact an association's revenues and costs, such as a rise or decline in membership, or a sudden jump in insurance premiums.

This chapter focuses on the many aspects of financial management, beginning with the budgeting process.

DEVELOPING AN ANNUAL BUDGET

A budget is simply a plan for accomplishing the association's strategic objectives expressed in financial terms. There is a direct link between the budgeting process and the association's ability to offer programs and services to members. Developing a budget plan, and then comparing actual financial performance with that budget, is one of the fundamental tools of association management. It safeguards against over spending, which can cripple an association, and provides a clear record of accountability for members.

Effective budgeting allows an association to adjust its spending priorities, introduce new programs, set aside funds for the future and comply with federal, state and local tax codes. In summary, an effective budgeting process is essential to an association's ability to respond to its members, deliver the right package of services and prepare for the future.

AEs should understand that not all volunteer leaders are familiar with financial and accounting concepts and practices. Therefore, they should offer a training module, whenever necessary, to help new leaders understand their roles and responsibilities.

Generally, four levels of the association are involved in preparing an annual budget, including the following actions:

- AE and staff develop a draft budget and update when necessary
- Officers generally frame each year's budget and review salary structures and make other revisions
- Finance committee (chaired by the treasurer) works closely with AE in preparing the annual budget and discusses all non-salary related items in detail
- Board of directors determine strategic priorities, review the work of the Finance Committee and approve each annual budget

Here are the general steps involved in developing an annual budget:

- Determine who will be involved in the process
- Review the association's strategic plan
- Determine what type of budget to prepare
- Estimate major sources of association revenue
- Estimate major sources of association expenses
- Submit a final budget for approval

NOTE: Budgets for products, services and programs are discussed in the Product/Program chapter of *The Answer Book*.

Types of Annual Budgets

Associations can utilize many types of budget models, depending on specific needs and requirements. Some common types of budgets include:

- Cash flow budget
- Capital budget
- Hybrid budget
- Operations, operating or period budget
- Program budget
- Responsibility budget
- Technology budget
- Zero-based budget

Cash Flow Budget—shows all planned sources and cash applications and includes a schedule of when revenue is received and when expenditures will be paid. This budget allows an association to anticipate when there might be a need for temporary funds and when excess funds might be available for investment.

Capital Budget—shows planned purchases or sales of fixed assets. This might include acquiring equipment, such as a communications network or a building. Upon approval by directors, the items in the capital budget are incorporated into the master budget.

Hybrid Budget—displays an association's monetary plan of action through a combination of different budget types.

Operations, Operating or Period Budget—describes an association's short-term plans pertaining to operating activities involving revenues and expenses.

Program Budget—shows income, expense and overhead costs for specific programs and should be approved by directors periodically for cost containment.

Responsibility Budget—links association programs or spending items to a specific staff member or committee who assumes responsibility for related income and expenses. This can provide improved expense control through the assignment of dollar values to specific programs or functions.

Technology Budget—addresses purchases of technology equipment and services as a separate issue.

Zero-Based Budget—eliminates any historical attachment to activities or programs each year and allocates funds systematically to the highest priority programs. Such a budget begins with a clean slate and builds a spending plan based on an association's objectives. The budget typically carries through a key strategic planning concept: An association should not continue with certain programs, projects, services and activities merely because those activities have always been offered in the past.

Budget Flexibility

An association's budgeting process strives to balance incoming revenue and outgoing expenditures. During stable times, history is a useful estimate of the future. But if the upcoming year presents financial uncertainties, it may be helpful to consider a more flexible budget.

With a flexible budget, an association sets different spending levels based on key benchmarks, such as revenues, usage of key programs and membership growth. During the budget approval process, leadership should understand the key benchmarks and the impact on operations at various revenue or membership levels. For instance, if the association grows by 500 members, additional dues revenue may be generated to fund a certain capital project. If membership revenue declines, certain programs may need to be scaled back or eliminated.

In analyzing costs, it is important to understand whether the cost is “variable” or “fixed.” A variable cost fluctuates depending on many factors. For instance, the costs involved with producing an email newsletter (writing, design and sending) are variable. If a budget needs to be reduced, a monthly newsletter could be produced every other month and those costs would be cut in half.

On the other hand, fixed costs—such as the rent paid for an association office, utility bills or staff salaries—must be paid each month regardless of changes in revenue. Therefore, fixed costs are much more difficult to change within the course of a year’s budget. But in times of significant revenue reduction, fixed costs may need to be reduced for an association to survive.

When analyzing a new project, program or service, it is generally a good idea to include only the direct, variable costs. That allows management and leadership to understand the effects of new projects without confusing the issue with allocations of fixed expenses. During the budgeting process, an AE should concentrate only on the incremental costs of adding or deleting a service.

With flexible budgeting, directors determine priorities in advance—which projects to add in good times and which to change in times of decline. Staff has authority to make the changes at the time of budget approval or to report to the directors on the benchmarks and receive the final go-ahead when the benchmark levels are achieved.

CAPITAL EXPENDITURES

Every association needs to plan for the long-term to assure its continued financial health. That means looking ahead to major expenses, such as a new office or network upgrade. During the annual budgeting process, a portion of the funds needed for these types of capital expenditures can be set aside in advance. For instance, if a new office network will be needed in four years at an estimated cost of \$20,000, then \$5,000 a year should be set aside in the association’s capital budget.

While an association may have simple capital expense requirements, knowledge of the most effective budgeting and accounting methods will improve the decision-making process. And it is important to recognize that capital expenses differ from the operational expenses incurred during the normal course of business. Salaries, rent and office supplies are operational expenses. A capital expense is something intended to benefit the association in the future.

Developing a Capital Budget

Take the following steps to develop a capital expenditures budget:

- Determine capital versus operational expenses (including considering a minimum amount for capital expenses—for example, \$5,000).
- Create or consult the strategic plan for capital development.
- Evaluate the benefits of the proposed capital investments.
- Evaluate the risks involved in the proposed capital expenditure.
- Approve and implement the capital expenditure budget
- Monitor and regularly evaluate the effectiveness of the capital expenditures budget.

It is also important for an association to develop procedures for the acquisition, installation and management of capital investments. Progress and evaluation status reports are essential in making this a fluid process. It is advisable to develop a system to evaluate a capital budget after it has been adopted. The budget committee, AE, the association officers and the association president should always be aware of its status.

Here are some questions to ask when developing a capital expenditures budget:

- Does the association want to own its own building?
- Does the association need to put a new network in place or invest in a major website upgrade? (These activities may also be included in the technology budget.)
- What benefits would be derived from these capital expenses?
- What other options might achieve the same outcome without the capital expense?
- What are the comparative costs?

There are several financial analysis tools that can be helpful when examining long-term capital expenditures, including:

- **Years to pay back.** Determine the number of years required for a project to pay back the original investment
- **Average rate of return.** Measure the productivity of an investment over its entire life cycle

- **Net present value.** Consider the difference in value between today's dollars and tomorrow's dollars, cash flow, and income taxes
- **Internal rate of return.** Consider actual return on investment in dollars

Ultimately, the capital expenditures budget should support the association's continued ability to provide valued services to its members for many years in the future.

FINANCIAL MANAGEMENT AND CONTROLS

To ensure financial accountability, an association should regularly and consistently compare its budget with actual income and spending figures. Financial controls are essential, both on a day-to-day basis and for the long term. Strong financial management provides the following benefits:

- Better information for those who make decisions
- Protection of an association's assets from fraud, misuse, and waste
- Assurance that an association's financial records and reports are accurate and reliable
- Greater efficiency and effectiveness in daily operations
- Member confidence in an association's financial management
- Greater financial transparency for all association stakeholders.
- Ongoing system of checks and balances

A good system of internal control begins with a good budget and continues with accurate records and procedures that lend themselves to accountability. Clear lines of authority should exist, and everyone involved in internal controls must understand their responsibilities.

Separation of duties is at the heart of internal control procedures. The responsibility for performing financial activities is separate from the responsibility for recording the results of that performance. Whenever possible, responsibilities should be assigned so that no one individual controls all aspects of a transaction.

Accounting transactions have four essential aspects:

- **Initiation**—such as a request for payment
- **Authorization**—approval of the payment
- **Asset custody**—receipt of a purchase, such as a computer or copier paper
- **Recording**—entering the asset or expenditure into the association's records

AEs should establish internal financial control procedures, and ensure that they are being followed on an ongoing and consistent basis. Some of these actions are to:

- Control receipts
- Control disbursements
- Monitor bank statements
- Approve write-offs of accounts receivable information and other assets
- Develop and follow a policy for bad debt
- Develop and follow a policy for document retention and destruction, including a disaster recovery plan
- Maintain a record of all fixed assets
- Document all reimbursable expenses with expense vouchers and receipts
- Purchase fidelity insurance (bonding)
- Conduct an annual audit
- Segment job duties for handling dollars, bank statement reconciliation, check signatories and check processing

Accounting Methods

It is also important to understand the differences between two accounting methods:

- **Cash.** Revenue and expenses are recognized when they are recorded in the association's accounts.
- **Accrual.** Revenue is recognized when earned, not when paid. Likewise, expenses are recognized when incurred, rather than when paid.

Here is an example to illustrate the difference. Let's say your association invoiced 100 members for their dues in mid-December. Twenty responded and paid by December 31, while 80 put off paying until January. Under a cash accounting system, you would only recognize the payments from 20 members in December—an amount that would be reflected on your annual tax forms. But under an accrual system, you would recognize the dues from all 100 members when you invoiced them in December. As a result, your revenue for the year ended December 31 would be higher than under the cash system.

Your Certified Public Accountant (CPA) can advise on the accounting method now being used by your association, and whether there are potential benefits or drawbacks to changing the system.

Audits

A financial audit involves an independent third party's examination of the financial statements of a company or other organization. The audit will result in the publication of an independent opinion on whether or not those financial statements are relevant, accurate, complete and fairly presented. Although internal controls are considered when determining certain audit procedures, most financial audits are not designed to express an opinion on internal controls. However, these audits give an association a basis for judging how effectively records are maintained.

Every transaction should have a well-documented and verifiable audit trail that allows an auditor or any person outside of the transaction access to details that reconstruct the transaction. Such details follow a transaction's initiation and recording through an organization's books and records. Audit trails are especially important if an association is required to support its actions at the request of a third-party auditor from a tax agency or a governmental department.

It is important to keep in mind that the association bears the responsibility of creating and implementing its internal controls, including compliance with Generally Accepted Accounting Principles (GAAP) and should not be reliant upon the auditors. Inability to do this can result in an audit report citing material weaknesses in the organization—a report that is presented to the association governance body and to creditors.

Types of Reports: Audit, Review and Compilation

When CPAs prepare or assist in preparing financial statements, they are required under professional standards to issue a report on those financial statements. This report can be one of three types:

- Audit report
- Review report
- Compilation report

The type of report is determined by mutual agreement between the association and the CPA. This determination usually depends on many factors, such as the needs of the association, needs of members or creditors, the size and complexity of the association, and other factors. Under the Core Standards, associations with annual revenue of \$50,000 or more must submit a CPA report that includes an audit opinion or an accountant's review report. If an association's annual revenues are less than \$50,000, it must submit a compiled financial statement (compilation report) prepared by a CPA.

There are significant differences between the objectives of an audit of financial statements (in accordance with generally accepted auditing standards) and the objectives of a review (in accordance with statements on standards for accounting and review services). The goal of an audit is to provide a reasonable basis for expressing an opinion regarding the financial statements taken as a whole. On the other hand, a purpose of review is to provide limited assurance that the reviewer is not aware of any material modifications required in the financial statements. It is substantially narrower in scope when compared with an audit, and the accountant does not express an opinion.

A review does not provide a basis for the expression of an opinion because a review does not contemplate obtaining an understanding of the internal control structure or assess control risk, tests of accounting records and of responses to inquiries by obtaining corroborating evidential matter through inspection, observation or confirmation, and certain other procedures ordinarily performed during an audit.

However, AEs should discuss with association leaders and accountants whether the association will need a full audit annually, or if a review will suffice, with a full audit being performed every other year or every third year.

Compiled financial statements represent the most basic level of service CPAs provide with respect to financial statements. In a compilation, the CPA must comply with certain basic requirements of professional standards, such as having a knowledge of the client's industry and applicable accounting principles, having a clear understanding with the client as to the services to be provided and reading the financial statements to determine whether there are any obvious departures from GAAP (or, in some cases, another comprehensive basis of accounting used by the entity). It may be necessary for the CPA to perform other accounting services, such as creating a general ledger or assisting with adjusting entries for the books before the financial statements can be prepared.

Upon completion, a report on the financial statements is issued that states a compilation was performed in accordance with CPA professional standards, but no assurance is expressed that the statements are in conformity with GAAP. This is known as the expression of "no assurance." Compiled financial statements are often prepared for privately held entities that do not need a higher level of assurance expressed by the CPA.

However, in an association setting, it is necessary to perform annual audits and/or reviews to maintain association due diligence. These audits or reviews should be included in the annual budget as a mandatory cost of doing business as a membership organization.

Financial Reports

The set of GAAP represents the accounting profession's efforts to establish a body of theory and practice that provides guidance in the form of a common set of standards and procedures. Under GAAP, the general objective of any association should be to provide reliable information on all financial resources, obligations and progress.

The basic financial reports commonly used in associations are:

- **Balance sheet.** This includes a list of an entity's assets, liabilities, and member equity as of a specific date. It is also referred to as a "statement of financial position."
- **Statement of revenue and expense.** This is also referred to as an "income statement." This is a list of an organization's revenues, expenses and net income or net loss for a specific period. It is also known as a "statement of operations" and a "statement of earnings."
- **Statement of cash flows.** Cash receipts and cash disbursements are reported on this statement, according to the organization's major activities: operating, investing and financing.

Reporting to Stakeholders

From time to time, AEs may need to prepare financial reports for various stakeholders, including the Board of Directors, the membership, auditors, legal counsel, and business partners, such as associations that share certain services. It may also be necessary to inform the media and the public if there is a serious financial issue facing the association.

The scope and the level of detail in a financial report will vary, depending on the audience. For instance, the board of directors should be able to view a full accounting of every incoming and outgoing dollar, while the membership may only need a summary of key points.

Since financial reports contain sensitive and confidential information, you may want legal counsel to review a report before presenting it to outside stakeholders.

TAX-RELATED ISSUES

AEs must understand the Internal Revenue Service (IRS) regulations that determine whether an organization is considered "for-profit" or "not-for-profit," as well as the federal, state and local tax reporting requirements.

An experienced tax advisor, such as an attorney or accountant, can advise on a taxable structure that best supports the association's strategic goals. In general, a "for-profit" association may be required to pay a higher income tax rate than a "not-for-profit" organization. However, the federal Tax Cuts and Jobs Act of December 2017 lowered the nation's corporate tax rates. Therefore, a not-for-profit association should see if there are any benefits to changing its current status.

501(c)6 Organizations

Most REALTOR® associations are not-for-profit organizations as defined under Section 501(c)6 of the Internal Revenue Code. According to IRS criteria, a 501(c)6 organization is exempt from federal income tax by virtue of its exempt purpose. The organization cannot be organized for profit, and no portion of net earnings can be used to benefit individual members.

Local and state REALTOR® associations must complete IRS Form 1024 to qualify for tax-exempt status and classification as 501(c)6 organizations. To qualify, the purpose of a REALTOR® association must be to promote a common interest, such as to generally improve conditions and practices in the real estate industry in the interest of the public. An association must not primarily focus on providing specific services to individuals and must not primarily engage in a type of business that is ordinarily carried on for profit.

Excessive income received from for-profit activities could lead to a challenge of an association's tax-exempt status. However, it is not mandatory that association benefits be devoted exclusively to the interest of the real estate industry in the interest of the public, as per the court case, *Evanston-North Shore Board of REALTORS® vs. the United States*, which recognized that "it can hardly be supposed that individuals would often join organizations without the expectation of receiving some personal benefits there from."

501(c)3 Organizations

Many REALTOR® associations have created foundations under section 501(c)3. These must be organized and operated exclusively for one or more of the following purposes:

- Charitable
- Religious
- Educational
- Scientific
- Literary
- Public safety
- Fostering amateur sports competition
- Prevention of cruelty to children or animals

Income generated from a foundation's activities might be taxed at a lower rate than if the funds went directly into the association's bank account. There may also be tax advantages for donors who make charitable contributions to 501(c)(3) organizations. An attorney or accountant could provide guidance on federal, state and local requirements, as well as the costs and potential benefits of forming a foundation.

Form 990—Return of Organization Exempt From Income Tax

Tax-exempt organizations with annual gross receipts that are normally greater than \$50,000 must file the IRS Form 990 or Form 990-EZ on an annual basis. Under the Pension Protection Act of 2006, most small tax-exempt organizations whose gross receipts are normally \$50,000 or less must file Form 990-N, "Electronic Notice (e-Postcard) for Tax-Exempt Organizations Not Required to File Form 990 or 990-EZ."

Form 990 is used by the IRS as the primary tax compliance tool for tax-exempt organizations. This form is a public document that is made available by filing organizations, the IRS and others. It is the key transparency tool relied on by the public, state regulators, the media, researchers and policymakers to obtain information about the tax-exempt sector and individual organizations.

Because of IRS requirements in the revised Form 990, an association must include the following components in its policy manual:

- A written "whistleblower" policy in which the process of reporting suspected infractions is described and employees are given instructions regarding how to communicate with appropriate management
- A written "conflict of interest" policy that should be renewed annually by leadership and staff
- A written description of the process used to determine the compensation of the CEO and other key managers

- A document retention policy that forbids anyone from destroying documents that may become part of a legal proceeding involving the organization
- A policy that all actions by the board of directors will be recorded in minutes and retained for records

Because federal tax rules change each year, REALTOR® associations should refer to the IRS website at www.irs.gov to get detailed information on the current forms and requirements.

AEs may also need to file state forms for exempt organizations, as well as any state or municipal income tax returns that may be required by their jurisdiction.

Taxable Sources of Income

Although a real estate association is typically a not-for-profit organization, it could be subject to unrelated business income taxation (UBIT). The Internal Revenue Code provides that any income derived from "unrelated trade or business" activities regularly carried on by an association is taxable. Unrelated business income is taxed to prevent a not-for-profit from having an unfair advantage over profit-making, taxable businesses. If an association has unrelated business income, it must complete IRS Form 990-T: "Exempt Organization Business Income Tax Return."

For most organizations, an activity is an unrelated business (and subject to unrelated business income tax) if it meets three requirements:

- It is a trade or business.
- It is regularly carried on.
- It is not substantially related to furthering the exempt purpose of the organization.

Income derived from a trade or business. This phrase refers to any activity designed to produce income either from selling goods or performing services.

Income regularly carried on. Whether seasonal, periodic, or ongoing, this phrase refers to an activity that has the same frequency as it would if conducted by a nonexempt organization.

Income not substantially related to its tax-exempt purpose. The IRS tends to take a case-by-case approach to defining "substantially related income." For example, publishing a book probably would be considered as furthering an association's educational purpose and therefore might not be taxable. However, revenue from advertisers in these publications will most likely result in unrelated business income (offset by associated costs). Selling golf clubs with the association's logo would be taxable, even if the proceeds funded a scholarship program.

Additionally, UBIT may also occur when a service or activity competes with for-profit vendors or suppliers. If the level of UBIT is large enough, an association might put its tax-exempt status at risk.

If an association engages in activities that normally make a profit, revenue from these activities will result in unrelated business income. An example of an unrelated trade or business conducted by an association is the publication of a homes magazine containing paid advertising versus a homes magazine with free advertising.

The primary types of unrelated business income for REALTOR® associations are:

- MLS operations
- Advertising in association publications and on websites
- REALTOR® store operations
- Some types of affinity programs, such as those for insurance

Passive Income

Passive income is income from sources that do not compete with taxable business. Currently, this income is excluded from taxable income requirements. Examples of passive income are:

- Dividends
- Interest
- Annuities
- Certain rents
- Royalties

If it is not feasible for an association to run an MLS as an incidental activity, the association may create a separate corporate entity to run the MLS. The stock in the company would be owned wholly by the association. In this case, revenue earned by the MLS would be taxable and its after-tax earnings would be paid to the association as dividends.

GENERATING ADDITIONAL INCOME

Real estate associations have two basic ways to increase their revenue: membership dues or non-dues offerings.

Dues Revenue

NAR has a variable dues formula for local associations as defined in Article III, Section 1(B)(1) of the Constitution. This formula begins with an amount established annually by the NAR Board of Directors at the REALTOR® Legislative Meetings, which is then multiplied by the total number members of the local association. That total includes the REALTOR® and REALTOR ASSOCIATE® members of the association, and individuals who are licensed with the REALTOR® members of the association and who are not themselves REALTOR®, REALTOR ASSOCIATE® or Institute Affiliate members of the association.

This means that local associations must send annual dues to NAR for non-member licensees in the REALTOR® brokerage offices. Licensees who have joined as a REALTOR® or REALTOR ASSOCIATE® member pay their own dues to the local association and are not counted in terms of the broker's dues responsibility.

Raising Dues

One of the most sensitive financial issues for any real estate association is the level of member dues. Any potential increase in member dues must be considered carefully by leadership, and a clear member communications strategy must be developed before any dues increase can be announced. Nevertheless, associations from time to time should consider the option of raising membership dues. Here are some suggestions:

- Relate the need for additional dues to inflation, based on the national Consumer Price Index (CPI). If it has been several years since the last time dues were increased, the total increase in the CPI during that period could be compared to the new dues rate. For example, an association's message might be: "During the past five years, the CPI went up 10 percent, but thanks to our efficient operations, we only need to raise annual dues by 5 percent."
- Raise dues for associate or affiliate members, if there is such a category. In many cases these are vendors who benefit financially from having direct access to REALTORS®. They may be willing to pay a higher level of dues for that privilege.

- Consider a “special assessment” on dues to cover the cost of a new MLS system, an office network or other capital project. This would be a one-time fee for a clear member benefit.
- Offer members a “last opportunity” to pay their dues in advance of an announced increase. This approach can produce immediate financial benefits. Some members may even prepay their dues for several years, generating immediate funds that can be set aside for future purposes.

Again, any increase in member dues needs to be carefully considered, because a certain percentage of members may simply decide not to renew at a higher level.

Non-Dues Revenue

One of the hallmarks of a successful AE is the ability to raise revenue for programs and services without increasing member dues. In some cases, the solution may be as simple as charging members a fee to cover the costs of holding an annual membership banquet or an educational course. In other cases, it may involve establishing partnerships or joint ventures with service providers who are willing to pay for the privilege of reaching REALTOR® members in the local marketplace. Most importantly, associations must offer products and services that provide value to members.

Here are several suggestions to start the process of identifying potential revenue opportunities:

- Keep up with new products and services offered through NAR, as well as your state association. You may be able to generate revenue for the local association by partnering with and promoting a state or national program.
- Look for members’ pain points that are causing problems in their operations. For instance, would members benefit from a group purchasing program, a new affinity agreement or a technology application?
- Hold a brainstorming session with association leaders, brokers or sales associates.
- Think about potential non-residential services and products in areas such as property management, rental pools or commercial maintenance and landscaping services.
- Review existing products and services to see if they could generate additional revenue with some enhancements.
- Pay attention to consumer, technology, demographic and financial trends to see if they might impact your members’ business opportunities or career paths.

- Don’t forget about growing the market demand for an existing product or service. A promotional campaign for an existing program offered by the national, state or local association could generate a significant return on investment.

Create a Business Plan

Turning an idea into a new revenue-generating product or service doesn’t happen overnight. Start by creating a business plan, calculating both the cost and value of a non-dues program. Don’t overlook overhead expenses. The labor and resource costs of providing a member service can easily eat up a small profit margin built into the service fee. Your overhead costs will probably be reduced if you offer a larger number of services, since you’ll be able to spread out the costs.

Also make sure in advance that your association’s operational infrastructure can handle all aspects of your planned revenue-generating program. For example, if your program involves billing salespeople directly for a service, be sure that your association’s bookkeeping system can be modified to accommodate that practice.

When launching any non-dues revenue programs—especially affinity partnerships and product certifications—associations should have proper authorization through their charter, bylaws and board of directors to do so and should weigh the potential benefits against the risks. An attorney should be consulted regarding the legal and tax implications of offering a non-dues revenue generating program.

Determine in advance which activities are covered by certain insurance policies. For example, affinity programs and product certification programs are generally covered under the association’s general liability policies. When you plan to undertake such programs, consult your insurance agent about coverage.

By the same token, endorsement of insurance programs for members is considered usual for a trade association (as long as the endorsement complies with the criteria listed in the policy). These are typically covered under NAR’s Professional Liability Insurance Program.

Associations also need to take local and state sales taxes into account when offering non-dues programs. For instance, an association that has not offered products subject to sales tax in the past may need to notify the proper government authorities, be entered into the tax system and file any collected taxes on a timely basis in accordance with local and state regulations.

Strategies to Raise Non-Dues Revenue

Here are several proven strategies for AEs seeking to build non-dues revenue. Some of these methods involve generating revenue from non-members as well as members. Keep in mind that non-member event sponsors, advertisers, and marketing partners require a return for their investment to keep them coming back year after year, which requires building a healthy business relationship.

Multiple Listing Service (MLS)

For decades, associations have relied on their MLS to generate funds for their operations. Now, many associations have developed alternative ways to turn their members' listing data into revenue streams. Many associations operate their own public websites, apart from their regional MLS that feature member listings. The Internet Data Exchange (IDX) policy also provides associations with possible revenue streams, including offering members custom IDX solutions, such as websites and programming assistance.

Online and Print Publications

Online and print publications provide a number of potential revenue sources for REALTOR® associations. Two examples include banner ads on an association's website and local "homes" magazines, in which members buy space to display photos and descriptions of their listings. Association e-newsletters can be sponsored for a fee, and other advertising opportunities are available on social media sites. After dues, these products are a major source of revenue for many smaller associations.

Other publication revenue opportunities include renting data on listings to local publications that create their own real estate sections, and sharing advertising profits with an outside company that produces member publications.

Mailing List Rental

Vendors, researchers and allied industry professionals all want to get their messages to association members. This demand makes a membership list a valuable piece of data. Renting member mailing lists can provide a steady revenue stream, but make sure that you strictly control use of the list. Require list users to provide you with an advance copy of the material they're sending to members to make sure it is business-related and relevant to your members. Members' names and addresses should never be provided directly to the entity renting the list. Rather, the names and addresses are provided to a bonded third-party direct mail organization that handles the mailing. This assures that the local association retains control over the membership list.

Property Rental

For associations that own property, renting out conference centers, meeting rooms or other office spaces can bring in significant revenue. Some associations have built state-of-the-art conference and training facilities for just this purpose. Associations with technology education centers have attracted students from neighboring associations to their hands-on classes. Associations that own their own office buildings often designate an amount of rental office space that pays for building maintenance and taxes. The "executive suite" concept is particularly attractive to entrepreneurs and professionals who want a low-cost business address and support services, such as a receptionist and client meeting area, without being locked into an expensive, long-term lease. Associations also purchase property such as parking lots, homes and offices as income streams and long-term investments.

Education Classes

Online, in-person and hybrid classes offer effective revenue-generating opportunities for many associations. The variety, size, cost and type of classes can range widely. AEs have found that marketing educational programs to members with incentives, package deals and discounts is critical for success. Some promotional strategies to attract new students include offering flat-fee annual education passes and targeting class offerings toward practitioners with certain specialties, such as commercial or international properties.

REALTOR® Stores

Selling everything from forms to software has proven profitable for associations large and small. Associations often use their size to negotiate better prices for their membership on products and services. Tips for successful stores include keeping prices competitive, ordering what members request, advertising sales and new items, and offering delivery and new-member gift certificates. Some association stores buy office supplies in bulk and resell them to save members a trip to the office supply store; others sell specialty items, such as REALTOR® jewelry, coffee mugs and membership plaques. A successful store should be visible to all member traffic through your office. With the rapid growth of online purchasing, selling products through an association's website can be highly effective and may allow for the reallocation of the space used by an actual store.

Affinity Programs

A popular revenue-generating strategy is to permit service providers, such as mobile phone companies, to market directly to members in return for a special rate or program. These partnerships with service and product vendors can offer associations great returns, often with little effort. The key to profitable affinity programs, AEs say, is to support the partners and make sure members desire the service. Affinity relationships need regular monitoring, however, to ensure that a high level of quality and service is maintained.

Technology

From providing social media training to developing mobile applications, technology services are among associations' most successful member offerings. Many associations have formed partnerships with technology providers to augment member services and fund their own technology infrastructures. For instance, associations may partner with a telecommunications provider for discounted service or offer web design services to members at a low rate. Click-through advertising programs, such as Google ads, are also a popular source of revenue for associations.

Fee-for-Service Business Support Centers

Fee-for-service business support centers allow associations to offer specific services just to the members who want them and are willing to pay extra for them. Associations have created these support centers (many of which are separate for-profit organizations) to offer the broker community, in particular, special rates on technology services and consulting, office services such as printing and supplies, housing data reports for developers and other consumers of this information, and education services, such as sales meeting facilitators or marketing trainers.

Sponsorship of Social and Networking Events

Sponsors value the interaction they have with members at social and networking events. Vendors, affiliates and allied industry companies increase their exposure to REALTOR® members by sponsoring golf outings, charity fundraisers, meetings, conventions and networking events. Sponsors can more than cover the cost of an event. Even for charity fundraisers that do not generate revenue for the association, the added visibility and publicity are priceless.

NAR REVENUE OPPORTUNITIES AND RESOURCES

NAR and some of its REALTOR Benefits® Program partners offer exceptional opportunities for earning non-dues revenue:

- NAR owns and operates the Center for REALTOR® Development, an online platform devoted to lifelong learning, career advancement and specialized credentials for real estate professionals. The site offers dozens of online courses that lead to official NAR designations and certifications. Select courses also provide CE credits across more than 40 states at no additional charge to the learner. Visit: <https://crd.realtor>.
- DocuSign, the official and exclusive e-signature provider for NAR: Associations can offer a free DocuSign eSignature for Real Estate plan to their members and earn commissions when members go on to purchase a paid plan of DocuSign. With ready-to-use marketing materials and a unique tracking link, sharing DocuSign for Real Estate, an all-in-one solution, is easy. To learn more about the DocuSign Affiliate Program, contact: AffiliateMarketing@DocuSign.com.

REALTOR® Electronic Commerce (E-commerce) Network

The REALTOR® Electronic Commerce Network allows local and state associations to:

- Collect dues online
- Establish online stores
- Send payment to each other electronically
- Facilitate MLS billings, online registrations, etc.

Originally developed in 1999, the REALTORS® Electronic Commerce Network program won the 2000 American Society of Association Executives Technology Innovation Award of Excellence. Since then, the network has been continually updated to keep pace with changes in technology. Here are the four primary areas of ecommerce services:

- Dues billing
- External interface
- Electronic funds transfers
- Online mall

Dues Billing

All local associations are responsible for sending invoices to their members for local, state and national dues once each year, due January 1. Each association establishes its own dues amount and collects for other items such as optional political action committee contributions. Each local association is responsible for sending in the state association's portion of dues and NAR's portion of dues.

The REALTOR® Electronic Commerce Network makes it possible for each association to set up its dues amounts online, along with a member “welcome” message, the association's logo, any disclaimers, late fee policies, discounts, etc. An association can use this system to print out and mail the notices or send them by email to members. Association members can log on to the website and pull up their invoices online.

Each association can decide whether it will accept payment from Visa, MasterCard, Discover, American Express or Telecheck (electronic check); then members can then pay dues or other fees directly online using these payment methods. They receive immediate, real-time confirmation of credit card authorization or decline. Once a transaction is completed, the system automatically sends the money to the appropriate association bank account.

External Interface

Associations that have developed their own web forms for dues, MLS fees, registrations, etc., can link their systems (or those of their vendors) to the REALTOR® E-commerce Network for all Internet credit card processing, as well as interface to our checkout counter from their own AMS online functions for collecting money.

Electronic Funds Transfers (EFTs)

This module/option allows one association to send a lump sum of money to another association electronically via the e-commerce network. Each association (both sender and receiver) receives a report on the transfer activity so it can be tracked to the bank account.

Online Mall

Using this module, an association can establish its own online store. Such a store can assume the form of a basic storefront—a set of screens the association uses to set up product categories, product names, description, prices, images, etc.

After setting up the store screens, an association can link its virtual store to its own website and/or to *www.nar.realtor*. Then, a member can log on to the site and enter the store operated by any association (local, state and national) of which he or she is a member. The member can search for items and services by category and product, place items in a shopping basket and proceed to a checkout counter. He or she pays for any purchases online, and the payment is applied to the selling association's bank account. The system automatically calculates the appropriate sales tax for all jurisdictions and provides sales reports to all participating associations. Associations can access several electronic reports provided by the system, too.

Implementation

All of the local and state associations use the REALTOR® Ecommerce Network, along with 48 Regional MLSs and 12 Affiliates. In 2022, the network processed \$1.6 billion and over 6 million transactions.

SOURCES

- Investment Planning for Associations, NAR
<https://www.nar.realtor/investment-planning-for-associations>

1.5

Human Resources

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INTRODUCTION

To achieve its objectives, every REALTOR® association relies on its human capital—the skills, knowledge and experience of its leadership team, executives and staff members. Therefore, it is vital for an association to attract and retain top talent at every level. To work together as a productive, well-coordinated team, each member involved in the organization must understand job duties, roles and responsibilities. In addition, associations must follow the constantly changing legal landscape for labor and employment laws and comply with all applicable laws.

To succeed, AEs need to manage the talent management cycle in a professional and diverse environment of trust and respect. For example, AEs must develop strategies to engage staff in their duties and solve internal disputes. This can be a challenge in a work-from-home environment where staff may not be at the office on a daily basis. However, AEs must still be able to provide coaching and mentoring support, as well as delivering feedback from performance reviews, so employees understand their strengths, areas of improvement and potential career paths. The last element is particularly important for succession planning—ensuring that employees are prepared to step into a new role in the event of a vacancy.

For AEs, developing and implementing human resource policies, procedures and practices is a strategic imperative, providing the foundation for an association’s path to success. One of the ways NAR supports local and state associations with this process is by offering an online Human Resources Tool Kit at: <https://www.nar.realtor/search-results?qu=human%20resources%20toolkit>. Consulting services are also available from NAR HR Solutions by calling 312-329-8311.

EMPLOYEE RECRUITING

Recruiting productive employees is critical to the success of the association. Employee hiring, retention and management are key elements of an AE's job. When recruiting new staff members, associations need to embrace all types of diversity—including gender, age, race, ethnicity, gender identification and sexual preference—and recognize that each potential employee is a unique individual. Understanding a job candidate's individual personality, cultural background and experiences can bring valuable skills and insights to an association.

Preparing to Recruit

To recruit high-caliber candidates, AEs should first review or develop the job descriptions for the position to identify the experience and skills required for the job. Make sure the job is appropriately classified as exempt or non-exempt in compliance with the Fair Labor Standards Act. To ensure appropriate classification, consult with a human resource professional. Next, prepare your interview questions based on the position's needs. To ensure compliance with pay transparency laws, check the requirements of your specific state. Pay transparency is a growing trend across the country with about a fourth of the country currently having requirements to post the salary range.

Advertise the position using online job search sites and social media. Also consider posting the position at colleges and other associations who specialize in the talent that you need, such as information technology or social media marketing professionals. Referrals from current employees may be another way to find the qualified people. Referrals can be problematic so be sure that referrals have the qualifications for the job and would not cause any conflicts of interest or nepotism. A staffing agency may be able to recruit and screen qualified candidates on either a permanent or temporary basis.

Screening and Interviewing

One or more interviews are advisable—either in person or in a video session—depending on the nature of the position. In that regard, it's important to know what kinds of questions to ask and those to avoid. For instance, you should not ask an applicant's age, race, religion, national origin, marital status, disability, genetic information, gender identity or sexual preference or other questions protected by federal, state and local laws.

You can ask about prior accomplishments and skills that are related to the job. One good technique is called behavioral interviewing. This type of interviewing is based on the principle that past behavior is the best predictor of future success. To conduct a behavioral interview, you invite the candidate to tell you about a time when he or she had to handle a particular situation. For example, "Tell me about a time when you had a conflict with a coworker and how you handled it." Asking questions about hypothetical situations makes it less difficult for the candidate to anticipate the "right" answer.

Hiring

Making a hiring decision can be easy or difficult, depending on the number of qualified candidates, their skill sets, qualifications and desired salaries. Depending on the size of the association and the level of the job, you may want to have other staff members involved in the interview process to get their input, knowing that you are the ultimate decision-maker.

Offer letters are a form of a contract and need to be carefully worded. Consult with an employment lawyer or human resource professional to ensure that your offer letters do not contain inappropriate language or other matters. Be sure to include a paragraph regarding the I-9 form required of all employers through the Immigration Reform and Control Act of 1986. This act prohibits employers from hiring and employing an individual for employment in the U.S. who are not authorized to work in this country. More information about this can be found at: <https://www.uscis.gov/i-9-central/complete-and-correct-form-i-9>.

Onboarding

Hiring the right person is a success in its own right, but an AE's work does not end there. New employees must be oriented to their roles and learn about the association's goals, priorities and operations. Onboarding is an important step that should not be overlooked. A new hire who is comfortable in your workplace is more likely to stay for a longer period, reducing staff turnover and associated costs. As a general rule, it's important to have a formal onboarding process in place, giving the new employee the support necessary to settle into the role. See the Sample New Employee Orientation Checklist at the end of this chapter for an example.

EMPLOYEE RETENTION

Retaining employees is a continuous effort. Employees require reinforcement, direction, and recognition if they are to grow and remain satisfied in their positions. They must also be given opportunities to develop their skills and knowledge through coaching/mentoring, education, training and development programs. These could include teaching an educational program for members, volunteering for a community housing organization or taking courses to improve association management skills. AEs also need to develop two-way communication channels to stay in close touch with employees on an individual, team and group level. A smooth flow of “top-down” and “bottom-up” information helps associations recognize potential opportunities and challenges, as well as identify areas of conflict so they can be resolved in an effective manner. See the Communications chapter for more on this topic.

Today’s association leaders also need to be masters of organizational change, taking a proactive approach to addressing the evolution of the nation’s workforce and workplace. That ability to change is essential in maintaining a dynamic organization that remains relevant to its members and continues to meet their needs.

Motivational Management

A key to retaining productive employees is practicing “motivational management,” involving employees in the association’s planning and goal-setting process. This creates an atmosphere where employees feel they are heard and their ideas are appreciated. It also helps employees understand how their work fits into the association’s overall plan. Creating a culture that embraces diversity and inclusion is an important step toward motivating employees of all backgrounds.

AEs must lead by example. Employees will feel more loyal and work harder if a positive, service-oriented example is set by the AE and other leaders. Your actions speak louder than words.

Be sure to look for opportunities to recognize good individual and team performance. In some cases, a financial reward, such as a gift card or dinner coupon, might be appropriate. In other cases, an employee could be featured in a monthly newsletter, annual meeting or other venue. This approach helps create a positive corporate culture that contributes to the long-term retention of valued employees.

The Performance Appraisal

Clarity in expectations benefits both the supervisor and the employee. Communicating goals early and formally gives new employees the direction they need to achieve success. Established goals should be SMART—Specific, Measurable, Actionable, Realistic and Timely. Lack of clarity in the performance appraisal process can set the employee up for surprises at the end of the performance cycle.

Once an employee has completed orientation and begins performing his or her duties, the performance review becomes an important tool for retaining good employees by providing appropriate feedback. Conduct periodic performance reviews to maintain clarity of job performance and expectations and to help the employee understand and appreciate the level of their participation and quality of their work. A review process nurtures positive employee-supervisor relationships by promoting honest communication about work performance (both positive and negative) and ways to improve it. The performance review should also include updating the job description as it relates to an employee’s specific duties.

Make other feedback regular and consistent throughout the year, and then relate it directly to specific job performance during an annual review. If a receptionist handles an irate call from a member in a positive manner, for example, let him or her know. If he or she handles it negatively, discuss how another approach might have worked better. Remember: praise in public, discipline in private.

The frequency of reviews and type of form used depend on the culture of an organization. Some associations prefer written forms that emphasize a narrative approach to performance review. Others use forms that allow supervisors to rate specific work characteristics (initiative, responsibility, etc.). Forms linked to functional job descriptions are generally the most effective.

Performance appraisals are based on performance expectations, which are primarily identified through the goal setting process at the beginning of the performance management cycle. The goals are what the employee is expected to accomplish, and behaviors are how the employee achieves the goals and interacts with others. Behavioral expectations of employee performance may include the following areas:

- Oral and written communication skills
- Punctuality and dependability
- Following general office procedures and priorities
- Courtesy and customer service to members
- Professionalism
- Cooperativeness

- Ability to problem-solve as appropriate to the job
- Creativity as applicable to the job
- Time management skills
- Attention to detail
- Interpersonal skills and teamwork

The process for conducting a performance review is:

- Maintain documentation of examples of the employee's work throughout the year, as well as any positive or negative situations in which the employee may have been involved.
- Analyze the job.
- Meet with the employee and listen to their feedback.
- Follow up.

Conduct a formal performance appraisal at regular, prearranged times. This process can also provide a good indication of training needs and areas of improvement.

Training and Development

One of the benefits of a formal performance review for both employee and employer is identifying areas where education, training and professional development may be necessary. For instance, an employee may have excellent technical or financial skills but may find it difficult to prepare effective presentations or become the leader of a multidisciplinary team. In these cases, there are many approaches, including:

- **Coaching**—informal sessions with the employee to discuss how to handle job-related situations
- **Mentoring**—one-on-one coaching on a formal basis
- **Training classes**—building specific job-related skills or enhancing knowledge of the real estate industry
- **Professional development programs**—strengthening an employee's career skills, such as leadership, management and communication

These types of training and development programs give staff members a variety of opportunities to acquire additional skills and knowledge that will advance their careers and help them achieve their personal goals. Along these lines, staff members can also benefit from interacting with their peers from other associations, sharing ideas and experiences. Providing training opportunities shows staff members that the association is willing to invest in their continuing professional development.

When possible, encourage staff to participate in association-related educational conferences such as American Society of Association Executive (ASAE) meetings, the NAR Association Executives Institute (AEI), and state/regional association-sponsored AE learning opportunities.

All REALTOR® AEs should encourage their staff to complete the REALTOR® Association Management (RAM) Self-Study Course and develop a personal professional development plan that ultimately leads to the successful attainment of the RCE designation. The RCE designation is the hallmark of REALTOR® association management professionalism and indicates that designees have a mastery of the skills necessary to successfully operate a REALTOR® association. For more information about obtaining the RCE designation, go to www.nar.realtor/rce.

Another professional development option is the NAR Academy. The NAR has partnered with Columbia College in Columbia, Missouri, to offer expanded access to academic programs to association members. For more information on the NAR Academy visit: <https://www.nar.realtor/nar-academy>

Succession Planning

The goal of succession planning is to ensure there is a qualified professional within the organization who can continue performing the functions of the job or operating the association until a replacement can be hired. For purposes of Core Standards, succession planning should provide a transition plan in the event the AE is absent for an extended period or leaves the association.

In general, succession planning is designed to keep an organization moving forward smoothly and minimize any disruptions related to a change in leadership. That could include an emergency transition plan, with an identified successor to an AE or key professional in the event of a sudden loss.

Whether done on a formal or informal basis, succession planning typically involves two steps:

1. Identify current employees who are promotable into a more senior role.
2. Provide cross-training and other development opportunities to broaden and deepen the employee's current skill set. This may include stretch assignments that bring the employee into contact with new people and new situations.

An organization's succession plan is highly confidential. Sharing information can cause morale issues with those who have not been identified as promotable and create a situation where an identified individual grows an expectation or sense of entitlement for a situation that may never happen. The succession plan should be maintained by the AE and shared only with the executive committee in the event of need.

Determining Competitive Wage and Benefit Packages

When attracting new employees and retaining current employees, successful business enterprises rely on four elements:

- Compensation
- Benefits
- Opportunity for advancement
- Supportive working environment

Compensation is almost always a key concern for new and current employees. Therefore, AEs need to do their homework regarding current wage and salary levels in the market. Many business associations, such as chambers of commerce and economic development organizations, track average or median salaries using confidential surveys from their members. However, this is often self-reported information, which may or may not be valid. AEs can also consult with NAR HR Solutions. This team can conduct a full market-based analysis for a REALTOR® association upon request.

Providing an attractive benefits package can be an effective strategy for hiring well-qualified candidates without necessarily adjusting compensation levels in the association. A benefit package can also influence the motivation and retention levels for current employees. However, it is difficult to eliminate a benefit once it is established, so be sure to take a forward-looking approach and consider which benefits should be priorities on a long-term basis.

A benefits package may include items that usually are provided, such as medical and dental insurance and retirement plans, and those that are often overlooked, such as a vacation policy, personal leave, education incentives and reimbursements, and career advancement paths.

When assessing an association's benefit needs, the first place to look is other associations, both inside and outside of the REALTOR® organization. NAR HR Solutions can provide insight into competitive benefits. Information may also be available with ASAE.

A typical benefits package varies by location and budgetary constraints. Budget is an important factor, especially since the cost to provide benefits such as insurance can vary from year to year. In fact, an association may want to review its insurance benefits package annually and weigh the various cost and coverage options. Before determining the association's various insurance priorities, select a benefits consultant. This puts someone on the association side of the table who can help develop a strategy and a priority list of products needed. A benefits consultant can keep the decision-making about the types of benefits and vendors objective, as opposed to having someone try to simply sell "something."

THE EMPLOYEE MANUAL

An employee manual should outline specific policies and procedures relating to the management of association staff and their work. The content and structure of a manual varies, depending on the size and scope of the organization, the goals of the AE and prevailing state laws. Consult legal counsel for input and review of the final draft, and ensure that counsel always has a copy of the latest, revised version.

IMPORTANT NOTE: The employee manual must be distributed to all staff members. They should sign the manual acknowledgement form to indicate that they have read and understood the manual. A copy of the form should be placed in the employee's personnel file. Guidelines should specify a staff contact person for information about employee rights and administrative policies and procedures.

Here are several suggestions for increasing the usefulness of the manual and improving employee understanding of the association's policies and procedures:

- Write the manual using clear, concise, active and direct language.
- Be sure that all staff read and understand its policies—communicate, communicate, communicate.
- Be sure that all policies are in compliance with local, state and federal laws as appropriate.
- Be sure there are procedures clarifying any complicated association activities—they should define the who, what, why, when, where and how of such activities.

Developing and using an employee manual is also an important proactive step to protect an association from legal exposure in the area of employer-employee relations. Therefore, it is wise for an association to consult several sources for researching purposes, including:

- NAR's HR Solutions: *www.nar.realtor/hrsolutions*. This offers a sample employee manual that can be downloaded and updated with your association's information. However, it is not customized to various state employment laws. The template is available on the REALTOR® Store.
- State department of labor
- Employment counsel for compliance with state laws
- Federal and state websites such as *www.dol.gov* and its *Small Business Handbook*

Draft and Approval Process

The following is a suggested process for drafting and approving an employee manual.

- **Draft the manual.** The AE or senior staff, with assistance from employment counsel and other resources named above, drafts the manual.
- **Arrange for legal review.** An employment attorney reviews for compliance with local, state and federal laws.
- **Check for NAR compliance.** The manual complies with NAR's Employer/Employee Guidelines (provided later in this chapter).
- **Use a human resources consultant for development.** Hire a consultant to organize and prepare the draft.

Employee Manual Sections

Following are the recommended topics or areas that should be covered in a comprehensive employee manual. The key topics on this list are explained in greater detail below.

Employer/Employee Issues

- Equal opportunity employer
- Employee classifications
- Employee record retention and accessibility
- Performance review process
- Alcohol and drug-free workplace policy
- Preventing sexual harassment policy
- Workplace harassment policy
- Whistleblower policy
- No expectation of privacy
- Conflicts of interest
- Smoking and vaping

Work Performance Expectations

- Work hours, work week and overtime
- Telephone calls and texting
- Personal use of email, the Internet and social media
- Tardiness and absences
- Leave

- Illness
- Disability Policy, if applicable
- Disciplinary Action Policies

Employee Benefits

- Vacations
- Holidays
- Insurance
- Retirement benefit plans

Special Employee Issues

- Workers' compensation
- Business travel reimbursements
- Emergency, safety and security procedures
- Infectious diseases in the workplace
- Separation of employment
- References

As laws and an association's priorities change, it is reasonable to expect that an association's employee manual will be updated to reflect those changes. Schedule updates on a regular basis, and work with an employment attorney or HR consultant in any policy manual review.

It is advisable for an employee manual to cover certain employer/employee or personnel issues. This section does not include policies regarding members who govern the association, as those policies would be covered by the association's administrative policies manual. (See *Working with Volunteers and Partners* chapter.)

Include the following disclaimer in the association's employee manual:

NOTICE

This handbook does not constitute an employment contract, in whole or in part, and the association reserves the right to add, amend, or delete any policy or procedure stated herein at any time, without prior notice.

Association employment is "at will" and may be terminated either by the employee or the association at any time for any reason without prior notice. No representative of the association, with the exception of the chief staff executive, has authority to enter into an agreement with an employee that is contrary to the foregoing.

Equal Opportunity Employer

The employee manual should include a statement explaining that the association is an equal opportunity employer. Equal opportunity for employment is the law. Under federal law, employment must be available to all persons without regard to race, color, religion, national origin, age, sex or disability. Some state legislation protects additional classes of individuals, such as marital status and sexual orientation, so consult with an attorney regarding the specifics of both federal and state laws.

Employee Classifications and Wage and Hour Laws

An employee manual should define types of positions within the association as exempt or nonexempt, full-time or part-time, temporary or regular. The classifications of exempt and nonexempt are defined and covered by the Fair Labor Standards Act (FLSA). The terms exempt and nonexempt refer to whether the position, not the person, is eligible for overtime pay. A position that is nonexempt is eligible for overtime pay. It is not optional, and it is a violation of the law to classify a position as exempt in order to avoid paying overtime. Titles and pay alone or together do not determine whether the position is exempt. A position that is classified as exempt is not eligible for overtime pay. People in these positions may work in excess of 40 hours per week without additional compensation. Again, it is the duties, responsibilities, and the exercise of judgment outside of routine situations and pay that determine whether a position is exempt or nonexempt.

The Fair Labor Standards Act and its regulations are extremely detailed and complex, so consult with a human resource professional or the NAR HR Solutions team when making any determinations relative to this act. However, it is worth taking the time to understand these classifications in order to comply with federal and state wage and hour laws. For more information, go to www.dol.gov and search for “The Fair Labor Standards Act.”

Nonexempt

The FLSA generally provides that employees who work under close supervision and perform primarily assigned duties (rather than those who supervise others or decide policy), are classified as nonexempt employees. Nonexempt employees must be paid at least minimum wage and receive overtime pay for hours worked per week in excess of 40. Overtime pay is at the rate of one and one-half times the hourly rate. Some states calculate overtime for hours worked over eight in a workday. Check state law for specific information (www.dol.gov).

Exempt

Most exempt association positions will fall under the Administrative category. The following chart helps determine if an employee should be classified as an exempt employee.

<https://www.wagehourinsights.com/2019/09/new-minimum-salary-for-exempt-employees-takes-effect-january-1-2020/>

The Department of Labor may update these compensation rates at any time. Also, some states may have higher threshold salaries for exempt positions.

FLSA Checklist

Position Title:	
Employee:	Supervisor:
Division:	Reviewer:
Position is: <input type="checkbox"/> Nonexempt <input type="checkbox"/> Exempt (All criteria are met and checked below)	
<p>EXEMPTION TESTS (all criteria must be met within the category in order for the position to be exempt)</p>	
<p>HIGHLY COMPENSATED EMPLOYEES:</p> <p><input type="checkbox"/> <i>Highly compensated</i> employees performing office or non-manual work and paid total annual compensation of \$107,432 or more (which must include at least \$684 per week paid on a salary or fee basis) are exempt from the FLSA if they customarily and regularly perform at least one of the duties of an exempt executive, administrative or professional employee identified in the standard tests for exemption.</p>	
<p>EXECUTIVE:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Employee earns a rate not less than \$684 per week or \$35,568 per year; <input type="checkbox"/> Primary duty is managing the enterprise, or managing a customarily recognized department or subdivision of the enterprise; <input type="checkbox"/> Must customarily and regularly direct the work of at least two or more other full-time employees or their equivalent; and <input type="checkbox"/> Must have the authority to hire or fire other employees, or the employee's suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees must be given particular weight. 	<p>ADMINISTRATIVE:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Employee earns a rate not less than \$684 per week or \$35,568 per year; <input type="checkbox"/> The employee's primary duty must be the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; and <input type="checkbox"/> The employee's primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.
<p>LEARNED PROFESSIONAL:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Employee earns a rate not less than \$684 per week or \$35,568 per year; <input type="checkbox"/> The employee's primary duty must be the performance of work requiring advanced knowledge, defined as work which is predominantly intellectual in character and which includes work requiring the consistent exercise of discretion and judgment; <input type="checkbox"/> The advanced knowledge must be in a field of science or learning; and <input type="checkbox"/> The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction. 	<p>COMPUTER-RELATED:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Employee earns a rate not less than \$684 per week or \$35,568 per year; <input type="checkbox"/> The employee must be employed as a computer systems analyst, computer programmer, software engineer or other similarly skilled worker in the computer field performing the duties described below; <p>The employee's primary duty must consist of:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications; <input type="checkbox"/> The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications; <input type="checkbox"/> The design, documentation, testing, creation or modification of computer programs related to machine operating systems; or <input type="checkbox"/> A combination of the aforementioned duties, the performance of which requires the same level of skills.
<p>CREATIVE PROFESSIONAL:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Employee earns a rate not less than \$684 per week or \$35,568 per year <input type="checkbox"/> The employee's primary duty must be the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor. 	

The duties performed by an employee, not the employee's job title, determine whether that position is exempt or nonexempt. Employees working in nonexempt position should be paid an hourly wage, computed on the basis of actual time worked. The overtime rate is one-and-one-half times an employee's base hourly rate for all hours actually worked in excess of 40 in a work week, except in those states where overtime is calculated on a daily basis. On the other hand, exempt employees are paid a fixed salary.

Compensatory time should not be provided to nonexempt employees in lieu of overtime. To do so could be a violation of the FLSA.

California Supplement: California has an extensive Industrial Wage Order Classification system. If your association is located in California or if you have an employee who works remotely in California, be sure to follow the specific state classifications. Additionally, cities and counties throughout the state of California may have additional regulations regarding minimum wage and job classifications.

Full-time or Part-time

Determination of full-time employment is related to an association's hours of work. The needs of the job determine whether the position is full- or part-time. Generally, this status is defined internally and is used to determine eligibility for benefits. There can be legal implications to denying an employee benefits for which they are otherwise eligible.

Some federal and state laws may define part-time and full-time employees for compliance. For example, the Patient Protection and Affordable Care Act (commonly referred to as the ACA) defines a full-time employee as working on average at least 30 hours per week or 130 hours per month. Regardless of how the employer defines eligibility for benefits, any association covered by the ACA will be required to use the definition under the ACA to avoid paying penalties. Additional information may be found on the Internal Revenue Service website under "Identifying Full-time Employees." The current link is located at <https://www.irs.gov/affordable-care-act/employers/identifying-full-time-employees>.

Temporary Employee

Temporary employees fulfill short-term association needs. A temporary employee can be an employee of the association or a staffing agency.

Independent Contractors

An independent contractor is a vendor selected to provide services for the association. An independent contractor must have their own business, typically supported by evidence of other clients, a website and other marketing collateral. If an individual is employed by the association as both an independent contractor (1099) and an employee (W-2), it may trigger an IRS audit that could potentially result in fines and fees. Independent contractor status should not be addressed in the employee handbook, because independent contractors are not employees.

Pay Policy

It is important to establish a policy that defines how and when employees will be paid. Be sure to consult with the association's attorney to determine any state restrictions regarding the timing and method of pay. Many states are implementing pay transparency rates, and it is important to comply with the regulations in your state. Pay transparency may include informing employees of the pay range, posting the salary range in job postings and providing the information to all employees when the position is open. Increases could be determined on the basis of merit, cost-of-living increases, change in responsibilities and/or the achievement of goals. Some associations provide a bonus or incentive compensation program to staff. Contact NAR HR Solutions (312-329-8518) if you are interested in implementing a compensation program or an analysis of your current pay structure.

California Supplement: California has various state and local regulations regarding pay transparency. Ensure you are in compliance with these regulations.

Employee Record Retention and Accessibility

Maintaining accurate and up-to-date employee records is important. Examples of documents to maintain on file include each employee's original job application, resume, salary history, performance appraisals, benefit selections and other personal data. Any medical information, including benefit selections, should be maintained in a separate file. The completed I-9 form should be kept separately from other employee files. More information on typical document retention requirements may be found in the Legal and Regulatory Activities chapter of *The Answer Book*.

After checking state law, establish and include a specific policy that states when an employee can see his or her file and outlines who can access the file. All requests to review these files should be handled by the association's human resources staff or other appropriate staff person. Human resources staff or the employee's supervisor should be present while the employee reviews their file.

Establish a policy to encourage employees to inform the association of changes in address, telephone numbers and email addresses, and who to contact in case of an emergency.

Performance Review Process

A policy should be established that provides for the periodic review of employees. Reviews offer opportunities for consistent evaluation and constructive feedback by both parties on a one-on-one basis. Design the review to evaluate performance and to discover possible procedural inefficiencies or other flaws in the system. Use a specific, written performance review form for the staff evaluation. Obtain sample performance review forms from other associations, NAR or ASAE. A performance review often is the major vehicle used for discussing adjustments to salary or wage benefits and promotions but need not be used as such in all instances. A REALTOR® association policy should adequately outline the frequency of performance reviews and their scope.

The NAR Employer/Employee Guidelines included later in this chapter also contain specific performance review requirements. These guidelines must be followed in order to receive and maintain coverage for wrongful termination claims under NAR's Professional Liability Policy.

<https://www.nar.realtor/ae/manage-your-association/association-policy/employer-employee-guidelines>

Alcohol and Drugs Policy

An association should write a policy about the use and abuse of alcohol and drugs, both prescription medications and illegal drugs. Because the association's productivity and association employees' safety could be at stake, such a policy should clearly state that alcohol and drug usage will not be tolerated, unless at association events with the permission of the CEO (and then in moderation) or medically prescribed drugs or over the counter medications.

NOTE: An association covered by the Americans with Disabilities Act may need to be responsive to a situation in which an employee is in recovery for drug and/or alcohol use. Please discuss any such situation with an HR professional or employment lawyer.

The object of an alcohol and drug policy is that all employees will report to work in a condition to perform their duties safely and efficiently. The policy should accomplish the following:

- **Prohibit illegal drugs.** State that possession, distribution and sale of illegal drugs is strictly prohibited, and explain that such activities will result in disciplinary action up to and including termination.
- **Define alcohol consumption parameters.** Describe specific circumstances under which alcohol may be consumed during REALTOR® association functions. Employees must conduct themselves in such a manner that they do not cause a danger to themselves, other employees, the public or the association's reputation.
- **Establish a policy for prescription drug medication.** An employee must inform the supervisor if he or she takes prescribed medications that could cause side effects, which in turn, could affect his or her vigilance, judgment, coordination or job performance. This includes opioids, such as fentanyl, which can over-prescribed.

Sample Drug and Alcohol Policy Language, provided by NAR's Legal Affairs staff:

Illegal Drugs: The illegal use, possession, distribution, or sale of illegal drugs while on the association property, an association business event, or in an association vehicle is strictly prohibited.

Alcohol: Alcohol may be made available during association activities under specific circumstances. In the event of an association-sponsored activity or while on association business at which alcoholic beverages may be served or allowed, you are expected to conduct yourself in such a manner that you do not represent a danger to yourself, to other employees, to the general public, or to the association's reputation. Additionally, if you intend to drive an automobile, it is expected that you will not drive under the influence. Prior approval by the chief staff executive or by an association senior vice president is required for any association-sponsored activity where alcohol will be brought on association property.

Workplace Harassment Policy

An organization should have a policy on racial, religious, sexual and other unlawful harassment. If such a policy does not exist, it is important to develop and implement one to minimize the risk of liability.

Sample Sexual, Racial, Religious and Ethnic Harassment Policy Language

The association is committed to providing a work environment that is free of discrimination and unlawful harassment. The association does not condone or tolerate harassment of any kind. The association prohibits harassment based on an individual's race, color, religion, sex, gender, pregnancy, sexual orientation, gender identity and/or expression, age (40 and over), national origin, ancestry, physical or mental disability, genetic information, military or veteran status, political affiliation, personal appearance, and any other characteristic protected by applicable law. The association's policy prohibits harassment based on a protected characteristic by all applicants, employees, and interns, and applies to all interactions with applicants, employees, interns, association members, any association service provider, and any other third party with whom the association has a business, service or professional relationship, such as vendors, volunteers, and independent contractors. The association prohibits harassment based on a protected characteristic that violates this policy, even if it does not violate the law. In certain cases, an employee may be held individually liable under the law for engaging in unlawful harassment.

Prohibited harassment includes all unwelcome behavior based on a protected characteristic where the purpose or effect of the behavior is to create a hostile, abusive or intimidating environment, or where the behavior otherwise adversely affects an individual's employment opportunities. Prohibited harassment may take various forms, including, but not limited to, the following examples:

- Verbal Conduct, such as epithets, derogatory comments, slurs, or jokes, or unwanted sexual advances, solicitations, or comments
- Visual Conduct, such as derogatory or sexually oriented posters, cartoons, drawings, or gestures
- Physical Conduct, such as assault, impeding, or blocking movement
- VIA Technology or Computers, including to transmit, communicate or receive derogatory, inappropriate pornographic, sexually suggestive, or explicit pictures, cartoons, messages, jokes, or material
- Threats and Demands
- Requests for sexual favors, such as unwanted sexual advances, which condition an employment benefit upon an exchange of sexual favors
- Violence or threats of violence

Sexual harassment is one form of prohibited harassment and is illegal in [name of state]. Sexual harassment includes but is not limited to 1) unwelcome sexual advances and other unwelcome verbal, visual or physical conduct of a sexual nature or 2) requests for sexual favors or conduct of a sexual nature when (a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment; (b) an individual's submission to or rejection of such conduct is used as a basis for an employment decision affecting that individual; or (c) the purpose or the effect of such conduct is to substantially interfere with the affected individual's work performance or to create an intimidating, hostile or offensive work environment; or 3) sexual misconduct, which means any behavior of a sexual nature which also involves coercion, abuse of authority, or misuse of an individual's employment position.

Harassing conduct, including sexually harassing conduct, can be committed by a person of either the same sex or gender, or the opposite sex or gender (or any other protected category) of the person subjected to the harassment. A person may be the victim of harassment even though the offensive conduct has not been directed at the person alleging harassment, regardless of the sex, gender, gender identity, gender expression, sexual orientation or other class status of the perpetrator. Additionally, sexually harassing conduct need not be intentional or motivated by sexual desire.

The following are examples, however, and do not represent an inclusive list of conduct that may constitute prohibited sexual harassment:

- Unwelcome sexual flirtations or propositions
- Unwanted physical touching or closeness, such as massaging a person's back, neck or shoulders, hugging, kissing, patting, pinching, fondling, or touching/pulling an individual's clothing or hair
- Physical gestures that imply a sexual act or sexual anatomy, touching oneself in a sexual nature
- Brushing up against another person, standing too close, or lingering
- Using vulgar words of a sexual nature, describing body parts, or sexual acts
- Discussions or inquiries about sexual fantasy, preferences, history, or sex life about self or others

- Displaying sexually suggestive or demeaning objects, pictures or cartoons, or other materials on a personal or company-owned device shared in the workplace
- Giving personal gifts that imply an intimate relationship
- Repeated invitations and/or pressuring/coercion for dates or sexual favors; harassing phone calls, emails, texts, social media posts, or other communication
- Any suggestion that an individual's job security, assignment or the terms or conditions of employment depend at all on the submission to or rejection of requests for sexual favors or relations

Training Requirements

All employees are required to complete annual sexual harassment prevention and bystander training.

Failure to comply with the annual training requirements as set forth by the association may result in disciplinary action, up to and including termination.

Abusive Conduct

The association also prohibits any form of abusive conduct in the workplace. Abusive conduct includes conduct by any supervisor or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to the association's legitimate business interests. Abusive conduct may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets; verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating; or the gratuitous sabotage or undermining of a person's work performance.

Workplace Retaliation

The association prohibits retaliation against an individual because that person reported behavior that they believed in good faith violated the association's policies against, or the law prohibiting, discrimination, harassment, or abusive conduct (as described herein), or participated in an investigation into such alleged conduct. Retaliation includes, but is not limited to, taking disciplinary action against the employee, reassigning their duties or workspace, denying requests for leave, demotions, etc. Allegations of retaliation will be investigated, and appropriate remedial action will be taken. Any individual engaging in retaliatory behavior will be subject to disciplinary action, which may include termination of employment. For any suspected

retaliation concerns, contact the CEO. Further, the association will not retaliate against a victim of sexual harassment for requesting leave, regardless of whether the request was granted.

Reporting Prohibited Discrimination, Harassment, Abusive Conduct or Retaliation

An applicant or employee who witnesses, learns of or believes that they have been subject to conduct which may constitute prohibited discrimination, harassment, abusive conduct or retaliation ("Prohibited Behavior") under the association's policy may, but are not obligated to tell the person who has engaged in the behavior to stop. In either case, individuals should immediately report the Prohibited Behavior to the CEO, or if the CEO is not appropriate, the president of the board of directors. When making a complaint, individuals should provide as much information as possible, including the name and position of the person allegedly engaged in the Prohibited Behavior, a description of the incident(s), date(s), location(s) and the presence of any witnesses, effect of the incident on the individual's ability to perform their job, or on other terms or condition of their employment, the names of other individuals who might have been subject to the same or similar Prohibited Behavior, and any other information relevant to the complaint.

While the association may need to disclose information regarding the report of sexual harassment in order to properly investigate the matter pursuant to the process outlined below, the association will only disclose information related to the report to the extent necessary to properly investigate and resolve the complaint. Other than the need to make certain disclosures in order to investigate the complaint, the association recognizes and respects an employee's right to privacy and the need for confidentiality, and will maintain the confidentiality of an employee's report of sexual harassment to the extent possible allowed by law, and unless to do so would result in physical harm to any person, or jeopardize safety within the workplace.

Notwithstanding the above, supervisors must immediately report to the CEO, or if the CEO is not appropriate, the president of the board of directors, any behavior they observe, learn of, or are told of that may constitute prohibited discrimination, harassment, abusive conduct or retaliation under this policy. Such reports may not be made on an anonymous basis and must identify the alleged victim's name.

In response to a complaint or report of behavior which may constitute prohibited discrimination, harassment, retaliation or abusive conduct (as described herein), the association, at a minimum, will:

- Inform the reporting party that their complaint has been received and will be investigated.
- Promptly conduct a fair, timely, discreet, impartial and thorough investigation that provides all parties with appropriate due process, and reach reasonable conclusions based on the information collected. The association will maintain confidentiality to the extent possible under the circumstances.
- Maintain appropriate documentation and tracking to ensure reasonable progress and timely closure of the investigation and interview witnesses with information pertinent to the concern that is raised.
- Determine, based on an objective weighing of the evidence, as to whether prohibited conduct occurred.
- Take reasonable and appropriate remedial action to redress and put an end to conduct which the association concludes violates the Equal Employment Opportunity Policy. The remedial action will be commensurate with the severity of the offense and reasonably designed to provide prompt and effective resolution. Violations of the policy may result in discipline, up to and including termination.
- The association will communicate to the victim that action has been taken to stop the harassment, discrimination, abusive conduct or retaliation from recurring.

Employees have a duty to cooperate with and participate in an investigation into a reported violation of the Equal Employment Opportunity Policy when asked by the association, to do so in good faith, and are expected to provide complete and truthful information. Failure to cooperate in the investigation may result in disciplinary action, up to and including termination. Further, any reports of potential violations of the policy must be raised in good faith; concerns raised in bad faith or are intentionally false may result in discipline, up to and including termination. In addition, a supervisor's failure to report possible violations of the policy, as stated above, will generally be deemed to be a violation of this policy and may result in discipline up to and including termination.

Any questions regarding your obligations and those of others under this policy should be directed to the CEO, or if the CEO is inappropriate, the president of the board of directors.

No Expectation of Privacy

In order to avoid potential legal problems, the association's policy manual should include a section dealing with employees' privacy rights in the workplace. For instance, it could state that the association has the right to review all employee communications when using computers, phones or tablets supplied by the association—in other words, there is no right of privacy. Be sure the employee has been given a copy of the association's privacy policy to avoid future misunderstandings.

Conflicts of Interest

A conflict of interest occurs when an employee or any related party (such as a company, a partnership, an affiliate, management, or members of the employee's immediate or extended family) is in a position to directly or indirectly profit because of the employee's position with the association. The association should have a written policy in place that deals with conflicts of interest. Such a conflict can exist even if an employee's actions do not adversely affect the association.

Examples of instances in which a conflict of interest might exist include:

- Purchasing equipment, supplies, or services for the association
- Purchasing, selling or leasing property for the association
- Receiving gifts, entertainment, loans or preferential investment opportunities
- Using confidential information

An association policy should encourage employees to disclose to their supervisor or AE in writing any situation that might present a possible conflict of interest so that the association can review it. Another solution would be to ask employees (and appropriate leadership) to sign a blanket conflict of interest policy on an annual basis.

Smoking and Vaping

An association may wish to have a written smoking policy in its employee handbook. Such a policy is in consideration of employee health as well as safety concerns. Options include limiting smoking to designated areas, asking persons who smoke to use clean air machines and prohibiting smoking on the premises altogether.

Work Performance Expectations

This section covers the standards of conduct that an association should establish for work performance expectations. These standards also should be included in the employer-employee section of an association manual. Here are some topics to include.

Work Week and Hours of Hours

Define the work week so that parameters exist to determine any potential overtime wages. A typical work week is defined as Sunday at 12:00 a.m. through Saturday at 11:59 p.m. Define the hours of work to include the days and the hours an employee must be present and available for performance of assigned duties. For example, “The association typically works a 40 hour week, with regular hours from 8:00 a.m. to 5:00 p.m. with a one-hour unpaid meal break. In accordance with federal and any applicable state laws, employees should be permitted periods of time away from their work routines. Some examples include time for meal and rest breaks. Rest breaks for nonexempt employees must be defined in compliance with the FLSA, unless there is another applicable state law. California has wage classification laws that must be followed. In either case, provisions for personnel to cover important workstations should be established to maintain uninterrupted service to members and the public.

Overtime

Occasionally, overtime is necessary for an employee to complete tasks important to the function of an association. Under federal law, employers are required to pay a nonexempt employee for his or her hours actually worked in excess of 40 hours in one work week at a rate of one-and-one-half times that employee’s regular wage rate. An employer is not required to include paid time off (such as sick days, vacation days and holidays) in the hours worked for the purposes of computing overtime. Most states also have laws concerning the payment of overtime. Check with legal counsel to ensure that an association’s overtime policies are in compliance with wage and hour laws.

Personal Use of Texting, Email, the Internet and Social Media

In today’s workplace, the lines between job-related and personal activities can be blurred. Certainly, most employees will send personal text messages or visit personal websites or their social media sites from time to time. In most cases, there is no problem, except for potential loss of productivity.

However, problems can arise if an employee spends too much office time on personal matters or engages in behaviors that are not approved by an association, such as visiting pornographic websites or sending text or email solicitations to customers for a personal business.

Because of the potential safety risks, an association should consider a provision in its manual forbidding voice calls, texting and email responses while driving. Many states have already taken steps to ban using devices that result in “driving while distracted,” and AEs need to be aware of ongoing developments in the mobile communications sector.

An association policy should also remind employees that the office network and applications belong to the association, whether the services are housed on premises or in the cloud. In addition, employees should be informed that all documents can be accessed at any time without notice. A policy must state that viewing pornographic or other offensive websites are not tolerated and is cause for termination. Additionally, pornographic material could violate child pornography laws, opening the association to a criminal investigation.

In accordance with statutory requirements, any employee who discovers any depiction of child pornography on electronic and information technology equipment must immediately report the discovery to the chief staff executive, who in turn must file a police report.

Personal Appearance

Workplace attire can set the tone and image for an office, so it is important to set expectations in an association policy manual. During normal work hours, proper professional attire, suitable to a business environment or an employee’s job description, should be expected—whether the staff is working from the office, from home or on the road. Inform employees about the proper attire for special events, too, such as dinner meetings or awards banquets.

Language must be gender-neutral and examples cannot be geared toward a particular gender—for example, “low cut blouses.” Appropriate language could be something such as, “Dress appropriately.”

Tardiness and Absences

Clearly outline policies regarding tardiness and absences. Specify acceptable reasons and possible consequences for excessive tardiness and absenteeism. Also state who should be notified and when the notification should occur. Punctuality is a workplace expectation, and consistent tardiness is unfair to those who do report to work on time. Unavoidable lateness should be explained to the AE or to one's immediate supervisor, including pertinent circumstances. A pattern of tardiness could be cause for disciplinary action and continued employment.

Leave

Establish policies concerning leaves of absence, such as military or disability (if applicable). A leave policy should be reviewed by legal counsel to ensure its compliance with the U.S. Equal Employment Opportunity Commission's (EEOC) "Guidelines on Discrimination Because of Sex," the federal Family and Medical Leave Act (FMLA) (applicable to associations with staff of 50 or more), and any applicable state family leave legislation. Include the association's policy about jury duty in the manual. For example, the policy should state whether the association will pay the employee any additional money above what the court pays for the employee's jury duty or whether the employee will be paid during leave.

In California, there are 18 different leave laws to review for compliance in addition to specific county and city leave requirements.

Illness

State who is eligible and how many paid days are allowed for personal illness during any calendar year, as well as how unused personal and sick days are handled. The number of excused days can vary, based on length of employment and any state or local laws. Some organizations offer incentives for staying healthy.

Disability Policy

Be sure to include information regarding any short- or long-term disability leave offered by the association if it is offered. Short-term disability may be utilized if the policy allows for pregnancy and family leave.

Performance Review

The performance review is an excellent opportunity to provide feedback to employees. Discuss the employee's outstanding accomplishments and those behaviors that need improvement. Also, set goals for the employee to meet by the next performance review.

It is a good idea to review all new, transferred or promoted employees six months after their starting date in the new position. Schedule the employee's second performance review from six to 12 months after the first, and schedule all subsequent reviews on an annual basis. Conduct additional performance discussions if the employee's performance or behavior warrants it.

In addition to the more formal annual performance review, managers and supervisors should make it a goal to consistently provide ongoing, immediate positive and negative feedback to employees. Always remember to praise employees publicly and to offer any constructive criticism in private.

Formal performance appraisals must be documented in writing and signed by the employee. Keep in mind that performance reviews do not necessarily require wage and salary adjustments.

Disciplinary Action

All incidents of misbehavior, all conversations with employees regarding those incidents, any memoranda, employee responses and other information pertinent to the misbehavior or performance problems must be documented and maintained in the employee's personnel file. When documenting violations or performance problems, be objective and give only the facts. Do not include personal feelings or opinions about the employee or the incident in the memorandum or in any verbal warnings. Subjective judgment can create liability issues on an association's part.

Employees must be disciplined in a uniform and progressive manner. Follow established steps when disciplining poor employee performance and violation of any standards of conduct. An AE's decision about which step to take will depend on the nature of the violation or performance problem, its seriousness and frequency, and the employee's record.

Verbal Warning

For many minor infractions or performance problems, an employee may only require a verbal warning to correct the situation. Procedure for administering a verbal warning:

- Meet with the employee
- Explain the nature of the violation or the performance problem
- Discuss the problem and its resolution with the employee
- Describe the future behavior expected of the employee
- Establish the time frame by which the change needs to occur
- Identify the consequences, should the change not occur

- Note the date, time and content of the conversation in an email or other written document that summarizes the content of the verbal warning
- If the employee repeats the behavior, provide another verbal warning or administer the next disciplinary action, the written warning

Written Warning

The next step in progressive discipline is to issue a written warning. Use written warnings if an employee continually repeats minor violations, has performance problems unresolved by verbal warnings, violates more serious standards of conduct or demonstrates major performance problems. Procedure for issuing a written warning:

- Create a written memorandum in which the facts involved in the problem are described. This document should detail the problem, solution, time frames and consequences, and reference all previous verbal warnings.
- Meet with the employee to discuss the memorandum.
- Ask the employee to sign the memorandum acknowledging his receipt and understanding of it. In the event the employee refuses to sign, simply write that the employee refused to sign, and date and initial the notation.
- Allow the employee to offer a written response to the warning.
- Put a signed copy of the memorandum (with the employee's response, if any) in the employee's personnel file.

Suspension, with or without Pay

Some situations warrant the temporary removal of staff from the premises and/or interaction with other employees or members while further investigation or consideration takes place. An association's policy should address whether compensation and benefits also continue during a term of suspension. Suspension procedure:

- Prior to suspending an employee, seek advice from legal counsel to ensure any documentation (such as a memorandum) and conversations with the employee comply with state and federal laws.
- Write a memorandum stating the facts surrounding the situation, and discuss in it any prior steps taken in an attempt to correct the problem.
- Specify the duration of the suspension in the memorandum and what will lead to the termination of the suspension. Also state whether compensation will continue during the suspension and what happens if the employee does not correct the situation or issue during the suspension period.

- Meet with the employee to discuss the memorandum. It is advisable to have another senior staff person present to witness the meeting. Ask the employee to sign the memorandum, thereby acknowledging receipt and understanding of it.
- When suspension begins, ask the employee to leave the premises immediately and to take any personal belongings. Arrange to have an appropriate person present while the employee removes personal belongings from the workstation and/or office. During this time, the employee's access to any association software should be suspended and any office keys and credit cards as well.

Termination

State and federal laws greatly affect the process of employee termination. If an employee's actions or behavior appears to be grounds for immediate termination, contact association legal counsel. If the behavior is a repeated offense, the employee's file must be sufficiently documented to support termination. Before discharging an employee, review all documentation with legal counsel.

The termination meeting with the employee should be relatively short and be conducted in a manner that maintains the employee's dignity. Do this by meeting in a private location, reviewing the appropriate documentation and informing the employee that his employment is being terminated. Confine your comments to the employee's behavior and do not pass judgment on the employee.

If severance pay is to be provided, it should be discussed at this time. Some organizations require the employee to sign a release agreeing not to sue the organization in exchange for the severance compensation. If you offer severance, have a signed release drafted by an employment lawyer ready at the termination meeting.

The employee should be allowed to return to the office after hours (under your supervision) to collect personal items, should he or she so desire.

Remember, your current employees will pay careful attention to how you treat the terminated employee.

EMPLOYEE BENEFITS

Employee benefits are an important factor in attracting and retaining skilled employees, and often have more value than comparable cash benefits or salary adjustments.

REALTOR® AEs should pay close attention to benefit-related issues and develop a culture in the workplace that addresses not only members' needs, but the needs of their most important asset—their staff. REALTOR® associations must have ongoing programs that allow staff to compete for talent, then retain and motivate that talent. Institutional knowledge is a precious commodity that usually cannot be purchased from the outside. REALTOR® associations must determine the proper mix of institutional knowledge versus technical talent, then do everything they can to retain it.

A competitive benefits package often is one way to recruit and retain talented and dedicated workers. Benefits such as those listed below should be addressed in the employer-employee portion of the association employee manual:

- Vacations
- Holidays
- Insurance
- Retirement plans
- Other

Pay close attention to these issues and develop a workplace culture that addresses the needs of staff as well as members. Contact NAR HR Solutions (312-329-8518) if you would like assistance in implementing benefits or to analyze your current benefit offerings.

Vacations

Any vacation policy should include procedures that cover requirements for advance notice, eligibility, length (including the number of days that may be taken at one time) and provisions, if any, for vacation days not taken during a given period. There are other conditions to consider, such as emergency (or compassionate) leave and whether such leave should be granted with or without pay. The policy should address how any unused vacation leave will be handled. Typically earned but unused vacation time must be paid upon termination.

Holidays

An association should provide a specific policy about holidays. This policy should outline whether employees are paid for holidays or other days on which the association office is closed. Additionally, consider what practice to follow if a recognized holiday falls on a non-workday or during a weekend. Also, employees should be given the option to use their paid time off, e.g., personal vacation days, to observe their own personal holidays not observed by the association. There are situations in which an employee may ask for a religious accommodation to observe holidays specific to their faith. Consult with an HR professional or employment lawyer in the event such a request is made.

Insurance

Health, hospitalization and prescription drug coverage insurance often are the most attractive employee insurance benefits. Coverage and administrative programs vary. Group programs might be as small as coverage for one association office or as broad as coverage for an entire metropolitan area, state or nation. A health insurance program can be administered via an endorsement or contract with an insurance broker or commercial carrier, or through other alternatives such as self-insurance programs. Plans are available with varying deductibles, co-pays, and coverage. The policy should address any premium-sharing issues.

Retirement Plan Benefits

Before establishing any type of retirement plan for employees, it is essential for an AE to consult with a benefits advisor to assure proper application of the complex federal rules and regulations. Also, be aware that the retirement plan rules and regulations may change due to state or federal actions.

For instance, the Setting Every Community Up For Retirement Enhancement (SECURE) Act of 2020 opens the door to creating “Multiple Employer Plans” (MEPs) that can allow small businesses to set up qualified retirement plans for employees.

There are several types of retirement plans from which an employer can choose. Some of the most common are pension and 401(k) plans. A pension plan provides a defined benefit in the form of a promised stream of income once a participant retires. Another, more popular option, is a 401(k) plan. This is a defined contribution plan in which the employee determines the amount they want to contribute under the legally established guidelines.

Workers' Compensation

Generally required in most states, workers' compensation programs provide financial assistance for employees' wage losses and medical expenses that arise out of injuries incurred during the course of employment. The employer-employee portion of the association policy manual should explain how and when employees must report on-the-job injuries and what the procedure will be followed to determine if they will receive such compensation. Remote work can still provide for coverage under Workers' Compensation.

WORKPLACE HEALTH AND SAFETY

Emergency, Safety and Security Procedures

An association should write procedures for handling emergencies and staff safety.

Items to be covered:

- Fires and evacuations
- Medical emergencies and injuries at work
- Office closings due to adverse conditions
- General building security
- Workplace safety, such as rules prohibiting guns and other weapons. Note that some states have "open carry" laws, so AEs should consult with an attorney regarding this issue.

Clearly state all safety or security measures adopted by the association or required by laws such as the Occupational Safety and Health Act (OSHA—www.osha.gov), if OSHA applies to your association.

Office Closings Due to Adverse Conditions

- Establish a plan for handling office closings due to adverse weather, a widespread power outage, or other conditions.
- Publish and share this plan with staff.
- Make a plan to send a group text or message through a team collaboration application to notify staff members of the situation. Members should be notified as well, but this may be done through a notice on the website or social media.

General Building Security

Security issues can vary, depending on the size of a facility and the numbers of staff who come in and out of a building. Regardless of size, every association should analyze its needs and consider building security carefully, then put the appropriate measures in place.

Some general security suggestions follow:

- It always is wise to have a visitors' policy in place, such as assigning a staff person to be a greeter to "sign in" and "sign out" each visitor.
- Establish procedures for handling building security breaches, such as break-ins or stalking situations; print those procedures, and meet with staff about them.
- Educate staff about building security and define what it means for the association's facility. Take the appropriate steps to make that security happen, whether it is an alarm system, an intercom system, or another system.
- Implement procedures for opening up the office in the morning and for closing the office. Be sure there is coverage when the normal procedures for opening and closing are not in place.
- Address after-hours entry into the building by staff. Develop a policy about entry during non-work hours; print this policy, and share it with staff.
- Develop a policy for safeguarding of association equipment such as laptop computers, tablets, small projectors, etc.

Infectious Diseases in the Workplace

The COVID-19 pandemic raised numerous health and safety issues for employers throughout the country. Associations should follow all local, state and federal guidelines to reduce the risk of transmission of the virus. While the pandemic has ended, HIV/AIDS remains a health problem in the United States for society and for businesses, as employers must address numerous personnel, benefits and legal issues. For more information about minimizing legal liability in this regard, see the Center for Disease Control website at <https://www.cdc.gov/index.htm>.

Leaving the Association

When employees choose to leave the association, an AE should handle the exit process in a professional and businesslike manner, in accordance with the association's policy manual. Be courteous and take a positive approach in an exit interview.

Policies that can address such aspects of an employee's exit include:

- Reasonable, advance notice
- Exit interviews
- Expectations for a written resignation
- Explanation of any continued and discontinued benefits
- Explanation of how final pay for work and unused leave is handled

References

With the association's attorney, determine whether and how the association will provide references to potential employers. Many organizations prefer only to confirm employment dates.

Guidelines for Termination

Please see the relevant Employment Policy Guidelines for NAR's Professional Liability Insurance Program. These guidelines must be followed to receive coverage for wrongful termination claims under NAR's Professional Liability Policy.

<https://www.nar.realtor/ae/manage-your-association/association-policy/employer-employee-guidelines>

EMPLOYMENT/LABOR LAWS AFFECTING REALTOR® ASSOCIATION MANAGEMENT

The information in this section is adopted from NAR's Real Estate Brokerage Essentials: Managing Legal and Business Issues manual for brokers, available by calling NAR at 800-874-6500.

The U.S. employment/labor laws that are most likely to affect association management are:

- Civil Rights Act of 1964
- Age Discrimination in Employment Act
- Americans with Disabilities Act as Amended (ADAA)
- Civil Rights Act of 1991
- Fair Labor Standards Act of 1938
- Equal Pay Act
- Employee Polygraph Protection Act
- Break Time for Nursing Mothers (part of FLSA)
- Pregnancy Discrimination

- Uniformed Services Employment and Re-employment Rights Act
- The Genetic Information Nondiscrimination Act of 2008 (GINA)

There is a legal duty not to discriminate on the basis of race, color, religion, sex, national origin or age (40 years or older). In addition to the various anti-discrimination statutes, association employers are subject to the payment of minimum wages and overtime imposed by the Fair Labor Standards Act (FLSA), the mandates of "equal pay for equal work" under the Equal Pay Act, and any state-specific pay transparency laws.

In addition to these federal laws, associations should also familiarize themselves with any applicable state or local employment-related laws. California has many state-specific employment laws and regulations that have different standards to be met.

Civil Rights Act of 1964

<http://www.eeoc.gov/laws/statutes/titlevii.cfm>

The principal statute governing employment discrimination is Title VII of the Civil Rights Act of 1964, as amended. Title VII makes it unlawful for an employer to discriminate relative to hiring, firing, compensation, terms, conditions or privileges of employment on the basis of race, color, religion, sex, sexual orientation, gender identification or national origin. It also forbids employers from limiting, segregating or classifying employees in any way that tends to deprive any individual of employment opportunities or adversely affect his or her employment status because of race, color, religion, sex, sexual orientation, gender identification or national origin. Title VII applies to any private employer in an industry affecting interstate commerce with at least 15 employees.

Age Discrimination in Employment Act

<http://www.eeoc.gov/laws/statutes/adea.cfm>

The Age Discrimination in Employment Act (ADEA) prohibits discrimination against individuals age 40 and over on the basis of age. This act applies to any private employer engaged in an industry affecting interstate commerce with at least 20 employees.

Americans with Disabilities Act as Amended

<http://www.eeoc.gov/laws/statutes/ada.cfm>

The Americans with Disabilities Act (ADA) prohibits discrimination based upon both physical and mental health disabilities. It applies to employers with 15 or more employees.

Civil Rights Act of 1991

<http://www.eeoc.gov/laws/statutes/cra-1991.cfm>

The Civil Rights Act of 1991 is another federal statute that affects the employment relationship and makes punitive damages and jury trials available to alleged victims of employment discrimination.

Fair Labor Standards Act

<https://www.dol.gov/agencies/whd/flsa>

The Fair Labor Standards Act (FLSA) established the 40-hour work week, the federal minimum wage sets requirements for overtime, and places restrictions on child labor, among other provisions. Most employers, including associations, are covered under this act. This act contains provisions for fines and fees for non-compliance, and in extreme cases it includes provisions for criminal sanctions. This act is replaced in California with Industrial Wage Orders.

Equal Pay Act

<http://www.eeoc.gov/laws/statutes/epa.cfm>

The Equal Pay Act prohibits any wage disparity on account of sex in substantially equal jobs. The act is applicable to any employer subject to the Fair Labor Standards Act. California and other states have pay transparency laws.

Employee Polygraph Protection Act

<https://www.dol.gov/agencies/whd/polygraph>

The Employee Polygraph Protection Act of 1988 (EPPA) generally prevents employers from using lie detector tests, either for pre-employment screening or during the course of employment, with certain exemptions. Employers generally may not require or request any employee or job applicant to take a lie detector test, or discharge, discipline or discriminate against an employee or job applicant for refusing to take a test or for exercising other rights under the act. In addition, employers are required to display the EPPA poster in the workplace for their employees. The Employment Standards Administration's Wage and Hour Division (WHD) within the U.S. Department of Labor (DOL) enforces the EPPA.

Break Time for Nursing Mothers (part of FLSA)

<http://www.dol.gov/whd/nursingmothers/faqBTNM.htm>

The Patient Protection and Affordable Care Act (P.L. 111-148, known as the "Affordable Care Act") amended section 7 of the Fair Labor Standards Act ("FLSA") to require employers to provide "reasonable break time for an employee to express breast milk for her nursing child for 1 year after the child's birth each time such employee has need to express the milk." Employers are also required to provide "a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk."

Pregnancy Discrimination

<http://www.eeoc.gov/laws/statutes/pregnancy.cfm>

This law amended Title VII to make it illegal to discriminate against a woman because of pregnancy, childbirth or a medical condition related to pregnancy or childbirth. The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination or participated in an employment discrimination investigation or lawsuit.

Uniformed Services Employment and Re-employment Rights Act

<https://www.dol.gov/agencies/vets/programs/userra>

USERRA prohibits employers from discriminating against employees or applicants for employment on the basis of their military status or military obligations. It also protects the reemployment rights of those who leave their civilian jobs (whether voluntarily or involuntarily) to serve in the uniformed services, including the U.S. Reserve forces.

The Genetic Information Nondiscrimination Act of 2008 (GINA)

<http://www.eeoc.gov/laws/statutes/gina.cfm>

This law makes it illegal to discriminate against employees or applicants because of genetic information. Genetic information includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about any disease, disorder or condition of an individual's family members (i.e., an individual's family medical history). The law also makes it illegal to retaliate against a person because the person complained about discrimination, filed a charge of discrimination or participated in an employment discrimination investigation or lawsuit.

Please note that there are certain federal employment posters that must be displayed in a conspicuous place in your association's office. The relevant posters that must be displayed depend upon the number of employees an association has and can be found at this website:

https://www.laborlawcc.com/?gclid=EAIaIQobChMI-5vRgNXq5wIVkK_sCh2IJALIEAAYASAAEgLFJPD_BwE

Applying the Americans with Disabilities Act to Employment Practices

REALTOR® associations with 15 or more employees are covered by the Americans with Disabilities Act as Amended (ADAA). The Act:

- Prohibits “covered employers” from discriminating against “qualified individuals with disabilities” in all employment practices
- Requires “covered employers” to provide “reasonable accommodations” for disabled employees unless doing so will cause the employer “undue hardship”
- Governs hiring as well as post-hire practices

Discrimination based on employment practices, including job applications, procedures, hiring, firing, advancement, compensation, training, and other terms, conditions, and privileges of employment, are prohibited by the ADA. All other employment-related policies and procedures involving such matters as benefits and advertising are affected as well. The ADA also protects individuals with known associations or relationships with disabled persons from discrimination.

At the federal level, the Equal Employment Opportunity Commission (EEOC) enforces the ADA. In addition, states may have their own laws that govern practices involving disabled job applicants and employees.

Under the ADA, an employer may not ask a job applicant any disability-related questions until after a conditional offer for a job is made. Neither may an employer require a medical examination before making an offer. An employer may, however, ask an applicant to describe how he or she will perform particular job tasks, so that the employer can evaluate an applicant's qualifications.

Similarly, individuals with mental health disabilities are also protected by the ADA and may not be discriminated against by employers. Under the EEOC's guidelines, an employer may not ask job applicants or employees if they have a history of mental illness, and an employer must make reasonable accommodations through the interactive dialogue.

Mental and emotional health disabilities comprise the most commonly requested reasonable accommodations. It is important to include not only physical aspects of the job, but also mental and behavioral health matters, in job descriptions. For more information, contact NAR HR Solutions at 312-329-8311.

Note: For more information about this topic, see the Legal and Regulatory Activities chapter of *The Answer Book*.

1.6

Marketing

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WHAT IS MARKETING?

For REALTOR® associations, marketing is a multi-faceted discipline that focuses on meeting the needs of members and other audiences that may benefit from the association’s products, services, knowledge and advocacy initiatives. This chapter focuses on marketing to association members and other professionals in real estate and related fields. It includes assessing members’ needs and reaching out to them using a wide array of communication tools.

While messaging and communications channels are changing, the fundamental principles and goals of marketing remain the same. Association marketing initiatives are designed to lay the groundwork for attracting newcomers, retaining current members and staging successful sales campaigns for new services and products.

A marketing analysis includes selecting groups of potential customers (or target markets), assessing their needs, and developing products or services to meet those needs. It includes determining what your competitors are doing, what pricing is most appropriate, and how products and services can best be distributed to your target markets.

In a REALTOR® association, the primary target market is the member. Therefore, marketing initiatives should focus on meeting the needs of the members—not the association.

Marketing Is Different from Selling

In the business world, marketing involves identifying an unmet need, creating products and services to meet that need and preparing the foundation for a successful sales campaign. In contrast, selling is an organizational-driven approach designed to convince the target market to purchase what an organization has to sell. In other words, marketing comes first, and a successful sale is the ultimate result of an effective marketing plan.

A marketing program should also be aligned with an association's strategic and business goals, such as attracting new members or offering new revenue-generating products and services. It needs to be carefully planned, including setting clear, measurable goals, and evaluating the results.

Marketing and Branding

A brand is a name, symbol, design, message or combination of those elements that provides a readily recognizable image of an individual, business or association. For instance, the REALTOR® brand distinguishes association members from other real estate practitioners. It is important for local and state REALTOR® associations to build on the national brand to foster strong connections with real estate professionals in the community or region.

Branding involves using marketing strategies and tools to create positive perceptions among members, affiliated professionals, businesses, consumers and the media. It means setting and maintaining high standards of conduct and service that are consistent in every setting where association staff and leaders interact with other people. It also means providing a consistent communications process across all channels—mobile, social, digital, print, broadcast, trade shows, etc.

One of the most important aspects of branding is building trust and emotional connections with association members. It encourages members—or other target audiences—to become involved in activities, purchase products or services, or rely on the association as a dependable source of information. Marketing can “activate” a member to buy a product or service, but it is branding that builds member loyalty over the long term.

Promoting REALTOR® Value

Marketing the benefit of REALTORS® should be part of every REALTOR® association's daily activities. It is important for association staff, new and current members, the customers and clients of members, and the community to know what the term “REALTOR®” means and how REALTORS® can and do make the lives of buyers and sellers easier. An association and its members should consistently and enthusiastically promote its value, because it is beneficial to keep a community informed about the association's general and specialized services and the REALTOR® members' community efforts.

What Is a REALTOR®?

A real estate agent is a REALTOR® when he or she is a member of the NAR—the world's largest professional association. The term REALTOR® is a registered collective membership mark that identifies a real estate professional who is a member of NAR and is pledged to a strict Code of Ethics and Standards of Practice. Working for America's property owners, NAR supports members' professional development, research and exchange of information. It is also devoted to the purpose of preserving the free enterprise system and the right to own real property.

Why Use an Agent Who Is a REALTOR®?

All real estate licensees are not the same. Only real estate licensees who are members of NAR are called “REALTORS®”. They proudly display the REALTOR® “R” logo on their business card and other marketing and sales literature.

Under the Code of Ethics, REALTORS® are committed to treat all parties to a transaction honestly. They are expected to maintain a higher level of knowledge of the process of buying and selling real estate. Considering the small upside cost and the large downside risk, a buyer or seller should only consider making a real estate deal with the professional assistance of an agent who is a REALTOR®.

Following are additional reasons to select a member to assist with a real estate transaction:

- A member can help determine buying power—that is, one's financial reserves, plus his or her borrowing capacity. If a client gives an agent who is a REALTOR® some basic information about his or her available savings, income and current debt, he or she might be able to refer lenders qualified to help. A member also can help consumers understand different financing options and help identify qualified lenders.
- A member has many resources to assist with one's home search, and he or she can provide objective information about each property, too.
- An agent who is a REALTOR® can help negotiate price, financing, terms, date of possession, often the inclusion or exclusion of repairs and furnishings or equipment, and more. A purchase agreement should provide a period of time to complete appropriate inspections and investigations of a property before a consumer is bound to complete the purchase. Members also can advise about which investigations and inspections are recommended or required.

- A member can help evaluate a property by providing information about issues of importance to many home buyers. Depending on the area and property, this could include information about inspections for termites, dry rot, asbestos, faulty structure, roof condition, and septic tank and well tests, to name a few. An agent who is a REALTOR® can help find qualified, responsible professionals to do many of these inspections and written reports.
- A member can guide consumers through the closing process and make sure everything flows smoothly.
- With access to NAR's proprietary research and data, a REALTOR® can give home sellers up-to-date information about what is happening in the market, and the prices, financing, terms and conditions of competing properties. These are key factors in successfully selling a property at the best price, quickly, and with little hassle.
- A member markets properties to other real estate agents/brokers and the public. Quite often, he or she can recommend repairs or cosmetic work that will significantly enhance the salability and showability of a property.
- Members disburse information about their listed properties to other real estate agents through a local multiple listing service (MLS), and they use cooperative marketing networks such as those provided through open houses, etc. The REALTORS® Code of Ethics requires REALTORS® to use these cooperative relationships when they will benefit their clients. In many markets across the country, over 50 percent of real estate sales are actually cooperative sales—that is, one in which a real estate agent other than the listing agent brings the buyer.
- An agent who is a REALTOR® knows when, where and how to advertise properties. There is a misconception that advertising alone sells real estate. NAR studies show that 82 percent of real estate sales are the result of agent contacts through previous clients, referrals, friends, family and personal contacts. When a property is marketed with the help of an agent who is a REALTOR®, a home seller adds a buffer between himself or herself and the strangers coming into his or her home. An agent who is a REALTOR® might pre-screen prospective purchasers to qualify them and generally accompanies prospects through listed properties.
- A member can help objectively evaluate every buyer's proposal without compromising the seller's marketing position. This initial agreement is only the beginning of a process of appraisals, inspections and financing. Many REALTOR® associations, together with local attorneys, have developed balanced legal forms that can be used to write legally binding, win-win agreements that more likely will make it through the process.
- A member can help close the sale of a home. During the time between the initial sales agreement and closing (settlement), issues such as unexpected home repairs that are required before financing can be made, or discovery of a clouded title may arise. A member is the best person to objectively help resolve these issues and move the transaction to a successful closing or settlement.

Meeting Member Needs

For the AE, marketing primarily focuses on the wide range of activities involved in meeting the needs of members and providing them with value in return. In addition, AEs should consider the association itself as a “service” to members that should be marketed at every opportunity to members, non-members, affiliated professionals and the local community.

Marketing programs play a key role in helping an association achieve its strategic objectives and business plans. An association that wishes to grow its membership base, for instance, needs to market itself to new members and offer products and services that provide them with clear value. Therefore, a marketing plan should reflect the goals of an association's strategic plan.

A marketing plan (either separately or as an element in a broader business plan) should include:

- A description of the market need and how that need was determined
- A clear identification of the target market for the program or service
- How you will promote your organization's program or service
- How you will get the product or service to your customers (the target market)
- The costs to promote and distribute the products or services
- The designed outcome (financial results, member participation or other objective)
- How you will measure the effectiveness of the marketing and sales methods you plan to use.

Personalize the Member Experience

Members join a REALTOR® association with a wide range of needs and desires. New professionals may seek out education and training programs. Brokers might want suggestions for recruiting new agents or playing an active role in the business or philanthropy community. Commercial professionals look at the local market from an owner's or investor's perspective, which may be quite different from a residential agent serving buyers and sellers.

Association members also have many different backgrounds, including age, gender, race and ethnicity for example. This diversity strengthens associations by sharing diverse experiences and perspectives. It also means that AEs have many opportunities to personalize the member experience and increase the association's relevancy by leveraging segmentation in marketing campaigns.

For example, a program on saving and investing basics might be marketed to members in their 20s and 30s, while a seminar on retirement planning could be aimed at older members. Or two different programs on "Capitalizing on Our MLS Data" could be marketed to residential and commercial members.

In your marketing campaigns, think about who is most likely to use those products and services, and adjust your informational text, photos and charts to reflect that target audience. As a general rule, you should include photos and videos of a diverse selection of members who reflect your community in order to personalize your program. But be sure to get written permission to avoid violating an individual's privacy.

THE "FIVE PS" OF MARKETING

In understanding the field of marketing, AEs should be familiar with the marketing "mix" traditionally defined as the "five Ps:"

- Products (or services)
 - Price
 - Promotion
 - Place (delivery channel)
 - People
- **Product.** A "product" is the fundamental "satisfier" of an identified need. For example, the actual product of an association conference is the information or knowledge being communicated. Examples of sharing information as a product include educational programs and real estate market updates.
 - **Price.** A price is the distinct price in dollars, plus the members' perceived value of a product or service. Every member compares total, actual dollars and the time commitment to his or her perceived value of a product. To be successful, an organization must deliver greater value than the actual price charged.
 - **Promotion.** Promotion is the means and channel (the selling method) through which an organization educates its target audience about the features and benefits of a particular product/service package and its overall value. This often is the component that is mislabeled as "marketing."
 - **Place.** The place or delivery channel is the means by which a product or service is provided to the market. Common channels include social media, websites and conferences.
 - **People.** This "P" focuses on the people who will market your products or services to the customer. Who are the people inside or outside the organization who will be providing this service and what kind of training will they receive? Do you plan to offer them any incentives, and how do you plan to measure customer satisfaction?

The Marketing Mix

The next step in your marketing program is to shape the marketing mix of the five "Ps" to attract and retain customers for your product or service. That includes building a market position focusing on one or more selected benefits or features that make the product or service unique and different.

The following steps will help you define your marketing mix:

- Identify your target market. In a REALTOR® association, the term "members" may not be specific enough. Do you mean "new members," "younger sales associates," and "seasoned brokers"? Each of those groups has identifiable specific needs, often quite distinct from the other member groups.
- Determine what the target members desire.
- Assess whether you have any advantages over your competition in delivering the desired service. Again, be aware of your competition, including other commercial services, real estate franchise products and neighboring associations.
- Choose the position that is most valued by your target audience. Remember that your association product must have a distinct identity and advantage.

The following chart provides an example of how you might use the first four "Ps" to develop the marketing mix for a new product or service.

PRODUCT
Features
Optional Services
Product Quality
Support Quality
Style
PLACE (DISTRIBUTION)
Location
Frequency of Service
Transportation
Distribution
Inventory (ready availability)
PROMOTION
Publicity
Sales Promotion (discounts, etc.)
Internal Selling to Members
PRICE (COST)
List Price
Discounts for Members
Credit Terms
Dues Inclusivity

Possible Positions for Marketing Your Association's Product or Service

- The feature that makes your product or service different than the offerings of competing attractions (e.g., an education class specific to your geographical location and needs, or a product that is more timely in meeting member needs)
- The length of time your association has been in business, successfully meeting member needs (as opposed to a new startup commercial business, for instance)
- The unique people involved in your operation (members who have identified the need and designed or endorsed the product)
- Your location as a local or regional association with an unrivaled understanding of the local nature of the real estate business
- The size of your association as compared to a national company, for instance
- The benefits of your product or services in assisting members' economic and professional success

- The services of your association such as networking opportunities for cooperating competitors
- Your price, which may be reflected by your lower profit margin
- Your reputation as the REALTOR® association of choice
- The profession enhancing aspect of your product or service, such as public recognition for a member who completes a course of study or receives an award

MARKET NEEDS ASSESSMENT

A successful marketing program begins with a solid assessment of the needs of members or other targeted audiences, such as affiliated professionals, non-members or the local community in general. The identified needs of members, for instance, could relate to the overall real estate industry, professional education, personal attributes, or information/knowledge. But remember that every community, like every association, is unique, so pay attention to national and state trends, but focus on understanding the specific needs of your members.

An association should also review its strategic objectives and annual financial plan when considering the market needs that should be addressed. After all, an association has its own “needs,” such as increased revenue or membership growth and retention. Those objectives often provide an initial filter regarding potential new products and services and shape the needs assessment process. But regardless of what the association may desire to achieve, it must be remembered that market forces will determine the success or failure of any program. Therefore, a needs assessment is an essential step in planning a marketing program.

There are two types of research available for a needs assessment—quantitative and qualitative—and both are useful for gathering a sufficient depth and breadth of knowledge to make decisions.

Quantitative Research:

Quantitative research is data and information typically obtained through surveys, with results gathered from a representative sample of a given universe. This type of market research is of a statistical nature. It can be used to predict the behavior of a larger population.

Three types of quantitative research studies are common:

- **Membership research**—used to collect information about an association’s existing or potential membership
- **Market-wide research**—used to collect information about the environment affecting an association’s members
- **Special study**—targets an important subgroup, such as minority members or volunteers

Survey Tools

The availability of inexpensive online survey tools such as Zoomerang and SurveyMonkey have made it easy and very cost effective to carry out simple surveys on specific topics on a regular basis.

Types of Market Research

There are two types of market research:

- Qualitative
- Quantitative

Qualitative Research

Qualitative research is research of a non-statistical nature. It cannot be applied to larger populations but is used to add depth and richness to quantitative findings.

Common tools for qualitative research include:

- Leadership interviews
- Staff interviews
- Documentation review
- Focus groups—See the information on Focus Groups under “Preparatory Steps” to the Strategic Planning process.
- Facilitated discussions

Quantitative Research

Quantitative research involves obtaining information through surveys or other types of studies, with results gathered from a representative sample of a given universe. This type of market research is of a statistical nature. It can be used to predict the behavior of a larger population.

Three types of quantitative research studies are common: membership research, market-wide research, and special studies.

- **Membership research**—used to collect information about an association’s existing or potential membership
- **Market-wide research**—used to collect information about the environment affecting an association’s members and may include affiliate members or segments of the public
- **Special study**—targets an important subgroup, such as minority members, specialists or younger members

By definition, market research is information relating to a specific market opportunity or problem, and the process of collecting, analyzing and reporting this information. More simply, market research is identifying and understanding the needs and wants of your target audience. The dynamics of market size, demographics, competition and other factors also come into play. Given this, it should be highly advisable to conduct some sort of market research before producing a product.

Market research also brings objectivity into the process. Many leaders are too close to product ideas to honestly evaluate them on their own merit. Similarly, association staff are not end-users, so they may have difficulty fairly judging a product idea. One suggestion might be to contact the NAR Research team to help gather “big picture” information for the product on a consulting basis. Another is to use AE networking tools to evaluate the success of your proposed project in other organizations where it has been tried.

The optimal research strategy for collecting the highest quality data is to integrate both qualitative and quantitative methods.

Each method has its own positive and negative aspects. For instance, a written or face-to-face member survey yields more reliable results, but the costs can be high compared to an easily executed online survey. On the other hand, a needs assessment based on feedback from a small committee might not fully represent the views of the target market.

Integrating qualitative and quantitative methods is the optimal research strategy for collecting the highest-quality data. The key is to determine the target audience for a particular program, product or service, then direct the assessment method and participants accordingly.

For more about needs assessment, see the Product/Program Development chapter of *The Answer Book*.

THE MARKETING PROCESS

There are four primary steps in the marketing process:

- Research
- Strategy development
- Marketing plan execution
- Marketing plan evaluation

Research

Marketing research is perhaps the most frequently misused tool in an association's marketing toolkit. Many AEs are unfamiliar with the techniques to apply this vital organizational function. To place this problem in perspective, consider some of the "dos" and "don'ts" outlined in the marketing textbook, *The Successful Marketing Plan* by Roman G. Hiebing and Scott Cooper.

Do

- Assess the risk factor of NOT conducting research.
- Always conduct research when the cost of execution is high.
- Match the research technique with the type of information you want to obtain.

Don't

- Implement research if you plan on pursuing a set path no matter what the research results say.
- Implement the test yourself unless you're willing to deal with the consequences; use professionals.

What's the bottom line? Market research is an important tool, but only when it is used to collect information that helps an organization make better decisions.

Typical Research Questions

For best results, start with these questions:

- What marketing information is already available as a result of the organization's ongoing activities? Common sources of data include membership database analysis or registration patterns.
- What secondary research can be conducted to collect data from existing sources that address the organization's concerns?
- What is the primary research question to be answered?
- What is the optimum combination of research techniques needed to answer this research question?
- Does the organization have in-house capabilities to do all or part of this project?

Once an organization answers these questions, a more complete understanding of the research needs and capabilities will be in place.

Strategy Development

A strategy is the guiding direction to an organization's marketing efforts. It is a clear, concise statement that identifies how a specific marketing objective will be achieved. Having a strategy in place is vital to focusing association resources and to ensuring that members, staff and the AE keep an eye on the ball.

Developing a marketing strategy for a new product or service in your association is a process that involves standing back from the idea and adopting an objective attitude.

Then, at arm's length, develop a guiding strategy consisting of two steps:

- Positioning
- Marketing strategy

Positioning

Positioning involves creating the desired perception in relation to the direct or indirect competition. That competition could come from another association serving the same market, business commitments or family responsibilities, or third-party vendors of the same or similar product.

In fact, anything that prevents a potential member from interacting with or participating in the association can be considered competition, and a member's purchasing decisions are often governed by cost and return on investment.

Positioning allows an organization to establish a reference point in the minds of potential members to help them understand and remember what is being communicated. In a competitive environment, it allows an organization to differentiate itself from its competition.

A simple five-step positioning statement process is outlined in the book, *The Successful Marketing Plan* by authors Roman Hiebing, Jr. and Scott Cooper.

- Analyze the product/service/organization versus the competition.
- Identify differences versus the competition.
- List the key target markets.
- List key target market characteristics.
- Match the product/service/organization to the target market's needs/wants.

In other words, a successful association will occupy a distinctive space in its marketplace and provide products and services that are valued by its targeted consumers.

Marketing Strategy

A marketing strategy is a statement detailing how an individual marketing objective will be achieved. It describes the goal and provides a guiding direction for all activities. The marketing strategy also needs to consider the association's financial resources. It involves the development of budget and a timeline, as well as the identification of any outside resources necessary to implement the strategy.

To develop a marketing strategy, it is necessary to clearly understand an organization's challenges and opportunities, target market, marketing objectives, and positioning strategy. It is very possible that an organization will create multiple marketing strategies for a given product or service. However, it is important to take sufficient time developing and prioritizing these strategies because they will guide all subsequent activities.

The Successful Marketing Plan presents some issues that association staff need to consider:

- How can we build the market or improve our market share?
- What are the national, regional or local markets?
- What is the environment relative to consumer spending and relative to association spending? (Do we have the money to produce this product?)
- What is our competition?
- Who are our target markets?
- Is the product clearly defined and thought through?
- What is the pricing? Does it cover investment? Does it make a profit? Is it appealing to the target market?
- How will we distribute the product?
- What is our advertising message (for instance, "make money" or "become more professional")?
- What communications media will we use?
- Who will develop and distribute the publicity?
- How can we conduct and evaluate marketing research and testing before we finalize the product?

It is worth taking the time to review each of these issues prior to preparing and executing a marketing plan, as each item will affect an association's decisions. For example, communications should be aimed at the target audience using one or more of the most appropriate channels. This is not a one-size-fits all approach.

Marketing Plan Execution

There are four primary steps for designing and executing a marketing plan:

- Define current status
- Define objectives

- Identify tasks
- Identify a time frame and assign responsibility

Define current status. As a result of its market research, an association should have a clear understanding of its current financial resources and marketing status. It should be able to define a current membership profile, highlight trends in membership growth and retention, and understand the financial history of existing activities. It should also have a clear understanding of the competition for the product and the association's position in the marketplace.

Define objectives. Using realistic assessments of market potential and association capabilities, the next step is to establish goals for the association's marketing program. How many new members or conference attendees are realistically expected during the length of the program? What are the financial results necessary? Goal establishment provides a target by which to measure the success of an association program. It allows an association to identify whether its marketing plan is succeeding so that activities can be altered as necessary.

Identify tasks. Break down the major tasks associated with the marketing plan, and ask, "What are the individual components?" Be realistic in terms of resources.

Examples of marketing task identification activities might include:

- Designing web pages and brochures
- Virtual presentations at office sales meetings
- Social media posts

Identify a time frame and assign responsibility. Without a realistic time frame, a marketing project is doomed to failure. In the book, *The Complete Idiot's Guide to Project Management*, authors Sunny and Kim Baker outline the following five-step process for identifying a time frame:

- Establish scheduling assumptions.
- Estimate the amount of effort and the duration of each task.
- Determine your calendar, dates and establish a master schedule.
- Adjust your resources and task interdependencies to optimize the schedule.
- Chart the final schedule.

Share this schedule with all staff and volunteers involved in the project. It will help communicate the information necessary for everyone to remain involved and committed to success.

Assign these tasks to the volunteers and responsible staff. Allow everyone to review the entire plan so that each individual involved is familiar with the overall strategy and goals.

Work with everyone to identify interim measurements that will allow the association to track success. This provides the information necessary to make strategic or tactical changes and can limit damage or help the association take advantage of unexpected opportunities.

Defining Target Markets and Marketing Objectives

At this point, your association has identified a member need and a product that might fulfill that need. Let's say you and your leadership realize the need for a more extensive and accessible program for commercial real estate practitioners. You realize that many of your members may wish to specialize in commercial real estate, or at least become more knowledgeable and have a variety of tools available which will assist them in developing a successful commercial practice. You've done the background research and identified what that commercial program might look like. You also understand the level of competition for these services, and most of the franchise and third-party education programs are not available in your area.

You are also aware of the extensive products available to your association through NAR, and you have included these resources as part of your commercial services product package. You have developed cost projections for starting up this new program, and the association leadership have allocated adequate resources to this activity.

Your next job is to identify a target market, the specific market for the proposed product or service. For example, in this case the target market could be the association's entire membership or a certain subgroup of members or professionals in the community who are association members and affiliates. Next, attempt to profile this market based on demographic, psychographic or other variables that could affect an individual's decision to become a more active participant or purchase the association's commercial real estate products or services.

Then, establish clear, realistic, measurable marketing objectives that can be used to track the success of the association's marketing program, such actions as:

- Track inquiries resulting from your promotions
- Track registrants for courses or seminars
- Monitor user response to your offerings
- Execution and evaluation
- Develop a project outline or calendar

A project outline is a detailed schedule of activities that helps the association team move forward and achieves its marketing goals. A project outline identifies primary tasks and how these tasks interrelate. It also illustrates time frames for implementation and identifies responsibilities of staff or vendors for accomplishing these tasks. A project outline is essential to the successful implementation of a marketing plan.

Marketing Plan Evaluation

A marketing plan requires constant monitoring to be sure it is meeting the association's objectives and timeline. Progress may be tracked on a daily, weekly or periodic basis. Do not be afraid to alter strategies or tactics based on new information.

Once a project is completed, the association's leadership should evaluate the results. This step provides feedback for the marketing team and/or leadership and helps guide future decisions: How well did the marketing plan work, and what lessons were learned along the way? Through the ongoing use of this model, an association can improve its marketing program and do a better job of servicing its members.

There are several methods of assessing results in addition to tracking unit sales, member participation and program revenue. One way is to survey participants after a purchase or completion of a program. An online survey provides rapid feedback, and there are many excellent, interactive software programs available. If there are negative comments, review each written evaluation to analyze specific objections and comments.

Evaluation of a project and its marketing strategy is one of the most important (and one of the most often neglected) components of association marketing. This is often true because leadership is changing and has a short-term focus rather than thinking of the not think of the accumulation of business knowledge necessary to a successful long-term operation. A written evaluation should be reviewed by leadership, filed with the project detail, and reviewed at appropriate intervals or when a similar project is begun.

An Evaluation Template

One way to analyze the success of a marketing initiative is to prepare a written evaluation that may include the following:

- **Marketplace.** Target market approval rating (number of purchases, participants, etc.).
- **Recent news, press releases, other marketing efforts.**
- **Competitive positioning.** How did we rate compared with the competition?

- **Business value.** What was the market demand? Did we meet our expected revenue stream? Is there a market growth potential?
- **Risk evaluation.** Was the return worth the risk/investment? How do we know?
- **Marketing plan evaluation.** Is there a strategic value? Do our members or other target audiences perceive our association differently? Are we able to execute this project or similar projects in the future?

The results of the evaluation process may lead to the next step: product development. This is the process through which an organization identifies, creates and markets a specific program or service to address a specific membership need. (See Product/Program Development chapter of *The Answer Book*.)

It is important to note that the evaluation process is ongoing. It involves the constant review of an organization's marketing activities so that strategies and tactics can be refined to improve performance and whether a product or service has satisfied the perceived needs of members. Clearly, the cycle of needs assessment, product development, marketing and evaluation never stops!

CONCLUSION

To summarize, marketing is a broader discipline than advertising, public relations or sales. Marketing skills are essential for achieving an association's strategic goals, annual financial objectives and product and service offerings. Again, marketing is a process for understanding members' needs, designing services and products that meet those needs, and evaluating the results.

Finally, it's important to remember that the REALTOR® association itself is a service to members. Therefore, a successful AE will need to market the association each day to its members, affiliated professionals and the local community.

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Meeting Management

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THE BASIC ELEMENTS OF MEETING PLANNING

Effective meeting planning skills are a necessity for AEs, staff and others who work in the real estate industry. That’s because meetings provide invaluable opportunities for volunteer leadership, members and staff to discuss current issues, make strategic decisions, build professional skills and forge business and personal relationships.

Today, associations use video conferencing and video collaboration technologies like Zoom, GoTo Meetings and Webex for all types of member meetings, while staff members may use a team meeting application like Microsoft Teams or Slack. Many in-person meetings now include a video option for attendees who prefer to participate virtually. The resulting “hybrid meeting” can be an effective choice for accommodating members’ varying choices.

While the basics of meeting planning have not changed, the widespread adoption of virtual technologies has changed the game in many ways. There may be cost savings from holding a leadership or membership meeting online rather than in-person—or the benefits of face-to-face conversations may outweigh cost considerations.

For virtual meetings with volunteer leaders, AEs should create policies regarding remote voting, in accordance with state laws. Any decisions should be made in a transparent manner that allows all participants to present their opinions. These sessions should also be recorded so there is a clear record of the proceedings.

As noted in “Remote Possibilities: Members and Leaders Appreciate That Virtual Meetings Are Here to Stay,” (REALTOR® AE Magazine, August 6, 2020): “Local associations are adapting to virtual meetings, events, and seminars. New platforms use password-protected meetings, secure waiting rooms, and screen sharing to ensure security and allow associations to stay connected with their members.”

For all these reasons, AEs need to pay attention to the needs and desires of their members, the financial aspects and the available technology platforms when planning meetings that may be virtual, in-person or hybrid.

Much of the material in this chapter focuses on in-person member meetings, because they typically have the most “moving parts,” such as renting a facility, organizing food and beverage service, arranging for presentation equipment, hiring speakers, and preparing various contracts. This information is also essential when planning hybrid meetings with virtual as well as in-person attendees.

Types of Meetings

For real estate associations, the following are the most common types of meetings:

- **Committee meeting**—requires a written record in the form of minutes; parliamentary procedure is applied; issues are voted on, and recommendations made to the board of directors
- **Subcommittee meeting**—requires a written record in the form of minutes; parliamentary procedure is applied; issues are voted on; subcommittee makes recommendations about issues to the committee for its vote
- **Board of directors/leadership meeting**—requires a written record in the form of minutes; parliamentary procedure is applied; issues are voted on
- **Focus groups**—usually held for the purpose of product and service evaluation and survey
- **Task force**—a temporary grouping of individuals and resources to accomplish a specific objective
- **Presidential Advisory Group (PAG)**—a group of association subject matter experts that explores an important association or real estate industry related issue in depth.
- **Information session**—explanation of a new association procedure or benefit
- **Education session**—orientation or training class; continuing education
- **Workshop/roundtable**—discussion group of interested members or other participants that focuses on one or more current issues
- **Formal lecture**—knowledgeable speakers address topics; least effective method for imparting knowledge or accomplishing a goal but widely used
- **Panel discussion**—experts use different perspectives to address a common issue; encourages audience interaction
- **Hands-on session**—participants learn using new devices, applications or other technology
- **Simulations**—small group led by a trained facilitator who participates in a hypothetical exercise
- **Poster Sessions**—room with rows of display boards featuring written presentations; authors discuss these presentations

Conventions/Annual Meetings

- Usually are multi-day events
- Might include introductory breakfast, educational programs, lunch, business discussions and social events in the evening
- Feature “tracks” designed for a particular group of members
- Often include general sessions
- Committee meetings are held during event
- Entertainment usually is provided
- Venues include hotels, resorts, convention centers

Educational Programs/Seminars

- Can be face-to-face meetings
- Can be online learning programs such as webinars or webcasts
- May be one- or two-hour sessions, a half-day or a full-day event

Exposition/Trade Shows

- Features a display of goods and services offered by various vendors
- Food and beverages are usually provided

Ground Rules for Planning Effective Meetings

Be sure you understand the purpose of the meeting and the participants. As a general rule, the importance of the session, the number of participants and the expected length will determine how much time is needed to prepare for the meeting.

Strive for brevity and balance. The most effective meetings, as well as education sessions and conference workshops, last no longer than 90 minutes. A good facilitator keeps a meeting on track by striving for brevity and by encouraging participants to stay on topic and avoid digressing. If a meeting is scheduled to last longer than 90 minutes, then break the meeting into shorter segments.

The keys to a productive meeting are balance and control—not overt control by leaders based on authoritative direction, but behind-the-scenes control produced by developing sensible meeting objectives, constructing a logical agenda with assigned times, distributing background materials in advance and effectively briefing those in charge.

Some tips to help leaders control a meeting, yet maintain balance, include the following:

- Prepare meeting facilitators with the full facts and information so that they can handle potential developments and questions. In some cases, a “train-the-trainer” session may be helpful for a new volunteer leader.
- Whether a meeting lasts a few hours or a few days, break it into hour-long (or 90-minute, at most) segments. Sixty minutes is usually an adequate time to cover key topics and hold the audience’s attention before a stretch, coffee or fresh air break.
- Allot specific amounts of time to individual items on the agenda. Allow a longer period of time for controversial or complex subjects. New and unfamiliar items might require longer discussion periods, too.
- Schedule any especially interesting or profitable topics at the end of the day to keep participants interested.

To summarize, planning a meeting is a complex process that may involve many layers of decision-making and budgeting. But understanding how to accomplish meeting objectives regardless of format is essential for today’s AEs and other planners.

ESTABLISHING MEETING OBJECTIVES

The first step in planning a meeting is to determine whether a meeting is necessary to accomplish the tasks and objectives at hand. Generally, meetings are used to:

- Deliver information
- Find solutions to issues
- Train and instruct
- Make group decisions

Before planning a meeting, always ask if the same objectives can be accomplished more easily without a meeting at all. Perhaps an email, a team message or a series of phone calls could achieve the same objectives. For example, many types of information—from the latest market trends to a new service for members—can be distributed far more quickly and economically via email or team application than by holding a face-to-face meeting.

Once an AE, volunteer leader or association staff is satisfied that a meeting is necessary, then the planning process begins—including selecting the right format.

Regardless of format, meeting objectives should be written down and sent to everyone on the meeting planning team. Taking time to define group objectives can eliminate confusion and increase the clarity and quality of the final product. If more than one objective can be accomplished during the time available, list the objectives according to priority.

VIRTUAL, HYBRID OR FACE-TO-FACE MEETING

One of the first decisions for an association meeting planner is format: Should the event be held online, via conference call or in a face-to-face session? Or is a hybrid approach that includes both virtual and in-person attendance the best approach?

The choice of format generally depends on the meeting objectives, the number and nature of participants, their availability in terms of time, and potential expenses. For example:

- A hybrid session might be the choice for a committee meeting with five volunteer leaders in remote locations and two association staff in an office conference room.
- A webinar might be best for a member presentation on current market trends.
- A face-to-face format is ideal for an awards dinner or induction ceremony for new association leaders, because it can foster personal and professional relationships.

When deciding on which delivery method to use for a meeting, association staff should examine the effectiveness of each option when it comes to producing the necessary results. A cost-benefits analysis is recommended to make clear comparisons.

Some of the responsibilities and tasks associated with planning meetings apply to any type of format, such as:

- Establishing objectives and goals
- Preparing a budget
- Considering the appropriate format and establishing an agenda
- Selecting and engaging presenters
- Preparing presenters
- Managing the logistics (equipment, etc.)

- Sharing information with attendees
- Following up after the meeting to assess results

However, face-to-face meetings require more detailed logistics, more intensive coordination and usually more advance preparation, as discussed later in this chapter.

MEETING AT A DISTANCE

Video collaboration applications make it easy to organize and host a virtual session for participants in multiple locations. The potential benefits include:

- Ease of use, joining a meeting with one or two clicks
- Minimizing health and safety concerns
- Cost and time savings, such as no travel, catering or facility expenses
- Increased networking and collaboration among members who might not normally connect due to geographic distances
- Clear record keeping as sessions can be recorded, providing documentation for action items

However, the dramatic growth of virtual and hybrid meetings has created new issues for AEs to address, including:

- Reminding attendees about online etiquette, such as silencing cell phones, and appropriate attire
- Handling the “mute” and “unmute” functions to discourage or encourage attendee comments
- Being on time to start the meeting as host, and staying until the last attendee leaves
- Getting everyone to participate
- Adding a surprise or fun element to increase engagement and camaraderie
- Capturing real-time feedback

As noted in “Video Meeting Etiquette: 7 Tips to Ensure a Great Attendee Experience,” a 2019 Zoom blog:

“There’s just no substitute for good manners in all of our daily interactions, and they’re certainly appreciated more than ever in workplace meetings. There are some age-old guidelines that comprise good meeting etiquette—being on time, maintaining eye contact, paying attention—and applying those same principles to our video meetings can go a long way toward a productive business environment. It can also help elevate your personal reputation into ‘great meeting host’ territory.”

Webinars

Webinars are video sessions that work well for delivering information to members, sharing documents and delivering presentations. Examples include sessions on government affairs activities, legislative updates, strategic planning, member survey results and educational seminars. For this type of meeting, an agenda and presentation materials can be distributed to participants in advance via email.

Webcasts

Webcasts or live streams provide real-time connections to members using a service like Facebook Live or Real Audio’s RealPlayer® program, a free download at <https://www.real.com> without meeting in person. This approach can be used for general sessions, awards ceremonies and other high-profile public events. Webcasting can also boost an association’s conference marketing programs and provide an opportunity to generate revenue from sponsors and exhibitors.

Conference Calls

While virtual sessions have supplanted conference calls in many cases, it is important to remember that staff or members in their vehicles or working from remote locations may lack access to wi-fi or high-speed broadband connections. Therefore, conference calls remain an important option, particularly when there are a small number of participants and the meeting has a relatively brief agenda, which ideally is sent to participants in advance.

Training Participants

While most discussions of virtual meetings focus on technology platforms, an even more important aspect is educating and training volunteer leaders, staff and other participants. Therefore, a successful meeting planner will ask participants if they have any questions about these online technologies well in advance of a meeting, in order to provide the information and support.

SETTING A BUDGET

With virtual sessions or conference calls, the financial considerations are usually minimal. However, large-scale hybrid or in-person meetings typically require a thorough look at the financial side, including anticipated costs and potential revenue.

Following are the steps to take when budgeting for an in-person meeting:

- Identify the program need and the topic.
- Establish the amount of funds available for programming.
- Identify a speaker, if necessary.
- Learn how much the speaker charges for an appearance.
- Develop any contracts necessary for hiring the speaker.
- Anticipate the number of attendees based on expressed need and survey results.
- Locate a facility after researching and comparing features.
- Determine AV/production needs and costs.
- Decide whether food and/or beverages will be offered and whether attendees will pay out of pocket.
- Determine a registration fee to offset costs, if necessary.
- Determine how much printed materials or an app will cost.
- Determine program promotion costs.
- Determine whether outside staffing is required.
- Ensure that any Americans Disabilities Act (ADA) requirements are met.
- Determine whether any sponsorships are available to provide revenue that could help offset costs.
- Assess parking needs and availability.
- Consider cancellation insurance, if necessary.

Review the Budget and Financial Management chapter of *The Answer Book* for additional information about the budget planning process.

Many associations plan program budgets, but all of their programs are completely self-sufficient—that is, all program costs are paid for by members. Whether an association already has a program budget or must recoup all costs from members, the key to program planning is to fulfill the members’ needs and wants. Ultimately, any planned program must be requested and supported by members.

PREPARING THE AGENDA

Once the goals of a meeting have been determined and a budget has been established, it is time to begin planning the agenda. Having an agenda allows a chairperson or presiding officer to present a clearly defined set of objectives. It organizes and defines the background and relative importance of each topic to be covered. When used properly, an agenda helps meeting participants keep discussions and questions on track, leading to action and successful outcomes.

The best practice is to send an agenda to meeting leaders and participants well in advance. However, never finalize an agenda too soon in case there are last-minute additions. Consider an agenda to be a “work in progress” (up to a certain point in time—the established deadline or absolute cut-off date) based on the input of those involved in establishing its content.

Here is a sample agenda for a large-scale, half-day or full-day hybrid or in-person association meeting:

- Call to order
- Opening ceremonies (religious, patriotic, etc.— optional; example is “Pledge of Allegiance”)
- Roll call (if customary)
- Approve agenda; approve minutes
- Reports of officers, boards and standing committees
- Reports of special committees (if any)
- Unfinished business and general orders (if any)
- New business
- Announcements
- Program (if something special is being offered)
- Adjournment
- Next meeting date

Consent Agenda

At every board meeting, at least a few items come to the agenda that do not need any discussion or debate. These may be routine procedures or issues that have already received unanimous consent. A consent agenda (*Robert’s Rules of Order* calls it a consent calendar) allows the board to approve all these items together without discussion or individual motions. Depending upon the organization, this can free up anywhere from a few minutes to a half hour for more substantial discussion.

Typical consent agenda items are routine, procedural decisions, and decisions that are likely to be non-controversial. Examples include:

Approval of the Minutes

- Final approval of proposals or reports that the board has been dealing with for some time and all members are familiar with the implications
- Routine matters such as appointments to committees
- Staff appointments requiring board confirmation
- Reports provided for information only
- Correspondence requiring no action

Order of Business

Plan the order of business with the chair or presiding officer, and group similar or related subjects together on the agenda. This will ensure that the meeting moves swiftly from one related topic to another, rather than shifting among unrelated topics.

Time Allocations

Organize agenda items from most important to least important so that participants can focus on making priority decisions. If possible, assign times to each topic (for instance, 10 minutes for an update from the finance committee). Keep in mind, though, that during an all-day meeting, participants tend to remember the first and last items discussed, so it is wise to place the most important topics in these time slots for maximum effectiveness. A timed agenda also gives weight to certain topics and is a good tool for prioritizing the group's attention during the meeting. A timed agenda also gives the meeting chair a tool for putting a group back on track, should the meeting digress from the agenda.

Discussion Periods

Depending on the objectives of a meeting, the AE and the chair or presiding officer might decide to schedule time during a meeting for audience participation. Discussion periods built into an agenda can be valuable if properly planned and executed. Remember the element of time management, though. If too little time is allocated for a discussion period, participants might feel cheated; if too much time is allocated, the schedule will get off track, reducing the overall effectiveness of the meeting. The key to a successful discussion is a good discussion leader. An AE can be an invaluable aid to the chair or presiding officer when selecting individuals from a group with the leadership ability, poise and knowledge to lead a discussion.

Question-Answer Sessions

Discussion periods often lead to question-and-answer sessions. To facilitate a successful question-and-answer session, take the following actions:

- **Encourage all group members to contribute.** This prevents only a few members from monopolizing the discussion. Group conclusions are more valuable as the number of people involved in making decisions increases. People who are actively involved in decisions do not need to be "sold" on the idea, because they already "own" part of the idea. The discussion leader might wish to question silent group members, and encourage them to share their insights.

- **Allow for differences of opinion.** Such conflict is healthy if participants can discuss differences objectively to finally reach a considered agreement. A discussion leader can help by stating the differences clearly, recognizing the contributions of each side impartially, and attempting to identify how each side can consider strengths and weaknesses of the opposing position. By doing so, the discussion leader will help the group reach consensus more quickly and completely. The discussion leader must make certain that all sides of a discussion are fairly represented and might wish to exercise direction, should one side dominate the discussion. The discussion leader should take care to prevent argumentative exchanges.
- **Allow the group to digress.** It is up to the discussion leader to remind participants that they are straying from the subject and then bring them back to it.

Meeting Leader Preparation Checklist

Use the following points as a checklist to prepare leaders to make effective presentations:

- As far in advance as possible, inform the officers of any group about the meeting agenda contents.
- Well in advance, provide every participant with a copy of the completed program and the agenda.
- Be sure to brief those who will be called on to provide input during a session. This encourages them to devote serious thought to what they will say and will generate a feeling of personal involvement in the meeting's success.
- The day before the meeting, call those who are in the program to remind them of their roles and to establish a good comfort level with their intentions.
- Pay attention to every detail, no matter how small. Be sensitive to the needs of the meeting chair or presiding officer throughout the planning process.
- Provide all relevant reference documents such as pertinent manuals, meeting minutes, the latest edition of *Robert's Rules of Order*, if applicable, or anything else that should be available at the meeting, so that answers from a meeting chair will be based on fact and policy, not on opinion, recollection or judgment.

Chairperson's/Vice Chairperson's Talking Points

For a smoothly run meeting, it helps to develop a chairperson's talking points agenda to ensure that he or she is completely prepared to be an effective leader. Following are some tips for creating this agenda:

- Include clear, concise talking points under each agenda item to stress the important points of each issue and outline decisions to be made.
- If the chair and vice-chair preside over different portions of the meeting, indicate on the chair's and vice-chair's agenda the specific topics to be covered by each person.
- Include in an agenda packet any correspondence or background information leaders need to prepare for the meeting.
- Include a committee list or roster for reference.

Again, it is the association staff's responsibility to be ready and available at all times to assist the chair or presiding officer with any unforeseen situations that might arise.

DEVELOPING POWERFUL PRESENTATIONS

Well-crafted and professional presentations greatly increase the likelihood that attendees will get the message. In addition, a digital audio or video recording of the meeting can be posted on the association's website or made available to members or attendees, multiplying the long-term impact of the event.

Effective Audiovisual Aids

A few general rules for using audiovisual aids during a presentation:

- Keep it simple. Draw attention to the message, not to the presenter.
- Make sure everyone can see/hear the information—even from the back of the room. With any audiovisual aid, always consider physical room arrangements, such as size, ceiling height, lighting, acoustics and audience size.
- Audiovisuals should complement ideas, not overpower them. When planning a meeting and what aids will supplement it, note in the margin of the agenda where an aid might be useful. Determine the need for each audiovisual, then go back and develop it. Do not fit an agenda or meeting program to the audiovisuals.
- Make sure that the equipment for displaying audiovisual aids works properly. Always test equipment immediately prior to the meeting, with enough time to seek assistance if necessary.

- A good technique for referencing slide presentations and similar materials is to put them on a website for later review by meeting attendees. That way, attendees can concentrate on the presentation at hand without referring to distracting printed material or note-taking.

Handouts

Handout material can be prepared in advance and sent to each participant. Like all visual aids, keep these materials as simple as possible and make sure participants pay attention to the presenter, not the handout.

Developing PowerPoint Presentations

Here are some guidelines for preparing professional quality visuals, using the PowerPoint application:

- Keep presentation graphics as simple and clean as possible.
- Make sure that each slide has a consistent graphic format.
- Don't overdo the graphics.
- Use color sparingly.
- Ensure there is contrast between text and graphics.
- Emphasize one or two of the most important elements on each slide.
- Use a build series to reveal new material as it is presented.

Text

- Use as few words and lines as possible. Each visual should contain only one main point, one thought per line, no more than five words per line, and no more than five lines total per visual.
- Show key words and thoughts, not complete sentences or paragraphs. Be sure to use correct punctuation.
- Type should be readable and readily comprehensible.
- Use simple typefaces (such as Arial or Times Roman) in large sizes (such as from 24-point to 74-point type).
- The most important text should be placed at the top of the visual and should be in the brightest color.
- Use upper case and lower case lettering—not all upper case, because ALL UPPER CASE LETTERING is hard on the eye and is perceived as SHOUTING.
- Proofread all visuals to catch any errors.

For more information about how to write and develop visual materials, refer to the Communications chapter of *The Answer Book*.

Videos

Professionally produced videos can add interest and engagement to a presentation. In most cases, it's better to use a professional rather than show informal videos taken from a mobile device, despite the savings in cost from a do-it-yourself strategy.

Following are some tips and considerations for using videos during a meeting:

- Determine how many monitors are necessary for adequate viewing. A good estimate is one for every 50 to 75 audience members.
- Most hotels charge for monitor equipment rental.
- If equipment is obtained from an outside source, establish a clearly written understanding with the facility staff about delivery times, setup and billing procedures.

RUNNING A FORMAL MEETING

While not all meetings require formal parliamentary procedure, an AE should be familiar with the basics. If official association business is being conducted, it may be necessary to use a trained or experienced parliamentarian to ensure an orderly and democratic meeting. The word "parliamentarian" refers to a person who is educated about parliamentary procedure and can be consulted if necessary during the meeting.

Two of the most important aspects of parliamentary procedure are how a motion is handled and how meeting business is conducted. *Robert's Rules of Order* is the authoritative guide to parliamentary procedure. Every association should own at least one copy of this book. It is advisable for an association to provide copies of pertinent sections to meeting leaders and to educate them about how parliamentary procedure and its requirements work.

Handling a Main Motion

Obtain and assign the floor:

- A member rises when no one else has the floor and addresses the chair as "Mr./Madam President," "Mr./Madam Chair," or by other proper title.
- In a large assembly, the member gives name and identification.
- Member remains standing and awaits recognition by the chair.
- Chair recognizes the member by announcing his or her name or title or, in a small assembly, by simply nodding.

Motion is brought before assembly:

- Member makes the motion, "I move that (or "to") . . .", and resumes seat.
- Another member, without rising, seconds the motion with, "I second the motion" or "I second it" or just says, "Second."

Consideration of the motion:

- Members can debate the motion.
- Before speaking in debate, members take the floor as above.
- Maker of the motion has first right to the floor if he or she properly claims it.
- Address remarks to the chair.
- Debate must be continued to the merits of the motion.
- Debate can be closed only by order of the assembly (two-thirds of their vote) or by the chair if no one seeks the floor for further debate.

Chair puts the question to vote:

- Chair asks, "Are you ready for the question?" If no one rises to claim the floor, the chair proceeds to put forth the question. It is important that the chair always restate the motion, ensuring that the wording is fully understood by all before the vote is taken.
- Chair says, "The question is on the adoption of the motion that (or "to") . . . As many as are in favor, say 'Aye.'" (Pause for response.) "Those opposed, say 'No.'" (Pause for response.)

Chair announces the result of the vote:

- "The ayes have it, the motion is adopted, and . . . (indicating the effect of the vote or ordering its execution)." OR
- "The nos have it and the motion is defeated."

Meeting Minutes

Another aspect of parliamentary procedure is the need to take comprehensive minutes that reflect the actions that took place during the meeting. Minutes are an official record of the meeting, not a transcript of everything that was actually said. Here are some tips for writing meeting minutes:

- Include concise background information relative to final actions.
- If there was a guest speaker, note the speaker's name and topic discussed. One option for handling guest speaker information in the minutes is to attach an exact transcript of the speaker's remarks as an exhibit and avoid summarizing the speaker's remarks to avoid misinterpretation or confusion.

- Write each motion as it was stated by the chair and record the action taken for each motion.
- Attach as an exhibit a list of attendees' names, including members, invited guests and staff. Include members with both excused and unexcused absences.
- Handle previous minutes. One of the first paragraphs of a set of minutes typically addresses action taken on the minutes from the previous meeting. If there were any corrections to those minutes, note all corrections in the current minutes, as well.
- The body of a set of minutes should feature a separate paragraph for each subject matter.
- Use the topic headings from the meeting agenda as a format for writing the minutes.
- Toward the end of the minutes, include a heading, "Unfinished Business," under which open agenda items should be listed.
- Do not include gratuitous comments or material that should not be a matter of public record.

HIRING SPEAKERS FOR MEETINGS

A stimulating and knowledgeable speaker can add color, drama, and excitement to an association meeting, attract attendees and build engagement with members. Of course, the decision to hire a speaker—and then select the right person—depends on the nature of the meeting and its overall objectives.

There are many sources of speakers from within and outside the real estate profession, including:

- The National Association of REALTORS®
- The National Speakers' Association
- The American Society of Association Executives (ASAE)
- Other trade and professional associations
- Professional speakers' representatives and agencies
- College and university faculty resource lists of individuals with recognized expertise
- Local professional organizations
- REALTOR® association peers
- Other organizations in the community, including the local chamber of commerce

Just because someone is well known, has been elected to office or is a local authority figure does not guarantee that he or she can impress a specific audience or accomplish specific meeting objectives. To avoid any embarrassment, research a speaker's qualifications and experience first.

Here is a checklist that can help an association hire a successful and well-prepared speaker for an upcoming meeting.

Extend the Invitation

Once an association has decided on a speaker, invite that person far enough in advance to be reasonably sure of his or her availability. Explain to the speaker why he or she has been selected to address an association meeting—perhaps because of an outstanding reputation or high recommendations from members. Describe the advantages of accepting a speaking invitation from the association, such as audience interest, prestige, advancement, money or other gains. Provide plenty of details to give the potential speaker a clear picture of the association's wants, needs and anticipated outcomes.

Share Specifics

Whether extending an invitation in a letter, email or personal phone call, be sure to describe the association, the specific meeting and its importance. Include the following information:

- Date, time and location of presentation
- Meeting topics and objectives— if topic will be submitted for continuing education approval, obtain required documentation
- General composition of the audience by attendance, age and interests
- Background information about the sponsoring association
- How the term "REALTOR®" should be used along with its pronunciation
- Time allotted for the speech, including the question-and-answer period, if included
- Other speakers on the program and their topics and times
- Fees and expenses (stipulate clearly who pays for travel expenses, hotels, meals or expenses for the spouse; do not leave anything to later negotiations or implied in a phrase such as "usual and customary")
- Permission to record/reproduce/stream presentation
- Any special clothing requirements other than normal business wear
- Travel information, if needed, although outside speakers frequently make their own travel and hotel arrangements and may not require an escort to the meeting location or around town

Ask for References and Contacts

When discussing a meeting with a potential speaker, ask for references, presentation samples and recent presentations to similar groups with their contact information. Then, ask each reference contact about the format of the speaker's previous presentation, the size and make-up of the audience, how well the speaker was received and whether the contact would engage the speaker again.

Make Program Arrangements

After a speaker has accepted an association's invitation to address an audience, staff should request additional information for planning the program and writing the speaker's biography. Such information might include the speaker's:

- Full name and title
- Educational background/degrees and professional designations
- Business experience
- Title and length of presentation
- Audiovisual requirements for method of delivery such as PowerPoint presentation on an LCD panel, etc.

Items to request include:

- A high-resolution photograph for print purposes
- Biographical material
- Copy of the speech or a summary for advance publicity

Ask Questions

In advance of the meeting, ask specific questions in order to facilitate travel, lodging and presentation requirements, such as:

- Will the speaker require any special equipment for audiovisual materials? (Find out whether such equipment is suitable for the meeting room.)
- Will a spouse or special guest require an invitation, too?
- Is a hotel reservation necessary?
- What are the speaker's travel arrangements? Arrival and departure dates?

Obtain Permission to Record

Written permission to record a presentation is necessary, regardless of whether a speaker is paid to present. If a speaker will not sign a release for recording, the presentation cannot legally be recorded. A recording release should specify how the recording will be used (for archival purposes, duplication, sales, Internet access, etc. and whether the speaker will receive any compensation. If there is a possibility that people in the audience want to record the presentation, be sure to ask the speaker for permission. Seeing one's presentation on YouTube or another public information site can be a disservice to a speaker. Furthermore, some speakers arrange for their own recordings to be made for profit—any unauthorized recording cuts into their income and might raise their fees. If you are streaming or providing access to remote participants, include it in agreement. If a speaker has no objections, obtain a signed release form before the meeting. Always be sure to announce at the beginning of a meeting whether the speaker will be recorded, and make sure that meeting participants understand the agreed-upon protocol.

Confirm Arrangements Prior to the Meeting

After making preliminary arrangements to engage a speaker, follow up with a letter or a written contract that includes the date, time, place, facilities, logistics and agreed-upon fee. Schedule a brief phone call or Zoom meeting between the speaker and your chair to discuss the program in advance.

On the Day of the Meeting

- Treat the speaker as an honored guest, with courtesy, hospitality and warmth.
- Make sure that someone is on hand at the meeting site to greet the speaker and check room logistics.
- Make sure that the member who will introduce the speaker is there early enough to meet the speaker to go over the introduction.
- The AE should be on hand early to brief the speaker about other guests on the program, guests at his or her table (if a meal is served), time limits and last-minute information such as arrangements for a microphone or glass of water on the podium.
- If a question-and-answer period is scheduled, the program chair can avoid awkward pauses by asking the first question, then giving the audience time to think about their questions. Tell the speaker about the first question so that he or she can prepare ahead of time to answer it.

- After the speech, do not ignore the speaker. Ensure that the speaker is thanked and gracefully accompanied from the meeting.
- If the presentation lasts a full day, it is courteous and customary to offer to buy lunch for the speaker. Although some speakers prefer to use a lunch break to regroup and refresh, be sure to extend the invitation as a gracious gesture on behalf of the association.
- After the meeting, even if the speaker already has been paid, be sure to follow up with a professional note of appreciation. If appropriate, words of endorsement can also be posted on the speaker's website or blog.

ARRANGING THE MEETING

There are many locations for hybrid and face-to-face meetings, ranging from association offices to local hotels. In some cases, association members may offer their facilities or an affiliated professional, such as an area builder or developer, may offer to host a meeting to showcase a property.

Other potential locations include conference centers, when the objective is to provide a retreat-style setting; resort settings, which encourage social interaction and offer recreational activities; and airport hotels, for short meetings with participants from different parts of the state or country.

When arranging a face-to-face meeting, other elements to evaluate include health and safety precautions, the level of support needed from the host facility and its staff, requirements for outside vendors, and the level of association staffing needed for a smoothly run meeting.

Association meeting planners should also prepare a crisis cancellation plan, and the steps to be taken if the event needs to be canceled or postponed to a later day. This is particularly important when preparing contracts with facilities, speakers and equipment and service providers for in-person and hybrid meetings.

The following information can be used as a general meeting logistics checklist to help track the planning steps necessary for a large-scale face-to-face event.

Pre-Meeting Activities

- Formalize a site selection/review process.
- Call the hotel or convention director to arrange the meeting or event and provide your specific requirements.
- Book space as early as possible. Major hotels advise booking at least one year in advance for larger meetings and, in some cases, two years' notice or as much as five years' notice is necessary. Generally, the larger the event, the more advance notice for booking that is required.
- After officially booking space, review the sales contract or detailed letter of agreement that outlines the meeting space contracted, meal functions (including gratuities), taxes, accommodations and all other charges.
- Determine whether the facility charges a rental fee for the meeting space provided. Some hotels charge for the space and all room setups; such costs usually are negotiable.
- Understand the facility's credit policies and billing arrangements.
- Learn about the hotel's check-in/check-out procedures.
- If the meeting or event lasts several days or involves a number of facility staff members, ask the convention manager to schedule a "pre-convention" meeting to tie up any loose ends and reach full agreement about logistics and expectations.
- Review the arrangements for the event or meeting and emphasize that the meeting planner is the person in charge. Introduce the meeting planner to hotel or convention staff and describe their responsibilities.
- At least three months before a meeting, begin to finalize menus and discuss specifics with the convention director.

Plan Seating and Table Arrangements

The size of an in-person meeting will determine the amount of function space and room size necessary.

Different room layouts allow for varying numbers of participants. When planning the seating layout, also consider the purpose of the meeting. Some meetings might call for little or no audience participation, while others may call for small breakout groups. The following seating arrangements help facilitate different types of meetings.

Typical Seating Arrangements

- **U-shaped or Hollow-square.** Attendees sit facing the center from the outside of the tables.
- **Classroom style.** Chairs and tables are set up in a standard fashion, like a classroom, best suited to a formal presentation, if note-taking or written materials are used or for a long presentation.
- **Conference style.** With four, 6-foot tables arranged together, this style provides a freer atmosphere for idea exchanges and discussions; appropriately used for small groups. Board of directors meetings often use this traditional conference table arrangement with attendees sitting around the square, oblong table with the meeting leader at the head of the table.
- **Theater or auditorium style.** This involves setting up seats to face a stage and is typically used for general organizational meetings with large audiences.
- **Rounds.** Standard round tables are used often for food functions and should not be used for meeting or conference sessions, because some participants would be seated with their backs to the speaker or head table, suitable for roundtable discussions and small work groups.

Photographer and Press Table

A meeting of notable size or importance could draw press coverage. Include a special press table when making arrangements with the facility management. Ask management if the facility has a policy about photographers or press coverage.

Speaker's Platform

When making arrangements for the speaker's platform, keep the following tips in mind:

- Make sure the speaker's platform is in a prominent location.
- Make sure that the light and microphone on the platform work.
- Equip the platform with any presentation aids, such as a laser pointer, or items requested by the speaker.
- Place an extra agenda on the lectern.
- Ask the speaker what kind of microphone is preferred.
- Stand at the speaker's platform to test it. Determine whether anything seen from that vantage point might distract the speaker during the main event.
- In advance of the meeting, arrange the time that food service will begin, end or interrupt the presentation.
- Be sure to observe American flag protocol.

Dance Floors

Most large hotels have portable dance floors that can be installed in any meeting room. A dance floor usually comes in 24-inch sections and can be configured in any way, but the dance floor should be proportionate to the stage and the room dimensions.

Stages

Some function rooms have built-in permanent stages, but today, most hotels use portable, folding risers to create a stage, a speaker's dais or an elevated head table.

Following are some facts to consider when planning a stage:

- Staging usually comes in 6-by-8-foot sections and can be 18 inches, 24 inches or 36 inches high.
- When specifying the size of a stage, consider the overall dimensions and proportions and ceiling height of the room. (A 36-inch-high stage in a room with 10-foot ceilings would leave very little head room.)
- Allow six to 15 feet between the stage and the first row of theater or schoolroom seating. At a sit-down meal function, allow for more than 10 feet between the first row of tables and the stage.

Arrange for Meeting Room Signs, Flags, Banners and Posters

Regulations about the use of signs, posters and other special notices differ from meeting facility to meeting facility. Learn about any regulations that might apply to association-planned functions.

When making and placing signs, flags, banners and posters for a meeting, keep the following tips in mind:

- Hire a vendor to make signs at a price directly controlled by the association, rather than the facility.
- Tape and tacks could damage facility property, so place all signs on easels in front of meeting room doors instead.
- Confirm with facility the costs for hanging banners and/or signs.

USING PRESENTATION EQUIPMENT

From PowerPoint graphics to videos, flip charts and handouts, effective presentations can help associations drive home the most important messages. Therefore, a vital part of any face-to-face or hybrid meeting is identifying presenters' audio and visual equipment needs and making sure everything is ready in advance including live streaming (optional) or video recording for future access.

For a successful program, answer the following basic questions about staffing and equipment arrangements:

- What type of equipment is needed, and who can supply it?
- If buying or renting equipment, what will it cost?
- Will specialized personnel be required to operate it?
- Is there a charge from the meeting facility for supplying equipment?
- Will any adjustments be necessary to accommodate certain equipment (such as a room rearrangement)?
- What about security measures?
- The facility meeting director will be able to share a list of facility equipment available for a meeting. Whether more equipment is required depends on the purpose and expectations for the meeting. Equipment that belongs to a facility often may be rented.

If equipment is rented from an outside vendor by the meeting facility, be sure that there is a clearly written agreement about how charges will be handled. Renting equipment through a facility that then rents it through an additional vendor (third-party rental) can become quite costly, so explore all options before making a decision about equipment.

Microphones

Even small meetings often use microphones to amplify speakers' voices, which can be lost in rooms with high ceilings, thick walls, heavy floor coverings or many windows. Also, some speakers' voices do not project well. If more than 50 people will attend a meeting or if the room setup will be spread out, plan to use microphones. Also, if you intend to record the session for later use, microphones are virtually mandatory.

Types of microphones most commonly used are wired and wireless mics. Wired mics use a cable that connects between the microphone and the sound system. These mics are reliable and low in cost; however, a speaker who wishes to move about the room will find them confining.

A wireless microphone system is one that consists of a microphone/transmitter and a receiver that is connected to a sound system. Wireless systems usually contain a clip-on mic of some kind, and utilize a battery for power. (Make sure the battery is fully charged before your presentation begins. The microphone will have an on-off switch, which the speaker should take care to locate, so that the mic can be switched off for private conversations.

Laptops/Tablets

If any of the speakers intend to use PowerPoint presentations, a laptop or tablet will be necessary. There are two options: bringing in equipment from the association office or using the facility's equipment. Most laptops are well equipped to accept a variety of input devices provided by the speakers (flash/thumb drives). However, it is essential to be sure that a reliable connection can be established with the facility's projection equipment for display to the audience. One incorrect or missing cable can ruin a long-planned presentation with negative results for the entire meeting.

Projection Screens

Make sure that adequate screen space is available in the facility. If you must rent a screen, make sure it is compatible with the use you are planning and the type of projection equipment that will be used.

Pre-Meeting Equipment Check

Keep the following points in mind when making a final room check before a meeting that features a presentation:

- Before the session, run an audio or visual presentation in the actual meeting room to ensure that it remains relevant to the meeting objectives, that it works with the equipment provided and that it will work in the space provided.
- Test the equipment to be sure everything works properly.
- Make sure that the distance between the projector and the screen is proper for the size of the group and for the type and shape of the viewing room.
- Place the screen or monitor where it can be seen by all participants. More than one monitor might be necessary for proper viewing—one for every 50 to 75 audience members, as mentioned earlier.
- Check seating arrangements to be sure that all chairs are placed to provide unimpeded viewing. Maintain at least six to 10 feet between the screen and the first row of attendees.
- Be sure that all electrical outlets can be used with the lights turned off. Some outlets are directly connected to light switch power.

Room Lighting

Check the lighting to make sure that it does not detract from any visual presentation. Be sure the room can be darkened if necessary, and locate the light dimmer switches, as dim lighting is ideal for note-taking and reading.

Temperature

A meeting room should have a comfortable temperature level to keep the audience alert during a presentation. You should also make sure a meeting room is adequately ventilated.

MAKING FOOD AND BEVERAGE ARRANGEMENTS

Meal functions are an important part of the overall meeting experience.

Responsibilities

In general, selecting the food and beverages is the meeting organizer's responsibility, while customer service is the facility's responsibility. A convention director will discuss menus according to price and suitability. Here are some considerations to keep in mind when making food and beverage decisions for a meeting:

- Shop and compare. Ask the convention director to provide comparable buffet and plated meal prices. Make it a point to understand what is included in each price, especially gratuity and tax.
- Ask the meeting presenters about their meal preferences. A guest speaker might prefer not to eat prior to appearing, while others might prefer a small snack or salad.
- Purchase by quantity to economize. When purchasing food and beverages for a large group, it might be more economical to purchase by quantity rather than per person. When purchasing by quantity, first become familiar with the group's normal consumption patterns. If a group's consumption patterns are unknown, ask the catering manager of a recently used facility to provide an estimate by quantity.
- Check on the availability of special meals (vegetarian, diet, gluten-free, kosher, etc.). Ask the convention director if meatless or special diet plates can be offered. If so, indicate which members requested special meals, and make necessary arrangements with the facility to have them served.

- Consider buffet or plated service. For breakfast functions, consider an attractive buffet, which allows for different breakfast preferences and staggered eating patterns. If a more complete menu is desired or if a guest speaker is planned, a sit-down, plated breakfast is preferable. A lunch could be served buffet-style or served on plates, depending on the budget and the time allocated. Plated luncheons are served more quickly than self-serve buffets, and buffet meals can cost more than sit-down, plated meals, because preparation, setup and over-production of food are paid for.

Meal Function Guarantees

Following are some facts about and considerations for making meal function guarantees:

- **Timing.** A meeting planner is usually required to give a facility a meal function guarantee from 48 to 72 hours prior to a function.
- **Overset percentages.** A meeting facility typically charges according to a guarantee and usually prepares from 3 percent to 5 percent above a guaranteed figure. Most hotels allow an increase in the guarantee but not a decrease.
- **No-shows.** If a meal function is included in the registration cost, be prepared to serve registrants. However, a certain number of no-shows should be expected for any large meeting.
- **IRS regulations and meal prices.** Check with the association's accountant regarding IRS regulations related to meal prices included in registration fees. The association might be required to show a price for the meal separate from other meeting charges.
- **Reservations.** If a function is large and members are charged for the event, consider taking reservations only, with money paid up front and tickets issued. Sometimes this discourages no-shows and people showing up at the door without reservations.

Meal Tickets

When using meal tickets for a function, discuss with the catering director the arrangements for collecting tickets. Put a backup plan in place for handling guests without meal tickets, VIPs and head table guests. Have a supply of extra tickets on hand. If someone has special seating needs, advise the facility and mark his or her name on the reservation list, or make a special note on a place card.

A simpler approach might be to include a meal symbol (such as a knife and fork) on attendees' printed badges to identify eligible participants and screen out any "freeloaders."

Cocktail-Hour Arrangements and Bar Setup

For cocktail parties, choose a room separate from the dining area when possible. It is more comfortable and easier to break up a gathering when guests must move to another room for the meal function. Avoid providing too many chairs and tables at a cocktail party. Make sure the room is large enough to permit circulation.

When planning a bar setup where cocktails will be served, follow these tips:

- **Local alcoholic beverage laws.** These laws can affect exactly when (particular days and particular hours) beverages can be served. Confer with the facility where a function has been planned about local rules, regulations, licenses, policies and practices.
- **Bar quantity.** Make sure a facility can add more bars if necessary.
- **Corkage fees.** If liquor is not a service of a facility, it might charge a “corkage fee,” which is a surcharge on liquor brought into a facility. This fee will cover any cost factors related to bringing in liquor. Some facilities do not permit liquor to be brought on to the premises under any circumstances. If liquor is allowed, check with state officials about regulations regarding unbroken seals on bottles.
- **Liquor charges.** For large functions such as cocktail parties or hospitality suites, there are three principal services upon which liquor charges are based: by the bottle, by the drink or by the person.
- **Brands of liquor.** Many facilities offer two categories of liquor prices based on: (1) brand name, house or standard brands and (2) “call” or premium brands. The selection of brands varies from facility to facility, so be sure to ask for the list of brand names. A meeting planner might specify that standard brands of some liquors and premium brands of other liquors be served.
- **Service charges.** Cocktail service prices at some facilities include waiters, bartenders and service. At other facilities, such prices cover only the cost of liquor.
- **The pour.** If liquor is purchased by the bottle, the number of servings per bottle is based on the size of the pour. A standard pour is 1 ½ ounces—the size of a standard jigger. To control the amount of liquor dispensed and the amount consumed by guests, insist that bartenders use a standard jigger or dispenser rather than a “free pour.” In general, there are 20 drinks per standard 26-ounce fifth of liquor. When paying by the drink, only the drinks consumed by the guests count toward the total.
- **Budget ahead.** Facilities usually charge a fixed price for any drink, then bill for payment later. In advance of the function, decide on the pour size and liquor brands for each drink. When budgeting for cocktail service, roughly plan on 2 ½ drinks per person for a two-hour cocktail service. Inquire about hourly bartender rates, and obtain all prices in writing.
- **Consider going lighter.** With increased health-consciousness, many people have switched from consuming liquor to wine. To please cocktail party-goers and for a wider variety, offer beer, red and white wine, soft drinks, water, mineral water, and nonalcoholic beers, wines and cocktails.
- **Cash bar.** A cash bar requires ample space and cashiers for making change.
- **Wine.** For cocktail receptions, wines usually can be purchased by the glass or by the bottle. Dinner wines typically are purchased by the bottle. When purchasing wine by the bottle, estimate from six to eight glasses per bottle or carafe. Specify the size of the glass—usually six ounces. When selecting wines, be sure to ask about a facility’s house wine or house label. Because of volume buying, a very good wine might be available at a reasonable price.
- **Champagne.** Champagne turns any occasion into a celebration, but it can be very expensive. The term “champagne” refers to wines from the Champagne region in France or to champagne produced using traditional methods. The same celebratory effect of champagne can be created at much lower cost by serving sparkling wines or “cuvee.”
- **Hors d’oeuvres.** Hors d’oeuvres or snacks also should be considered for any type of bar setup or hospitality arrangement. Hors d’oeuvres are finger foods such as olives, radishes, mini quiches, stuffed mushrooms or canapés that easily can be served with drinks. Pretzels, potato chips and other nibbles, commonly known as “dry snacks,” usually are sold by the can or by the pound. Estimate from two to four pieces of hors d’oeuvres per person, about four to six ounces per person for dry snacks such as chips or pretzels, and less per person for nuts or peanuts.

Billing and Gratuities

When a meeting is planned to be held at a particular facility, that facility sets up a master account for the function to include charges for meeting rooms, meals, flowers, photography and audiovisual equipment. If other authorized expenses are added during the course of the meeting, the meeting organizer must prepare a written list of them and keep that list up to date until the meeting ends. Notify the facility about who is authorized to sign for charges.

Gratuities vary from facility to facility. A gratuity amount depends on the type of facility, the type of services rendered, and the city and state where that meeting takes place. Sometimes gratuities are automatically added to a bill, while other times the purchaser adds a gratuity. Some states charge a sales tax on gratuities and on food and liquor. For any bill, request that it be thoroughly itemized to include the number of meals, drinks and all other services.

WORKING WITH FACILITIES STAFF

For many meetings, the association meeting organizer will work closely with staff from the facility to plan the event. The key to a successful working relationship is clear, frequent communication and respect for the facility's rules and procedures. Strive to make communications timely, concise, and organized. The better organized the meeting planner, the easier it is for facility staff to serve the function and the association well.

- **General manager.** A general manager is responsible for overseeing all aspects of a facility's operation. Even though the general manager might not be involved in day-to-day details, he or she ultimately is responsible for the facility's operation and, therefore, is a good contact.
- **Sales manager.** Most hotels, convention centers, banquet halls and other meeting facilities have a sales manager. The sales manager, or representative, usually is a meeting planner's initial facility contact. He or she can make arrangements for a meeting planner to inspect the facilities, check the availability of accommodations, reserve space and negotiate contracts. Once space for a meeting is confirmed, the sales manager usually turns the arrangements over to a convention director or catering manager for their completion. A meeting planner always should maintain friendly contact with the sales manager throughout the planning and actual meeting, because if problems arise, the sales manager often is the best troubleshooter.
- **Catering manager.** A catering manager is responsible for food and beverage arrangements and the room setup for food functions. If a meeting is centered on a food function such as an installation banquet, the catering manager also might coordinate the lighting, sound and audiovisual equipment setups. Although a catering manager's title might be different in various locations, this is the person to see about food and beverage requirements.
- **Banquet captain.** A banquet captain is responsible for service during a food function. He or she supervises the wait staff. A meeting planner should inform the banquet captain when food service will begin, end and be interrupted. Give the banquet captain a copy of the agenda so that service is completely coordinated with the program. On the day of the event, one or two hours before it begins, the meeting planner should introduce himself or herself to the banquet captain to ensure that the banquet captain knows who is in charge of the function and who will authorize the bills. Review any meal arrangements for VIPs such as special meals, etc., with the banquet captain. If tickets are to be collected for the event, provide the banquet captain with a sample ticket and instruct him or her about handling guests without tickets. Provide the banquet captain with tickets for the head and VIP tables before the event, or specify that no tickets are required for those tables.
- **Convention manager.** A meeting planner usually works with the convention manager to make the logistical arrangements of a meeting. A convention manager knows the facility's physical capabilities—what it can and cannot provide. The convention manager also can provide a floor plan of the function space and a detailed summary of the types and sizes of possible meeting setups. This person is responsible for meeting room setups and typically will coordinate audiovisual equipment for an event.
- **Audiovisual/IT specialist.** An audiovisual or IT specialist will play a key role in providing the equipment needed for presentations and recording. Let this technical guru provide advice and assistance with the best AV solutions for your meeting. In turn, the meeting planner should explain the exact nature of the expected presentations and desired goal for the recordings—and try to avoid last-minute changes.

- **Engineer.** A building engineer is responsible for the mechanical operations of a facility such as heating, air conditioning, electricity and lighting. If an event features entertainment, the meeting planner should review all electrical needs with the facility engineer. Music groups often require additional electric capacity for their instruments, microphones, amplifiers and lights. Some facilities levy a charge for augmenting the electric capacity. Always ask if there is a charge, and request an estimate, because electric power costs can run surprisingly high. Learn in advance how to contact the facility engineer at any time, because problems with lights or air conditioning can occur during any function.
- **Concierge.** A hotel concierge provides a variety of guest services, such as arranging dining reservations, theater tickets, sightseeing tours, airline reservations and limousine service. Some hotels also offer concierge-level guest rooms that offer additional amenities and services.
- **Housekeeping.** A hotel's housekeeping staff is responsible for cleaning the facility. Large hotels often hire an executive housekeeper to supervise housekeeping staff. An executive housekeeper can be very helpful when arranging for VIPs to receive extra attention with their guest accommodations.
- **Front Desk Manager.** A hotel front desk manager is responsible for guest room check-in and check-out. Always advise the front desk manager of any special needs, such as accommodations for guests with disabilities, and provide a list of individuals who are VIPs.
- **House Staff.** At hotels and convention centers, meeting rooms and banquets are set up by a crew of hard-working employees or "house staff." Members of the house staff usually work in a team, supervised by a floor manager. Such staff often receive instructions from the convention manager.
- **Bell Captain.** A bell captain is responsible for moving luggage in a hotel and for delivering items such as flowers, dry-cleaned clothes and other amenities. The bell captain can expedite a variety of services and might even be in charge of parking arrangements, too.
- **Security.** A facility's security staff is responsible for the safety of the physical facility and its guests. At hotels, security staff usually wears plain clothes during the day and uniforms during the evening. Advise security staff immediately when there is any type of emergency such as medical, fire, theft, unruliness or "gate-crashing." Security staff is trained to handle and control crowds and can coordinate police, fire department and paramedic services. They might also be trained in cardiopulmonary resuscitation (CPR).

If a facility does not provide security staff, examine the needs of the meeting and employ temporary security staff for the event. Most temporary agencies charge by the hour and can provide a wide spectrum of services from doorkeepers to armed guards. A facility's policy concerning security might be quite strict, so be certain to discuss dos and don'ts with the individual in charge of security. Inform attendees about security regulations that might affect them. It is essential for there to be a clear understanding about who is responsible for security. Security staff is also well-versed in local fire regulations that could affect the setup and flow of an event.

Be Prepared for Emergencies

It's a good idea to prepare an emergency plan in advance, along with a list of important emergency contacts and phone numbers. Include the name of a doctor, either available on the premises or on-call for medical emergencies at the facility. Also include the phone/text number of the nearest paramedic team. Ask the facility for this information, and learn about the facility's standing medical emergency procedures. Many facilities have these procedures in place.

DRAWING UP MEETING CONTRACTS

One of the most important elements in the success of a large-scale meeting is preparing appropriate contracts. When negotiating, reviewing and entering into a contract with a hotel, convention center, speaker/entertainer or musical licensing entity, consider and allow for the basic business and legal issues presented in this section.

Hotel Contracts

Guest Rooms/Function Space

- While negotiating the contract, secure a "first option hold" for the function space and any room block. Also, always verify function room capacities because printed literature often exaggerates the numbers or doesn't take into account a stage and AV equipment, for instance. Be realistic and accurate in estimating the room block to avoid attrition penalties for low pickup.
- Before contacting the hotel, research the published rates, and be sure to insist on a meaningful discount based on volume. Remember that the larger the group relative to the size of the hotel, the greater the discount should be per room on the rate currently offered to the general public. Discounts in excess of 30 percent are not uncommon for larger groups.

- If the meeting will take place more than one year from the date of contract, do not confirm the rate. Rather, establish two rate clauses—(1) a base rate, “not-to-exceed number based on what the convention rate would be in today’s dollars (the “base rate”) plus a reasonable (3 to 5 percent) increase per year for inflation and (2) a specific discount percentage off the weighted average of the lowest published rates for the month of the meeting. The group should determine which discount to use. The second clause ensures that such discount remains in effect even if inflation does not materialize as expected, per the multiplier.
- Be sure everything discussed regarding rooms is covered in the in the contract (specific floors or views, multiple-occupancy rates, bed types, in-room amenities, etc.) should be covered.
- Negotiate compensation rooms or “comps” carefully based on what will be most useful for the group. One comp room per 50 rooms is fairly standard, and one room per 40 rooms is not unusual. If a group will use most of the hotel’s inventory, then one or two additional complimentary presidential or executive suites could probably be expected. Ultimately, virtually anything can be negotiated, but if negotiations get beyond the “standard,” then it might be paid for elsewhere such as in an increased room rate. Some hotels have a formula for determining this threshold.
- In the contract, specify actual function room names with an attached capacity chart and layout so that the exact space being purchased is clear. Also specify that the association has final right of assignment with respect to any function space so the hotel cannot move the group to a smaller room. Unless the meeting is small, it is not recommended to include an agenda in a contract because it could invite food and beverage minimum requirements from the hotel and because a hotel’s ability to assign space is based on “need.” Is it better to lay out the association’s individual program, then just specify in the contract the necessary dates, times and specific rooms. This gives an association more flexibility for larger, longer-term meetings and programs.
- When negotiating at the same hotel for guest rooms and function space, the hotel typically “forgives” the cost for the function spaces. This is especially true when food and beverage service is included in the function.
- Each state has laws in place regarding the sale of liquor and the potential liability of the host if damage or injury results from such sale. Consult local legal counsel prior to signing an agreement for a function during which liquor may be sold.
- If such an option is available, under the same terms and conditions, try to negotiate the association’s ability to add rooms and space to a contract both before and after the reservation cut-off date.
- The standard cut-off date for reservations is four weeks out, but with a good history to back the association up, sometimes two weeks can be negotiated, or even two weeks with a three-week review period. Individual reservations typically can be cancelled, without penalty, until 48 hours prior to arrival, unless the facility involved is a remote resort property, in which case seven days prior is the common cancellation time. In any event, to maximize room usage and retain the group rate after the cutoff date, attempt to negotiate the ability to cancel and replace names on the reservation roster all the way up until the day of the meeting.
- A contract should specify what happens if the hotel relocates guests due to the previous guests’ failure to depart, oversold situation, or any other reason rendering the room unavailable on any or all of the dates specified. Standard compensation is one night’s room and tax plus transportation to/from the hotel, but every night of the reservation not honored should be compensated by the hotel. Hotel should also notify an authorized association representative with the names of the guests who will be relocated, along with the name of the alternate hotel.
- Attrition fees (otherwise known as damages for not using the entire room block) have become common in hotel contracts. Attrition is the hotel’s guarantee of the group’s performance. If the number of rooms that will be reserved is uncertain, you may want to use an attrition clause strategically to limit your liability. While a hotel might request a guarantee of 90 or 95 percent of pickup per night, 75-80 percent of the total block typically can be negotiated. The contract may include a resale clause, giving the hotel the right to resell other rooms first. However, limit the resale of the hotel’s other rooms to the group maximum, not the total inventory.
- If there is an attrition clause, be sure you receive a group credit for early arrivals and late departures. Also, be sure that the contract states the group is not charged if the hotel sells its maximum group commitment or sells out all of the hotel rooms.

- In a contract with an attrition clause, ensure the right to a joint audit of the hotel's rooms and ensure that the group receives credit for any and all of its attendees staying in the hotel. Also be sure to receive credit for any walks the hotel commits or any room nights for which the hotel collected a late cancellation, no-show or early departure fee equal to one night's room and tax. To document proper history, it is recommended to conduct an audit regardless of whether an attrition clause has been included in the contract.
 - When guaranteeing a certain percentage of the room block, the hotel should not charge damages for food and beverage attrition or room rental. The largest portion of a hotel's profits is from guest rooms. If the association is contracted to pay for those rooms even if unoccupied (and the hotel does not have to incur any costs to gain the revenue), that more than covers any losses from other, miscellaneous profit centers. It is possible to negotiate an attrition clause out of a contract. Following are some points supporting that choice.
 - Performance is a two-way street and, in fact, a hotel's performance is much more extensive and complex than that of the group. However, there is no pre-stated, liquidated damage clause in the contract if the hotel fails to hold up its end of the bargain. As a negotiating tactic in response to a request for an attrition clause, ask for liquidated damages for hot meals served cold, a wait of more than five minutes on check-ins, meetings not being set on time, sub-standard housekeeping and other areas of hotel performance. Since the hotel expects the association to rely on the hotel's history and reputation for performance, then likewise it is reasonable for a hotel to rely on the group's history and performance reputation. Just because one side's performance is more easily translated into dollars does not necessarily mean that it is the only factor that counts.
 - Lack of a pre-stated attrition clause forces a hotel to become a group's partner in the effort to fill the rooms. For example, if the rate is to be determined at some future time and not at the time of contract, the hotel is forced to be competitive and reasonable when determining the rate. This is especially true for groups in which attendees pay their own rooms and taxes.
 - Even without an attrition clause, a contract carries the expectation of reasonable performance on both sides. In other words, an association can argue the hotel is not precluded from recovering damages if pickup is low. However, conflicting and ever-increasing case law with respect to this issue does exist, so check with legal counsel about the applicable laws.
 - If the meeting is new, and the association genuinely is not certain how guest pickup will materialize, it might be better to negotiate a low (80 percent or less) performance guarantee to limit the liability. The best scenario is a statement included in the contract that the group has no liability for any unused room nights. This might be difficult to achieve but is not impossible.
- Many hotels now charge for everything from water service to tablecloths to air conditioning. Therefore, it is important to have those charges itemized in advance. You may also be able to negotiate a "package deal for the services you need for the meeting. If a longer-term contract is being negotiated, specify that all standard equipment will be included with the meeting space. Do not forget lighting, temperature control, lecterns, sign easels, tables, chairs, pads/pens, water service, speaker platforms, etc. For larger rooms, the standard expectation is at least one complimentary microphone per room if provided by the in-house audiovisual company.
- Also, more hotels are hiring exclusive vendors in order to take advantage of payments from their preferred vendor relationships. Only food and beverage inclusion is mandatory (for liability reasons), and audio also is a normal request. It is best to limit exclusive vendor contracts to those two services, then establish the association's right to use the non-hotel vendors of its choice for all other services. As an alternative, state in the contract that in-house vendors will be used only if they are comparable to outside vendors in price and quality. This gives the association the right to bid these services out. It is becoming a trend for large convention hotels to require that outside production labor be contracted through the hotel, and a markup is added to these costs, so it is wise to establish in a contract the right to directly hire the association's own labor.
- If the meeting is more than two years away, include the current price lists of all exclusive providers in the contract, along with a statement that states prices can't increase more than 3 percent per year non-compounded. Also, on longer-term agreements, list everything that is currently provided by the facility at no charge in the meeting rooms and guest rooms, and state that it shall remain so even if later outsourced to an exclusive provider.
- Be sure to negotiate a discount for audiovisual needs. If an audiovisual bill is expected to be over \$10,000, a hotel often will waive or cap its percentage from the audiovisual company used. This allows the hotel to further discount the audiovisual bill. On large accounts, a discount of 75 percent may be possible.

Catering discounts also are common, unless the facility is a premium hotel or the event is held during a very high-demand period.

There are several points to consider in regard to cancellation fees. First, the amount of fees included in a cancellation clause should incorporate the displacement of revenue from other groups and the likelihood that the hotel will be able to resell at least some of the rooms and space. Such a clause typically is referred to as “liquidated damages,” which means that payment is made at the time of cancellation and the hotel has no duty to mitigate its losses and no duty to return any recovered funds to the group. This is acceptable, as long as the damages reflect only a portion of the lost profits. Hotels often attempt to recoup 100 percent of their lost profits from cancellations, which is consistent with the compensatory damages clauses, not liquidated damages clauses. In compensatory damages, the hotel must demonstrate attempts to mitigate its losses and prove the actual lost profits after the fact.

Make sure that any “liquidated damages” represent only a portion of the lost profits (not revenue) that the hotel would likely suffer. The standard profit margin on rooms is approximately 80 percent. It is typically 30 to 40 percent on catered food and beverage. Damages should also reflect the time available for the hotel to resell space, and escalate as the meeting gets closer, but not to exceed the lost profits on any revenue guaranteed in the contract (excludes restaurant, in-room dining, phone calls, gift shop, etc.). In other words, the hotel shouldn’t make more money if you cancel than it would if you hold the meeting.

A force majeure clause should be included in the contract. Following is a sample force majeure clause, but consult association counsel to ensure the correct language for the association’s specific meeting.

Neither party shall be deemed in default or otherwise liable for failing to perform its duties and obligations under this Agreement if such party’s inability to perform (including, in NAR’s case, failure to satisfy any room rental, catering or facility use minimums imposed by this Agreement) is caused by fire, earthquake, flood, snowstorm, epidemic, or like Acts of God, failure of telecommunications facilities, curtailment of transportation, explosion, strike, accident, lockout, labor controversy, riot, civil disturbance, act of public enemy, embargo, war, terrorism, Government action, or any similar material act, beyond that party’s reasonable control (“Force Majeure Event”). “Terrorism,” for purposes of this section, shall include but not be limited to actual acts of terrorism as well as governmental warnings of potential terrorist activity or other comparable events occurring within the United States around the time of the Event, whether within the vicinity of the Event or beyond.

Moreover, NAR may cancel this Agreement if NAR believes, in good faith, that the Force Majeure Event will have a material adverse impact on its Event or presents a high level of danger to its attendees. In that case [VENDOR] shall refund to NAR, within thirty (30) days of cancellation, all amounts paid by NAR to VENDOR related to the Event, except that [VENDOR] will be entitled to reimbursement for any reasonable out-of-pocket expenses incurred in providing or preparing to provide the services under this Agreement prior to the date of cancellation, provided it produces a detailed invoice verifying such expenses. NAR shall pay all undisputed expenses forty-five (45) days after receipt of invoice. [VENDOR] shall also refund promptly all amounts paid by attendees.

But, never agree to a force majeure clause that states you may terminate under conditions making it illegal or impossible to use the hotel or hold the event. Impossible is an impossible standard to meet. This protects the hotel only and does nothing for your association.

Convention Center Contracts

- **Insurance.** In the event that the convention center, its employees or agents intend to place booths or similar structures in a trade show, negotiate to include the association as a named insured party on the center's liability insurance policy.
- **Indemnification.** Obtain indemnification from the center that protects the association in the event that a claim is brought against the facility, due to injury to a participant during and inside the trade show, caused by the center's action. Many convention center contracts will ask the association to indemnify the convention center and its owners (often governmental entities) against lawsuits arising out of the association's use of the facility. Such provisions should be reviewed with counsel so the scope of the association's potential liability is understood.
- **Rates.** Depending on the amount of space reserved, usually there is wide flexibility in negotiating exhibit hall rates, move-in costs, meeting room rentals and deposit clauses.
- **Cancellations.** Negotiate a cancellation policy. If an event is canceled due to reasons beyond the parties' control (labor strikes or acts of God), state in the contract that the agreement shall be canceled and any deposit paid must be returned. Make sure that the contract also states that any deposits paid are to be returned by a specific time. A specific refund should be negotiated in the event that the facility breaches this commitment.
- **Sharing the premises.** Include a clause prohibiting a convention center from entering into an agreement that would force the association to share the facility with another group if such use by the other group will negatively affect the association's event operations.

Speaker/Entertainer Contracts

An association might wish to enter into agreements with a speaker or entertainer for a convention, meeting, or other function. If so, address the issues of:

- Attendance
- Copyright
- Cancellations
- Substitutions
- Employment status
- Liability

Attendance

If a speaker or entertainer does not attend a function at the agreed-upon time, the contract will become null and void without any obligations incurred by the association.

Copyright

A speaker or entertainer should warrant in writing that the content of his or her speech or performance is his or her original work and does not violate the proprietary rights of any third party, including copyrights. A contract should further warrant that the content of a speech or performance is not libelous, slanderous or defamatory in any way, and does not include the unauthorized use of others' copyrighted material.

Substitutions

Ensure that only the association will accept and approve, in advance, any substitute speakers or entertainers.

Employment Status

A contract should include a clause indicating that the parties' relationship is not one of employer/employee or principal/agent, but rather that the speaker or entertainer is an independent contractor. An entertainer or speaker should be an individual party to an agreement, not just the speaker's/entertainer's agent.

Liability

Include a clause in the speaker or entertainer agreement and the hotel agreement exempting the association from any liability if the speaker or performer incurs injury resulting from the engagement or performance.

Music Licensing

A meeting planner must take precautions to protect the association if live or recorded music is incorporated into an association function, because under federal law, "public performances" of copyrighted musical works require a license from the copyright owners or their agents. Be aware that events that are also streamed or virtual may not be covered with your license for in-person events. Detailed information about music licensing can be found in the Legal and Regulatory chapter of *The Answer Book*.

Cancellation Insurance

Purchasing cancellation insurance involves a very individual decision about risk management. This coverage is extremely expensive and does not cover much. Conventional wisdom indicates it is a worthwhile investment if the specific convention or meeting provides a substantial amount of an association's operating capital. After a particular event, such as a hurricane, earthquake or terrorist attack, such insurance often is not available for any price, so do not wait until something happens to purchase cancellation insurance, because this option might not be available. Consult an insurance carrier and legal and financial counsel for advice about this issue.

Associations will also want to review how the COVID-19 pandemic affected event cancellation insurance.

https://www.asacenter.org/resources/articles/an_plus/2021/february/how-the-covid-19-pandemic-affected-event-cancellation-insurance

Social Host Liability Insurance

A host organization and its meeting planners can be held liable for the actions of intoxicated individuals who attend that organization's event, both during the event and after they leave the event. While laws vary by state, certain precautions, as outlined below, are consistent.

- Use professional bartenders trained to recognize and cease providing service to intoxicated guests.
- Ensure bartenders provide proof of insurance to indemnify the board/association against claims for personal injuries or personal property damage sustained by third parties.
- Do not have a "help-yourself" bar.
- After-party hosts are especially vulnerable. If the host organization is aware of such an event, it should supervise it and provide the same kind of transportation services offered for the original function.
- Provide designated drivers and "walkers" to ensure that guests and attendees arrive safely home or back to their hotel rooms.

MEETING FOLLOW-UP AND EVALUATION

A meeting doesn't end when the last attendee leaves. In some ways, this is just the start of the planning process for the next meeting. Gathering constructive feedback on the session that just ended is the best way to improve future meetings and programs and to ensure that the association is meeting members' needs.

Asking members how happy they are after they attend a meeting is not sufficient feedback for improving and raising the quality level of association meetings and programs. Association staff should put together a comprehensive plan for consistently and constructively evaluating the meetings they conduct for membership, including leaders. By putting such a plan in place, staff demonstrates that it embraces the challenge of conducting worthwhile, thoughtful, productive, evocative and effective meetings and programs.

The most common meeting elements that should be evaluated are:

- Meeting arrangements
- Meeting sessions
- Speakers
- Materials
- Quality of presentation method, if a virtual presentation

Questions to ask about the location include:

- Was the site readily accessible to participants?
- Was the location conducive to the overall meeting objectives?

Questions to ask about the meeting facility include:

- How well did the site handle the meeting?
- Were advance instructions followed?
- Were meeting rooms set in time and according to specifications?
- Was equipment to be supplied by the facility delivered promptly and in working order?
- Was the size of the facility adequate?
- Was the facility appropriately outfitted with meeting presentation technology?
- Were registration and check-in handled well and efficiently?
- Was the food good?
- Was staff responsive to advance and on-site requests?
- Were the correct numbers of each type of sleeping room provided?

Questions to ask about association and meeting staff performance include:

- How well did staff perform?
- How thorough was advance planning for this meeting?
- Were all possible contingencies anticipated?
- How complete were the instructions to meeting facility managers and other suppliers and speakers?
- Did staff follow through with assignments while on site?
- Are there suggestions for improving future meetings?

Ask the following questions about speakers:

- How well was the speaker prepared?
- How well did the speaker hold the interest of the attendees?
- How well did he or she know his or her subject matter?
- How well did the overall session succeed?

To ensure that materials continue to be the best they possibly can be, ask these questions:

- Did the materials enhance the presentation?
- Did you like the format of the materials?
- Will you use the materials as a reference after the session?
- What can be done to improve the materials?
- What do you like about the materials?
- What do you dislike about them?

An overall evaluation of the entire meeting is absolutely necessary. It also is important to evaluate individual sessions according to specific plans and objectives established for each one.

Ask the following questions in such an evaluation:

- How effectively were the meeting objectives set?
- Were physical arrangements conducive to accomplishing the objectives?
- Did the presentation itself support the meeting objectives?
- What were the attendees' responses to the meeting?
- Do attendees' responses suggest new or follow-up programming or ways to improve future programs?
- Was the allotted time adequate for addressing the objectives?
- Was participation effective?
- Were there ideas for future session topics?

For more information on the tools for evaluating a meeting and surveying participants, see the Program/Product Development chapter of *The Answer Book*.

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1.8

Membership Development

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INTRODUCTION

Strong real estate associations recognize the importance of continually recruiting newcomers and retaining existing members. Understanding that there truly is strength in numbers, they make membership development a top priority year after year.

Studies by the American Society of Association Executives (ASAE) confirm that the desire for specific benefits, products and services is the most influential aspect of a professional's decision to join and remain a member of an association. Therefore, a real estate association's overall value proposition must be strong enough to attract new prospects and retain current members.

In building that value proposition, AEs need to understand the powerful package of member benefits offered through the local, state and national levels of the REALTOR® organization. There is a wealth of tools to help brokers and agents generate new business and operate more effectively, including year-round networking opportunities. Other key benefits include timely information regarding residential and commercial markets on the local, state and national level, year-round opportunities for education and training, and a national advocacy platform for building and supporting strong neighborhoods and communities.

But having a powerful value proposition is just the start. Along with offering desirable benefits, products and services, a real estate association must be able to market its wares effectively. After all, potential members need to know how that association can improve their professional lives, while current members should understand the many benefits of the association's products and services.

There are several tips a REALTOR® association should consider in developing an effective recruiting and retention program:

- Know the current composition and demographics of the REALTOR® association membership, as well as non-member licensees.
- Understand the motivating factors behind a real estate licensee's decision to join the REALTOR® association.
- Build the program around an association's strategic goals.
- Use a variety of communication channels, including social media, online sessions, email blasts and in-person events.
- Reach out to all real estate professionals serving the market, including commercial practitioners, as well as potential affiliate members from fields like mortgage lending, insurance, law, accounting, architecture, construction and engineering.
- Make membership-building a continuous process, as it takes less effort to retain a member than it does to "resell" the benefits to that member once he or she leaves.
- Be sure members understand the benefits and programs at all three levels of the REALTOR® organization.
- Welcome and orient new members to get them involved with the association.
- Create a process to ensure programs and benefits are reviewed, updated or discontinued on an annual basis or even more frequently.
- Encourage member involvement through a variety of association programs and events.

Although building and maintaining membership can be challenging, it must be done, because it is an association's lifeblood. An association's survival depends on its constant awareness of and reaction to members' changing needs and wishes. Ultimately, it is how effectively the association reaches members through products and services and membership benefits that defines its success.

DEVELOPING A STRONG VALUE PROPOSITION

Developing a strong value proposition is essential for building a successful long-term membership recruitment and promotion program. In general, a value proposition is made up of one or more benefit statements, sometimes called key messages, that answer the timeless question: "Why should I belong to your association?"

There are many ways to answer that question, but some examples include:

- Relationships with leading real estate professionals in the community
- Convenient access to advice on business, legal or technology questions
- Education and training programs to build a real estate business and serve customers more effectively
- Market reports to help members deliver timely information to their customers
- Social media presence to give members a greater online presence

A value proposition distinguishes *why being a member of your association is different than not being one*. It's the reason someone pays dues, invests in a class or uses your services.

The value proposition is a meaningful way to illustrate association benefits (current and future) that you identified in the research phase. It may be based on an idea that puts members' minds at ease like, "We listen so that we can help you through your toughest problems." Or a functional solution like, "Our technology keeps you on the leading edge." Your unique proposition depends on what outcome you can actually provide as an answer for what your members most need.

A step-by-step process for creating a value proposition can be found at the NAR site: <https://www.nar.realtor/ae/manage-your-association/value-proposition-toolkit>.

Here is a brief summary of 10 key steps:

- 1. Gain approval.** Tell leadership why this is important and get their commitment to support this initiative from development through implementation.
- 2. Identify target audiences.** You may target more than one group when developing your value proposition. For example, you may want to focus on brokers, large producers and specialty groups.
- 3. Do your research.** Collect input from your target audiences (e.g., survey, focus group, one-on-one interview, online discussion, etc.).
- 4. Collect and analyze data according to target audiences.** Look for trends and challenges, facing differing demographic and membership segments, key benefits, services to be launched, discontinued, enhanced, etc.
- 5. Synthesize the results to prepare the key messages.** If using a third-party service, require that key messages be provided.

6. **Determine if you have the ability, resources or competency to meet your members' biggest needs.** Does the benefit justify the budget? For example, if market reports are most important but you don't have the resources to produce them, evaluate if you can outsource this or find a way to provide this as a member benefit.
7. **Develop your value proposition based on your association's strategic objectives, your members' feedback and your ability to answer your members' needs.**
8. **Develop a communications plan regarding value proposition.** The plan should include the general framework on the development of a project or program. In this case, the project is the association's value proposition.
9. **Execute your value proposition: your promise.** Talk about it often with members, the board and staff. Use all relevant communication channels.
10. **Report measurable results back to the board.**

The association's value proposition provides the foundation for the ongoing strategies and tactics that are used for membership recruitment and retention. Therefore, it's important to do a thorough job in preparing the key messages and to review them on a regular basis, updating them when necessary.

UNDERSTAND THE ENVIRONMENT

Before launching a recruitment campaign for new members, associations need to understand the external environment. That involves an assessment of several factors that can affect membership recruitment strategies:

- **Economic**—the status of the local, regional or national economy. Are new jobs being created? Is consumer confidence on the rise?
- **Financial**—the level of mortgage activity. Are rates relatively low? Is credit generally available?
- **Housing**—the strength of the local, state and national real estate markets. Is transaction volume rising or contracting? Are sales prices going up, down or sideways?
- **Technology**—the latest trends in the consumer and business sector. Is there a hot new “must-have” mobile device? Are there new social media tools for professionals?

These types of external issues have a direct impact on real estate professionals and the associations that serve them. If the local economy is contracting, housing sales are slowing and sales associates are leaving the business, an association may need to focus more on retention than on recruitment. But if the housing sales are rising, new people are entering the business or there's a hot new technology that an association can deliver to real estate professionals, the time may be right for a strong recruitment campaign.

It's also important for associations to follow emerging trends in other industries and other trade and nonprofit associations. If the region's homebuilding associations are growing, for example, there may be opportunities to develop affiliate recruitment strategies that benefit both organizations. The same is true in the broader business world; REALTOR® associations may build partnerships with chambers of commerce, banking associations and economic development organizations.

For more information on these timely issues, see the Real Estate Trends chapter of *The Answer Book*.

THE ROLE OF THE MEMBERSHIP COMMITTEE

One of the most important operating components of a local association, the membership committee makes recommendations about applicants to the board of directors for final decision. The committee must also play a leading role in the recruitment of new members and the retention of existing ones. That means the membership committee will also be active in the design, marketing and implementation of membership benefits programs.

Having an active and committed membership committee in place is essential to a viable membership program. Therefore, the association staff should provide support for the volunteer chairperson and committee members, bringing together the strengths of both staff and leadership.

The categories of membership that most likely will be marketed by a membership committee while prospecting for new members are:

- REALTOR® member
- Affiliate member

Selecting the Chairperson and Committee

When selecting a chairperson, an association president should appoint an individual with leadership traits who is goal-committed, organized and able to develop resources using available money and resources. It is also important to recruit a chair who understands the need to keep an unbiased perspective about the association and be able to reconcile the committee's activities with NAR membership policy.

This checklist can assist a president in making committee appointments:

- **Composition.** To be most effective, the committee should include both principals and non-principals who represent large and small offices, franchise and independent brokerages, and a variety of specialty areas, such as commercial brokerages and appraisers, as well as residential brokerages.
- **Diversity.** Committee membership should reflect the diversity of the community and the association. That includes age, gender, race, ethnicity, sexual orientation and other types of diversity, as well as geographic locations within the association's service area.
- **Salesmanship.** Members must be able to effectively sell membership in the organization. This is essential to the success of any local association's membership recruitment campaign.
- **Commitment.** It is the committee's responsibility to make recommendations regarding new members.
- **Networking.** Committee members should be comfortable networking with other professionals, both in person and online in today's digital and hybrid world.

Selecting an Affiliate Member Committee or Subcommittee

Recruiting members from affiliated professions is more effective if there is a separate membership committee or subcommittee that includes members engaged in these professions. They can identify potential members, sell the benefits of membership based on their own experiences, and provide examples of how local association membership helps build business and support a successful community.

An affiliate member also can provide input on benefits and programs to encourage affiliate participation. Such a subcommittee could be comprised of attorneys, lenders, mortgage and title companies, environmental engineers, and other businesses providing professional services to the real estate business.

The affiliate member committee should also include a cross-section of REALTOR® members to ensure a healthy balance of ideas.

Assigning Tasks and Responsibilities

The membership chair should assign or designate all responsibilities. Individuals asked to do a specific job should know and understand that job and the timeframe for completion. They should also be aware of the number of hours it will take to properly complete the work.

Engaging Staff

One staff member should be responsible for coordinating membership development efforts. The staff can be resourceful in obtaining ideas and successful methods from other sources, such as other associations, and must be responsible for overseeing consistent record-keeping. The staff member also must be familiar with the REALTOR® M1 system.

Setting Membership Goals

Membership goals are an integral part of an association's overall priorities. At the local level, priorities are determined and established according to member needs. Consequently, the benefits of including all types of real estate professionals in the REALTOR® family must be identified and emphasized to the current membership.

RECRUITMENT STRATEGIES

Regardless of an association's size, the membership committee sets objectives and follows its defined responsibilities. The following are the basic components of effective recruitment strategies:

- Develop a focused membership recruitment and retention program for all levels of membership, such as licensees, owners/managers and affiliates.
- Understand the target market for membership of both REALTOR® and affiliate members, and know the association benefits and membership values.
- On an ongoing basis, seek out and encourage nonmember licensees to join the association. Association staff or volunteers should consider monitoring the list of licensees in an association's area, and then compare that list against the membership rolls.

- Develop and continue to provide an effective membership retention program for ongoing members. Both staff and volunteer leaders should be involved in proactive outreach to members to solicit their response and gauge their satisfaction.
- Develop an “involvement” program for new member retention, and establish programs designed for members in the first or second year of their real estate careers. Particularly successful are practical and timely education sessions and various specialty support groups, property tours, and “haves and wants.” Also, the committee should be aware of the need to stay connected with members using texting as well as digital and mobile tools, along with social media programs, webinars and other online offerings.
- Keep fully and currently informed of NAR membership policies, as set forth in the:
 - ▶ *NAR Constitution and Bylaws*
 - ▶ *NAR Official Interpretations of Article 1 Section 2, Bylaws of the National Association*
 - ▶ *Qualification Criteria for Applicants for REALTOR® Membership*
 - ▶ *Membership provisions in the association’s bylaws, subject to compliance with the policies of the National Association*

AEs should regularly monitor NAR’s policy changes and legal updates by viewing the “Law and Policy” pages on www.nar.realtor, and respond to proposed changes in policy or in the legal arena. In addition, to encourage member retention, contact any brokers who have said they plan to resign from membership, ascertain their reasons, and try to persuade them to stay members.

Budget and Plan Ahead

- Financial resources are necessary for developing retention and recruitment tools. Therefore, a budget must be developed ahead of time to meet the membership committee’s goals and membership program income and expenses can be reported as an individual program budget.
- Anticipate and project all anticipated expenses.
- Minimize costs by using the many state and national products available.
- Establish specific goals and indicate who is responsible for achieving them.

FINDING AND ENGAGING NEW MEMBERS

Membership recruitment for REALTOR® members, affiliate members and any other membership categories should be done consistently. NAR has developed many tools to assist in successful recruiting efforts:

<https://www.nar.realtor/search-results?qu=member%20recruitment&p=1>

While association members (REALTORS® and affiliates) can be found throughout the business community, recruiting efforts should generally be targeted at the following sources:

- Non-member licensees working in REALTOR® firms
- Non-member broker principals and their associates
- Personal acquaintances of committee members who are real estate brokers but who are not members
- Real estate brokers and salespeople whose names are on file with the state real estate commission
- Former members of the association
- Public records, including real estate licensee lists
- Chamber of commerce membership rosters and new member lists
- Other professional organizations, such as builder and property management associations

Suggestion: List prospective members in alphabetical order by postal (ZIP) code to organize the list into geographic groups. This will make it easier to contact prospects. Gather and maintain a list of prospective members’ email addresses and any social networking activities (Facebook, Instagram, LinkedIn, etc.). Monitor new business registrations, chamber of commerce members, and local business news to identify new prospects.

Successful membership promotion requires a combination of steps, rather than one single approach; no particular strategy, technique, medium or increase in market competition ensures success. New members often are particularly effective in promoting association membership and can provide personal testimonials about the value of joining.

A successful membership promotional campaign is based on the following association actions:

- Organize and plan an approach by setting realistic goals.
- Develop and maintain an up-to-date prospect list that can be revisited in the future.
- Know the benefits and advantages of membership already in place and believe in them.
- Know the future benefits and advantages being planned.

- Define a message to share with prospects.
- Train members to recruit.
- Anticipate and be able to answer all questions and objections to membership.
- Use all avenues of recruitment—texts, email, social media, videos, personal calls, direct mail, phone calls, etc.
- Keep present members fully informed about association benefits.
- Use volunteers. Ask their help in recruiting new members.
- Prepare a potential new member kit and share it.
- Follow up.

Here are some proven techniques and tactics for recruiting new members.

Direct Solicitation

The best thing about direct mail as a tool for building and maintaining the association membership is that it works. Direct mail solicitation includes email messages, social media posts, written letters, invitations, brochures and other promotional pieces for prospects. Here is a checklist for a direct solicitation tool:

- Open with a welcoming message from the association leadership.
- Create a visually attractive and succinct presentation.
- Personalize when possible.
- In the first few words or first sentence, identify the sender and the purpose of the message.
- Briefly list the benefits of membership and reasons for joining. Be selective and list meaningful and relevant benefits.
- Let the prospect know what to do and how to do it.
- Make it easy for the prospect to respond to the request for application.
- Include a link to the association's membership application (if online), email address, telephone number and postal address.

Most social networking sites frown on direct solicitation. Therefore, be careful in wording membership appeals, perhaps taking an indirect approach or emailing individual “friends” or “connections” through other channels.

Online Incentives

REALTOR® associations can adapt successful consumer-oriented “coupon” tactics to attract new members. Here are some suggestions for an online incentive recruitment program:

- Keep the offer time-limited in order to encourage immediate action.
- Specify that the offer is not available to current members.

- Provide clear directions for responding to the offer (usually by email).
- Use these offers no more than once a year. Otherwise, they can detract from other membership recruitment programs.
- Analyze the results to see whether this type of offer might be effective in the future.

Member Ambassadors

The best person to sell membership on behalf of the association is the satisfied member—one who believes in the benefits of belonging to the association, its principles, programs and services, and one who can articulate his or her satisfaction to others.

One variation on this theme is to use a designated REALTOR® chosen by a membership committee chair as the recruiter for individual firms. Associations should provide each designated REALTOR® with materials and information necessary to recruit and inform prospects about the association's benefits, a description of dues and fees, and a copy of the REALTOR® Code of Ethics.

Suggestion: Devise an incentive program to encourage current members to solicit new members. One commonly used technique is a dues reduction for a current member who successfully recruits a new applicant for regular or affiliate membership.

Group Activities and Events

Many associations use a group activity or event, such as a “welcome” coffee hour or a reception, giving members the opportunity to meet prospects and personally discuss the benefits and advantages of association membership with them.

These programs, which can be done online as well as in person, are conducted specifically for introducing prospective members to membership benefits. An association should have promotional materials and applications on hand for distribution. Another approach is to provide membership benefit materials to prospective members who attend real estate license preparation classes. Be sure to prepare a checklist in advance that explains the benefits of membership.

Phone-a-thon/Text-a-thon

A one-day or two-day “phone-a-thon” or “text-a-thon” can be an effective method for producing membership recruitment results, particularly with discretionary members such as affiliate members. Such an effort requires prior planning and commitment by staff but allows a membership committee to focus on the job at hand during a specific time. Set follow-up efforts and deadlines within a reasonable time frame to allow for the membership induction meeting and celebration to be pre-scheduled.

Association Website

A local association’s website should feature pertinent information for prospective members, whether potential affiliate or REALTOR® members. Associations are using online videos and slide shows to increase their marketing effectiveness with potential members. Be sure to include a membership application form.

Association Fact Sheets

Develop an association fact sheet with unique information about your association and its benefits that will be helpful when marketing membership. Use a NAR fact sheet, too. Sample fact sheets are found at the end of this chapter.

Suggestion: Include a pie chart or fact sheet about how dues dollars are spent at the association to illustrate the effective use of those funds.

Institutes, Societies and Councils

Member associations often have councils and institute chapters that serve as good recruiting areas for potential members. Councils and institutes usually recruit new members independently, but a cooperative promotional effort with an association can be both economical and effective. Make current members aware of the membership types available, and encourage members to join specialty groups that address particular needs.

Prospect Contact Tools

Develop and use this sample checklist of tools for member prospecting to help finalize a membership recruitment campaign:

- Local association fact sheet and member benefits description
- State association fact sheet
- National association fact sheet
- Overview of association’s membership policies and application procedures
- Dues and application fee amount and payment terms
- Steps for processing application and “waiting period” information
- New member orientation program information and schedule
- Address where application and fees should be sent and other contact information
- Method of notifying applicant of acceptance
- New member induction ceremony information
- Copy of application form for prospect
- Copy of promotional and informational items to leave with prospect
- Code of Ethics

Affiliated Member Recruitment

Affiliate member recruitment is essential in building a professional real estate business community. This membership group may need a more aggressive recruitment and retention program, since membership is voluntary and discretionary. Affiliate members represent important services and products that sustain and enhance the industry and are important sources of ideas, information and income to the REALTOR® organization.

How can you inform affiliate members about the value in belonging to your association? While the qualifications, privileges and obligations of affiliate membership are a matter of local or state association determination, NAR’s *Value of Affiliate Membership* resource offers suggestions for your association to ensure that affiliate members recognize the value of their membership.

Download a PDF of this document:

<https://cdn.nar.realtor/sites/default/files/documents/value-of-affiliate-membership-2022-03-31.pdf>

Questions may be directed to NAR’s Library and Archives at librarians@nar.realtor.

Have you considered these untapped types of affiliate members?

The following article appeared in the *REALTOR® Association Executive* magazine, “Untapped Members” by Paul Beakley, Winter 2005.

Untapped Members

by Paul Beakley

Affiliate outreach: associations offer their affiliate members more than just exclusive access to their membership.

At a REALTOR® expo in San Diego, the most popular booth didn't feature a title company or a mortgage brokerage; it featured a plastic surgeon. The showroom floor was lined with booths for jewelers, dentists, carpet cleaners--the list goes on. Only association members were permitted to exhibit, so how did such a far-flung assembly of businesses find themselves members of the San Diego Association of REALTORS®?

“You have to start with the question of what an affiliate member is,” answers Karl Hampton, executive officer of the Tulare County Association of REALTORS® in California's San Joaquin Valley. “Some associations think the term affiliate refers to Institute Affiliates or businesses with a direct connection to real estate. At other associations, that definition may be a bit broader.”

REALTOR® associations of all sizes have long welcomed non-brokers and non-practitioners into their ranks as affiliate members. Usually, affiliates pay dues and in return get exclusive access to the general REALTOR® membership throughout the year. Affiliates often pick up some costs associated with newsletter printing, luncheons, social events, expositions, even installation banquets. Sometimes, they pay the entire tab. In return, affiliate member sponsors get to be first in line to shake hands with the salespeople and brokers.

At the Pensacola Association of REALTORS®, there's an “unwritten understanding that affiliates should in some way be related to either our members or the public they serve,” explains Executive Officer Chuck Michaels. “We traditionally reach out to related industries such as carpet cleaners, termite folks, and title companies, and bring them into the REALTOR® family. But,” he adds, “we wouldn't refuse a wider definition, because we could probably establish a link for almost any business.”

More recently, many associations have broadened their definition of affiliate. “If a business sees us as a potential market and their purposes are legal, ethical, and moral, they can join our association,” says Hampton. Despite this rather loose definition, the association still goes through an approval process for every potential affiliate member, he says.

The San Diego Association of REALTORS® also has a broad affiliate membership. Feng shui trainers, ionizing air-filter companies, dentists, and jewelers enjoy the same member benefits as furniture rental, carpet cleaner, and pest control companies. The only restriction is that the association's magazine will run only a select number of ads for each kind of business.

Courting Affiliates

Some associations offer their affiliate members more than just exclusive access to their membership. The Santa Maria Association of REALTORS® on the central California coast hosts an affiliates' party around Christmas every year. For this party, REALTOR® members foot the bulk of the bill for dinner and presents. At the Prescott Association of REALTORS® in Arizona home inspector members can get lockbox keys for being a member. The Yakima Association of REALTORS® in Washington provides its members access to a very nice conference room for \$50 per day, a nice break considering the \$200 cost for a conference room at a nearby hotel. Many associations try to offer classes that will be of interest to some types of affiliates. For instance, the San Diego Association recently offered a class about building codes that attracted building inspectors along with traditional REALTORS®. “Other than putting their company names on the membership rosters, I don't think we offer nearly enough to our affiliates,” says Jeanette Witham, executive officer of the Yakima association.

Attracting Affiliates

Affiliate membership generally grows on its own. Many AEs say word-of-mouth is effective enough. “Our members are our best recruiters,” says Hampton. “We encourage our REALTOR® members to recruit every quarter, either through our newsletter or at our meetings. We also ask them to do business with affiliate members, and ask non-members to join at every opportunity.”

In San Diego, the association has taken a more active role in bringing new affiliate members on board. The association has hired a full-time salesperson to work with the affiliate members on event sponsorship and advertising in the association's newsletter and magazine. "Having a full-time salesperson has made a big difference," says SDAR's Lorrie Mowat, director of communications. "Our magazine ad sales are so successful that I have to tell her to stop selling ads after 17 pages. If we get any complaints about our affiliate program, it's from members who don't like all the ads. But those ads pay for the printing of the magazine, which means we don't have to raise their membership dues."

Not all affiliate members need to be treated equally. In San Diego, a step above basic affiliate membership is a corporate membership, "which is like a super-charged affiliate," Mowat explains. Corporate members pay more but get "first-dibs" access to the membership. For example, at SDAR's bimonthly Orientation Fair, there is only room for eight affiliate members, and corporate members are offered those spaces first.

Although some associations see their affiliate membership program as an important non-dues revenue generator, others are just happy to receive additional revenues and to get their REALTOR® members good deals. But in addition, affiliates contribute time to association initiatives. At the Tulare Association, for example, nearly all the committees comprise at least 50 percent affiliate members.

The only noted downside is that affiliate members sometimes want to be too involved. "We had to limit affiliate participation in our monthly caravan to just two," says Delight Bird, executive officer of the Santa Maria Association of REALTORS®.

Another way larger associations are improving service to a larger part of their membership is by providing more services to REALTOR® specialty groups, such as appraisers, commercial brokers, and property managers. Carole Umbel, specialties manager for the Virginia Association of REALTORS®, works exclusively to improve services to her specialist members. "We started working with our specialists 10 years ago," Umbel explains. "We started with our commercial and appraisal members, based on a survey of our membership. Since then, we've added residential property management, international, and relocation specialists."

In VAR's case, the association gets a small revenue boost, maybe an extra \$40,000 per year in class fees out of a total annual budget of more than \$2 million. Umbel says the real benefit is in the association's perceived value. "We don't market our specialist services outside the REALTOR® family. However, the members who felt their association didn't offer them anything became more positive with new specialty support. Our members felt more satisfied with the new services."

In the end, every association wants to offer the best level of service possible to the broadest range of their membership base. When modern REALTOR® associations include everyone from property managers to plastic surgeons, AEs have to work harder to make everyone happy, but, they say, the payoff is worth it.

Solicit Vendors for Affinity Programs

If local businesses aren't ready to become affiliate members, or don't qualify under your bylaws, look for other ways to include them in the association.

Partnership programs between associations and businesses can take a variety of forms.

In exchange for offering a discount to your members, vendors will appreciate access to membership marketing opportunities through magazine ads, membership mailing list rental, trade show booths, and event sponsorship. Use tools such as your website, newsletters, email, and flyers to communicate affinity benefits to your members.

A committee of association staff or members can help you outline vendor criteria and review vendor applications. Consider reaching out to the vendors whose products and services are most relevant to members and their industry. Also consider the vendor's reputation among your members.

Benefits of Expanding Membership Categories

Although NAR only recognizes as affiliate members those practitioners who are members of NAR's institutes, societies, and councils, local associations can broaden the category to include whomever they choose.

Prepare a Prospect List

Identify individuals and firms with a need and/or use for real estate information or who are involved in the real estate business, and prepare a prospect list. To start this list, ask members and affiliate members to submit the names of five to ten prospects with whom they do business.

To identify potential affiliate members, search online business directories and membership guides for professionals in allied and real estate-related businesses and professions, such as:

- Banks and lending companies
- Mortgage bankers
- Attorneys
- Title companies
- Abstract companies
- Developers/builders
- Appraisers
- Insurance agents
- Online service providers
- Real estate website developers
- Apartment associations
- Building and property managers
- Condominium groups
- Building suppliers
- Farm bureaus and extension services
- Architects
- Engineers
- Surveyors
- Inspectors

Develop and Use a Brochure and Fact Sheet

Develop a digital or print brochure targeted at affiliate prospects that conveys the association's key messages and highlights its benefits and services. This brochure can highlight referrals, clients, fellowship with REALTORS®, seminars and publications. Prepare a separate fact sheet that lists the benefits and services that would be most valuable to affiliate members, such as:

- Expanded business opportunities and contacts
- Visibility on the association website
- Newsletters and publications
- Inclusion in the association roster
- Opportunities to advertise on the association website or in its publications
- Legislative involvement
- Legal services and updates
- Access to statistical data and resource information
- Community involvement and community service programs
- Educational opportunities
- Affiliate trade show and other marketing opportunities

USING PROMOTIONAL MEDIA

It is important for an association to analyze its prospective member markets and decide which media are likely to be the most effective for outreach. When making an analysis, remember that a combination of media usually is more effective for comprehensive outreach.

Media that might be used for promotional purposes include:

- Personal contact by members
- Personal contact by staff
- Personal letters with a brochure and application
- Form letters with a brochure and application
- Email messages
- Website marketing
- Online sessions
- Blogs and online discussion groups
- Social media such as LinkedIn or Facebook
- Formal invitations
- Pre-license education programs
- Telephone calls or texts from staff
- Association periodicals mailed to prospect
- Articles in local business news
- Conventions, meetings and seminars
- Advertisements in outside publications
- Audiovisual materials
- Radio and television talk shows
- Exhibits at trade shows and meetings within your community

Checklist for Conducting a Membership Promotional Campaign

- Plan your approach first.
- Inventory support materials and develop new products where needed.
- Make sure a comprehensive prospect list is complete and as up to date as possible.
- Know, in detail, exactly what the local association has to sell—the benefits and advantages of membership.
- Learn the types of resistance to overcome when selling memberships.
- Identify the real reason why prospects have not joined yet and prepare to address all of their objections.
- Use all potential avenues open for recruiting new members—texting, personal contacts, direct mail, email, telephone calls, videos, etc.
- Inform all members about what the association is accomplishing, and relate these benefits to their business.

- If possible, place a dollar value on the benefits, and show cost versus value.
- Make full use of voluntary help in soliciting members.

PROCESSING MEMBER APPLICATIONS

The NAR Membership Qualification Criteria are the most rigorous that a local association may require. Because NAR's membership application and review procedures are developed in compliance with federal laws relating to anti-trust and documentation, it is recommended that member associations make every effort to comply with these criteria. For a copy of these criteria, contact the NAR's Library and Archives at 800-874-6500 or librarians@nar.realtor. Use these criteria with the association's bylaws as the basis for processing new member applications.

Following are some guidelines for application processing:

- A local association's membership committee should review NAR's membership policies before instituting any of its own policies. Any changes should be made with full awareness of federal antitrust and documentation laws.
- Processing a membership application should not take so long that it inconveniences the future member and delays his or her access to professional services.
- Individuals who apply for membership should be advised of all application procedures, processing periods, dues, application fee payments, the new member orientation program schedule, etc. Full disclosure should be made.
- If necessary, an association should help a prospective member complete the application form.
- Be certain that each member applicant understands what is required during the application process and what steps the association takes and when. Consider incorporating a personal interview into the application process to explain details and address questions.
- Once a member's application has been processed and is accepted by a local association's board of directors, that member applicant should be advised of his or her acceptance as a member.
- The procedures taken by the association in processing and accepting membership applications are subject to legal scrutiny.
- If an association has questions about the application process, contact the state association for information and assistance.
- Before soliciting new members, the membership committee should identify who will be solicited and what recruitment efforts already have taken place.

Checklist for Processing Applications

The AE or membership committee chairperson should provide the following information to an individual who requests a membership application form:

- Information required from applicant
- Application fee required/payment terms
- Dues amounts/payment terms
- Indoctrination course/new member orientation program information and schedule
- Processing procedures and time schedule
- How an applicant will be notified of his or her acceptance

Upon Receipt of Application from Applicant

When an association receives an application, it must:

- Review the application form to determine if application is complete.
- Schedule the applicant for new member orientation program, and send a notice to the applicant of program date/time.
- Forward the application to the membership committee for publication of "Notice of Application" (if required).
- Notify the applicant of application receipt and request additional information (return application form if necessary with instructions).
- Hold all dues payments pending completion of the application process—receipt of all information requested and approval of the application by the association.

Upon Completion of Orientation

- Notify the membership committee that all application requirements are complete.
- If no "objections" are raised by the general membership, and if the membership committee has no questions, forward the application to the board of directors with a recommendation to "approve and accept" it. Objections must be related to a reason the applicant does not meet the minimum membership qualification criteria as adopted by the local association. Any other basis for an objection may not be considered.
- If any member "objects" to accepting an applicant's membership, or if the membership committee questions an applicant's acceptance or his or her qualifications, refer to NAR's Membership Policies and Procedures or contact state association staff (the chief staff executive) before taking any action to deny an applicant's membership.

- Dues are a membership obligation. Because an applicant is not yet a member, do not assess dues until the applicant is formally accepted as a member of the association, unless the association maintains an escrow account for deposits of “advance dues payments.” If an escrow account has been established for advance dues payments, then hold dues in escrow until an applicant is formally accepted.
- Explanation: An association is a business/trade association organized for business purposes and for the benefit of members engaged in the real estate business. Membership becomes a valuable “business right” and can only be denied, revoked or modified for good cause and under circumstances that afford “due process.” For this reason, legal advice and counsel should be sought prior to denying any applicant membership in a local association, the state association or NAR.
- As soon as possible, invite a new member to serve on a local committee. Provide a list of all association committees along with a brief description of each committee’s function. However, recognize the fact that new members are busy starting a new career when they join the organization and will feel more comfortable becoming involved once they have gotten a good start in real estate. Be sure to re-initiate recruitment for volunteer participation after a year or so.
- Upon approval of the application, formally induct the new member into the association. Such a ceremony can be conducted by the association president using an induction ceremony script prepared by the local association.
- Hold a “welcome membership” meeting every three months, and personally invite all new members to this meeting. This can be done online as well as in person.
- Encourage new members to update their social media profiles and post photos of the induction ceremony or welcome meeting.
- Conduct a membership survey to obtain new members’ input. A member survey can be used to establish a direction for identifying areas of special interest. Ask each new member what services might help him or her to get started, then ask each member the same question again six months later.
- Use survey results to improve the orientation program for the next group of new members and to anticipate development of new programs and services.

ACTIVATING NEW MEMBERS

Recruiting new members is just the start of the process. Activating new members is the next and possibly the most important step. A satisfied member is an engaged member, and new members must be made to feel part of a team working toward a common goal to get them involved. Creating that “team” feeling should be a conscious effort on the part of everyone who comes in contact with a new member. Such a feeling must translate to members and coworkers alike. New members often join with a great deal of enthusiasm and the willingness to contribute, and that desire to participate must be sustained. The care of new members is essential to a local association’s success. Following are some suggestions for nurturing and maintaining new members.

- Once an application is received, immediately acknowledge the positive step of applying for membership. Such recognition is imperative and can be accomplished by a letter, email, text or telephone call.
- Transfer the applicant’s name from the prospect list to the membership mailing list so that he or she begins to gain membership benefits right away.

Orientation note: Applicants for REALTOR® membership are required to complete a minimum of two hours and 30 minutes (2.5 hours) of orientation on the Code of Ethics of the NAR. NAR provides new member Code of Ethics orientation training materials with no charge at: <http://nar.realtor/mempolweb.nsf/pages/orientationtrainingmaterials>.

It is recommended that member associations conduct orientations on a regular basis—frequently enough to avoid membership processing delays. Or, an association might wish to require that membership applicants complete the online NAR ethics orientation course within a few days of making application. An orientation can be open to current and new members.

An orientation session might also cover the use of the term REALTOR®, information about the national and state associations—especially national and state legislative and educational programs—and information about local association policies, procedures and program offerings.

MEMBERSHIP SERVICING AND RETENTION

Retaining members is generally easier and less expensive than recruiting new members. That means working with the association's marketing and programming teams to make sure members are satisfied and are renewing their memberships.

Assessing and meeting member expectations, communicating frequently, and recognizing members' achievements are successful methods for retaining members. A member retention plan of action will pay huge dividends by providing greater member participation, deeper member involvement and a better understanding of the goals of the local, state and national associations.

Developing a Member Retention Plan

Here are some steps to take when constructing a member retention plan:

- Analyze the current situation and environment surrounding the association. Do this at least annually.
- Consult the strategic plan, and apply it to the current environment.
- Listen to members, non-members, former members, leadership and staff as they discuss their expectations of the association.
- Develop a well-defined member philosophy based on members' wants, needs and expectations.
- Design services and products based on member needs. Regular surveys and focus groups will help you keep abreast of current conditions and changes in member needs.
- Establish objectives to fulfill the member retention program. Incorporate these into the association's strategic plan.
- Set specific strategies for retaining members.
- Develop a comprehensive membership retention plan, and make assignments with deadlines.
- Review the costs of these activities and maintain a member retention budget.
- Continually inform members of the association's efforts on their behalf. Use all applicable communication channels, including online, email, and phone and text messages.
- Instill a positive and infectious attitude among staff. It will flow through to members.

- Hold meaningful, memorable orientation programs.
- Ask for feedback using surveys or other tools in order to maintain open, two-way communications with members.
- Use resignations as a tool for improvement.

Member Services

Nothing does more for retention than offering carefully targeted programs and services that meet member needs. Members will renew their memberships only if they believe they are receiving value for their time and dues. Members evaluate what they receive for their dues dollars and tend to equate the membership value to the quantity and quality of services provided.

Conduct periodic surveys to gain member opinions about the association or its products and services. The survey results can guide an association in member retention activities and can help improve the benefits of membership. Share the results with leaders who can then plan ways to fulfill expectations, alter negative attitudes among members, and build the results of the surveys into your annual work plans and your strategic plan.

Fulfilling Members' Expectations

Online sessions, email, texts, social media posts, newsletters, announcements, letters and personal contacts are the primary methods for communicating and marketing member services. An association can enhance communications efforts in a variety of ways outlined below.

Newsletters. Most local associations email newsletters to keep members informed about their activities. Articles about people they know and about local activities help members feel they are part of an important professional network of individuals.

Social Media. Posts on social media sites like Facebook, LinkedIn, Instagram and YouTube can promote new member programs and services. They also provide opportunities to recognize members for their achievements, post photos and videos regarding their contributions to the association, and help them stay engaged with other members.

Letters. Members appreciate receiving personal letters from leadership. Both print and email. The most common types of letters are written to welcome new members, thank renewing members, recognize achievement, invite members to events and express appreciation to members for their service.

Telephone Calls. A telephone call can be used to rekindle interest in an association's activities or extend a special invitation to a member who has not attended meetings for some time. To make that member feel appreciated, send a thank-you note or call after that person attends a meeting or inquires about program topics. Follow-up is invaluable for engaging and retaining current members.

Member Recognition. Membership recognition is essential to a member retention program. Some methods include a letter of acknowledgment, a telephone call from the president, a certificate, an award, a public announcement or a news release. Membership renewals may be recognized with a membership card or certificate, or a letter of thanks.

Personal Contacts. Take advantage of every opportunity to make personal contacts. Consider developing a program whereby staff and leaders visit each member firm/office at least once a year. Be proactive in establishing focus groups to examine and recommend products and services. Create online mini surveys, online specialty discussion groups and networking groups.

Handling Resignations

Membership resignations often are treated too lightly by an association. In fact, they can be used as a successful membership retention tool. Track reasons why members resign, and keep those records to help with future decision-making. Always consider the reasons why members resign, then take action to gain them back!

Remember: Do not take any resignation for granted!

- If a member indicates that he or she wants to resign or if his or her dues are delinquent, find out why by discussing the situation with him or her—in person or on the telephone.
- Question a misdirected dues invoice.
- Track any changes in member firm ownership or management.
- Track firms that have gone out of business.

Re-enlistments

Unless a membership committee acts, it will never know why someone resigns. When a member does resign, take one or more of the following actions to re-enlist that member:

- Seek the help of officers or other dedicated members in the area to contact resigned members.
- Send an email or a text, write a letter, or make a telephone call or a personal visit.
- Involve staff in any membership retention effort.

- Send a questionnaire to the resigned member via email or the Postal Service.
- Once contact is made, be sure to acknowledge the reason for termination.
- Explain steps to take to solve the particular problem.
- List the reasons why a member should not “drop out.”
- If possible, include a list of recent association accomplishments that affect the member's business.
- Ask that the resignation be reconsidered.

Sample Local Association Fact Sheet

Description and benefits summary. include a quick summary of the association, its geographic area, approximate number of members and year founded. This should also include the association's key messages, as well as a brief description of other benefits, such as education, training, networking, exposure, building personal and professional relationships, and the ability to influence others by being part of an important community organization.

Online services. The association provides a variety of online services designed to help members build their businesses and serve the community. Be sure to include social media sites, a mobile application (if any) and the association's website. (Examples would follow.)

Face-to-face activities. The association hosts a year-round calendar of events that allow its members to network in person and foster professional relationships. (Examples would follow.)

Education. The association sponsors a number of educational programs and seminars to expand personal and business knowledge, while helping members fulfill criteria for license renewal. The association could partner with other associations to deliver educational and social programs and may join forces to meet and converse with other REALTORS® from around the state. The annual meeting is held in conjunction with the annual convention so that members can elect state association officers and have an active voice in shaping their association. Other education programs may be offered online as self-study opportunities for members. For example, completion of the Graduate REALTOR® Institute (GRI) leads to the nationally recognized GRI designation.

Advocacy. Through the REALTORS® Political Action Committee (RPAC) and a variety of government affairs mobilization techniques, the association acts as the legislative voice for real estate interests nationwide, as well as on state and local levels. This REALTOR® activity protects and preserves the business interests of association members.

Legal services and counsel. Some states operate a legal hotline members can call for general legal advice and guidance about real estate-related business. Be sure to include such information if this is the case in the state where the association is located. For individual legal advice, however, members should contact personal legal counsel.

Public relations. The association issues periodic media releases and works to promote the importance of housing and ownership of real property and to encourage the use of REALTORS® by property buyers and sellers. Professionally produced state and national media awareness campaigns benefit all REALTORS®.

Related businesses and professions. The association usually maintains regular communication and contact with real estate-related groups and businesses, such as mortgage lenders, the Veterans Administration, the Federal Housing Administration, the Farmers Home Administration, surveyors, title insurance companies, apartment owners and managers, the real estate commission, other governmental agencies involved in real estate-related areas, and attorneys. A significant program of a local or state association may be the building of professional communities through the recruitment of members from affiliated industries.

Affinity programs. NAR and many state and local associations have programs which bring great opportunities to REALTORS® to purchase quality products and services at savings not available to non-members. NAR's REALTOR Benefits® Program provides members value-added offers and significant savings on products and services from industry leaders in office solutions, travel and promotions. For a list of REALTOR Benefits® Program partners and more information about their offers, visit http://www.nar.realtor/realtor_benefits.

Informational resources and qualified staff. the association maintains professional and qualified support staff whose experience, expertise and knowledge provide members with a central source of information about the association and real estate activities. Members and other local associations are encouraged to contact the association office with any questions or when there is a need the association might fulfill.

Library. REALTORS® are encouraged to take advantage of the resources in the NAR Library and Archives. NAR maintains one of the nation's largest real estate libraries, which may be accessed online at <https://www.nar.realtor/library-archives>. Materials may be downloaded or checked out electronically. Local and state associations may also provide physical and online resources and data compilations that are available to members.

Leadership training. NAR and most state and local associations offer various workshops and training programs to assist its leaders, staff and committees with performing their jobs more effectively, thereby improving member services and benefits.

Dues. members do not pay dues directly to the state and national associations (except for members at-large); local associations are charged dues by the state and NAR based on per capita membership:

REALTORS®:	_____
REALTOR ASSOCIATES®:	_____
Non-member licensees licensed with REALTOR®:	_____
Membership dues to state association:	\$ _____
Membership dues to National Association:	\$ _____
Number of affiliate members:	_____
Additional fees (spell out any joining fees, assessments or other new member charges)	\$ _____

Note: Some state associations might include a dues requirement for other specified forms of memberships. This must be determined by each state's own state association.

Contact. For more information about becoming a member, contact (name, phone and email address.)

Sample National Association of REALTORS® Fact Sheet

The National Association of REALTORS®, “The Voice for Real Estate,” is America’s largest trade association, representing 1.1 million members, including NAR’s institutes, societies and councils, involved in all aspects of the residential and commercial real estate industries.

Our membership is composed of residential and commercial practitioners, who are brokers, salespeople, property managers, appraisers, counselors and others engaged in all aspects of the real estate industry. Members belong to one or more of 1,200 local associations/boards and 54 state and territory associations of REALTORS®. They are pledged to a strict Code of Ethics and Standards of Practice.

Working for America’s property owners, the National Association provides a facility for professional development, research and exchange of information among its members and to the public and government for the purpose of preserving the free enterprise system and the right to own real property.

The term “REALTOR®” is a registered collective membership mark to be used to identify real estate professionals who are members of the National Association of REALTORS® and who subscribe to its strict Code of Ethics.

REALTOR® and REALTOR ASSOCIATE® Dues—dues paid by members to the local association are, in turn, paid from that association to the state association and the National Association. A member is deemed to be “in good standing” by the National Association when that established dues amount is paid. Included in the dues amount are programs such as the Legal Action Fund, which ensures that the rights and interests of organized real estate professionals are assisted or defended in precedent-setting litigation in state or federal courts.

Library. NAR’s headquarters in Chicago is home to the largest repository of real estate information in the United States. The library’s services are available to all members. Call 800-874-6500 to speak to an information specialist.

Education. Each state association is authorized by NAR to issue a certificate and the Graduate REALTOR® Institute (GRI) designation to those who have demonstrated competency in the course material for this program, which is approved by NAR. NAR offers the latest training through its REALTOR®

Academy—the National Association of REALTORS®’ online education delivery system—where real estate professionals can take courses on line for continuing education credit, professional development, and designation certification, 24 hours a day, seven days a week, with just a computer and Internet access.

Advocacy. A staff of professional lobbyists for NAR actively lobby in Congress to protect and promote the real estate interests of members. For more information, contact the NAR Advocacy area at 800-874-6500.

Political representatives. Regional, political representatives are available throughout the nation to assist member associations and state associations in grassroots political and legislative efforts.

Legal counsel. NAR maintains highly skilled legal staff and a Legal Action Fund that may be applied to strategic cases affecting the real estate industry.

State and municipal legislation. A professional, national staff works in the Washington, D.C., office in various areas to affect public policy in condominium conversions, rental housing, tax reductions, license law and land use.

Magazine. *REALTOR® Magazine* is a trade magazine published six times a year by the national association. This publication is the most widely read real estate magazine in the industry.

Political Support. The REALTORS® Political Action Committee (RPAC) supports political candidates whose philosophies are consistent with, and supportive of, the concepts of private property rights and the free enterprise system.

National Headquarters

National Association of REALTORS®
430 North Michigan Avenue
Chicago, IL 60611-4087
800-874-6500

Washington Office

National Association of REALTORS®
500 New Jersey Avenue, NW
Washington, D.C. 20001-2020
202-383-1000

Sample Information about How Dues Dollars Are Spent

How Local Dues Are Spent (MLS included)

- Member services
- Building/overhead
- Multiple listing service communications
- Representation at meetings
- Legal committees
- Education
- Equipment and general administration

How Local Dues are Spent (without MLS included)

- Member programs and services
- Building/overhead
- Representation at meetings
- Legal committees
- Education
- Equipment and general administration

How Members' Local, State and National Dues Are Spent

- Communications
- Professional services
- Public affairs
- Development of education and other programs
- Special funds
- Online resources
- Travel, meetings
- Education newsletter/other publications
- Meeting travel
- Multiple listing service
- Local, state and national governmental affairs
- Community service programs
- Code of Ethics enforcement
- Other

1.9

Planning and Visioning

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INTRODUCTION— TYPES OF PLANNING

Like economic conditions, technology and consumer behaviors, the real estate industry is always changing. Effective REALTOR® associations are able to track market conditions, identify trends, recognize threats and opportunities, and continue to deliver valued services to their members. Success depends upon the association’s ability to respond to unexpected events, like the COVID-19 pandemic, and to proactively implement changes in structure, processes, policies and services, and communicate the value of belonging to members.

How can a REALTOR® association continue to keep up with—let alone stay ahead of—the ever-changing industry? In simple terms, it takes planning. Many types of planning, such as preparing a budget, a marketing campaign or the introduction of a new product or service are covered in various chapters of *The Answer Book*. This chapter focuses on the big picture: strategic planning and business planning.

Both are essential functions to keep an association moving forward and help leaders make informed decisions regarding current and future trends that will affect the real estate marketplace and association members.

The Importance of Strategic Planning

Strategic planning is the single, most important key to helping an association manage its future. It is a cooperative and collaborative “big picture” approach to organizing the what, why and where of an association. The strategic planning process fosters the effective use of an association’s energies and resources to sustain organizational vitality, deliver value to members, and help members to conduct their businesses successfully during times of change. The strategic planning process also needs to be fluid, flexible and dynamic—capable of rapid adaptation to change.

Strategic planning also provides an opportunity to convey the association's value proposition to members. Developing the mission statement, outlining values and setting strategic goals provides a clear picture for members, as well as for others outside the organization. In this way, strategic planning can build an association's internal and external image and branding, while providing a powerful reflection of the integrity of a REALTOR® association.

Benefits of Strategic Planning

One of the key benefits of strategic planning is helping an association establish a framework for making short- and long-term decisions in an uncertain environment. When done appropriately, strategic planning will be a productive process, because it:

- Forces an association to review current issues and trends and look into the future.
- Provides an opportunity to influence the future—or assume a proactive posture.
- Provides a better awareness of members' needs and of the real estate environment.
- Helps define the overall mission of an association.
- Helps an association focus on critical issues and objectives.
- Provides a sense of direction, continuity and effective staff and volunteer leadership (this is important for REALTOR® associations that have a yearly turnover of elected leadership).
- Helps foster a shared viewpoint about the likely future environment.
- Offers the mental exercise that prepares leaders to think about the future.
- Helps build a team environment.
- Encourages buy-in from volunteer leaders, members and staff.
- Provides standards of accountability for people, programs and allocated resources.

Defining Strategic Planning

According to the definition found in *The Futurist* magazine article, "A Beginner's Guide to Strategic Planning," by Bryan W. Barry, "Strategic planning is the process of determining what your association intends to accomplish and how you'll direct the association toward accomplishing these goals in the coming months and years."

Strategic planning:

- Is a dynamic process that occurs in an environment that enables continuous learning and listening.
- Produces outcomes of strategic direction and priority—better known as a plan.
- Traditionally spans from 12 to 36 months in the future.

A strategic plan is a critical step for developing a clear vision of the future, as well as a path for serving members' immediate needs. It also helps associations determine where to allocate staff and financial resources and create a value proposition statement. (See the Membership Development chapter of *The Answer Book* for more on value propositions.)

Many associations also produce an annual update or a work plan as an offshoot of a strategic plan. It:

- Identifies specific actions or priorities to be taken in the next 12 months to achieve specific accomplishments.
- Is used to assign responsibilities, due dates, and resources necessary for each action to occur.

The NAR Core Standards require that every association shall annually certify that its board of directors has reviewed and discussed the association's business or strategic plan. The plan must include an advocacy component, a consumer outreach component, a Diversity, Equity and Inclusion (DEI) component, and a Fair Housing component, and these components must have actionable implementation strategies.

Business Planning

A business plan is an analytical approach to offering each association product, service and program. This plan:

- Naturally follows the strategic planning process.
- Can be used to plan anything from an education program to a new mobile application offering for members.

Throughout every level of the planning process, REALTOR® associations must consider two driving forces: the evolving needs of members and the ongoing changes in the environment, including consumer trends, economic conditions and the cyclical nature of the real estate industry.

Successful AEs also take time to understand the differing values, cultures and preferences of Gen Zers, Millennials, Gen Xers and Boomers when planning and visioning, so that the association can address the desires and needs of future members and leadership.

Understanding the various needs of members allows associations to deliver valued products and services to their key constituencies—the foundation for long-term, sustainable organizational success. At the same time, associations must pay close attention to the external environment to address potential challenges and take advantage of new opportunities. For instance, REALTOR® associations at all levels pay a great deal of attention to policy-makers in Washington, in state capitals and in municipal governments, because their decisions can affect real estate professionals and the consumers they serve.

Therefore, associations need to understand both the external and internal environment to build solid plans for the future.

SCANNING THE ENVIRONMENT

AEs have access to a 24/7 stream of news and information from online services, social media sites, cable and broadcast television, radio talk shows and traditional print newspapers. As the saying goes, it's like “drinking from a fire hose.” It can be hard to determine what is important beyond the day's top headlines.

Therefore, AEs and volunteer leaders need to use their critical thinking skills to separate facts from opinions, consider the sources of information, and avoid being swayed by propaganda masquerading as “news.” Here are several suggestions:

- Consume a well-balanced diet of news from different sources, rather than relying on one channel, website or publication.
- Pay attention to state and local news, which can often have a greater impact on associations than national or global trends.
- Follow a reliable source of business news, which can provide insights into trends that receive little coverage in consumer-oriented publications.
- Step out of the constant news cycle from time to time. This can provide a valuable opportunity to reflect on what's important—or simply be a needed break from the headlines.
- Be aware of your personal viewpoints. Everyone has a bundle of conscious or subconscious biases toward people, places, products, issues and a host of other matters. Becoming aware of your personal viewpoints allows you to make better decisions based on factual information.

Polishing Your Crystal Ball

As you look at the environment affecting your association, it can be difficult to forecast what issues will be most important in the next few years. One approach that can prove helpful is the construction of various scenarios, such as (a) things stay the same, (b) a downturn occurs or (c) an upturn takes place. Ideally, the end result of a strategic planning process will be a working document that addresses how the association will respond to a variety of scenarios.

UNDERSTANDING STRATEGIC ISSUES

Before undertaking the task of developing a formal association strategic plan, it is absolutely necessary for association staff and leadership to have a thorough understanding of past, present and future real estate industry issues and trends. Why? Because those issues and trends shape the day-to-day operations of a REALTOR® association.

An association that commits to understanding the diverse issues and changing forces that drive today's real estate industry and successfully helps its members manage that diversity and change is serving its members at the highest level. In addition, every association should have a fundamental mission or vision that provides a foundation and sets a goal for strategic planning. For example, a typical goal would be to create an environment that recognizes that the consumer is central to every real estate transaction and that the job of the REALTOR® is to function as a trusted advisor to buyers, sellers, owners and landlords.

To view the NAR Strategic Framework and 2023-2025 Strategic Plan, visit: <https://www.nar.realtor/about-nar/strategic-framework-and-2023-2025-strategic-plan>.

Steps and Process for Developing a Strategic Plan

Planning is a fundamental principle of good business. We all know the importance of good planning, but it seems to be all too easy to neglect the process. Even with the best intentions, many associations still spend most of their time reacting to unexpected changes in the environment rather than anticipating and preparing for them. But with effective strategic planning, associations can focus on more productive endeavors.

The strategic planning process includes the following steps:

- Scan the external environment and analyze the data.
- Identify the changing needs of members.
- Determine the association's strengths and weaknesses.
- Understand the external threats and opportunities.
- Determine and prioritize the critical issues impacting the association.
- Define the association's key competencies.
- Use formalized planning tools and processes to develop strategic goals and actions.
- Define a mission or vision.
- Develop a strategic plan that aligns with the association budget and is approved by the association's board.
- Implement the plan throughout the association's activities, measuring the progress of achieving those strategic goals based on established "success criteria."
- Establish a schedule for monitoring, review and updating.
- Regularly examine and report to volunteer leadership the industry trends that may impact the association's ability to carry out its mission and vision.

NAR has developed the "Strategic Planning Resources Toolkit" to help guide associations through the process. For more information, go to: www.nar.realtor/ae/manage-your-association/strategic-planning-resources-toolkit/strategic-planning-resources-toolkit.

Elements of a Strategic Plan

While there is no standard format for a strategic plan, it typically will include the following elements:

- **Vision statement.** A vision statement is an inspirational statement that describes what the association should look like or be and what the key players in the association accomplish. It is usually a short statement that can easily be memorized. Example: "An association of excellence providing true value to members."
- **Mission statement.** A mission statement or purpose defines an association's fundamental reason for existence and establishes the scope of its business. Example: "The purpose of the ABC Association of REALTORS® is to enhance the professionalism and profitability of its members and to protect the rights of property ownership."
- **Critical issues or long-term goals.** The critical issues are generally considered those concerns most important to the future success of the association.
- **Strategic initiatives or general objectives.** These statements are derived from the critical issues and broadly describe the results an association wants to achieve with regard to member needs, external forces and industry trends.

- **Strategic actions or strategies.** Strategic actions or strategies are specific, measurable actions and directions designed to reach established goals. They are usually fulfilled through creation, continuation, change or elimination of programs and initiatives.
- **Evaluation criteria.** A strategic plan should also include criteria to measure success. This is vital to determining if the strategic planning process produced the desired results or if changes are needed in future planning sessions.

Other components that might be included in a strategic plan are:

- A summary of the environmental scan
- Planning assumptions
- Resource allocation priorities
- Future scenarios

The vision/mission statements, strategic goals, and strategic actions/strategies to achieve goals are at the heart of a plan. An environmental scan and the results of the member needs studies are included because they provide the basic assumptions for developing a realistic and feasible plan.

Using a Facilitator

Many associations find it helpful to employ an outside facilitator to assist with the strategic planning process. Using a facilitator has several advantages, as outlined below:

- **Custodian of the process.** A facilitator can keep the process on track when controversy or side issues threaten to derail it.
- **Conflict mediator.** Discussions about strategic direction and choice can become emotional and controversial because the issues involved affect participants' livelihood. A facilitator can help maintain an atmosphere in which conflicting ideas and viewpoints can be discussed objectively and consensus can be achieved.
- **Objectivity.** As an objective outsider, a facilitator can provide feedback to the planning group on its performance.
- **Outside expertise.** Drawing on experience with other associations, a facilitator can provide comparative feedback and suggestions about process tools and methods that others have used successfully.
- **Consensus-builder.** A facilitator can help a group work through conflicting viewpoints and priorities to formulate strategies and actions around which the planning group can unite.

- **Industry experience.** Many associations have found that using a facilitator from within the industry is generally the most effective approach.

Staff and volunteer leaders should meet with the appointed facilitator prior to the planning process to provide information about the association's challenges, background, role of the group, and external forces. Agreement should be reached about the desired outcome of the planning process and the methods to be used.

The Strategic Planning Process

Form a strategic planning committee. The committee should be comprised of a wide range of members, including incoming leadership, the board of directors or executive committee and key staff. The participants should be diverse and representative of the entire membership, including large and small firm brokers and members, franchise representatives, independent brokers, and experienced and newer members. The goal is to get broad representation, not just the leaders.

Use the Right Tools. Provide the strategic planning team members with copies of the latest NAR research studies. For instance, NAR's latest *"Profile of Home Buyers and Sellers"* report will provide stats on home buyer characteristics, real estate professionals, trends in the marketplace and more. Another valuable resource is the REALTOR® Association Models Online Planning Tool, found at <https://www.nar.realtor/ae/manage-your-association/association-models-planning-tool>. This free, interactive questionnaire is a resource that helps planners determine where the association would like to be in terms of structure/governance and delivering valuable member services. In addition, its analysis of the five areas of functions/services can serve as important discussion items in an association's future planning. NAR is committed to helping associations cater to their members, and you can find many helpful planning tools at www.nar.realtor.

Focus Groups. Conduct focus groups to learn what members are thinking about and what they want. Concentrate on current issues, and determine the success of existing programs, services and activities. Prioritize the services and efforts of the association. Three to five focus groups are generally ideal. Break down focus groups by specific groups, including, but not limited to, large brokers, franchisees, mid-size brokers, small brokers, top producers, rookie agents or REALTORS® under 30, and affiliates. Listen to the successful producers and major players in the market, not just the marginal players. Focus groups should be comprised of ten to 15 people, with two to three members of the leadership team sitting in as observers, and an outside facilitator. The results should be summarized and shared with the planning team or committee.

Survey, survey, survey. During every membership meeting, in-person or online, provide a one-page survey that covers key issues for members to evaluate, such as the multiple listing service (MLS), frequency of meetings and education. Tabulate the surveys, and make the results available to the strategic planning team. Remember to keep surveys simple and ensure that members understand the importance of their responses. Report survey results during each membership meeting or in association publications, so members know their voices count. Publish results on your association's website. In today's world, frequent, short surveys using online services like *Zoomerang* or *SurveyMonkey* are most cost-effective. Ongoing dialogue with members helps you to know what keeps your members awake at night; then you can develop products and services to meet those needs.

The Strategic Planning Retreat

In planning a retreat, select a location away from the association offices, such as a nearby resort or hotel. You will need a room large enough to accommodate the full group and rooms for break-out groups, if these are planned.

For smaller associations, a one- to one-and-a-half-day retreat is ideal. For larger associations, two full days may be necessary. A break in the retreat is always beneficial, not only for the participants, but also to allow for informal discussions between participants in a less threatening atmosphere.

If funding is not available for an in-person retreat, a virtual retreat is an option. This can be a cost-efficient process, as the only expenses involve the technology platform and participants' time. Other advantages include the ability to record the session, transcribe the notes and share them with every participant.

However, the format can discourage participants from offering their candid remarks about current issues, and videoconference does not lend itself to informal one-to-one or small group conversations that can occur during breaks. As a result, the work product coming from a virtual strategic planning retreat may not be as comprehensive or valuable as the findings from an in-person session.

The Agenda

A simplified agenda for the retreat—whether virtual or face-to-face—could include:

- Opening remarks
- Self-introductions
- A PowerPoint presentation on issues and trends
- Discussions on opportunities and threats and then the strengths and weaknesses of the association
- Discussion on critical issues; prioritize the top five to eight issues
- Breakout groups or full group discussion on strategic goals or objectives
- Reports from breakout group leaders
- Breakout groups or full group discussion on strategic actions along with timelines and tentative budgetary impact
- Follow-up reports from breakout group leaders
- Closing remarks

Write the Plan

With input from the planning committee, an effective strategic plan can be drafted to enable an association to be truly competitive, to be the “association of choice” and to be instrumental in enhancing the members’ bottom line. Keep it simple and short (two to four pages) and include the value proposition derived from membership.

Conduct a Review

The executive committee and board of directors should review the plan periodically to monitor the association’s progress in meeting objectives.

Develop the Budget

Work with the finance committee to develop the budget based on the goals or strategies and priorities.

Submit the Plan for Approval

After the retreat, submit the plan and budget to the board of directors for approval, then publish the results to the membership in summary form.

Action and Follow-Up

Strategic planning is a life plan—a dynamic, ongoing process of assessing and reassessing the environment and making decisions about how an association will be managed and led. So, how can “on-the-shelf” syndrome be avoided?

- **Use the plan.** Make a commitment to use the plan as it is intended, as a fundamental management tool.
- **Keep it simple.** A plan should be a concise statement of an association’s intentions, stated in simple language. It is a roadmap to the association’s success.
- **Gain buy-in.** During its development, involve all those who will be affected by the plan. Use surveys, focus groups, constituency representatives and committee appointments to involve all stakeholders. Most importantly, the association’s current and future leadership team must be engaged in this process. The elected leaders are the individuals most responsible for articulating the plan to the members. If they feel that they are involved in creating the plan, they will have a greater stake in seeing it succeed.
- **Implement the plan with accountability.** An old maxim remains true today: “Effective implementation of an average strategy beats mediocre implementation of a great strategy every time.” An association’s leadership and staff must make a commitment to implementing the actions set forth in the plan, then take action to communicate with the members about progress and successes. Those who are responsible for implementation must be held accountable for it.
- **Review and update the plan on a regular basis.** Strategic planning is the journey, not the destination. Whether performed by elected leadership, staff or a committee, a process should be in place to regularly review the association’s strategic choices and directions, to evaluate changes in the external environment that indicate the need for a strategy shift, to make adjustments or to take alternative actions. This review is like taking a family vacation by car; the family agrees on where it wants to go, but from time to time the driver must stop, look around to see where they are and consult the map to identify the best route to take, choosing detours when necessary..

Avoid Strategic Plan Failure

The real reasons that strategies fail are varied but can often be anticipated. Effective REALTOR® associations stay a step ahead by knowing the reasons strategies fail and avoiding the pitfalls.

Strategies often fail because the market conditions they were intended to exploit change before the strategy takes hold. REALTOR® associations can take a few simple steps to ensure that they are prepared for unanticipated change. Some of the main reasons for failure are listed below:

- Failure to involve future leadership. If the incoming leadership has had no part in developing the strategic plan, there is no “buy-in,” and the plan will be doomed to fail.
- Failure to properly allocate strategies to committees, task forces, working groups or staff, with appropriate timelines and accountability.
- Failure of the association to effectively monitor progress in implementing the plan. The plan simply sits on the shelf.

PREPARING A BUSINESS PLAN

Once an association has its strategic plan in place, the foundation has been laid for that association’s products, service, and programs. A business plan is an analytical approach to offering each association product, service, and program. Develop a business plan when considering anything from an education program to a social media consulting service.

Note: Information in this section is based on the “Business Plan Template” Appendix of the *Handbook for Real Estate Associations*, prepared for use by the International Real Property Foundation, by Judith Lindenau, RCE, CAE, October 2001 (Revised 2011).

A good business plan should answer the following questions:

- What is the background for this proposal? What are the intended results for the product/service/program?
- What is the specific target market? How big is that market?
- What is the specific nature of the product/service/program—pricing, cost, scope and potential consumers?
- Who is the competitor for providing this product/service/program? How does the competition compare to what the association can offer? Why will the audience use the association’s product/service/program rather than that of the competition?
- Does the association have the background and skills to produce and market this product/service/program? If not, would the idea be better serviced by the competition?

- How much money will the association need, and how will that money be used to pay for direct and indirect costs?
- What are the benchmarks for the product/service/program success? If ongoing, how will decision-makers know when the product/service/program is no longer viable? How will it be phased out?

Although the elements of a business plan may vary, the basic, essential components are:

- Executive summary
- Association overview/rationale
- Product or service description
- Marketing and sales
- Development
- Operations
- Summary of financials—budget integration

Executive Summary

The executive summary is a one-page overview of the plan. Structure it by adding a sentence or two in support of each of these categories:

- Product/service description
- Marketing and sales
- Development
- Operations
- Management
- Financial summary

Association Overview/Rationale

An association might wish to include the following information in the background section of a business plan:

- History or background of the intended product or service.
- Objectives: Include an association mission statement, plus the defined organizational goals and objectives. Describe how the proposed product or service will meet these goals.
- Markets and products: Describe the other products and services offered that meet these goals and objectives. Explain the overall marketing strategy related to the products and services offered.

Product or Service Description

An association develops a marketing plan for each new significant product or service it considers offering. The elements below should be included in the product and service description section of the business plan.

- **Introduction.** Briefly introduce the designation product. Provide a history about why the need for this program has occurred, where the idea originated and who is involved in the formative thinking.
- **Description.** Describe the designation product. What education or training will be required? What other elements, such as practical knowledge, should be considered?
- **Market.** Who will be the target market for the designation? New members? Experienced professionals? Identify any existing competition that the designation program might encounter. What resources are necessary for encouraging the target market to use the designation?
- **Proprietary rights.** What proprietary rights will the association have for this designation? Can it be patented or licensed so that no one else can imitate it?

Marketing and Sales

Marketing and sales approaches are the most important considerations when planning any product or service, because members must be aware of the product or service, purchase it and use it. For instance, an event planner must define and implement a marketing strategy as carefully as designing the event itself. This process includes:

- **Market analysis.** What is the market, and how large is it? Are there any other entities currently servicing the market?
- **Price.** How will a product or service be priced?
- **Place.** How is a product or service to be distributed?
- **Promotion.** How will a product or service be advertised?
- **Sales strategy.** How can customers order a specific product or service?

For more detailed information on this topic, see the Marketing chapter of *The Answer Book*.

Development

- **Status.** Describe the current status of the product or service. Is it just an idea or something that members demand?
- **Plans.** What is the final result the association envisions? How many items does the association wish to sell, or how many attendees does it need to fill a program? Describe the plans for reaching the specific, identified goal. If a program continues over a period of time, determine and describe specific benchmarks for its success.

- **Timetable.** What is the proposed schedule? Be specific and realistic when articulating all developmental projections.
- **Risks.** Anticipate any potential risks, and have a plan in place for how they will be handled. For instance, a competitor could steal the target market or costs could skyrocket and anticipated income might not meet expenses. Put a backup plan in place to address such situations.

For more detailed information on this topic, see the Product/Program Development chapter of *The Answer Book*.

Operations

- **Scope of operations.** Outline the steps an association must take (in-house) to make a project work. Does the association have enough available staff and resources? Is it necessary to hire personnel? Describe how to best handle operations for the product or service.
- **Ongoing operations.** Will the association operate/offer this product or service on an ongoing basis? If so, describe the resources necessary to sustain the life of the product or service. Describe how the product or service will be built into the ongoing association operations. For instance, if the product or service is a designation that requires recertification every few years, outline the activities the process requires. Assign responsibilities for these activities, and determine total costs, over time.

For more detailed information on this topic, see the Product/Program Development chapter of *The Answer Book*.

Summary of Financials—Budget Integration

A summary of financials is found at the conclusion of a written business plan. This financial analysis should support the following conclusions:

- The product or service is strong and a good idea.
- There is a market for the product or service and a plan to reach that market.
- There is a management team.
- The internal resources to produce and maintain this product or service are intact and available.

Now is the time to explore the financial potentials and risks of production.

- **Financial forecasts.** How well, financially, will a product or service do? If the product or service is ongoing, what are the break-even projections? Paint the best-case scenario for the product or service, and the worst-case scenario, too.
- **Capital requirements.** Determine how much new capital is necessary for launching this product or service, and identify sources for acquiring it.
- **Financial risks.** Anticipate any financial risks with the production of this product or service and how to minimize such risks.
- **Exit strategies.** Identify the result if, for some reason, financial projections do not materialize. Determine indicators that will be evident if the product or service no longer is of interest to the target audience. Clearly define that point and identify how the association will divest itself of the product or service if this happens.

For more detailed information on this topic, see the Financial, Budget and Tax Management chapter of *The Answer Book*.

An Alternative to Assembling a Business Plan

A full-scale business plan can be simplified when using a standardized format. Below is a sample form that can be used for every new program proposed, or to identify programs that should be eliminated. Getting rid of the “sacred cows” is always a challenge for any AE.

PROGRAM ANALYSIS FORM: ABC Association of REALTORS®				
New Program: Government Affairs Director Ranking: 1				
Program Description: Hiring of Government Affairs Director				
<p>1. The pressure of work in both the county and various municipalities is increasing and ordinances impacting real estate or homeownership are filed on a much more frequent basis than in the past. With one county and 11 municipalities to cover, it is becoming increasingly difficult, and almost impossible, to effectively influence local legislation or ordinances that impact homeownership and the real estate industry. The nature of the current economic downturn is such that problems involving the targeting of real estate for fees and taxes will not go away. The national economy is in recession, and our counties and municipalities are finding it virtually impossible to balance their budgets. This is going to place increasing pressures on county and city commissions to find replacement dollars—just to satisfy ongoing annualized programs. Additional staff need to be available to assist in monitoring and lobbying on a continual basis.</p> <p>2. A growing NIMBY attitude is leading to an increase in attempts to stop, slow down or tax growth. Issues we are dealing with include increases in property taxes and attempts to re-introduce real estate transfer fees and extend impact fees to cover schools. Local volunteers are now so stretched thin trying to maintain their bottom line that they are unable or unwilling to devote the time that is needed to not only monitor, but have an effective presence in, county and local municipality commission meetings.</p>				
Targeted Members and Customers: The primary beneficiary of the expansion of our legislative and lobbying services would be the members, brokers-in-charge and homeowners.				
Alternative Providers:				
1. There are lobbyists to hire on a part-time basis, but these lobbyists all represent multiple employers or organizations, many of whom have positions that are directly opposed to the REALTOR® policy and positions. Independent lobbyists build and maintain a presence with the various local government entities, but that presence does not in any way positively influence our industry.				
Program Attractiveness: <input checked="" type="checkbox"/> High <input type="checkbox"/> Marginal <input type="checkbox"/> Weak				
Our Competitive Position: <input checked="" type="checkbox"/> High <input type="checkbox"/> Marginal <input type="checkbox"/> Weak				
Outside Alternative Coverage: <input type="checkbox"/> High <input checked="" type="checkbox"/> Marginal <input type="checkbox"/> Weak				
Q1. Have members indicated a need for the program? <input checked="" type="checkbox"/> Yes				
During the current legislative session, members have raised major concerns about our ability to lobby effectively in face of the growing number of bills that we need to support or oppose. Frequently, issues come up at such short notice that it is impossible to bring in volunteers to testify or speak on behalf of our industry. The Privacy Act was a case in point.				
Q2. Do we have the capacity to put on the program with existing resources and if not what resources need to be added?				
We do not currently have the ability to expand our legislative or political influence without hiring additional staff or contracting with outside sources.				
Q3. What will our position be if we do or do not offer this program?				
Issues such as tort reform, smart growth, real estate transfer fees and possibly real estate services taxes, as well as sign ordinances and a host of other key issues, are now on the agenda. We may be the largest trade association in the county, but we struggle to compete with the environmental and regulatory groups. Our failure to beef up our lobbying services will most certainly place our legislative agenda in jeopardy, and there will be a growing likelihood that we will lose on key issues that dramatically impact the real estate business climate. There will be significant political fallout if we fail in our legislative agenda.				
Q4. Will the program strengthen or weaken our relationship with Local Boards and Associations?				
<input checked="" type="checkbox"/> Strengthen: <input type="checkbox"/> Weaken				
Strategy for implementing the program, including key challenges:				
With the assistance of the state association, we have the ability to interview and hire a qualified candidate who will work exclusively in the best interest of the association and closely ally himself/herself with the state lobbyists.				
Budget Impact:				
Year	Income	Expense	Staff Cost	Remarks
2010	\$0	\$1,000 travel	\$60,000	Staff costs include benefits & bonuses. Hire date 1/2/10
2011	\$0	\$3,000 travel	\$65,000	Staff costs include benefits & bonuses

Sample Program Analysis forms are available on the REALTOR® Association Resource Exchange (RARE):

<http://www.nar.realtor/rare.nsf/pages/RAREHomePage?OpenDocument>.

SOURCES

- NAR's Strategic Planning Resources Toolkit
<https://www.nar.realtor/ae/manage-your-association/strategic-planning-resources-toolkit>

1.10

Product/Program Development

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CORE SERVICES VS. OPTIONAL SERVICES

REALTOR® associations exist to serve their members. By offering the right package of products and services, REALTOR® associations add value to real estate professionals in the community. Because consumer behaviors, the real estate industry, technology and local communities continually change, an association must regularly assess the needs of its members.

An association must also evaluate its portfolio of products and services to assure that its financial resources are being directed in the best interests of its members. The evaluation of new or revised products and services should also include an analysis of any potential liabilities, changes in tax status or staffing requirements. Ideally, there will be no unexpected consequences from launching a new member product or service.

Core Services

Associations need to focus on their core services—the products and programs offered for the annual dues paid by members—as well as optional services, which are products and programs that may be important, but not essential, to members. It is important to note that some association services—whether core or optional—offer tangible financial benefits, such as group insurance coverage or lockbox services. Others may be intangible, such as networking opportunities for real estate and affiliated professionals.

Most members will agree that a “core” association service is advocacy: focusing public policy or legislative activities on behalf of real estate and housing issues. Other examples include an association’s news releases or its training and educational programs for members. A related example is the multiple listing service (MLS), which may be operated by the association or an affiliated organization to serve the core needs of members for a standardized, centralized source of information about properties listed for sale.

In determining both association and MLS core services, it is important to ask the question, “What services do our members EXPECT from our association?” Then, list the answers, such as Code of Ethics enforcement, online help desk, legislative and legal support, etc. These basic services may vary from location to location, but typically they are those services that are funded by the association members’ dues dollars. Calculating the cost of providing core services and structuring association income to cover those expenses is a key to good financial management.

Whether a product/service offering is considered “core” or “optional,” it should support the association’s value proposition: how the benefits members receive for their dues (or optional fees) will improve their businesses, careers and communities. That means going beyond the specific features of association products and services, such as a local market update or technology class, and explain the benefits members can receive, such as more effective listing presentations or ability to serve more clients from a laptop. In other words, the products and services should be able to pass a “why test” from members who ask, “Why is the association doing this?”

Because the needs of members change—gradually or suddenly—associations should periodically re-evaluate and review their offerings to be sure they remain relevant to members. The changing needs of members may also require adjustments to an association’s value proposition as well as its programs, products and services.

Optional Services

Real estate associations successfully enhance the value they provide to members by offering optional products or services supported by sponsors, member fees or payments rather than dues dollars. A survey of members, for example, might indicate a strong but limited need for a specific product or service, such as social media consulting or sales training. In those cases, it may make sense to offer an optional fee-for-service program that meets a group of members’ needs without using dues dollars.

It is important to view non-dues revenue programs as “businesses.” That means an association should be able to cover the costs of offering the program, including overhead expenses, through participants’ fees or other payments.

The current philosophy regarding educational programs and services is to generate 40 percent net proceeds; in other words, charge a fee that covers the cost of the program plus 40 percent to support association operations. However, association staff and leadership may feel that it is worth instituting a new program even if it generates less than that optimum return.

For suggestions on identifying non-dues revenue opportunities, see the Financial, Budget and Tax Management chapter.

MLS PRODUCTS AND SERVICES

From an NAR policy standpoint, a REALTOR® association-owned and operated MLS has both core services and other association services and products as outlined in Part Two: Policies, C. Administration, Operational Issues, Section 8 Categorization of MLS Services, Information, and Products of the current NAR *Handbook on MLS*.

The services, information and products that MLSs provide to participants and to subscribers affiliated with participants may be categorized as core, as ancillary to the core but included in a basic package of MLS services as determined locally and provided to all MLS participants and subscribers automatically or on a discretionary basis, or as optional and available to participants and subscribers at their discretion. The following will guide MLSs in categorizing their services, information and products.

Core: Core MLS information, services and products are essential to the effective functioning of MLS, as defined, and include:

- Active listing information
- Information communicating compensation to potential cooperating brokers

Core services include the mechanisms (print, electronic or both) by which this information is communicated between participants and the MLS.

Where MLS participation is available to non-member brokers or their firms, either by law or by local decision, the information, services and products available to such participants may be limited to those categorized as core.

Basic: In addition to core services, an MLS may automatically or on a discretionary basis provide additional information, services and products substantially related to the purpose and function of MLS, such as, but not limited to:

- Sold and comparable information
- Pending sales information
- Expired listings and off-market information
- Tax records
- Zoning records/information
- Title/abstract information
- Mortgage information
- Amortization schedules
- Mapping capabilities
- Statistical information
- Public accommodation information (e.g., schools, shopping, churches, transportation, entertainment, recreational facilities, etc.)
- MLS computer training/orientation
- Access to affinity programs
- Establishment, maintenance and promotion of public-facing websites

Optional: An MLS may not require a participant to use, participate in or pay for the following optional information, services or products:

- Lockbox equipment, including lockboxes (manual or electronic), combination lockboxes, mechanical keys, and electronic programmers or keycards
- Advertising or access to advertising (whether print or electronic), including classified advertising, home-type publications, electronic compilations, including participant, subscriber or firm homepages or websites

By law, (MLSs in the following states/territories may not treat Optional information, services or products as Basic: States within the First, Second and Eighth U.S. circuits, including Arkansas, Connecticut, Iowa, Maine, Massachusetts, Minnesota, Missouri, Nebraska, New Hampshire, New York, North Dakota, Puerto Rico, Rhode Island, South Dakota and Vermont [adopted 05/13]). Otherwise, an MLS may treat Optional information, services or products as Basic, provided that the MLS does not receive an economic benefit from the arrangement as demonstrated by satisfying both of the following conditions:

1. The MLS or its shareholder(s) is not the seller, lessor or licensor of the information, service or product (i.e., the information, service or product is sourced from an independent third party); and
2. The MLS does not make a profit or receive a commission or rebate based on the sale, lease or license that exceeds the operational costs of providing the information, service or product.

While no participant can be required to use, participate in or pay for information, services or products defined in this policy statement as optional, an MLS may, as a matter of local determination, bill all participants (or, where appropriate, subscribers) for optional information, services or products provided that participants (or, where appropriate, subscribers) may decline such information, services or products and not be charged for them. In such cases, the MLS must make all participants and subscribers aware, in advance, of their right to decline any such service, product or information.

None of the foregoing precludes an association or MLS from utilizing association or MLS reserves, dues or fees or special assessments (as otherwise provided for in the association or MLS governing documents) to acquire assets (including hardware and software) necessary to make optional information, services or products available to participants and subscribers, provided any funds used to acquire assets or initiate services will be reimbursed out of proceeds realized from the sale or lease of such information, services or products. Associations of REALTORS® and MLSs may make nominal administrative expenditures out of reserves, dues or fees to initiate or maintain optional services and products. (Amended 05/13)

INFORMATION AS A MEMBER SERVICE

One of a REALTOR® association's core services is providing information that will help its members advance their businesses and careers. Therefore, a local or state association can add great value to the members' lives and businesses by seeking out, collecting and delivering that information.

In addition, associations are finding that housing statistics and general real estate information are services that strengthen the association's respect and credibility with the public. Since both associations and MLSs collect extensive data, the analysis and packaging of that information for members, affiliates and the public can be a source of organizational recognition as well as non-dues income.

Managing Knowledge

An association seeking to manage its organizational knowledge must develop specific goals in four areas:

- Information
- People
- Technology
- Service

Information. An association must be able to effectively and efficiently organize and share its collective knowledge and exploit the value of internal and external information.

People. An association must be able to motivate and retain members who have institutional and subject knowledge, and those who also have the intelligence and analytical ability to turn information into the knowledge necessary to solve problems.

Technology. An association must use the latest communications tools to efficiently organize, access, share and deliver its knowledge.

Service. Regardless of the delivery options, associations should strive to respond to all member inquiries with useful, accurate and timely information. Having association staff available who want to help and respond quickly is vital to serving members effectively. Therefore, association staff must be quick, friendly, reliable and knowledgeable.

Reactive or Proactive?

Members, as well as the public, expect an association to help keep them abreast of the latest news, trends, issues and opportunities that might affect them. That information can be delivered in a number of ways:

- News releases, blogs, podcasts and videos emailed to members or posted on the association website
- Posts on social media sites like Facebook, LinkedIn, and X (formerly Twitter)
- A newsletter to members
- Special reports prepared by association staff, such as a position paper on an upcoming state legislative session
- A reference or “links” area on the association website
- A formal or informal staff “answering service” to respond to members’ questions

There are two ways to approach providing information services. An association can be “reactive” and respond to inquiries as they arise, or it can be “proactive” and try to anticipate the information needs of customers by delivering the information before they know they need it.

Examples of a reactive system include:

- Website “frequently asked questions” (FAQs), and their answers
- Reference website links, statistics or directories
- Prepared lists of resources on specific topics of general interest

Examples of a proactive system include:

- A regular blog on the association website
- Regular videos or podcasts from the association website
- Social media posts to members about timely news
- Training staff to answer questions on association activities and industry news

The best scenario provides for a combination of both proactive and reactive information delivery systems. Here are some examples of activities that result in reactive and proactive information services:

- **Compile summaries.** Develop resource summaries for frequently researched topics. These can include books, articles, website links and referrals to subject specialists. Just having a current list of hot topics available is valuable to association staff because it can help identify the need for education courses, newsletter articles or lobbying efforts. Make resource summaries and hot topic lists available on the association’s website. A good example of this type of compilation is NAR’s “Reference Pages,” which can be found at: <https://www.nar.realtor/library-archives/references>.
- **Build online communities.** Create an online community where members can share information, ask questions and learn about the latest issues, information and resources. This can be a shared blog with member comments or an online discussion group). It could also involve establishing a group on Facebook or LinkedIn.
- **Create a member help desk.** Depending on the size of the association, this may involve training one or more staff members to provide information and handle other member needs online or by telephone.
- **Utilize NAR’s Library and Archives.** Local associations can link their websites to the “virtual library” at www.nar.realtor/library-archives for 24/7 service. Association staff can call NAR’s Library and Archives at 800-874-6500 or email librarians@nar.realtor, or contact the state association’s help desk for assistance with more regional information.
- **Combine services.** An association with different service departments, such as meetings, education, membership and member services, should cross-train staff. Send some staff members through real estate school to become licensed so that they fully understand the business, and build a team whose primary purpose is to provide information to members.

- **Create partnerships.** Forge partnerships with other information providers. Use services already available from other state or local associations or NAR. Many states feature real estate centers as part of the university system. Governmental entities are a good source of real estate information such as zoning, lot descriptions and tax records.
- **Market information services.** Develop a PDF brochure that describes the association's informational services and those available from other members of the REALTOR® family. Determine which aspect of your data is a "core service" for members, and which can be made available for a cost. Specialized data analyses can be provided to members and non-members (such as schools, utility companies and commercial developers) for a fee.

From an organized collection of reference materials to the delivery of specific knowledge that adds value, an association can make a difference by supporting members' informational needs and by providing data compilations to the public.

DEVELOPING AND REVISING PRODUCTS AND SERVICES

An association's strategic plan can guide the product development process. Product ideas that fall outside the organization's competencies should be assessed for their fit with the organizational objectives. The strategic plan also helps define whether products fall into the core or optional categories. More information about the strategic planning and visioning process is in the Planning and Visioning chapter of *The Answer Book*.

While member committees are an integral part of the product development process, every idea must be evaluated and tested in some way to validate its marketability and probable success. When working with a committee, ensure that there is adequate research and testing time allowed. If a proposed product is for member use, a committee can provide immediate input on content, packaging, price and distribution. Some products will warrant more extensive research, but the committee is an excellent place to start.

Familiarize committee members with the product planning process and the need for profitability. Remember, profitability does not necessarily mean making a profit, but rather making the best use of resources to deliver value.

In general, the development of association products and services involves a multi-step process:

- **Conducting a needs assessment**—a formal approach to identify specific issues facing members and potential opportunities for an association to provide solutions
- **Undertaking market research**—determining the size of the market for those products and services, identifying potential suppliers and competitors
- **Developing a business plan**—analyzing the financial foundation for a new product or service. This involves determining the true cost of the program, including direct expenses, labor and overhead to be certain that new revenue would cover those costs or generate a net profit to the association.
- **Establishing pricing parameters**—determine the current price for comparable products or services, and see how that pricing fits into the business plan.
- **Launching the program**—assuming the market, business and pricing analyses are favorable, begin offering the new product or service.
- **Evaluating the results**—assess the success of a new program or service to help guide an association's decisions in the future.

These steps are also covered in detail in the Marketing chapter of *The Answer Book*.

Why Conduct Needs Assessments?

Researching members' needs is the initial step toward developing specific benefits and services. It is highly risky to develop anything based on a "feeling" about what might potentially hold value for members. Certainly, a strong association staff stays in touch with members and can anticipate their needs but only from a staff perspective. The most certain method for obtaining a member's perspective is to ask the members.

Invest in research to learn the facts. But understand that market research, done appropriately, may require association leaders and AEs to make difficult decisions. For example, research results might reveal very diverse needs among membership, particularly when working with a larger, broader membership base sampling. Since individual members and groups of members (such as brokers and salespeople) may have unique characteristics and needs, the development of products and services for the entire membership may not be the best approach. In fact, trying to be "all things to all people" almost never works.

Clearly, intelligent marketing involves putting the needs of the member first, and understanding the specific target market for which the product or service is being considered. It also means being sure that any new products and services fit into the association's overall strategic plan and long-term goals.

Gather Feedback from Members

Members want to choose products and services that will best help them in their specialties. Here are some suggestions associations can use to help members help themselves with regard to evaluating current and future benefits:

- Routinely conduct focus groups comprised of participants from the various member groups or target markets.
- Invite and encourage as many members as possible to participate in discussions about member benefits. Use focus groups, social media, online forums, questionnaires and satisfaction surveys on an ongoing basis.

Remember, existing products and services may gradually be abandoned by members, become available at a more competitive price or have better quality from outside vendors. Ongoing evaluation and feedback processes can help associations determine the shelf life of programs and services.

Practical Assessment Tools

Needs assessment tools can be qualitative (i.e., focus group comments) or quantitative (i.e., numbers-based, such as surveys). Often, a combination of qualitative and quantitative data collection methods is used in order to help associations make the best possible decisions about offering products and services.

Qualitative research produces descriptive data about people's perceptions, opinions, beliefs and attitudes. It leads to a greater understanding of individual differences and patterns. This type of research is the first stage of a needs assessment. Qualitative data can be collected through informal discussions, formal interviews, focus groups or observations.

However, the results of qualitative data research may not reflect the overall membership, because participants are not randomly selected, and group discussions will vary. Qualitative data can help describe members' current behavior, but quantitative data can provide better predictions of future member behavior.

Questionnaires

Questionnaires are among the most commonly used tools for gathering quantitative data. A questionnaire typically contains a standard list of questions that can be used to obtain quantitative information once answers are obtained from members. Questionnaires are most useful when it is necessary to reach out to otherwise inaccessible members or when there are time constraints. While data from a completed questionnaire can be gathered and analyzed quickly and inexpensively, information might not be as in-depth as that gathered through the qualitative approach.

Without question, the cheapest, fastest and most efficient way to distribute a questionnaire is through email surveys. They can also be included in association newsletters.

Spatial Analysis

Another way to analyze member needs is through spatial analysis. The geographic information systems (GIS) mapping technique allows an organization to look at geographic distributions of member data. For example, if an association is looking for the best place to open a branch office or to move the existing one, it can examine where the members live (by ZIP code), relative to the association's jurisdiction and market area.

Another use for GIS is to look at the profile of an association's market area. Map demographic and housing characteristics of the market area population and trends will readily emerge. Implications for REALTORS® will also become apparent. For example, areas of high income and high renter occupancy might point to farming opportunities for members.

Market Research

Once a membership need has been identified, the next step is to conduct market research. The goals of market research include predicting how many members may be willing to pay for the product or service, possible sources for those products and service and existing or potential competitors.

Most market research activities involve four stages:

Stage 1—Opportunity Identification

Something triggers a need for the product or service. The trigger could be a sudden change in the economy or business climate, an idea from a volunteer leader, feedback from roundtable discussions, calls from members, a new licensing law, an industry or organization change, a newly defined real estate specialization, the strategic plan, etc.

In many cases, the opportunity will be more clearly identified through a needs assessment process. However, further investigation may be needed to determine the strength of that need and potential demand for the new product or service.

Stage 2—Concept Screening

This stage should be pursued only if it is determined that there is a need that currently cannot be addressed by an existing product or service (internal or external). The approach to take in this instance is to refer back to information gathered during the needs assessment process and focus on the most promising ideas or product suggestions. Then, weed out those that have little potential due to cost, distribution, user preferences or other “givens.”

At the end of the concept screening stage, there should be a firm understanding about the need and a well-defined vision of the product or service that will respond to the need. Note, however, that what is learned at this stage might lead to a decision to reject plans to develop the product or service. At each stage of the market research process, assess the wisdom of proceeding with a concept, and be willing to reject concepts that have little or no potential for success.

Assuming that the knowledge acquired during the concept screening results in a “green light” decision, it is time to move on to concept testing.

Stage 3—Concept Testing

At this stage, all aspects of the product or service to be developed are explored in depth to ensure product value to targeted users. Following are some of the areas to be examined during the concept testing stage:

- Will the targeted users purchase the product/service? Measure buying intent.
- Consider reasons why a target market might be interested or may not be interested.
- How is the product different from other similar products? What is the competition?
- How does the price compare to the perceived value?

Stage 4—Test Marketing

This final stage of market research involves distributing a product to a limited audience in a controlled environment to measure and assess the response. This phase should not be neglected; it can provide valuable feedback for perfecting a product or correcting problems that might otherwise have gone undetected. Often, asking a sampling of the target market to preview the product or service is an adequate indication of whether or not to continue development.

Develop a Business Plan

The results of the needs assessment and market research process should drive the creative side of the development process. At the same time, a business plan should be prepared to ensure that the financial fundamentals—including adequate staffing, pricing and promotion—are in place to support those programs that address the identified needs.

A business plan typically covers the following topics:

- **A description of the product, program, or service**
- **A market analysis**—a description of the current market, potential market, and the competition for the product, program, or service
- **Pricing, promotion and distribution sales forecast**—how many members are likely to purchase the product or service?
- **Budget**—an outline of the projected costs including overhead and volunteer contributions to provide the product, program or service and the anticipated revenue

It is important for an AE to present a business plan for each association product or service to the appropriate governing body for review and approval. This practice assists the AE in maintaining close communication with the leadership and giving them a clear understanding of the organization’s resource allocations.

Evaluating the Product or Service

While an association may strive for perfection, it is important to understand that almost any product or service can be improved. Also, member needs and market conditions change, so a product or service that was ideal for last year may not be right for the year ahead. For all these reasons, an evaluation can help an association determine the strengths of its existing lineup and opportunities for future improvement.

Reasons to conduct an evaluation include:

- Learning whether a program accomplished its objectives
- Understanding why a program did not accomplish what was hoped
- Determining if users were satisfied with a program
- Obtaining data to assist in future program revisions
- Discovering which other programs, products or services users might purchase

There are many evaluation tools available, including surveys and follow-up questionnaires, as well as online user comments and discussion forums.

What should an association do with the evaluation data once it is available? Ideally, it should be used for updating or enhancing a program or developing additional member programs.

Remember that evaluation is the last step in a successful product or service development initiative.

VENDOR RELATIONSHIPS

In a demanding business environment, REALTOR® associations may need to justify the services they provide to members. Certain core services, such as governmental affairs, are essential and need to be a part of the competencies of association staff. While many programs can be developed using an association's in-house expertise, others require the participation of outside vendors, locally, regionally or nationally, and require a close partnership with a supplier of services or products. Below are several issues to consider in building successful vendor relationships.

Know what you want. It is difficult to engage a vendor without knowing exactly what products, programs or services are required. Therefore, a clear outline should be developed in written format that covers the request in whatever level of detail is necessary.

For major purchases, a request for proposal (RFP) should be sent to potential suppliers. An RFP is used to communicate specific requirements for a program, product or service to suppliers. More detailed information about RFPs is in the Facilities and Equipment chapter.

An RFP should contain:

- Background and history of the association
- Background of current and related projects (description and observations of related projects, results of member needs assessment identifying the need for this project)
- Description of current project (including desired project outcomes)
- Outline of the information a supplier should submit, including:
 - ▶ Statement of understanding of the project
 - ▶ Statement of work
 - ▶ Deliverables and timelines
 - ▶ Cost
 - ▶ Experience
 - ▶ Performance references
 - ▶ Logistical or legal issues (such as intellectual property ownership, capital ownership, supplier versus association roles/responsibilities)
- Contact information for questions related to the RFP
- Schedule for proposal submission and review process

Determine if a relationship with the vendor will benefit the association. That means conducting a due diligence inquiry, examining the vendor's history and record of performance.

- Ask for references. Contact other purchasers of the vendor's products or services and analyze those responses.
- Avoid potential conflicts of interest. The selection of a vendor should be free of any bias, nepotism or other perceived favoritism.
- Ask the question, "Is the company or vendor willing to participate as a true business partner with the association?" Partnering could mean offering flexible enough pricing so that the association can cover distribution costs of the product.
- Offer a service that members truly need and want in a business structure that enhances the standing of the association and its members.

Remember, the most important element of any business venture is how the association structures its vendor relationships so that everyone benefits—the members, the association and the vendors. An association does not simply make services available; it co-markets them with vendors and in doing so markets the association.

AFFINITY AGREEMENTS

Doing more with less and providing programs and services that generate non-dues revenue are hallmarks of successful AEs. When launching non-dues revenue products and services, such as affinity partnerships and product certification programs, an association should consider the bigger picture: its relationship with the affinity partner.

Many REALTOR® associations are entering into affinity agreements with various vendors, such as credit card companies, to generate non-dues revenue. NAR has its own affinity program called the REALTOR Benefits® Program, which is NAR's official member benefits resource that offers unique value-added benefits or significant savings exclusive to NAR members on a wide variety of quality goods and services.

In preparing an affinity agreement, both the association and the vendor need to have a clear understanding of the relationship, including the nature and quality of the product or service to be provided, the obligations of each party, and any sharing of revenue between the parties. In addition, an agreement should cover how the product or service will be marketed (by the association, vendor or both) and who will pay for the marketing expenses.

An affinity agreement typically grants the affinity partner the right to use the association's name and trademark in connection with its marketing efforts to association members. NAR authorizes local and state associations to use the term REALTOR® in their names and to use the REALTOR® logo. In turn, those associations may authorize affinity partners to use the association's name and the association's logo in connection with the affinity partner's provision of services to the association's members.

To authorize an affinity partner to use any membership marks, a provision must be included in an affinity agreement in the form of a license that clearly spells out how a vendor can use the membership marks. Define the marks covered and indicate that the affinity partner must receive the association's prior written approval before using the association's name or other trademarks, or in connection with, that partner's goods or services.

The license grant language also should provide that the affinity partners acknowledge the right of the REALTOR® organization to own and control the use of those marks. NAR has developed suggested language to accomplish these objectives. These provisions are not exhaustive of an affinity agreement's provisions relating to the marks, but these or their equivalent should be included in every agreement.

Following is the language developed by NAR Legal Affairs staff for the use of its name and marks by vendors. Please note that this language is used in NAR's agreements with vendors, but may be used as a model by associations. Note that the language would require modification for an association's specific use, such as geographical location of the grant of license (your state only), reference to the association, etc.

Use of Name/Marks

NAR Grant of License

NAR hereby grants to Vendor, and Vendor hereby accepts, during the Term, a non-exclusive right and license in the fifty states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam, subject to the terms of this Agreement, to use the NAR name, logo and other trademarks and trade names set forth on Exhibit A (collectively, the "NAR Trademarks") in connection with the activities contemplated hereunder. Use of the NAR Trademarks on an Internet Website accessed by parties located outside of the permitted geographical area shall be deemed incidental to this Agreement and shall not be a breach of this license, provided both Vendor's intended audience for the content of that web site and the server for the Website are within the permitted geographical area. Use of the NAR Trademarks shall inure exclusively to NAR's benefit and shall not be used by Vendor following the date of termination or expiration of this Agreement.

Prior Approval: All use of the NAR Trademarks by Vendor to promote the Products/Services to NAR's Members shall require NAR's prior written approval (which shall be understood to include approval via email) and be in accordance with NAR policies and guidelines provided to Vendor regarding use of the NAR Trademarks, which may be revised from time to time. Vendor shall not apply NAR Trademarks to materials used in connection with or promoting Vendor's Products/Services unless authorized in writing (which shall be understood to include authorization via email) by NAR. Vendor shall be responsible for submittal to NAR of all uses of the NAR Trademarks to promote Vendor's Products/Services to NAR Members regardless of their source for NAR's review and approval. NAR agrees to promptly review all proposed uses and not to unreasonably withhold its approval.

Ownership: Vendor hereby acknowledges that as between Vendor and NAR, NAR is the sole and exclusive owner of the trademark rights in the trademarks and logos, including the collective membership marks REALTOR®, REALTORS®, REALTOR ASSOCIATE® and the REALTOR® logo and the validity of those registrations. Vendor shall assure that subject marks are used only in accordance with the policies and guidelines of NAR relating to such use and, further that the NAR collective membership marks shall never be used interchangeably with "real estate agent" or "real estate broker", or in any context which suggests that a person may be a REALTOR® without reference to membership status in NAR.

Infringement Claims: NAR shall have the sole and exclusive right, but not the obligation, to assert claims or initiate litigation for infringement of any of the NAR Trademarks, including those licensed to Vendor by this Agreement, and to recover and retain any and all damages. Vendor shall provide NAR with prompt notice of any suspected infringement activities coming to its attention and agrees to cooperate reasonably, at NAR's expense, with NAR's efforts in enforcing its rights in the NAR Trademarks.

Vendor Grant of License

Vendor grants to NAR a non-exclusive license to use certain number of Vendor's trademarks (collectively the "Vendor Trademarks") in announcements, advertising, promotional materials and other items designed to explain the REALTOR Benefits® Program and the Products/Services hereunder, such use to be subject to the prior written approval (which shall be understood to include approval via email) of Vendor. Use of the Vendor Trademarks shall inure exclusively to Vendor's benefit. Except for in materials produced prior to the expiration of this Agreement, Vendor Trademarks shall not be used by NAR following the date of termination or expiration of this agreement.

Prior Approval: All use of the Vendor Trademarks by NAR shall require Vendor's prior written approval (which shall be understood to include approval via email). NAR shall not apply Vendor Trademarks to materials used in connection with or promoting the Products/Services unless authorized in writing (which shall be understood to include authorization via email) by Vendor. NAR shall be responsible for submittal to Vendor of all uses of the Vendor Trademarks to promote Vendor's Products/Services to NAR Members regardless of their source for Vendor's review and approval. Vendor agrees to promptly review all proposed uses and not to unreasonably withhold its approval.

Ownership: NAR hereby acknowledges that Vendor is the sole and exclusive owner of the trademark rights in the Vendor trademarks and logos. NAR shall endeavor to assure that subject marks are used only in accordance with the policies and guidelines of Vendor relating to such use.

Quality Assurance: Vendor shall maintain the high standards of quality for its products/services heretofore demonstrated to NAR, and take all necessary and reasonable steps to keep Vendor's products/services up to date based on contemporary standards. Vendor agrees the standard of quality for the products/services in connection with which the NAR Trademarks are used is such that it will enhance and contribute to the national image and prestige of NAR as an association of real estate professionals and will at all times avoid impugning the character and reputation of NAR and/or its members. NAR will from time to time review Vendor's products/services to assure the standard of quality is consistent with that previously demonstrated by Vendor, and Vendor agrees to cooperate with NAR in any such review. If at any time Vendor is in breach of this requirement, NAR may terminate this license as provided for hereinafter.

Including the above provisions in agreements with your affinity providers will protect an association relative to the use of the marks.

Product Certification Programs

Product certification programs go an additional step beyond affinity programs because they involve evaluating the product being certified to assure it meets some standard of quality. As a result, an association must meet the applicable standard of care when reviewing or certifying products, as some courts have recognized a cause of action against nonprofit organizations for negligence in certification when products are found to be defective.

NAR Professional Liability Insurance Program, Exclusion K

Please note that endorsement or sponsorship of an insurance program is not covered under the NAR Professional Liability Insurance Program, unless a waiver of Exclusion K is obtained. Exclusion K states:

Any claim based on or attributable to any failure or omission on the part of the Association or any Insured Persons to effect and maintain insurance or a bond on their behalf or on the behalf of any other person or entity, or to the endorsement, sponsorship, approval or ratification of any program of professional liability, medical, life or any other insurance by the Insured; However, this exclusion shall not apply to the endorsement, sponsorship, approval or ratification of any program of professional liability, medical, life or any other insurance by the Named Insured or by any other Insured:

If such endorsement, sponsorship, approval or ratification is made pursuant to guidelines established by the Named Insured, NAR's Home Seller/Home Buyer Dispute Resolution System or the Counselors of Real Estate Dispute Resolution System, or

The following criteria with respect to such program have been met:

The sponsored program is fully insured, and not self-funded, in whole or in part, by the endorsing Board or Association.

The insurer of such program: (a) is rated "A" or better by A.M. Best Company; and (b) provides the endorsing Board or Association with a written indemnification agreement, agreeing to indemnify and hold the sponsoring Board or Association harmless from and against any and all loss, cost or expense, including but not limited to liability and reasonable attorney fees incurred as a result of claims based upon or resulting from Board or Association endorsements of such sponsored program. If the plan is organized as a managed care organization, it must carry a positive evaluation from Dun & Bradstreet.

The members who participate in the sponsored program: (a) do so voluntarily; and (b) are advised that the Board or Association has no control over coverage or premium.

The terms and conditions of the Board or Association endorsements are set forth in a written agreement to which such insurer is bound as a party, and which has a term of five (5) years or less, and a ninety (90) day or less cancellation provision.

Insurance Products

Some of the most common insurance products offered by associations include:

- Annuities, which are insurance contracts tied to investment vehicles that provide for the tax deferral of investment earnings and a guaranteed payment of benefits in the event of the death of the contract holder.
- Business property and casualty plans, which can include various property and liability coverage
- Comprehensive medical programs, which provide for payment of medical, surgical and hospital expenses incurred by the insured.
- Supplemental medical insurance coverage, which is available in different categories. For example, a supplemental cancer expense indemnity policy will pay benefits if an insured is diagnosed and treated for cancer.
- Disability insurance, which provides benefits if the insured is unable to work because of an accident or sickness
- Life insurance, which provides for payment of a specific amount upon an insured's death, either to the insured's estate or to a designated beneficiary. The different types of life insurance include "term life," which provides pure protection with no accumulation of cash value; "universal/whole life," where cash value does accumulate; and "variable life" insurance, where the benefits are relating to the value of assets.
- Personal lines of insurance, which cover personal property against loss or damage (e.g., automobile or homeowner insurance)
- Umbrella insurance, which is a broad-form liability policy that provides high-limit, excess coverage
- Professional liability insurance, which provides coverage for losses arising from alleged misconduct or error in the performance of professional services

REALTOR BENEFITS® PROGRAM

NAR's REALTOR Benefits® Program provides practical solutions to members for their businesses and personal lives with products and services they use every day. This program includes value-added offers and significant savings from more than 30 partners that are recognized as leaders in their respective industries. Detailed information is available at: <https://www.nar.realtor/realtor-benefits-program>.

MEMBER VALUE PLUS (MVP) PROGRAM

The NAR Member Value Plus (MVP) program is designed to encourage members and AEs to complete simple actions, which only take minutes, to earn valuable, free rewards designed to benefit you or your member's business. Rewards include free products, gift cards and course discounts. New MVP offers are available every month to you as an AE, and MVP offers are available two times a month for members on the 1st and 16th of every month.

Detailed information available at: <https://www.nar.realtor/ae/share-and-promote/member-value-plus-mvp-program>

REALTOR® STORE

The REALTOR® Store is a one-stop shop for all real estate needs. The REALTOR® Store allows you to get in, get out and get back to business. Explore a diverse array of products and publications designed to meet the needs of all NAR members, from the new agent to the seasoned professional.

Detailed information available at: <https://store.realtor/>

1.11

Professional Services

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WHY OUTSOURCE?

When REALTOR® AEs consider adding new member services, improving current operations, or reducing legal risks, they frequently rely on professionals who specialize in these fields. This process is called “outsourcing,” because needed goods and services are obtained from outside suppliers. The people who provide the outsourced work might be referred to as consultants, external service providers, outside help or temporary workers. Some external providers being used frequently by REALTOR® associations include:

- Legal counsel
- Financial consultants and auditors
- Technology consultants, such as social media or search engine optimization (SEO) firms
- Marketing firms
- Personnel search firms
- Payroll firms
- Human resources specialists
- Government relations/advocacy firms

Why would an association bring in an outside consultant instead of using in-house staff to complete a project? One reason is that for some functions it is healthier to bring in a voice and perspective not vested in the process. Other reasons include:

- In-house employees do not have the skills necessary to complete a task.
- A short-term project with a definite start and finish date does not justify long-term employment.
- High-caliber talent is needed, but a full-time position with salary/bonus/benefits/perks and overhead increase cannot be justified.
- A carefully chosen outside advisor may have more credibility with members when a controversial or difficult decision is facing the organization.

However, there may well be alternative solutions, including hiring in-house professionals, to consider before making an outsourcing decision. Ultimately, the AE and association staff are responsible for recognizing the need, soliciting appropriate specialists and supervising outsourced support services.

Conduct a Needs Analysis

Before deciding to engage an outside professional, the AE should consider conducting a needs analysis, such as a staff review of the situation. This does not need to be an in-depth process, such as the potential need for a new product or service. However, this analysis can demonstrate the need and help to justify the expense of engaging an outside consultant. If the AE is charged with implementing a decision by the board of directors, a needs analysis can also help determine the best strategy to achieve a desired goal.

Finding a Consultant

Once an association has identified a need to outsource a service or project, a suitable person or firm must be found. Here are some good places to start such a search:

- Ask other real estate associations whom they have hired and seek recommendations.
- Find a trade association related to the particular kind of help you need. For instance, contact the American Institute of CPAs for a certified public accountant.
- Search online. This can provide names and contact information for possible sources to fit the association's needs. Professional directories or consumer-oriented services like Yelp or Angi can be used to see reviews of those prospective providers.
- Check social media. A provider may have posted testimonials or reviews on LinkedIn, Facebook or YouTube.

Depending on the type of project, an outside professional's familiarity with the real estate industry may be an important factor in the search. For example, an attorney who focuses his or her practice on real estate can be expected to provide more expert guidance than lawyers who practice in other fields. On the other hand, marketing and public relations professionals can employ their skills in a variety of industries, so prior real estate experience is not necessarily a major advantage.

Geographic proximity is another issue to consider. If frequent in-person meetings are anticipated, then it may be best to engage a professional from your community. However, you may be able to search well beyond your local market to find a professional who can provide the virtual services you might need, particularly in the technology sector.

Lower-Cost Alternatives

Some projects or tasks can be handled by association staff members with temporary support personnel. For instance, a person with clerical experience could be brought onboard for several weeks to update an association's database or media list. Market research assignments or membership surveys can also be managed in a similar fashion.

Another low-cost option would be to engage a student intern. Many colleges, universities and trade schools provide their students with continuing education experience through internship programs. Depending on the nature of the service, this can be a low-cost alternative solution that also allows the association to give back to the local community.

PREPARING A REQUEST FOR PROPOSAL (RFP)

Once a task or project requiring a consultant has been identified, the next step is to develop a request for proposal (RFP) or a request for project bids. An RFP is extremely useful in helping to establish the goals for an outside service provider and will help you compare proposals from different professionals and their firms. In general, it's best to start with the end result in mind: What specific services do you want a professional to provide?

Typically, an RFP includes:

- Brief history/background of organization to familiarize consultant with the association
- Statement of need for the product or service
- Description of current association processes for the product or service needed, if any
- Request for information about what the consultant can do to assist the association with the product or service
 - ▶ Time frame when the service must be delivered
 - ▶ Cost of services
 - ▶ Due date for receipt of the consultant's proposal
- Notice about when the association will make a decision
- Suggested parameters for negotiating payment terms and amounts
- List of references for whom the consultant has provided the same type of services

It's important to understand that RFPs can vary significantly from each other, depending on many factors. An RFP for a law firm to serve as outside counsel to the association for the next year, for instance, will be longer and more involved than an RFP for a website design upgrade. However, you may be able to “recycle” prior RFPs to save time and energy. Other sources include contacting other real estate or trade associations or simply conducting an online search for a specific type of RFP.

For assistance creating an RFP, an association might consider using one of the online, automated software tools available for developing requests for proposals. Conduct a search using the term, “RFP.”

For more information on RFPs, see the Facilities and Equipment chapter of *The Answer Book*.

BUILDING SUCCESSFUL RELATIONSHIPS

Here are several issues to consider in building successful consultant relationships:

- Know what you want. It is difficult to engage a consultant without knowing exactly what services are required.
- Avoid potential conflicts of interest. The selection of a consultant should be free of any bias, nepotism or other perceived favoritism.
- Ask questions during the consultant's presentation of services.
- Ask the consultant whether he/she or any of his/her associates ever have had or might have a relationship with the association or other vendors the association will consider for the process.
- Get everything in writing, including all promises and time frames. Work with legal counsel to produce a satisfactory contract.
- Establish a monitoring process to assess performance and accountability.
- Stay involved with the project through completion.

Once a decision has been made on the service provider best suited to fulfill an association's needs:

- Ask the consultant to provide an outline or proposal for the project, including the details concerning what will be accomplished and who will do it.

- Come to a firm, mutual agreement on the project's fee structure, including how and when fees are to be paid. You should also determine if there are any costs for which the association will need to reimburse the consultant.
- Agree on a commencement date and a completion date for the project, and the times and delivery methods for progress reports.
- Establish ownership of and/or rights to the final work product.

Remember that a consultant is hired, for the most part, based on his/her reputation and expertise. Make sure the agreement with the consultant dictates that he/she actually will do the work for the association. If someone else hired by the consultant will work on the project, then include in the agreement exactly what this person will do and at what rate he/she will be paid for that portion of the work. This fee typically is less than what is paid to the consultant.

Thoroughly research the project so that the consultant is not the only expert. The ultimate responsibility for the successful completion of any project remains with the association.

For some engagements, a formal contract might be necessary. For more detailed information about developing contracts, refer to the Facilities and Equipment chapter of *The Answer Book*.

SELECTING LEGAL COUNSEL

Selecting a suitable law firm or attorney as association counsel can help an association accomplish its objectives and manage its legal risks. It's important to select a general counsel with the knowledge and expertise to deal with various association issues that may arise. However, from time to time, other attorneys might also need to be engaged, such as a labor and employment specialist to handle a specific personnel matter.

Careful identification and multiple conversations with a potential general counsel is important to establishing a sound relationship right from the start. The attorney and/or firm should also understand:

- The real estate industry
- Trade associations
- Real estate transactions
- Agency law
- Corporate law
- Antitrust laws

- Civil rights and employment law
- Federal tax laws applicable to the association
- Legal trends relating to associations
- REALTORS® Code of Ethics and Standards of Practice
- State real estate license regulations

It is also a good idea to review the relationship with a general counsel on a regular basis and discuss the association's ongoing legal needs, the counsel's performance and any changes in the fee structure. Having another attorney or firm interested in the relationship can bolster the association's negotiating position with regard to a general counsel—or any outside consultant.

In summary, a working and productive relationship among the AE, legal counsel and the board of directors is based on:

- Appropriate legal expertise
- Practical understanding of the association's needs
- Open lines of communication
- Commitment to the association
- Monitoring the counsel's performance
- Professionalism

Conflicts of Interest

An association should be aware of possible conflicts of interest when selecting or employing counsel. An association counsel should not be a REALTOR® or a member of the association, because such status could impair his or her credibility, impartiality or effectiveness. Any close relationships between counsel and members of the association also should be identified so that any potential conflict can be addressed and resolved in advance.

Fees for Services

Fees, billing schedules and the extent of explanatory detail provided with each bill must be discussed, negotiated and agreed upon in advance between the association and the attorney. Here are several types of fee arrangements that may be agreed upon by the association and the attorney:

- **Retainer**—amount paid to an attorney to retain his or her services, either in general or for a specific task. Often, such an amount is held as a deposit against fees charged by the attorney, whether those charges are calculated per hour or as a fixed fee. An association should negotiate, in advance, whether a retainer will be paid and, if so, how the funds will be applied toward the legal fees incurred by the association.
- **Straight fixed fee**—legal counsel is paid a fixed amount to cover all anticipated services during the established period of time.

- **Fixed fee, plus override basis**—legal counsel is paid a fixed amount to cover specified, routine activities during the established period of time with an additional fee charged for work outside specified activities.
- **Straight hourly fee basis**—legal counsel is paid for each hour or for a fraction of an hour spent on association activities.

Understanding an Association's Needs

An association's general counsel should know the aspects of the law that apply to both the real estate industry and trade associations. Specifically, the attorney should have a working knowledge of real estate transactions, agency law, corporate law, antitrust, civil rights and the employment law, as well as state and federal tax laws. He or she should be capable of handling the myriad of developing legal trends relating to trade associations.

The attorney or firm should have the support staff to represent the association in litigation and to serve all other legal needs of the association. The scope of these needs depends on the association's size, current legal issues affecting the association, the association's goals and other factors. In addition to possessing the requisite legal expertise, an attorney must possess or develop a thorough understanding of the association's structure and its operations. An attorney must possess a complete awareness and understanding of the various legal risks facing the association. He or she must be capable of devising workable solutions to association problems and issues, consistent both with the law and the association's objectives.

MLS Issues

If the attorney is to represent an MLS, an additional knowledge base should be considered. Areas of concern for MLS legal counsel often include:

- Intellectual property, including copyright, trademark law, and registration, and enforcement of rights
- MLS rules and regulations. Developing operational policies and rules and regulations for MLSs taking into account antitrust policy and business needs of participating real estate brokerage firms. Drafting policies to reduce ambiguity and improve opportunities for MLS staff to enforce policies fairly and effectively.
- Vendor contracts. Drafting, negotiating, and reviewing major client contracts, including MLS vendor and electronic lockbox contracts

- MLS data licensing. Developing strategies and drafting standard contracts for MLSs to use when licensing listing data to brokerage participants and to third parties. Being familiar with IDX technology, as well as security and privacy rules. Understanding NAR policy recommendations in this emerging and changing field
- Facilities issues, such as leasing contracts, meeting venue agreements, and technology deployments

Open Lines of Communication

It is imperative for an association to maintain a convenient and comfortable line of communication with its counsel. The AE should be able to call on the attorney for advice when necessary, and the attorney must be easily accessible and able to convey advice to the association. Counsel must also be able to communicate in terms with which his or her audience is most comfortable.

Commitment to the Association

A general counsel should demonstrate a clear commitment to responding quickly to unforeseen questions and issues that arise, attending all meetings and proceedings of the association when such attendance is necessary, and availability to provide or assist with educational programs for the association and its members. Because an attorney is selected primarily on the basis of personal attributes and capabilities, the association should discuss and agree on the circumstances under which other members of the attorney's firm might be involved when necessary.

Building Trust

Volunteer leadership and staff must build and maintain a relationship of trust with the association's attorney. After all, trust is the foundation for open discussions regarding issues, problems and opportunities. All parties must recognize that each is working toward the common goal of the association providing the best possible service to the members. This is particularly important when an attorney advises against a proposed association action that the membership or the leadership feels is highly desirable.

Monitoring Performance

The AE should establish criteria for monitoring the counsel's performance and hold a review session on a regular basis. This could include the outcomes of matters handled by the counsel, as well as time spent on association business and associated fees. This can be particularly important when the counsel's agreement is coming up for renewal.

Professionalism

Because an attorney is an association's representative in legal matters, his or her professionalism and demeanor must always positively reflect on the represented association. Counsel must possess and maintain a reputation for the highest standards of integrity in the legal, real estate and business communities. It also is advantageous for association counsel to be a recognized figure in these communities for additional credibility among association members and others who see that individual as legal spokesman for the association.

Continuing Education

NAR typically holds two annual legal counsel training sessions each year. A state or local association's counsel should be invited to attend these events.

SELECTING AN ACCOUNTING PROFESSIONAL

Shop around for an accountant just as you would for an attorney. Solicit recommendations from the business and association community, and interview several candidates. Allow sufficient time for a full discussion of the association's needs and expectations. After the interview, assess these questions about each candidate:

- Does this accountant specialize in associations?
- Does this accountant adequately understand nonprofit and/or for-profit association businesses and their unique problems?
- Does this accountant have a college background and professional status as a CPA or Accounting Practitioner (AP)?
- Is this accountant qualified to prepare state and federal filing requirements, such as tax returns?
- Can the accountant work closely with the association's financial professional to maintain the books? Do not assume that the accountant uses the same bookkeeping application; if they are different, there may be an additional cost to convert files from one format to another.
- Can the accountant help the association use NAR's e-commerce system and provide training if necessary?
- Has this accountant received positive recommendations from other associations in the community? (Check with other nonprofits and chambers of commerce.)
- Did this accountant explain the fee structure, including the total cost of services?
- Will this person be a good association business advisor?

- Will the candidate be willing to work with the leadership and volunteers to explain business decisions and financial due diligence requirements?
- Did this accountant seem genuinely interested in gaining the association as a new client?

In many ways, selecting an accounting professional is similar to selecting a legal counsel. An association should prepare and send out an RFP and carefully review the credentials of the financial professional and/or firm. A productive working relationship among the AE, board of directors and financial professional is based on:

- Appropriate accounting/financial expertise
- Practical understanding of the association's needs
- Open lines of communication
- Commitment to the association
- Avoidance of conflict of interest
- Monitoring performance
- Professionalism

SELECTING A TECHNOLOGY PROVIDER

Creating, maintaining and upgrading an association online platform is one of an AE's most important responsibilities. A robust website, supported by social media, mobile and other digital communications services, is necessary to deliver products and services to members. It provides a public profile and point of entry for the public and the media. One or more technology service providers are necessary, regardless of the level of sophistication of the association's site. Service providers typically include the following categories:

- **Technology platform consultant**—provides an integrated “big picture” look at an association's online, social media, mobile, broadcast and print communications program and makes strategic recommendations
- **Website designer**—helps determine the look and feel of the site, as well as its functionality, including how the navigation and pages link to one another. A website designer is the project manager for a site redesign or functional upgrade.
- **Website host**—provides a physical and intangible home for an association website. This is typically a company that uses the cloud as a platform for its sites to ensure they are always operational.

- **Search engine consultant**—helps to generate more online traffic to an association's online sites and social media pages. An investment in search engine optimization (SEO) can improve visibility and potentially increase sales of products and educational services.
- **Social media specialist**—a professional familiar with utilizing social media sites like Facebook, LinkedIn, Instagram and X (formerly Twitter) to help associations reach out to their audiences.
- **Mobile media specialist**—a professional who understands the role of mobile apps in the lives of members and association staff who are constantly on the go.

When searching for a technology professional, an AE should carefully research individuals and candidates, just as with other professionals. In some cases, it may be more cost-effective to purchase a package of services—design, search engine optimization and hosting—from one firm than to contract with separate individuals. Another advantage to using one firm is that there is a single point of contact and accountability, a major benefit if something goes wrong. Also, technology providers should serve as consultants on various online projects, such as establishing a blog or creating an online community.

Today, the lines are blurring between technology and marketing firms when it comes to services related to SEO, social media and mobile communications. Therefore, it's important to consider both options when seeking outside support for these key services.

See the Technology chapter of *The Answer Book* for more detailed information.

SELECTING A MARKETING FIRM

Larger REALTOR® associations often have an in-house marketing staff to assist in providing services, events and products to the membership. However, an outside marketing firm can be of great assistance to organizations of any size by enhancing the association's community profile and gaining the greatest return on the association's public relations resources.

In selecting an outside marketing firm, consider the following steps:

- **Review past experience.** Examine a marketing firm's portfolio of past clients to determine the quality of its work. These portfolios, which are typically available online, feature details about marketing campaigns the firm has performed for a variety of businesses and organizations. Of course, an in-person interview is also essential to discuss the firm's credentials and experience.
- **Discuss the firm's media strategies and capabilities.** One of the main services a firm provides is to expand the association's marketing efforts beyond the usual targets. Ask a potential marketing consultant what creative approaches might be most effective in raising the association's profile—with both traditional print and broadcast media, as well as the ever-changing field of digital media.
- **Request an appropriate price quote.** This can be broken down into a comprehensive monthly retainer, an hourly rate or a per-project fee. Compare the quotes of several marketing firms to find the right balance between services and budget requirements.
- **Agree on the desired outcome.** Both you and the firm should understand the desired result of the marketing engagement, whether this is for a specific program or longer-term relationship. Strive to set outcomes that can be measured to ensure accountability.
- **Select the right firm.** Do not assume that size equals quality, since smaller marketing firms may provide a high level of personalized service for their clients.
- **Utilize the firm.** After you have established a good working relationship, call upon the marketing specialist for advice in coordinating other association activities. For example, an awards program, political activities and/or community service campaigns can be structured to enhance an association's overall public image.

SELECTING A RECRUITMENT CONSULTANT

From time to time, a real estate association may need to engage a recruitment consultant to assist in the process of hiring a high-level executive or professional. To find a suitable consultant, an association should look for the following factors:

- The firm's reputation in the association job market (based on expertise and experience)
- Past and present clients
- The consultant's expertise and experience (how long has he, she or the firm been in the business?)
- The firm's resources
- References from past clients regarding effectiveness and the services of the recruitment consultant
- Geographic capabilities: Will the firm search locally, regionally or nationally to find suitable candidates?
- Once several recruitment firms have been identified as possible consultants, the association should conduct a series of interviews in order to assess the intangibles, such as:
 - ▶ Ability to work with volunteer leadership groups in determining organizational values and priorities
 - ▶ Awareness of the support offered by NAR in locating employee candidates
 - ▶ Flexibility and adaptability
 - ▶ Understanding of an association's priorities

A contract with a recruitment professional may consist of a one-time search for a designated position, or it may be a longer-term agreement that covers a variety of potential positions. In either case, all contracts with recruitment consultants and personnel search firms should be carefully reviewed by the appropriate representatives from the association, including the legal counsel.

Be sure the fee structure is clearly delineated and understood by all parties, particularly if this is a contingency fee agreement. Know the circumstances under which the fee is to be paid and whether additional fees might be incurred during the course of the negotiations. A clear understanding in advance is necessary to build a positive, long-term relationship with a recruiting service provider.

1.12

Public Relations

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INTRODUCTION

Under the NAR Core Standards, AEs and volunteer leaders must understand how to use communications tools to demonstrate engagement in four or more meaningful consumer activities annually, reflected by:

- Being the “Voice for Real Estate” by promoting market statistics and/or real estate trends and issues through press releases, interviews, blogs and other vehicles.
- Community involvement by promoting the value proposition of using a REALTOR® and/or engaging in community activities which enhance the image of the REALTOR®
- Advocacy efforts by engaging the public in legislative/political issues that impact real estate and related issues (see the Political and Government Affairs chapter of *The Answer Book*)
- Community investment by organizing volunteers (e.g., assisting in a Habitat for Humanity build) or fundraising for the benefit of charitable/community organizations. (See the Volunteer, Staff and Partner Relationships chapter of *The Answer Book*.)

These four standards provide a solid strategic foundation for building an effective public relations program.

DEVELOPING A PUBLIC RELATIONS PROGRAM

A successful public relations program can be a cost-effective way to deliver powerful and sustainable results for a REALTOR® association. While it takes time and careful long-term planning to build an effective public relations program, there are countless benefits to the association, its members and the entire community.

Local associations should strive to coordinate their public relations programs with those of the state association and NAR. In many cases, there will be opportunities to localize news releases and state or national campaigns. Also, be sure to inform NAR of local public relations and promotion activities that could be beneficial to other associations or be featured in a future article or report.

This chapter provides suggestions and recommendations for a dynamic multi-channel public relations program designed to advance the association's strategic goals and objectives. It is essential for an association's public relations efforts to be tied to its strategic planning activities, as well as its ongoing marketing and communications programs. The goal is to reach out to key audiences—members, affiliated professionals, the media and the public—and deliver positive, powerful, informative and opinion-shaping messages.

Today, a public relations program is perhaps more important than ever. Consumers are deluged with information about “the real estate market” but often find it difficult to make sense of the daily posts and headlines. They lack timely, accurate information on local markets, especially since communities and neighborhoods tend to perform different from national or state averages. An association that provides accurate, understandable market information can play an invaluable role in serving the community—and give an association a higher profile in the media.

Many consumers (and some members) are not aware of the value a REALTOR® brings to a real estate transaction. The same holds true for journalists, editors and media outlets (online, broadcast and print). An effective public relations program provides ongoing opportunities to tell the REALTOR® story and highlight concepts like ethics, integrity and working with a trusted advisor when buying, selling, renting, managing or investing in a property.

For a public relations program to be successful, AEs and volunteer leaders should understand what information is relevant and valuable to their audiences. For example, a monthly fact-based update on the local market might be welcomed by an online news site, a weekly magazine or a radio station covering the area. However, a TV station would be much more likely to use the market update if there is a video element, such as an on-camera interview with a volunteer leader. Always remember that media outlets see their role as conveying content to their readers, listeners or viewers. A news release or feature article must have value to the audience, or it will be discarded.

In addition to connecting with a media outlet, an effective public relations program can reach people directly. For instance, photographs and videos of association-sponsored volunteer events or community forums can be posted to websites and social media pages, reaching hundreds or thousands of people even if there is only limited coverage by the local newspaper or TV station. Also, posting a steady stream of press releases on the association's sites usually has a beneficial impact on search engine optimization (SEO).

An effective public relations program helps an association accomplish its goals and objectives, because it can:

- Establish a favorable public image for the housing industry and real estate profession.
- Publicly demonstrate the association's value to its members.
- Inform consumers about key housing issues, including mortgage financing, homeowner's insurance and property taxes.
- Motivate the public to respond favorably and actively support an association's positions and efforts.
- Provide the public with useful and accurate information, such as quarterly or monthly updates on local market conditions.
- Build awareness of members' volunteer efforts in the community.
- Sell association products and services to members and nonmembers.
- Promote association membership growth and retention by emphasizing benefits of membership.
- Establish the association as a credible source of real estate information.
- Support an association's SEO strategy.

These positive public relations effects also indirectly help REALTORS® serve their customers and increase awareness of key housing, mortgage and other issues for consumers and communities.

AEs should also understand the significant ways that public relations differ from advertising and publicity programs. While all three communication tools can be used together, public relations provide a more cost-effective approach to reaching the media than purchasing an advertisement.

Public Relations

Public relations consist of the methods and activities utilized to achieve favorable regard for a person, business, or in this instance, an association of REALTORS®. The words, “public relations” are not synonymous with the words “advertising” and “publicity,” but public relations often encompass these activities.

Advertising vs. Public Relations

Advertising is paid exposure to the public. Although advertising allows an association to deliver a specific message through one or more media channels (online, print, radio, TV), public relations can be much more effective in shaping public opinion. A consumer is aware that paid advertising only says positive things about an organization, so such advertising could be perceived as less credible than other forms of communication. However, advertising can be part of an overall public relations strategy.

Publicity vs. Public Relations

Publicity is a means of gaining public attention or support for a real estate association, its members or associated causes or activities. It is a very credible method for promoting an organization or a specific event. An association can generate publicity in numerous ways, including social media like Facebook and X (formerly Twitter), sending out news releases and op-ed opinion columns, arranging speeches to business and community organizations, holding public informational forums, distributing brochures and requesting TV, radio and newspaper interviews.

A publicity program typically has a certain target, such as a news announcement or upcoming activity. In contrast, a public relations program is directed toward long-term image enhancement and relationship-building with the media and the public. Public relations strategies might include events that require publicity but also focus on programs that leave a memorable and desired mark on the community.

What Does Public Relations Encompass?

The scope of public relations can include such activities as:

- Training an association leader on how to be a spokesperson for the media.
- Building mutually beneficial partnerships with other well-positioned organizations in the community.
- Establishing policies and procedures when entertaining guests or visitors to the association office.
- Building relationships among other professionals in affiliated industries.
- Delivering speeches to business or civic organizations.

- Writing news releases and feature articles.
- Holding news conferences.
- Branding an association.
- Learning how to use online tools, such as videos, podcasts, blogs and social media to advance an association’s goals.

Public relations also can take the form of preparing and providing a media spokesperson, giving background information for a story or simply being responsive when asked to provide a comment. Public relations techniques are used in everyday communications. An association’s public relations methods should reflect the program’s purpose and goals.

Public Relations and the REALTOR®

A public relations effort reflects an association’s collective personality and tells the REALTOR® story—explaining what the association is, who REALTORS® are, what they do and their positions on current issues. At most associations, volunteer leaders and staff executives ultimately are responsible for the overall success of the organization’s public relations efforts.

An association can perform public relations functions in several ways. For instance:

- The AE may handle all public relations.
- A public relations firm or staff specialist may handle all public relations.
- An appointed public relations committee may handle all or part of public relations.

Associations that do not hire a firm or staff member to manage public relations might find it effective to appoint a public relations or consumer communications committee or direct the AE or appointed staff member to act on the association’s behalf for the purposes of imparting information and providing resources. Or, an association might decide to use a combination of the three—a committee, a staff specialist and the AE—to work together to handle public relations matters.

Committee Selection—Key Players

When forming a communications committee, consider the following suggestions:

- Appoint a chair, vice chair and 5 to 15 members.
- Consider three-year appointments to ensure continuity of public relations programs from year-to-year.
- Charge the committee with overseeing all association public relations programs.

When considering committee member appointments, it is essential that candidates be measured by their strengths. Ideally, all committee members should be enthusiastic and committed, and have some background in communication, marketing, media, and/or public relations.

When appointing members to such a committee, look for some of these strengths:

- Background in writing or journalism
- Year-round availability
- Excellent communication skills
- Understanding of industry websites, blogs and social networking
- Contacts in community
- Familiarity with local media
- Ability to prepare business plans and cost projections for proposed public relations programs

In essence, seek members with backgrounds and interests that will be most beneficial to the overall association public relations or consumer communications program.

The Committee's Responsibilities

Committee members are selected to serve on one of the association's most important committees. After all, the image of the association and its members is based on the communications sent to the public by the public relations committee. With that in mind, consider the following tips for good public relations:

- Use only good business practices and sound judgment when working with public relations matters.
- Strive to coordinate local initiatives with those of the state association and NAR.
- Always strive to uphold the ethics and professional standards demanded by the Code of Ethics and Professional Standards of NAR.
- Remember that the actions of the committee as a whole and any of its individual members could affect the economic well-being of all the association members.

Through its actions, a public relations committee protects and enhances the image of the term "REALTOR®" for every association member. A public relations committee's job is to constantly enhance and improve the association's image within the community by making the public aware of the organization's knowledge, member and staff resources, current activities and positions on issues.

In consort with staff, the committee's responsibilities include:

- Understanding the association's strategic plan and translating those priorities into a well-defined public relations program.
- Developing guidelines and policy statements that will provide the foundation for the ongoing public relations program.
- Identifying the association's audiences (or target markets) and designing a program to reach them.
- Learning and making the association aware of current public opinion.
- Knowing and understanding the association's programs, goals and plans, and interpreting them to the public.
- Informing the public about association activities, housing-related issues and the real estate market in general.
- Serving as a counselor by warning the association against ill-considered acts and statements and ensuring that accurate statements are made to the public.
- Tracking positive and critical feedback for membership.
- Overseeing internal communications to members and external communications to the public.
- Planning image-enhancing programs.
- Coordinating public relations activities at the local level.
- Acting as a liaison between the membership and the state and national public relations activities.

To achieve its goals, the public relations committee should also try to determine how the local media and the public currently feel about the association. This can provide a baseline for assessing the results of a public relations program. In many cases, the media and the public will already have an impression about the association—or they might be unaware of its activities. In any case, the committee should understand the starting point as it moves to build awareness and reshape public thinking about the association.

Planning and Implementing a Public Relations Program

These elements should be built into an overall public relations program from the start:

- Define management responsibility—where the program fits into the various elements of an association's organizational chart.
- Establish and focus on specific public relations goals and objectives.
- Feature planned and continuous programming, because public relations efforts should not be limited to one or two weeks of the year.

- Provide a two-way channel of communications for evaluation of public attitudes.
- With the public's interest in mind, identify association policies.
- Consult with association counsel to answer questions about the overall effects that the association's policies and actions could have on its public relations efforts.

When developing specific programs or activities, cover each of the above points because omitting one or more of elements can weaken the overall program.

Steps

To create a successful public relations program, follow these steps to arrive at a year-long plan, and each individual program.

1. Research community needs
2. Develop a plan
3. Examine financing
4. Execute the plan
5. Evaluate the project

Step 1—Research community needs

Research provides a valid reason for planning a specific program. Without it, an association only guesses at what will be effective. Be objective and thorough in all research. This step should begin by asking two questions:

- What does the association want to accomplish with this program?
- Who is the intended audience (target market)?

Conduct research by asking for the opinions, attitudes and reactions of all audiences that are concerned with the acts and policies of the association. Evaluate those responses and ask, "What are the problems and the opportunities?"

Step 2—Develop a plan

Keep in mind that the main purpose of an association's public relations effort is to create goodwill for the real estate profession, and that goodwill should begin with the members. When planning programs, start off on the right foot by considering the effects on the association and its membership. Projects should not be planned in isolation. They should relate to an association's policies and the strategic objectives. Do not limit planning efforts to include only a few members. Increased involvement will pay off two-fold; the more people that are involved, the less work it means for everyone, and involvement usually results in whole-hearted acceptance and support for the program. Remember, no one wants to see a good program fail.

Planning should encompass both short- and long-term goals. Short-term goals serve as good benchmarks for success, and long-term goals keep the program on track. Once a plan is established, check it against the following checklist to ensure that all 10 elements are included and covered.

Public Relations Planning Checklist

1. Summary of facts revealed through research
2. Statement of potential barriers in reaching goals of the program based on research
3. Statement of planning phases
4. Analysis of competitive factors that could affect the program
5. Statement of priorities for carrying out the program
6. Description and analysis of the audience to be reached
7. Description of program methods of delivery
8. Outline of organization and personnel needed to oversee the program
9. Prepared budget

With all of the above information in hand, a public relations committee can confidently stand before its association and present a well-thought-out program plan.

Step 3—Examine financing

There is no established method for financing a public relations program, because each association of REALTORS® is different. It is up to each association to weigh the importance of a public relations program and to allocate money accordingly. When preparing a budget, obtain estimates from vendors for proposed programs. Explore creative ways to put forth programs with a low budget, such as donating services in exchange for free advertising.

Step 4—Execute the plan

Strive for an across-the-board public relations plan that employs a variety of techniques. Combine online, social and mobile media presence, advertising, publicity, promotion and public relations to increase the impact of an association's public relations efforts.

Step 5—Evaluate the program

Evaluation often is the most overlooked step in the public relations process. Be sure to follow through on this step to determine if a program is effective and, if so, to determine whether the program can be repeated later without "re-inventing the wheel." Also become familiar with methods of collecting feedback on online advertising and websites. Always make sure that statistical tracking program information is available for study and potential program modifications.

Evaluating a program through the use of feedback—with appropriate adjustments—must continue. Such feedback helps to measure and evaluate programs and pinpoints new and evolving problem areas. This information allows an association to continually assure members that they indeed have received their money's worth.

For the most accurate feedback, really listen to and record what audiences say. What effect does a public relations program have on these audiences? Evaluate each part of a program the media has picked up. Ideally, an evaluation should include measurable results for each portion of a program, including digital, social, mobile, print and broadcast media.

If an association's program is extensive and involves a large budget, a more formal evaluation can be used, along with the services of an outside research firm. Consider this step, though, during the initial research phase of a program. A follow-up study will measure the program's overall effectiveness.

EFFECTIVE PUBLIC RELATIONS TOOLS

When it comes to reaching the public, several communications vehicles are available to an association, including the following traditional public relations tools used to reach reporters and editors in digital, print and broadcast media.

News Release

A news release is the basic tool of a public relations professional. It tells the media about the association's newsworthy events and activities. In addition to a traditional news release—covering the who, what, when, where, why and how of the activity—many associations send out calendar notices for upcoming meetings, media alerts to generate coverage of an important event, or media leads, which are brief summaries of interesting trends, ideas or other occurrences designed to stimulate the curiosity of a reporter or editor.

Before proceeding to write any news release, ask the question, "If I were a reader or listener without any real estate ties, would I care about this story?" Proceed only if the answer is "Yes." News editors receive thousands of news releases every month, many of which may never be read. When the association distributes only newsworthy releases, the editor will learn that they are worth reading.

Sources for News Releases

In addition to association activities, material for news releases can get generated from a wide range of sources. In fact, almost any national news story about the residential or commercial real estate market can be localized for regional media. Here are some suggestions for sources:

- Your local multiple listing service (MLS) is a prime source of data for area real estate trends and can be used to prepare market updates (see below) and other types of releases.
- REALTORS Property Resource® (RPR) is the nation's largest property database, exclusively for REALTORS. RPR puts data, tools and reports at your fingertips so you can respond to questions and requests instantly, and position yourself as an essential part of every transaction. <https://www.nar.realtor/realtors-property-resource-rpr>
- HouseLogic is a site for homeowners who want smart solutions to enjoy, improve and maintain their homes, for buyers ready to find their happy place and for sellers ready for their next chapter. <https://www.houselogic.com>
- News releases from NAR (available at www.nar.realtor) can be shared for national news that may be of interest in your area and provide the foundation for a related news release from a local or state association.

News Release Format Checklist

Today, online and traditional publications and broadcasting outlets will only take news releases as an HTML, PDF or Word document. A functional format for a news release is:

- Name, title, address, telephone number of contact person at top
- A few spaces down, put the date of release on the right side of page
- Below the date, leave at least two or three inches blank
- Provide a headline (although it is unlikely an editor will use it)
- Copy should be single-spaced or 1.5 spaced
- Write in the "inverted pyramid" style, providing the most important information to the least important information, answering the "five W" questions, plus "H"—"who," "what," "when," "where" and "why," plus "how," if necessary
- Keep sentences to an average of 15 words or less, and use mostly one-syllable words
- Limit the release to one or two pages—no more
- Type "###" at the end of the story to signify its end

Sample News Release

Following is a sample news release that illustrates how an association can write and format its own public relations message to be posted or printed in the local newspaper and other media.

[Association letterhead with full name and address]

FOR IMMEDIATE RELEASE

For further information contact: _____

Association contact telephone number:

Anytown Association of REALTORS® to Elect New Officers

Anytown [DATE]—The Anytown Association of REALTORS® will elect new officers at its annual meeting Tuesday, June 15, from 2 to 4 p.m. at the Anytown Civic Center, 33 Main Street.

Jane Smith, outgoing president, encourages all business and real estate professionals to attend the annual event, which will also focus on the association's latest initiatives to support Anytown's housing market.

The association's new president, president-elect, secretary and treasurer will be introduced at the annual meeting, and discuss their goals for the coming year, as well as the overall state of the Anytown real estate market.

The Anytown Association of REALTORS® is one of more than 1,600 boards nationwide that comprise NAR. NAR is the nation's largest trade association, representing nearly _____ real estate professionals [keep this figure current by contacting NAR] involved in all aspects of the real estate industry.

NOTE: REALTOR® is a registered collective membership mark that may be used only by real estate professionals who are members of NAR and subscribe to its strict Code of Ethics.

News Criteria Checklist

Timing is everything! A release sent to an editor on Thursday might have been used if it had been sent earlier in the week, such as Monday. The law of supply and demand determines the news value. Normally, Mondays and holidays tend to be slow news days, but there is no sure formula for predicting news-generating activities.

Develop releases that will not be overlooked. Use the following criteria for a good news release or feature article (and look for a lull in the news—a window of opportunity for submitting a story):

- Use a local angle in the release/article.
- Include the experiences of several local people cited.
- Be sure a release will hold the reader's interest by including new information, human interest or news about a special sector of the community.
- Be sure the release relates a trend-setting occurrence and indicates whether the association supports this or opposes it.
- All information must be timely.
- Include a suitable illustration, photograph or cartoon
- Again, in the first sentences of the piece, answer the “five W” questions—who, what, when, where and why.

Writing a News Release

It is important to adhere to standard writing guidelines. Check with the local editor for style guidelines and follow the recommendations in the Associated Press Style Manual. Another excellent resource is the current edition of Strunk and White's *The Elements of Style*.

Be sure to have another person at the association check the release for accuracy and correct any spelling or grammatical errors before sending it to the media.

Another approach is to use an online “wire service” that will distribute press releases locally, statewide, nationally or globally for a set fee. Two examples are Business Wire (www.businesswire.com) and PR Newswire (www.prnewswire.com). This is a time-saving approach that ensures key media will receive your press releases. However, follow-up emails are still important with local media, since they are deluged with hundreds of releases each day.

News releases should also be posted on the association's website and distributed through an association's social media pages. For instance, a monthly real estate market update could be announced using X, Facebook or LinkedIn with a link back to the online version. Photos and videos of association events could be posted at Instagram (photos) and YouTube (videos) with links to the website. In this way, association news releases and events can be promoted effectively with or without extensive coverage in traditional media.

There are a few basic rules to follow when sending press releases and features:

- **Keep an email simple and brief.** Email messages should follow the same principles as news releases. Establish the main idea at the beginning of the message, then follow up with background in the “inverted-pyramid” style, with the most important information flowing to the least important.
- **Format the release correctly—as an HTML, PDF or Word document.** Usually, it’s best to format as an HTML email message, since editors usually don’t want to receive press releases as attachments. PDF documents are less preferable; they cannot be easily edited, and are usually sent as attachments.
- **Include specific wording in the “Subject” line.** A recipient must know the sender and what’s being sent—especially if there are attached photos or other material.
- **Respect an editor or reporter’s desire to feel “special.”** Why send an email with a press release to a long list of visible media contacts? Instead, use an email application to personalize each message or at the very least note that the message was sent to “undisclosed recipients.” If you are offering an editor an “exclusive” announcement or coverage opportunity, be sure to state that in your email, and request a response. By helping an editor or reporter look good with his or her colleagues—as well as the public—you can build relationships that advance an association’s public relations objectives.

Note that these basic rules apply to all materials sent to members of the media, whether online, broadcast or print.

Market Updates

In today’s changing real estate market, one of the most effective public relations strategies for REALTOR® associations is providing a monthly update to the media (and the community). Are median prices rising or falling? Is transaction volume going up or down? What is happening with the overall inventory of homes listed for sale?

Although the media regularly reports national real estate news and statistics, area newspapers, TV and radio stations and online news sites may not have access to information about the local market. Here is where REALTOR® associations have an opportunity to provide accurate, timely and trusted information about local market conditions, educating the public and providing a clear service and added value to members.

Market updates can usually be presented in the form of a news release, with statistical material provided as an attachment (PDF) included with the release or made available to the media through a link to the association’s media page on the website.

Fact Sheets

A fact sheet is an alternative to a news release—an outline that presents news in the form of itemized facts. A fact sheet has two distinct advantages, outlined below:

- It often provides more information than a routine news release.
- News reporters can use a fact sheet to write their own stories, rather than having to edit an association’s story.

Set up a fact sheet the same as a news release, then simply supply the facts on it. Although a fact sheet also provides information about the “who,” “what,” “when,” “where,” “why” and “how” the information should be arranged in an easy-to-read format (such as bullet points) so that writers can use it to develop their own stories.

Use a fact sheet to announce an event, provide pre-event facts for a story or serve as an event invitation. A fact sheet can be used as a handout for writers who attend an event and is also ideal to include in a media kit. Be sure to include the value proposition of using a REALTOR, being the “Voice for Real Estate,” as well as local community and advocacy activities, in accordance with the Core Standards. For examples of local association and NAR fact sheets, see the Membership Development chapter of *The Answer Book*.

Feature Articles

News features are similar to news releases, but in addition to the five “Ws” (who, what, when, where, why), news features emphasize “how” information. A news feature generally is more personal and highlights the human element. Before writing a news feature, make a list of possible story angles, collect the most dramatic facts, organize material into a fact sheet, and make arrangements to see the feature editor.

Checklist for Writing a Feature Article

When writing the actual feature, follow these suggestions:

- Do not be afraid to suggest a news feature to an editor, but be prepared with background information about it.
- If an editor wants to run photos with a feature but does not have an available photographer, offer to supply one. Remember to submit captions with all photos.
- Write the feature as news release, but personalize the “story” and include more names and facts.

A simple form to follow is:

- Block out the main themes to be emphasized, along with the quotes and anecdotes to support them.
- Outline themes in diminishing importance, using transitional, explanatory paragraphs between each theme.
- Unlike a news release, one of the strongest points could be saved for the end of the feature.
- Include a name for readers to contact for further information.

If an editor agrees to run the story, do not offer the information to any other publication—make it truly an exclusive.

Photographs and Videos

Pictures and videos add visual impact to stories about an association's activities. Whenever possible, include them with a news release. Many online news sites and broadcast stations appreciate being able to provide a link to a photo gallery or a video to interest and engage their audiences.

Some newspapers have staff photographers who can be assigned to a story if warranted. TV stations generally send their own video crews to cover high-profile events and activities. If a photographer is not be assigned to cover an event, discuss the requirements for submitting photographs or videos. Keep a supply of head shots of the association president and leadership on hand to supply to newspapers upon request. When sending general information, such as a media kit, to a newspaper, always include a photo of the association president.

Sometimes, events present wonderful photo and video opportunities, even if a story might not be front-page news. A good example is an association that, each year during the holidays, builds a tree from cans of food donated to the needy by its members, or publicly charting members' donations to charity. Such projects may have specific points that present photo opportunities for local newspapers, such as an association's goal to reach 10,000 cans or charting the point when donations exceed a major milestone. Let local media outlets know about these opportunities by sending a short statement attached to a news release about the project.

Letters to the Editor

A letter to the editor is a low-cost source of publicity and allows an association to make public its position on an issue in a viable and respectable format. Because letters are personal opinions, the point might come across more effectively than in a news release.

Letters can express an opinion or a point of view, such as agreeing or disagreeing with local, state or federal legislation affecting real estate. A letter also can be used to respond to a previously printed editorial or a news story. Letters should not, however, be used to advertise the association or its members. Make such a letter short and to the point—no more than 250 words. Long letters rarely are printed in their entirety. Be sure to express the main points in the first few sentences.

Media Kits

Media kits are packets of general or specific information supplied to the media about the association or one of its programs. They are also usually posted online, where journalists (and the public) can access this information 24/7. Media kits are a good idea for every association and do not have to be expensive endeavors. A little creativity can stretch a dollar a long way.

The contents of a media kit will differ from topic to topic, depending on whether it is general in nature or particular to a specific event. In either case, include a business card and a fact sheet about the association, with a link to the web address for more information about the association.

Additional items to include are:

- News releases
- Biographies
- Color photos (head shots) of the organization's leadership
- History of the association

Also appropriate are:

- Question-and-answer sheets
- Documents pertinent to the topic at hand
- Camera-ready art work of the latest promotion or logo
- Video interviews (posted online or distributed via CDs or DVDs)

Producing a video may cost a bit more but can be a nice addition to a media kit.

News Conferences

A news conference is most appropriate for an important announcement, an interview or an opportunity to present members of the public who have benefited from an association's community initiative. It is provided as a service to the media, not to the association. A news conference allows a free give-and-take information period that can sharpen the media's understanding of an association, but consider the potential benefits and disadvantages of holding a news conference before scheduling such an event. Be judicious in using this technique, however; understand that breaking news stories will usually take precedence over a press conference. Note that news conferences can also be held virtually with members of the press attending online.

Preparation Checklist

First, preparing a spokesperson to represent an association is critical to the success of a news conference or a press interview. When doing so, anticipate likely media questions. For broadcast media, think in terms of sound bites, in which the key message is stressed and repeated during short, 20-second segments.

Other tips for preparing a news conference and a spokesperson include the following:

- Be available to respond to the media within the hour because the media is always under a deadline.
- Never make up or “wing” an answer. If the answer is not known, explain this to the reporter and make a promise to follow up—then be sure to do so.
- Ask what the reporter's story angle is, when the story will run and who else will contribute to the piece.
- Offer to help a reporter find others in the organization to add details to a story if more expertise on the subject is required.
- Use media tools to supplement a presentation when possible, such as a videotape, diagrams, photographs, etc.
- Don't offer additional unrelated information, as that can create more questions and take away from the story at hand.
- Keep all messages simple. There is only one opportunity so make sure that all key points are prepared and polished before presenting them in an interview.

Broadcast/Cable Media

In many local markets, radio remains one of the best methods for communicating information, particularly for associations that do not have the technical or financial resources to prepare video materials. Radio is often an excellent way to reach minority groups, including Spanish-speaking Hispanics/Latinos, Portuguese-speaking Brazilians, Asian-Americans and other groups that may not have access to local newspapers or television stations in their native languages.

Checklist for Developing Radio Communications

- Radio news releases should be written for the ear, not the eye.
- Try to use the present tense (“I see”).
- Limit the use of complex words or sentence constructions. Instead, choose commonly preferred words and uses.
- Do not use pronouns; use proper names instead.
- Give attributes at the beginning of a quote, rather than at the end.
- The format for a broadcast release (for both radio and television) is the same as for print media, with one addition. At the top of a radio release, indicate the total running time (TRT) in seconds. For example, “TRT: 20.” This gives a news director or reporter a sense of the approximate time it will take to read the release so that they can edit it, per the time available.
- Attach all information the association has sent to the print media about the same subject as backup information for the radio station. If the news director has questions about a broadcast release, the print release will supplement it and perhaps address his or her questions.
- Keep in mind that broadcast media generally features news with a sense of immediacy. Be certain that all radio releases reflect that immediacy.
- Be sure to send all information to the correct person (usually the assignment editor) at the radio station. Incorrectly routed information is likely to be ignored or thrown away.
- Contact local radio stations to learn their recommended guidelines and procedures for developing and sending news releases and public service announcements (PSAs).
- Ensure that all releases truly contain news that is timely, important and of interest to the intended audience.

Public service announcements (PSAs) are just that—announcements for the good of the public that are broadcast free of charge. A PSA cannot be used to promote individuals, businesses or organizations for profit. In fact, the Federal Communications Commission (FCC) has a loosely enforced rule that requires radio stations to donate a portion of their air time as a public service to the community. PSA spots run from 10 to 60 seconds and are inserted during regular programming, often at late or odd hours when paid commercials are few.

Every station has its own PSA format, but if an association's PSA is well-written, a radio station probably will use the script. Before preparing a script, though, call the local radio station to inquire about its preferred format.

PSAs should be simple, with just enough information to announce an event. As with all radio messages, keep it elementary, because the announcement will only be on the air for a few seconds. Before submitting the spot, have several people read the script out loud to judge the length and quality of content. Remember, the shorter the better.

Television offers a wide range of public relations opportunities. The major difference between radio and television is the added ability to reach an audience through a visual medium. Viewers are more accustomed to receiving information and forming opinions based on visual images rather than on the printed word. That difference actually can be used to an association's advantage.

Television news releases and public service announcements also should be written for the ear, as with radio. The added bonus is the visual opportunities television provides. Include a slide or a photograph with a television release/PSA. Be sure that a slide is horizontal for use on television, though. Do not send a photo previously printed elsewhere, because copyright laws could be violated.

A sense of immediacy also applies to television. Contact the station's news director in advance of upcoming events, and let them know about press releases prior to sending them. Find out a station's preferences in news releases and PSAs, as well.

Video News Releases

A video news release (VNR) is a combination of newsworthy information and promotion, and it can be used to gain the attention of broadcast media in a way that traditional printed news releases cannot. Generally, portions of a VNR are excerpted and repackaged in a television station's own format. If an association has the skills and financial resources to create and submit a video news release to a television station, it should meet with a television station representative to discuss its policy regarding the use of VNRs. It is wise to hire a public relations firm to produce a VNR. A professional can ensure that the video has news quality (producers will not air free commercials) and that it will be of high technical quality.

Also, the entire VNR or a portion of the release can be posted on YouTube, delivered as a podcast or added to the media page of an association's website for greater distribution.

Opinions and Rebuttals

Radio and TV stations often air different viewpoints about current topics and invite rebuttals from citizens and/or organizations. A rebuttal issued by an association can provide excellent exposure for that association, particularly if the subject of the rebuttal is a hot topic. Be aware, however, that any stand an association takes could result in a negative response from the public. Be prepared to respond to direct inquiries or complaints about a rebuttal.

When submitting a rebuttal request to a station, be direct. When requesting air time for a rebuttal, talk to the editorial director or the show producer. The information to be imparted must be current, with a sense of immediacy. Be sure to have association legal counsel review all prepared rebuttals before they are made public.

Neighborhood Sites

Many neighborhoods across the country now support a "hyper-local" website. This could be sponsored by a homeowner's association (HOA), a condominium association or an enterprising resident of the community. In any case, an association should maintain a list of these neighborhood sites and provide them with relevant news and information. For instance, a condo association might include a local market update in its monthly newsletter to residents. This allows an association to connect more directly with consumers by providing valued, trusted information.

DIGITAL, SOCIAL AND MOBILE PUBLIC RELATIONS STRATEGIES

Today's high-bandwidth world offers a wide array of digital, social and mobile public relations strategies for associations to reach key audiences, including:

- Website "News" section
- Blogs
- Podcasts and videos
- Social media

Website "News" Section

An appealing, user-friendly and interactive web page is one of the fundamental tools of communications and provides essential support to an effective public relations program. A successful web page can put an association's best face forward by featuring pertinent information, such as:

- A description of how the association serves the public and its members
- A list of member firms and affiliates
- Links to members' real estate listings
- Links to area web pages with information about community events, market area happenings, reasons to move to the area, etc.

Remember, a site can be divided into different pages for different audiences and audience segments, such as members, the public and the media. Many associations have created a News section for posting press releases, media kits, photographs, feature articles and association contacts for the media. Here are some other suggestions for an effective News section on an association site:

- **Keep it simple.** Resist the use of detailed graphs that take time to upload (anything more than a few seconds is too long).
- **Follow the brand.** The typeface, colors, terminology, and general "look" and "feel" should follow the other association communications, such as the newsletter, letterhead, etc.
- **Minimize the need for repeated mouse-clicking.** Make it easy for journalists to access press releases with one click.
- **Include a search function so journalists can access relevant past releases.**
- **Keep your materials up to date.** Post news releases as soon as they are sent to the media. Also, be sure the press kit includes the current officers and other information.

- **Sign up for the REALTOR® Secure Program.** Contact NAR's Center for Real Estate Technology (www.nar.realtor) OR 1-800-874-6500) for information about the REALTOR® Secure program, which provides "anti-scraping" software, as well as tips about the latest web security measures.
- **Protect the association's website.** Work with a trusted "techie" to download and update effective spam filters, anti-spyware, firewalls and virus protection.

Blogs

A regular blog written by an AE or member can help the REALTOR® community connect with both the media and the public. A blog is generally a personalized column relating to one or more key real estate issues that is posted daily, weekly or monthly on the association's website. Topics can be educational and informative ("5 Things You Should Know About Home Owner Tax Deductions") or be based on opinion ("Why Now Is a Great Time to Buy a Home"). Many individual REALTORS® are blogging regularly; however, an association blog may have greater credibility—especially with the media.

If you are considering creating an association blog, there are several questions to consider:

- What are the goals of the blog?
- How often will it appear?
- Who will write it?
- How much will the blog cost—in terms of staff time or outside resources?

In many cases, a blog is launched with a great deal of energy and enthusiasm. If managed correctly, that blog can become a long-term asset to the association, and the blogger may even become a media spokesperson or personality, helping to advance the organization's goals. However, if the blog becomes a time-consuming task or it becomes difficult to find topics, it's better to discontinue the blog and use other public relations tools.

Drafting a Blog Policy

The following checklist for drafting an association's blog policy was prepared by Katie Johnson and Mike Thiel for the 2009 AE Institute.

Terms of Use (TOU)

- Will the blog have the same terms of use (TOU) as the association's website?
- Does the association has the right to refuse, move, or remove any material a member submits
- If there is a dispute, how will it be resolved?

- Will the blog be hosted on the association website or on a third-party website such as Blogger.com or Wordpress.com?
- Will the blog be open to the public for comments?
- Be sure to state that any information posted be true, accurate, current, and complete.
- Blogger must agree not to defame, abuse, harass, or stalk anyone, engage in illegal activities or publish profane, obscene or inappropriate content.
- Does the association policy have a suitable disclaimer (i.e., “Without limitation, the association is not responsible for postings by users in the user opinion, message board, or feedback sections of the website.”)

Managing the Blog

- Will the association review each comment before posting it to the blog? If so, what criteria will be used to evaluate the content of the comment?
- Will the association offer users the opportunity to request that content be removed from the blog? If so, how will this determination be made?

Copyright Policy

- Who owns the copyright of material that is posted to the blog by an association employee?
- Who owns the copyright of material that is posted to the blog by a non-employee?
- What type of permission, if any, does the association want to give others for using the content?
- What use of the content will be permitted?

Retention of the blog posts

- How long must the association keep a record of a blog post?
- What is the document retention/deletion policy?
- Is the blog post a business record and therefore discoverable for the purpose of litigation?

Employee guidelines for posting

- Does the association want to create guidelines that employees must follow when blogging on their own time or on non-association websites?
- What type of communication, if any, should be restricted? (i.e. anonymous posts, gossip, etc.)
- Has the association informed employees that they should have no expectation of privacy when using employer-provided equipment?

In view of the potential liability, the association’s attorney should review these issues prior to launching an association blog.

Podcasts and Videos

Podcasting is the process of creating an audio file, such as an interview with an AE, and then sending the file to the media or other target audience, including the REALTOR® family. For convenience, podcasts can also be posted on an association website; then you can email an invitation with a link for easy access. Recipients can listen to a podcast from almost any type of mobile device or directly from a computer.

Creating a podcast is simple: just use a digital voice recorder or other taping device to capture the words of the person being interviewed or the people participating in a discussion. The best podcasts are relatively short and should include new information or ideas that are important to the listeners.

When it’s important to include a visual component, associations can create a video of an interview or event, distribute it to the media and post it on the website. Most print publications—newspapers and magazines—are posting videos to their online sites, providing multiple public relations openings for real estate associations to convey their messages.

An association that invests the resources to create podcasts and videos is likely to have a higher profile with the local news media—and be seen as a “thought leader” by its members and the overall public for presenting important information.

Social Media

Social media is a key component in the evolving communications sector. A great many journalists who cover real estate, housing and finance issues are now participating in these online communities along with savvy public relations professionals. While the rules and etiquette of social networking continue to evolve quickly, there are a few basic rules to remember when entering this field:

- Use these social networking sites to build professional relationships, not “sell” stories.
- Be truthful and authentic: don’t try to pretend to be a journalist if you’re working for an association.
- It’s okay to invite other members of the community to read your blog, listen to your podcast or view your videos, but do so politely—no hard sell.
- Be sure you’re not just sending promotional messages to your network.
- Be careful of expressing negative opinions in these settings. They can come back to haunt you!
- Use the traditional news distribution channels for your press releases and feature articles.

Because many news stories and real estate issues often appear first on social media sites, AEs should monitor key sites on a daily basis and use tools like Google Alert to help track online conversations relating to the local real estate field. A controversy involving an association member or a neighborhood housing issue, for instance, will often appear on a social media site before it is reported in a news publication.

BUILDING STRONG MEDIA RELATIONSHIPS

An effective media relations program has many components. A good starting point is identifying a contact person who is responsible for passing news about the association and its members to the media and, eventually, to the public. A well-trained and effective contact person is the key to sharing information about an association. Ideally, the media will consult this contact person or spokesperson to provide comments about any news or feature story involving the association.

A media relations program is not limited to writing news releases and mailing them to editors. There are many other activities that position the association with the media as a credible resource for information about all real estate-related matters. Such activities include responding to reporters as quickly and as accurately as possible, knowing when to refer a question to another source and generally avoiding a “no comment” response.

Screen Media Representatives

One of the major shifts in journalism has been the decline of “established” media outlets and the rise of freelance writers, editors, photographers and videographers. In many cases, these so-called journalists may be seeking quotes or comments to support their points of view. Or they may want to interview an association leader to help advance their careers, hoping to sell the story to a publication in the future.

To protect the interests of the association and avoid wasting a leader’s time, you should screen a media representative prior to scheduling an interview unless you know from past experience that the person is a legitimate journalist. Here are several suggestions:

- **Check on the publication (online or print).** Does it exist? Does it have a particular point of view? Does it have a significant audience or readership? If the publication is produced by a small organization or a special interest group, it may be better to decline an interview opportunity.

- **Check on the journalist.** Do a search on the journalist’s name to see if he or she has written articles in the past. Does the writer appear to be fair and objective in asking questions? Have there been corrections or complaints about the writer from past interviewees?
- **Understand the nature of the assignment.** Does the writer want a lengthy interview for a feature article or a brief quote or two for an overall housing or business story? Can the journalist provide a list of questions in advance to help prepare for the interview? Is a phone interview necessary, or can the association provide a comment via email?

In a world where almost anyone can claim to be a reporter or photographer, associations must proceed with caution when asked for comments or interviews.

Meet with Media Representatives

A meeting with a reporter or editor who covers business and real estate for a newspaper, radio/TV station or website or can help you better understand the legitimate media outlets in your community. Set up a relaxed meeting, possibly lunch (at the association’s expense) to share information and to ask questions. Because most newspapers have downsized their staffing substantially in recent years, don’t take it amiss if an editor or reporter declines to meet in person in the office. As an alternative, suggest meeting for a cup of coffee on the way to work, a 15-minute phone call or a brief video chat.

During a meeting, call or online chat, you can establish some ground rules for conducting open, two-way communications. Make a note about deadlines. Find out why some stories go in the print publication while others are posted online. Ask how often the reporter or editor writes about the real estate market, and ask permission to stay in contact in the future.

After the meeting, follow up with the journalist by providing background information about the association in the form of a fact sheet, along with a list of contacts with email addresses and phone numbers for potential sources.

Develop Email Lists

- Develop a member contact list for the media for obtaining information about the association and its programs.
- Include a contact name, email address and phone number for each media organization. This contact could be the real estate or business editor. Expand this list to include individuals or organizations that, although not members of the working media, have an interest in the industry, such as savings and loan officers, mortgage brokers, government officials, etc. Also include on the list any organization that publishes an industry-related newsletter or hosts an industry-related website.
- Review your list every few months to update names and purge duplications.

Handling a Media Call

When handling a media call, follow these tips for a smoother and more fluid response:

- Be responsive and sensitive to reporters' deadlines.
- Screen the caller to be sure the reporter has an assignment from a real publication and is not just "fishing" for a comment for other reasons.
- Designate a spokesperson(s). Designate the president and several backups (such as the president-elect or chief executive officer) as spokespersons for the association to handle all media interviews, or develop a list of possible media interview topics and appoint a spokesperson for each one.
- Be sure that the association spokesperson has time to gather thoughts before handling a media call. Even if the association spokesperson is in the next room and a reporter is on the phone requesting "just a few quick words," take a message and have the spokesperson call the reporter back. Do not wait too long to return the call, though. Reporters expect a promptly returned call.
- Establish guidelines for handling media calls and educate members so that they follow them. Encourage members to refer calls to the association office. One of the biggest challenges facing many associations is controlling the flow of messages from the association to the media. When a reporter calls a REALTOR® directly for quotes or information, that REALTOR® might be eager to help the reporter and to receive publicity, but in such a case, the member should simply refer the call to the local or state association.
- Be accurate. If the answer to a question is not known, politely explain that and offer to call back with an accurate answer. Never guess. A guess might be wrong (fifty-fifty chance!). Then, an association would risk having erroneous information printed or broadcast. This could, in turn, reflect poorly on the association.
- Speak in sound bites. Answer questions completely, but do not give more than what is asked for. When possible, work in key messages that your association is actively promoting.
- Ask who else they are interviewing for the story.
- Send thank-you emails. When a state or local association receives fair coverage on the radio or television, or in print, thank the reporter and commend him or her. Be generous with praise when the media has been good to the association.
- If a letter of criticism is necessary at some point, formulate it in a thoughtful, constructive and helpful manner. Always assume that a mistake or erroneous portrayal has been made out of ignorance, not malice. Write every letter to help inform, not attack a reporter.
- Always have on hand prepared, up-to-date talking points. Obtain national talking points from state associations. For example, NAR's Public Affairs staff prepares talking points for national officers and spokespersons about national real estate issues, and these points are posted on www.nar.realtor.

Countering Bad News

Never try to "kill" a bad story about which the association has been forewarned, unless it can clearly and convincingly be proven to the media that its news source is inaccurate. Association credibility is essential to good media relationships. If an unfair story appears, prepare a verbal or written reply, and have it reviewed and approved by the association. Then, be sure to present that reply to the media as soon as possible.

Use the same approach when countering a "fake news" online story about real estate, housing, demographic trends or other topics that includes made-up facts or is presented with a biased perspective. One strategy is to take a fact-checking approach, contrasting what the story said with accurate information. Be sure to include your source or sources. If the story could affect association members or their business, be sure to respond and email or text the real story to them as quickly as possible.

DEVELOPING AND IMPLEMENTING A PUBLIC RELATIONS CRISIS MANAGEMENT PLAN

A crisis communications plan prepares an association to be the first to reveal negative news. There are some advantages to sharing bad news first. The association is more likely to provide an accurate story than the news media, and the association is less likely to be defensive. The association might also get credit for honestly admitting a problem and being concerned enough about it to let the public know about the situation. Establish the association as the source of information, a partnership position most reporters will think twice about exploiting.

Bad news will not go away if an association refuses to comment. On the contrary, by refusing to cooperate with the news media, an association might find a story expanding and reported longer than if it had been addressed immediately. “No comment” does not shield or protect an association from the media.

Developing a Crisis Communications Plan

Take the following steps, in order, to develop an association crisis communications plan and to divert a potential crisis.

1. Anticipate problems. Identify the most likely potential problems, learn the facts about each issue, and attempt to determine how the public might perceive it. In the midst of a crisis, reality and perception can differ tremendously.
2. Understand that when there is a very time-sensitive need for information, everyone turns to online sources, such as social media or your website. Plan accordingly, respond quickly, and gain early control of the information you wish to be released.
3. Appoint a spokesperson for a specific issue in case a reporter calls. The chosen spokesperson should be able to confidently and positively tell the association’s side of the story. The spokesperson must also be available on short notice. Designate different spokespersons for different issues, if necessary. The key is to make such decisions before a crisis hits. Ensure that staff and members know who is designated by the association to address the media about each issue.
4. Work together to formulate standby statements, expected reporter questions and proposed answers. If and when a reporter calls, quickly check with the appropriate person in the association to ensure that the latest information is available. (It is also helpful to speak with NAR Public Affairs staff.) Never release unconfirmed information.
5. Put a pre-planned approval system in place to quickly clear news releases with executive officers/elected leaders. Immediate responses to reporters’ inquiries, often measured in minutes rather than hours, are critical in a crisis. Do not “shoot from the hip,” but also avoid being so deliberate that reporters’ deadlines are missed.
6. Diffuse any media rumors and misinformation.

Any long-term professional relationships an association can establish with the news media, combined with appropriateness of the association’s position, will determine how reporters handle association news in a crisis.

How to Turn Negative News into a Positive Story

Statistics concerning home sales and prices, including those released from NAR and from state and local associations, track the cycles of the real estate industry. Such statistics are useful because they serve as very broad-based indicators of growth in the housing industry. The numbers themselves are facts that cannot be altered or withheld when they take a turn for the worse. The best way to react to negative numbers is to acknowledge a decline in sales or prices and then put a positive spin on them. That’s a far more effective approach than saying, “no comment.”

It is also important to understand that there are different perspectives on real estate statistics. For instance, a decline in median home prices might be bad for sellers but good for buyers and investors. A slowdown in transactions might be an indicator of market stability and maturity.

If there is a short-term decline in housing prices or sales numbers, an association could explain that housing is not a quick-in, quick-out investment, and that it is a long-term investment producing increasingly favorable returns the longer such an investment is held. Additionally, homeownership benefits go beyond just price appreciation. Emphasize the return that a homeowner receives on a down payment, along with the added benefits of mortgage interest and real estate tax deductibility.

Reporters impart news about market declines with or without an association's analysis. In essence, ignoring "bad" numbers will not make them go away. Refusing to acknowledge or release them gives a reporter the impression that an association is defensive. Such an impression might not be justified, but a reporter's perception might be that the real estate market is so bad that REALTORS® do not even want to discuss it. Moreover, this could cause a reporter to avoid seeking insight from the association for future articles. Establish the association as a credible source of reliable information and advice. This is the very best form of image enhancement.

ORGANIZING A NEWS CONFERENCE

Some reasons an association might hold a news conference include:

- To make a newsworthy spokesperson available to answer questions in conjunction with an important news story concerning the association
- When a member of the public has a positive and unusual story to tell, such as a 16-year-old buying her first home or a family that has benefited from an association's community relations program.
- When you want to attract television or radio coverage, as well as print media
- To make an unusually newsworthy announcement with an "expert" available to answer media questions
- When news details are too complicated to fully explain in a written news release

News Conference Alerts and Follow-up

- Email a media alert in advance to let assignment editors know about the event. Include "press conference" in the subject line, and cover the who, what, when, where and why as succinctly as possible. Be sure to give them a reason to attend.
- Follow up with texts, phone calls and emails right up until the event to encourage coverage.
- At the conference, take clear notes of which media/reporters attended (but don't have a sign-up sheet!) .This can be helpful in evaluating the conference.
- To follow up a news conference, send a fact sheet to media representatives who did not attend and include a contact name for additional information.
- If the news conference was not productive, informally contact the media (by phone or in a meeting) to respond to any concerns.

"Off the Record"

There is no such thing as "off the record." Anything said to a reporter can and probably will be printed or broadcast. Designate one spokesperson to make the facts known and, when preparing the spokesperson, stress the importance of not interjecting personal opinion or comments. If you receive a telephone call from, say, a radio station asking for information, always ask if the call is being recorded and structure your remarks accordingly.

COMMUNITY RELATIONS PROJECTS

To create a successful outreach program to enhance community relations and promote REALTOR® participation in community activities, a public relations committee or task force must take several steps, as outlined below:

- **Research community needs.** This step defines the needs of the community and further defines how REALTOR® members want to address those needs by becoming involved. The goal to research needs is necessary for members to identify what they wish to accomplish with a community relations program and who will be their audience. Ideally, such a program fits well with an association's mission and creates a positive and identifiable public relations benefit.
- **Develop a plan.** Define what members can do to address community needs. Set long-term and short-term goals.
- **Examine financing.** Define what the association can afford to do. Establish priorities and allocate funds accordingly.
- **Consider appropriate partnerships.** Steer clear of partnerships that promote certain political or religious ideas, because they have the potential to alienate association members or the community. Instead, consider partnerships that help a REALTOR® association promote the American dream of homeownership.
- **Gain leadership support.** Without support from the association directors and other key stakeholders, even the best projects will not flourish. Avoid adopting efforts without appropriate support in advance of implementation.
- **Establish promotional goals.** Decide how and to whom to promote the program. Define media and set goals for getting the word out.
- **Execute the plan.** Address what members will do and why. Determine how much time and personnel it will take to make the project feasible.

- **Evaluate the project.** After the program is underway, ask the question, “How are we doing?” or “How did we do?” This step defines what has been accomplished, what is currently being done and what actions should be taken to address problems that still exist.

For more ideas and strategies, refer to the Volunteer, Staff and Partner Relationships chapter of *The Answer Book*.

Publicizing a Community Relations Project and Volunteers

How can an association get the most from its public relations activities when promoting a community service program or project or other effort? By ensuring that public relations committee members and staff are thorough and consistent in their meetings and planning efforts and by preparing quality material for media contacts. Remember, the association’s story competes with all of the other news in town and with important state and national news, too, so make it memorable and effective.

When determining who should know about a community service project, identify all available media. Newspapers and TV stations are logical starting points. Other media include magazines, online bloggers and online newsletters, especially those devoted to real estate issues. Radio also is an important medium because most stations offer public service announcements, a calendar of events and talk shows. Local and national television networks and cable stations also offer talk shows and public service announcements.

Consider the exposure a project can receive from other local organizations. The public relations committee can spread the word or gain support through city council meetings or Rotary, Kiwanis, Junior Women’s League, chamber of commerce and other other service organization gatherings. Gain cooperation by sharing information in civic newsletters or by piggybacking information on an activity notice to monthly utility and telephone bills, if a mailer agrees to it.

Once an association has identified public relations sources, make plans to meet with those sources. Reporters and editors are interested in local stories and projects that involve their neighbors and friends and that will improve the community in which they live and work. The first step is to call the media assignment editor or the public relations contact person of a particular organization. Offer a brief self-introduction, describe the project, and request to schedule a time to meet with that person.

SPEAKING TO THE COMMUNITY

REALTOR® association leaders and staff often are asked to speak before community groups. In fact, community events provide excellent opportunities to present the association in a positive light. When invited to address a group, take the time to properly prepare a speech. Here are some preparation tips for preparing and making speeches:

- **Know your objective.** When giving a prepared speech to a community group, start with the goal in mind. Why are you giving this talk, what are you trying to accomplish, who will be attending, and where and when will the meeting be held? One of the biggest differences in speaking to members vs. a community group is that members already have a background in real estate and some level of understanding of the association’s role and activities. Otherwise, the process of making a speech to members is very similar to speaking to a community or civic organization.
- **Know the topic.** When invited to speak by a community group, find out why you were invited and what the group would like to address. If there is no specific topic, conduct research to determine the issues important to that group that can be tied with real estate and/or association. For example, when addressing a chamber of commerce, a natural topic would be how the current real estate market is affecting local business activity.
- **Know your audience and the venue.** Ask your host some basic questions that will help you better target your audience. It’s important to know things like: how much time you’re allotted; projected number of attendees; their composition (age range, interests, professional or educational backgrounds); room layout, A/V equipment, etc. If possible, send the host an email confirmation of this information, and clearly spell out any special needs you may have.
- **Determine the objectives of the speech.** Establish a few objectives or desired outcomes for the speech, then develop a clear and connected outline of points. Order these points logically to maximize impact.
- **Draft the speech around the outline.** Include descriptive, articulate phrases and words that will illustrate the points in the listeners’ minds. Add visuals whenever possible.
- **Walk away from a draft speech before editing it.** Return to edit and polish the speech until it becomes a smooth-flowing presentation.
- **Rehearse the speech.** What we hear in our heads is not always what our own ears hear. Edit and rehearse

the speech out loud again. Do this until it is polished.

- **Use appropriate humor.** Consider including a witty opening and a clever closing that will engage the audience.
- **Repeat the main points.** Bring up the key points at the beginning of your talk, expand on them in the middle of the speech and summarize them at the end. That gives you three opportunities to reach members of the audience.
- **Practice, practice, practice.** Rehearse the final version in front of a mirror or before friends and family. Aim to speak from the head and heart, not from the written page.

Writing a Speech for Someone Else

While the mechanics of this task are basically the same as writing your own speech, remember that the tone of the speech is vital; it must sound like it is coming from the person who is delivering it. AEs are often asked to provide talking points or to write speeches for leadership.

Some key points to help personalize a speech written for someone else include:

- **Get to know the speaker first.** Talk with the person who will deliver the speech. Become familiar with his or her ideas, manner of speech, vocabulary, and sense of humor. Try to develop a similar tone of voice in the speech.
- **Establish a comfort level.** Work with the speaker until he or she is comfortable with the words of the text. No matter how well-written a speech is, it will come off awkwardly if the speaker is uncomfortable with it.
- **Discuss body language with the speaker.** Body language often communicates louder than words. If such equipment is available, videotape the speaker, then discuss mannerisms, eye contact and gestures with him or her.
- **Record the speaker.** Record an audio or video rehearsal of the speech. This will allow you to gauge the speed of the delivery, posture, body language and other details. Listeners should be able to clearly comprehend the speech without their minds wandering.
- **Format the speech so that it is easy to follow.** Print out the final speech in large type, and break all text into phrases. Carry a sentence over to the next page to avoid awkward breaks. Number the pages to ensure that the speaker will not skip a page.

1.13

Technology

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ASSOCIATIONS AND TECHNOLOGY

Technology is continually reshaping the lives of consumers, real estate professionals, and REALTOR® associations. Today, video conferencing, mobility, office, social media, website and cybersecurity solutions are essential for associations in communicating and engaging with members and the public.

AEs should be prepared to address these technology-related issues:

- Develop and manage an interactive website, as mandated by the NAR Core Standards. This should include links to promote member programs, products and services, and access to professional standards and arbitration filing processes.
- Use social media to communicate with members and the public (i.e. Facebook, YouTube, LinkedIn, etc.), and be prepared to advise members of how to use social media professionally in their businesses.
- Assess virtual conferencing solutions, such as Zoom, Webex and GoTo Meetings, as well as LMS (Learning Management Systems) solutions to deliver online educational courses to members.
- Deploy office productivity tools, including communication channels, data analytics, accounting software, and customer relationship management (CRM) applications.
- Perform due diligence when engaging third parties who receive, store and work with the association data assets, including member information. This may include cybersecurity, privacy policies, risk assessments, access and storage, and liabilities for data protection.

Using Data Analytics

Associations can access a vast amount of data relating to their members, from application and renewal forms to regular surveys. A CRM system is one of the most important tools for maintaining membership information.

Powerful data analytics tools can help AEs identify opportunities for expanding membership or offering new programs and services. They can also point to challenges, such as a slowly aging membership base, that can be addressed in a proactive manner. Other potential benefits include:

- Predictive analytics to help guide investments of association resources.
- Mapping the member journey from newcomer to engagement and beyond.
- Personalizing member communications based on insights from the database.

One of the most popular packages a REALTOR® association can consider is an Association Management System (AMS), whose integrated approach improves efficiency for invoicing/billing, communications and other applications. It also allows AEs to enhance program delivery by leveraging member data to generate insights.

Understanding Members' Technology Tools

REALTOR® AEs must keep up with the specialized technology tools their members are use, such as lead generation and transaction management systems, lockboxes and virtual tour solutions. Even if associations do not use these applications themselves, they may offer education and training programs, product/service discounts or other technology-based benefits to members.

In fact, the continuing evolution of technology provides associations with new opportunities to serve members through new educational programs. AEs can also build marketing alliances with technology firms and service providers to create revenue-producing opportunities for co-marketing new tools and applications.

EVOLVING TRENDS

Technology is a rapidly changing sector, with new devices, applications and platforms coming to market virtually every day. Therefore, AEs should pay attention to the evolving technology landscape to see if new solutions will affect association operations, as well as the real estate industry. Here are three important trends with the potential to deliver important benefits to local and state associations.

Cloud-Based Solutions

For organizations, the growth of cloud-based solutions has been one of the biggest changes in recent years. Rather than handle all technology infrastructure in-house, associations can outsource an entire office network or certain functions such as a contact center for inbound calls, texts, emails and chats.

From the standpoint of an AE or IT manager, a cloud-based solution with security features to limit access to only authorized users can dramatically reduce the ongoing cost of managing the network and provide more communication options for staff or members. Other potential advantages include integrated support for both in-office and at-home workers, as well as business continuity and disaster recovery solutions.

Making a decision on a cloud-based solution involves a careful analysis of costs, as well as human resource capabilities, as outlined in the Office Solutions section of this chapter.

Immersive Experiences

Technology leaders like Apple and Meta have invested heavily in headsets and applications offering 3D immersive experiences, including virtual reality (VR), augmented reality (AR) and mixed reality (real-world and virtual blend). They believe that the “metaverse” is the next big step beyond the Internet, bringing exciting new individual and shared experiences to life.

This technology is still in the early stages, and it remains to be seen how much traction these applications will gain in the consumer and business markets. In real estate, they are already helping some REALTORS® interact in new ways with their clients, such as providing an annotated visual tour of a listing or neighborhood. For real estate associations, the possibilities include:

- Reconfiguring office space in different ways to determine the most appropriate layout
- Gaining a “you-are-there” 3D visual look at a potential location for a strategic retreat, annual meeting and in-person education sessions
- Supporting new types of collaboration among staff members and volunteer leaders

Artificial Intelligence

Artificial Intelligence (AI) applications are rapidly gaining headway in both consumer and business markets. Today, voice-recognition tools like Alexa and Siri and “smart” navigation tools in smartphones and vehicles are widely used by association staff, real estate professionals and many consumers. Other applications are being unveiled in financial services, healthcare, education and many other fields.

New generative AI tools like ChatGPT, which use machine learning algorithms to identify patterns and structures in data and learn from that training, are a fast-growing sector of the market. For associations, there are a wide range of potential applications, including:

- Writing blogs and social media posts in just a few moments
- Delivering more personalized emails to members
- Improving automated responses for people who call the office
- Providing rapid updates to financial forecasts
- Transcribing video sessions and pulling out action items and responsibilities

However, generative AI tools need to be reviewed carefully to avoid wrong answers, biased observations or irrelevant information. Other issues to consider include data privacy, copyright protections and outbound marketing. In general, AI tools are designed to supplement the responsibilities of current staff, helping them work more effectively and efficiently, rather than replacing humans.

TECHNOLOGY NEEDS ASSESSMENT

When considering a purchase or an update to technical services or equipment, an association should be able to make informed decisions based on research and analysis of commonly available market information, rather than advertisements, a volunteer leader’s request or personal preferences.

The assessment steps provided in this section can help guide technology investment decisions.

General Assessment

An association’s technology needs assessment typically begins with these general steps:

- Identify current problems and issues. Is there a pain point within the association’s current operations that could be addressed by technology? Are there new benefits available, such as greater efficiency, lower costs, faster network speed or better member service that could be obtained with new technology?
- Consider how staff can use technology to improve their performance of day-to-day duties.
- Look at NAR technology reports, recent industry surveys and other data to identify promising new solutions.
- Consider holding a brainstorming or planning session focused on these issues.
- Assess members’ current or projected technology needs using surveys or other techniques.
- Consider the “people factor.” Many organizations fail to maximize their technology investments because they do not consider how training, marketing and ongoing support will be offered and financed. Education is also a critical factor in guarding against cybersecurity threats.
- Assess education needs of current technology. Are there pain points where support or improved training/education opportunities will correct the problem?

Decide What to Purchase

Before making a significant technology investment, follow these steps:

- Know what is needed and exactly how it will be used before purchasing it.
- Consider alternatives to a purchase, such as a cloud-based managed services solution.
- Outline the benefits of the equipment or the service.
- Keep an inventory of current equipment, including serial numbers, receipts, service expiration dates and other information.
- Involve staff in the research and analysis processes to help evaluate how technology will be used.
- Consider creating a member technology advisory group.
- Determine if the new acquisition is compatible with older systems, and can augment your prior investment, or if it is a “rip and replace” solution.
- Construct a business plan, change management and training plan for this purchase.

Develop an RFP

- To find the right vendor for your technology purchase:
- Develop a request for proposal (RFP). Consider contacting REALTOR Benefits® partner companies (see: <http://www.nar.realtor/programs/realtor-benefits-program/all-realtor-benefits-program-partners>). See the Product/Program Development chapter of *The Answer Book* for more information.
- Send an RFP to at least three vendors and designate a team to review responses.
- Analyze RFP responses and arrange for demonstrations with potential vendors.

Assess a Vendor's Demonstration

When participating in a vendor's demonstration of a product or service—either in-person or online—consider the following:

- Be sure the vendor's product or service does what the proposal says it will do.
- Be sure the demonstration covers all claims made about the product or service.
- Beware of “first-time” or canned demonstrations. Insist on seeing a live system demonstration.
- Ensure that the selection team has hands-on access to the products before the live demonstration so that they can ask knowledgeable questions during the demonstration stage.
- Be sure the vendor explains how the system can meet each point in the request for proposals.
- Go beyond the general information being presented, and ask the demonstrator to explain how the product or service can deal with the association's situation, not just commonly encountered situations.
- Be sure the demonstrator can answer or find an answer to all of the association's current and future questions about the product or service.
- Ask members who are not decision-makers to use the system and to provide feedback about its value and user-friendliness.
- Be sure that the system can be configured to complement the requirements of the association.
- Get a feel for how often a vendor issues product updates.

Troubleshoot in Advance

When rolling out new technology products and services, expect and plan for initial problems. Do not promise perfection or an immediate, trouble-free solution, regardless of the confidence level. Create a troubleshooting plan to manage any unforeseen circumstances.

Be sure to address any fears expressed by members or staff regarding a potential purchase in a thoughtful and positive manner. Some fears might include employee apprehension, under-budgeting, unrealistic expectations, hidden costs or underestimating needs.

IN-HOUSE VS. OUTSOURCE

Depending on financial resources and staff size, an association may hire an in-house information technology (IT) specialist, engage an outside vendor or cloud-services provider or a combination of these approaches. For instance, a web designer might be hired to update and enhance the functionality of an association's online presence. However, once the upgrade has been completed, an association staff may handle the daily uploads of news, photos and other information without needing an outside service provider.

AEs should understand the typical benefits and disadvantages with each approach to determine the best strategy for each project.

In-house

The benefits of an in-house approach usually include greater control and greater responsiveness. An in-house IT specialist will also have a greater understanding of the association's own network, overall strategic goals and objectives. That familiarity with association needs and operations reduces the time spent in supervising this important function and helps associations get it right the first time rather than going through a trial and error process.

The primary disadvantage of an in-house solution is cost. Not all associations can support a full- or part-time IT specialist. Fortunately, some types of online applications, such as template websites, can be handled by other staff with a modest amount of training. Also, an experienced, full-time IT specialist may not be a jack or jill of all trades—a certain level of outsourced support may still be necessary. For example, an IT “guru” who understands the office network may not have the skills to develop a search engine optimization program or an MLS mobile app.

Outsource

The potential benefits of an outsourcing approach for other technology services include cost and flexibility, as well as being able to obtain the specialized skills needed for a particular project. Building partnerships with service providers reduces the need for in-house staffing and allows associations to pick and choose the most appropriate combination of services. For example, a web hosting company may run the association's site for a very modest monthly cost. If an association decides to upgrade its site, add new functions or create a linked site, a web developer can be hired for that project without an ongoing financial commitment.

However, there are disadvantages as well. An outside contractor is likely to need greater staff direction and supervision than an in-house specialist. It's especially important to factor in supervisory time when beginning work with a new provider who may need to be educated about the association and/or real estate in general. In most cases, projects involving an outsource provider should be managed on a staged basis, so that any needed course corrections can be done along the way. Also, a service provider with many clients may not be as responsive to association requests as a dedicated in-house specialist.

Finally, AEs should be sure to perform due diligence when engaging an outsource provider who will receive, store and work with the association's data assets, including member information. This may include cybersecurity, privacy policies, risk assessments, access and storage, and liabilities for data protection.

For more suggestions on selecting a vendor, see the Professional Services chapter of *The Answer Book*.

VIRTUAL CONFERENCING SOLUTIONS

REALTOR® associations today rely on video conferencing and collaboration solutions like Zoom, GoTo Meetings and Webex. Staff members may connect with each other using a team meeting application like Microsoft Teams or Slack. Many in-person meetings include a video option for attendees who prefer to participate virtually. The resulting hybrid meeting can be an effective choice for accommodating members' varying choices.

Virtual solutions continue to grow in sophistication and versatility, making it easy for an association to arrange and host an effective session. However, every conferencing solution has its own features, making it important to decide which solution to deploy for a certain purpose. For instance, a virtual conferencing solution with a quick one-click setup might be appropriate for a 30-minute committee meeting. On the other hand, a solution with higher log-in and security features might be best for delivering educational programming to members through a learning management system (LMS).

For more on virtual sessions, go to the Meeting Management chapter of *The Answer Book*.

CYBERSECURITY SOLUTIONS

REALTOR® associations and their MLS affiliates—as well as real estate companies and their agents—are potential targets of cyber criminals. No AE wants to explain why a hacker was able to obtain members' credit card data and run up fraudulent charges or tell the board of directors that the association's network can no longer function due to a ransomware attack.

Cybersecurity solutions involve protecting office systems, mobile devices and valuable data from attackers. In addition to deploying security technology, cybersecurity also involves monitoring the actions of staff who have access to sensitive information, such as financial records, and educating all staff about safe and unsafe online practices.

Because data protection and cybersecurity laws differ across the country, NAR recommends that AEs work with an attorney licensed in your state to help you develop cybersecurity-related programs, policies, and materials.

The following advice from NAR's Cybersecurity Checklist: Best Practices for Real Estate Professionals applies to real estate associations as well.

Email and Password Hygiene

- Never click on unknown attachments or links, as doing so can download malware onto your device.
- Use encrypted email, a transaction management platform or a document-sharing program to share sensitive information.
- Carefully guard login and access credentials to email and other services used in the transaction.
- Regularly purge your email account and archive important emails in a secure location.

- Use long, complicated passwords such as phrases or a combination of letters, numbers and symbols.
- Do not use the same password for multiple accounts.
- Use a password manager from Google, Apple or a third-party company like 1Password.
- Change passwords every 90 days.
- Use two-factor authentication whenever it is available.
- Avoid doing business over unsecured Wi-fi.

Other IT-based Security Measures

- Keep antivirus software and firewalls active and up to date.
- Keep your operating system and programs patched and up to date.
- Regularly back up critical data, applications and systems, and keep backed up data separate from online systems.
- Don't download apps without verifying that they are legitimate and won't install malware or breach privacy.
- Don't click on links in texts from unknown senders.
- Prior to engaging any outside IT provider, review the applicable privacy policies and contracts with your attorney.

Law, Policy and Insurance Considerations

- In collaboration with your attorney, develop a written disclosure warning members of the possibility of financial cybercrime.
- Stay up to date on your state's laws regarding personally identifiable information, the development and maintenance of cyber and data-related business policies, and other legally required security-related business practices.
- Develop and implement the following policies:
 - *Document Retention and Destruction Policy across all systems, including hard drives, cloud drives, email, and other tools of communication (e.g. Slack, Microsoft Teams)*
 - *Cyber and Data Security Policy*
 - *Breach Response and Breach Notification Policy*
- Ensure that your staff and volunteer leaders have reviewed and are following all implemented policies.
- Review your current insurance coverage and ask your insurance agent about cyber insurance and the availability and applicability of products such as social engineering fraud endorsements and computer and electronic crime riders.

Other Tips

- Use strong passwords. The strongest passwords use a combination of letters and numbers and should be at least six characters long. Never use birthdays, anniversaries or the names of spouses, children or pets for passwords! The password policy should be part of your Human Resources Policies handbook.
- Add multi-factor authentication for log-ins. A multi-factor authentication system can help safeguard user accounts against identity theft, breaches and ransomware attacks. Multi-factor authentication is used by Google, major banks, universities and many more enterprises as an extra security feature.
- Apply SSL technology. All online financial transactions and login/authentication that funnels through the association's website should be encrypted by using SSL technology. This is indicated by the addition of an "s" to the website address: <https://>. Consult with your IT specialist for how to obtain and apply SSL certification.

For more information about cybercrime and cybersecurity, visit: <https://www.nar.realtor/data-privacy-security>.

OFFICE SOLUTIONS

Today's office technology options include a blend of on-premises equipment with licensed software and managed services, where an outside vendor handles many aspects of office operations—invisibly to staff and members. Organizations with flexible working policies, including working from home or other remote locations, can benefit from a cloud-based network, which uses a distributed computing platform rather than an in-office network or data center.

One of the advantages of a cloud-based platform is that it allows association staff and volunteers to access the association's information and applications from virtually anywhere using their own devices. It can also provide an effective disaster recovery solution.

On the financial side, engaging a cloud services provider shifts the financial equation from making a capital investment in new equipment (CapEx) to an ongoing operational cost (OpEx) paid as a subscription fee to the vendor. But that's only the beginning of the evaluation process. Other issues to consider:

- Who "owns" the data? Can the vendor use membership data for other purposes?
- Can the data be moved to another provider should you become dissatisfied with the service?

- Are there extra fees or add-ons for services you thought were included?
- What are the protections for data privacy and security?
- Who is liable if a hacker gains access to your data?
- What is the process if you want to add a new tool to your platform?

Before making a decision, be sure you understand exactly what you are buying, and have the association counsel review the contract and make suggestions for possible revisions before finalizing the agreement.

Key Office Tools

Here are the key technology tools for association offices:

- **Voice, text, email and fax messaging systems.** While these can be purchased separately, it often makes financial sense to find a provider who can offer a complete package. Thanks to the popularity of these “bundled” applications, the cost of voice calls, including long-distance service, continues to drop. You should also look for productivity-enhancing services like voice-to-text conversions, for example.
- **Video conferencing equipment.** Conference rooms, large and small, can be equipped with high-quality audio and visual systems to enhance in-person, hybrid and online meetings.
- **Desktop computers.** Large screens are easier on the eyes and very affordable. Desktops can also be more powerful for certain applications, such as editing videos or running data analytics packages.
- **Laptops, tablets and smart phones.** These tools boost productivity and can provide a cost-effective replacement for desktop computers when staff members work from multiple locations. Note that these purchases also fall in the mobility category of technology.
- **Document equipment.** Associations need equipment that can scan and print documents, make copies and perhaps send or receive faxes. Today, the preferred choice is multi-functional equipment in a networked system that allows staff to use a centrally located machine.
- **High-speed connectivity service.** A wireless, DSL, cable or T1 connection is essential for linking the association office with the outside world. Discuss the options with your IT manager or telecom consultant.
- **Network management tools.** An IT specialist or staff should be able to use today’s network management tools to protect against attackers, identify problems, assess current performance and eliminate bottlenecks involving servers, routers, processors and gateways.

- **Office software.** An office should be equipped with up-to-date software, such as the Microsoft Office package. Another option is Google Docs (www.google.com/docs/about), which includes spreadsheets, presentation software and networking functions.

Whether an association opts for an in-house or managed services approach, it is essential to make hard-copy backups of key information, as well as association databases, both on and off site. In the event of a natural disaster, fire, theft or other on-site problem, the association’s data will be secure until normal operations can be resumed. Again, using a cloud services provider may be a cost-efficient solution.

Extended Service Plans

One of the frequently asked questions about office equipment (as well as mobile solutions) is whether extended service plans are worth the cost. In some regards, these plans are like insurance policies. If the cost of repairing or replacing a computer, printer or other piece of equipment exceeds the premium cost of the plan, the association comes out ahead. Unfortunately, there’s no way to know until that happens.

Before purchasing any extended service plan for new equipment, familiarize yourself with the terms of the warranty provided by the original manufacturer. It’s also important to consider the life expectancy of the equipment; if you plan to replace your laptop in two years and there is a one-year manufacturer’s warranty, an extended service plan would only cover one year of potential problems.

If you’re seriously considering such an extended service plan, thoroughly read the terms of the contract, and find out what it does and does not cover:

- Is there a deductible? If so, how much?
- Is “normal” wear and tear or damage from an accident included?
- Does the service plan pay for a rental unit while yours is in the shop?
- If your equipment can’t be repaired, will the plan pay for a replacement? Under what circumstances, if any, will repairs not be covered?

After scrutinizing the details, you may decide that you’d be better off sticking with the original warranty and paying for any later repairs out of pocket.

MOBILITY SOLUTIONS

Association staff and members rely on mobile communications devices and applications to stay in touch with the world. Here's a quick look at the way technology is moving:

Smart phones. These devices—available from many manufacturers and telecom service providers—constantly evolve to include more features, greater memory and processing power, and new applications. They are simply an essential part of life for virtually everyone, including real estate professionals.

Tablets. Tablets have larger screens and more functions than a typical smart phone, making it easier to see photos, read emails, watch videos and edit files. However, they are less suited for office applications, unless an add-on keyboard is also purchased. In any case, tablets are increasingly used throughout the real estate industry, largely because of their convenience, ease of use and portability.

Laptops. Most real estate professionals rely on their laptops to run a full suite of office programs and connect with the world from home, a vehicle, airport or hotel room. Because of their power, versatility and falling costs, laptops have become the computer of choice for many association professionals, who see no reason to spend money for a desktop computer in the office, even if it has a larger screen.

Smart wearable devices. These devices are often tied to a smart phone or laptop. For example, smart watches allow you to check messages without disrupting other activities, such as a conversation or meeting.

Note that there is a vast array of accessories for mobility products, particularly smart phones, tablets and laptops. Because most users make their own personal choices, AEs do not need to know everything about this market. However, there may be opportunities to generate non-dues revenue by offering mobile accessories to members.

SOCIAL MEDIA SOLUTIONS

Social media sites like Facebook, LinkedIn, X (formerly Twitter), YouTube, Pinterest, Instagram and Threads generate traffic that surpasses virtually all websites. This makes it imperative for real estate associations to build and maintain strong social media platforms that foster engagement for members and the public.

Each of these social media sites has distinct characteristics. For instance, YouTube is the most popular site for videos of all types, with easy links to an association's website. Meta's offerings include Instagram, which is all about photography and videos, Facebook, which promotes interactions with family, friends and businesses, and Threads, a recently launched competitor to X.

Social media sites provide an excellent vehicle to engage with members on topics ranging from educational programs, including webinars, blogs and podcasts, as well as special events, local market updates and new NAR programs. This is also an excellent way to recognize a member's award or achievement. Many members will see announcements on social media sites before reading their emails.

Unless an association decides to advertise on a social media site, building a presence requires only a minimal financial investment. However, it may be necessary to commit considerable internal resources in order to achieve an association's goals. In larger associations, one or more staff may be tasked with managing daily social media updates, especially for activities such as conferences, webinars or networking events.

For associations, the strategic questions that need to be addressed include:

- How does social media fit into the overall communication strategy?
- What social media sites are most relevant to members and the public? A survey can provide helpful results.
- What level of presence (if any) should the association have on those sites?
- What content should be provided for the sites?
- How often should that content be updated?
- How should the association presence be promoted?
- Should the association's social media presence drive traffic to its website?
- What should the association set as goals for each social media site? Greater engagement, membership growth, etc.?
- How should results be measured?
- What constitutes success in social media?

These are not simple questions to answer, and an association may wish to form a task force or ongoing committee to develop a social media strategy, monitor its implementation and make revisions as necessary.

For more on social media, such as creating policies for blog posts, see the Communications chapter.

WEBSITE SOLUTIONS

Local REALTOR® associations must create and maintain a web presence that is informative and functional. Under the NAR Core Standards, associations are required to develop and manage an interactive website that includes links to other levels of the association for promotion of member programs, products and services, and access to professional standards and arbitration filing processes. More information about the Core Standards can be found at <http://www.nar.realtor/ae/manage-your-association/core-standards-for-state-and-local-associations>.

As key communication vehicles for many purposes, association websites continue to grow and evolve in response to member needs. Although most REALTOR® associations already have a website in place, there are always new features and enhancements that should be considered. One example is using a technique called Responsive Web Design to provide an optimal viewing experience regardless of the screen size on the device—smart phone, tablet, laptop, desktop computer or large-scale display monitor.

Phases of a Website Project

Before launching a new web project, an association should review all aspects of its online and mobile operations, from email to surveys to web conferencing. Next, the association should embark on the following process:

- Plan the desired outcomes right from the start. What do you want the project to do for the members and for the association?
- Determine who will make decisions during the planning and development phases.
- Prepare a realistic budget for the project.
- Identify any revenue-generating opportunities.
- Market the benefits and features.
- Keep leadership informed about member response.
- Remember that the intended audience(s) must use the site as well.

When planning a website project, an advisory group can provide valuable input. To form such a committee, take the following steps:

- Consider experience and expertise.
- Make sure potential users are represented (including public).
- Agree on a method for committee selection/ appointment.
- Determine how often to meet and whether meetings can be held online.

- Determine to whom committee members will be accountable.
- Determine a timeline for the work.
- Share email addresses so that members can discuss relevant issues online.

Determine the Project's Purpose

While websites can serve a wide range of audiences, associations should be clear about the key goals for establishing an online presence or enhancing the site's functionality. Being clear about the primary purpose for the site is vital when considering whether or not to add new functions and services or upgrade the look and feel of an older site.

Evaluate the Content

Because members' technology tools and service requirements are constantly changing, it's important to evaluate website content on a regular basis. Are there new features that would be helpful? Some potential website components/features include:

- Association member roster
- Association business and information
- Minutes
- Agendas
- Meeting announcements and notices
- Association calendar
- Education schedules
- Course descriptions (GRI, e-PRO, etc.)
- REALTOR® Store
- eMall (hosted at NAR using REALTORS® eCommerce Network)
- Surveys
- Promotions
- Meet the staff
- Meet the officers
- About the association
- Job opportunities
- Information about the community
- Weather
- Maps—links to www.realtor.com and www.nar.realtor
- Links to online communities like Facebook or LinkedIn
- Downloadable mobile MLS or association apps
- Podcasts and videos for members and/or the public
- Blogs
- Properties for sale
- Properties for rent
- Open house schedule
- Buying/selling tips
- Current mortgage rates
- Photo gallery
- Featured articles
- News reports

- Franchise logos
- Terms of use
- Privacy statement

Determine Site Maintenance Procedures

Key questions to answer about site maintenance include:

- Who enters the data: Members? Staff?
- Who approves information to be posted to the site?
- Who should make actual changes—an outside consultant/vendor or staff?
- What cybersecurity tools and processes are in place?

A plan for regular maintenance and upkeep of a website is essential. The elements of such a plan should include provisions for:

- Constant, daily review of all content, then adding and deleting information as necessary
- Review of links to local information, then adding and deleting them as necessary
- The use of modern web technologies (currently HTML5/Javascript/CSS)
- The use of a Content Management System such as Drupal or WordPress
- The use of web design and editing software found in the Content Management System
- Implementing a “Responsive Design” for the site to allow the website to render on phones, tablets and desktops

Determine Level of Site Security

Many association websites are set up with both public and password-protected sections for members only. In planning for a new site or new application, consider the levels of site security necessary and the cost of that security. Remember that a data breach or a ransomware attack could cripple the association’s operations or ruin its reputation.

Privacy

Develop and post a privacy policy on the website.

Consider Costs

Cost considerations for website project development include:

- Initial plan and design
- Programming
- Ongoing oversight and maintenance
- Changes, additions, deletions
- Hosting
- Technical assistance needs—seven days a week, 24 hours a day?
- Security

Determine Revenue Potential

A website can generate revenue by offering member services such as:

- Ecommerce
- Access to forms
- Education and training programs
- Webinars
- Featured listings

Types of advertising or advertisers that might be included on an association’s site are:

- Affiliate companies (mortgage, title, etc.)
- Other local businesses
- Downloadable apps
- Banner ads
- Pay-per-click programs
- Relevant magazines
- Upcoming trade shows
- Upcoming educational events

Site Management

Website management issues that must be considered include:

- Traffic count
- Device type being used (phone, tablet or desktop)
- User entry and exit points
- Determining busiest days and why, then using that information to maximize advertising/messages
- Annual or semi-annual review of all elements—site design, user friendliness, traffic count, etc.
- Maximizing marketing
- Continual site improvements
- How to profit from the site

Drive Traffic to Site

The flow of online traffic to an association’s website is crucial. As such, it is recommended that the website’s address (or URL) be included in all communications. You should also promote the association’s website at every opportunity, including search engine optimization including SEO applications.

Track Results

Conduct periodic assessments to measure a site's ability to serve members through interviews, surveys and focus groups. Also, take the following steps on a predetermined, consistent basis:

- Gather and analyze data.
- Consider the changing trends and issues of the market.
- Determine the needs, services, products and methods to accomplish the association's mission.
- Identify and provide core business services, then prioritize them.
- Review association resources and where they are allocated. Shift allocations when necessary.
- Assign responsibility for ongoing implementation of the website plan.
- Determine methods to track results and implement those methods.
- Continue to gather data and make corrections, updates, etc.

Types of Hosting

A web host owns and maintains the server where your website physically resides. A web host is responsible for keeping your site functioning properly and often for posting updated content that you provide, again for a monthly fee. Although most people think only of "web" hosting, there actually are three types of hosting:

- Domain hosting
- Email hosting
- Web hosting

Domain Hosting

When a company "hosts" a domain, it provides at least two different domain name servers, which also are referred to as primary and secondary domain name servers. Domain hosts also supply other services, including zone files, which include entries that can point to different web host(s) and mail hosts(s).

Domain Hosts can provide "third level" domains such as "Sold.YourDomain.com" or "FeaturedProperty.YourDomain.com" that can point to a specific page at a particular website on any server. This is a great marketing tool, because it links users who entered the first site to the second site.

A key question to ask a domain host is if that host's two domain name servers are located in two different locations. The two servers should not be in the same location for insurance purposes. For instance, if the connection to one location should fail or if a line is cut, then having two domain name servers would ensure that the second location still will work.

An important note: NAR offers the .REALTOR® domain to members, broker offices and associations. To sign up, click on the following link: <https://www.get.realtor/>.

Email Hosting

Email usually should be hosted on a different server than the server hosting the domain name. Email hosts can provide a variety of addressing programs, as well as auto-responders—a reply (report) in text format that can be sent as a response to a message that has been received at a specific address, such as *FeaturedProperties@YourDomain.com*.

Website Hosting

In addition to providing servers that run an association's site, web hosts can provide backup storage and business continuity solutions, as well as web statistics on visitor activity. This information can be used to determine which pages are the most active and answer specific site questions.

REALTOR® ASSOCIATION ONLINE SERVICES

REALTOR® associations are always looking for ways to improve service delivery through technology. For example, multiple listing service (MLS) are frequently integrated with other databases, such as tax records or transaction management.

AEs and MLS leaders should also be aware of the Real Estate Standards Organization (RESO), which is the governing body that guides the developments of the Real Estate Transaction Standard (RETS) and other related standards. RETS is an open standard for exchanging real estate listing information. Consisting of a transport specification and a data dictionary, RETS has been implemented by most MLS operators. The site, *www.reso.org* is maintained by RESO, the organization responsible for publishing, maintaining and enhancing the standard. Members of RESO include associations, MLSs, brokers and product vendors.

Valuable online resources available through the REALTOR® organization include:

www.nar.realtor

NAR supports its members through several Internet channels that provide powerful technology tools and resources. Virtually all special interest groups, designation support teams, and other NAR-affiliated organizations have their own sites that can be accessed through NAR's website.

To gain access to the members-only section of *www.nar.realtor*, each member is required to use his or her individual username and password. Members can create their own login record for *www.nar.realtor* by registering online with their NAR-issued Member ID. They then create a personal username and password to use this site. For assistance with this process, call NAR Member Support staff at 800-874-6500.

REALTOR® Electronic Commerce Network

The REALTOR® Electronic Commerce Network allows local and state associations to collect dues online, establish online stores, send payments electronically, and facilitate MLS billings, online registrations, and other services. For more about NAR's ecommerce network, see the Financial, Budget and Tax Management chapter.

M1: Member First Member Engagement System

The National REALTORS® Database System (NRDS) was designed as a single database residing on the Internet, where member and office records for the REALTOR® organization are stored. NRDS has recently been modernized and transformed into a feature-rich online engagement system called REALTORS® M1. The data continues to be maintained by and through different points of entry, most often local associations and, in some cases, state associations acting on behalf of the local associations. Once a local association makes additions and changes, the state association and NAR can update their records directly from REALTORS® M1.

The insights Hub portion of REALTORS® M1 provides actionable and intelligent insights by incorporating dynamic dashboards highlighting different aspects of membership data.

Point of Entry

REALTOR® M1 information is provided by a point of entry (POE) system, a primary point of contact for collecting and maintaining membership data between members and the three levels of the NAR (state, local and National). Because each local association is considered to be a primary source for membership data, it is preferred that each local association be a point of entry for its own data. The NRDS Standards Board arranged for the system to allow members themselves to access the system through *www.nar.realtor*. At *www.nar.realtor* through REALTORS® M1, a POE can look up associations, members and member offices. The POE is also capable of changing much of the personal information on behalf of the member record, directly online. Such changes are immediate, and local and state associations are notified via the Daily Changes Report. NAR obtains all of its member data directly from REALTORS® M1.

SOURCES

- “Cybersecurity Checklist: Best Practices for Real Estate Professionals”
<https://www.nar.realtor/law-and-ethics/cybersecurity-checklist-best-practices-for-real-estate-professionals>

1.14

Volunteer, Staff and Partner Relationships

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INTRODUCTION

A REALTOR® association's success depends on the strength of the staff and volunteer leadership relationship. With a clear understanding of roles and responsibilities as a foundation, AEs can foster a healthy culture where volunteers and staff work together as partners to deliver excellent services to members. That positive culture should encourage volunteer participation and inspire community confidence.

To be successful, AEs need to understand how to work with volunteer leaders, who provide strategic direction, guidance and governance to the association to ensure the highest possible service to members. That involves creating a culture of trust, respect and collaboration where volunteers and staff work together for the benefit of the entire organization.

AEs should cultivate both their leadership and management skills, as outlined in the introductory chapter. As leaders, AEs need to think about the future of the association—including potential opportunities and challenges—and apply their knowledge and creativity to support innovative approaches.

Effective AEs also use their management skills implement the association's strategic plan and direct other staff members in their tasks. As one AE said, "You lead people, and you manage projects."

Looking beyond the organization, AEs should demonstrate their leadership and management skills by building partnerships within the REALTOR® family and local, state and national trade associations in real estate, mortgage lending, housing and other fields. REALTOR® associations also play important roles in their communities, supporting housing, business, civic, educational, faith-based and charitable organizations, and advancing the interests of homeowners. There are many potential benefits of building these external relationships, such as the following:

- Having access to a wide range of sources of information about key trends affecting members
- Providing members with timely information from sources outside the REALTOR® family
- Knowing outside experts who can deliver presentations or lead educational sessions for members
- Creating an advisory board of recognized experts who can generate ideas and assess the impact of trends on local real estate
- Playing a leading role in civic and political coalitions to address important issues on a local, regional or statewide level

In addition, economic development experts have found that one of the reasons a new business locates in an area is directly related to a personal connection with that area. An AE who can work with volunteer leadership to build those personal and professional relationships can help to bring new businesses and investments into the community.

Developing Interpersonal Skills

To work effectively with volunteers, staff and external organizations, AEs need to develop their interpersonal skills, such as being able to listen carefully, present ideas and negotiate mutually beneficial agreements. It takes a dynamic AE to motivate volunteer leaders and staff, engage members in worthwhile activities, and generate a sense of excitement about improving the association and the community.

“Your people might be your organization’s greatest assets, but their interactions with one another are what determines the quality and the quantity of their contribution,” say authors Judith Katz and Frederick Miller in their book, *Opening Doors to Teamwork and Collaboration: 4 Keys That Change Everything*. Their book points to several behavioral keys that can change how AEs can build relationships with greater trust, understanding and collaboration.

- Be willing to have serious discussions about goals, expectations and performance with leaders, staff members and partners.

- Show your respect for other people’s ideas and opinions. That fosters a sense of trust and openness that is vital to the long-term health of your association.
- Be clear about your goals and expectations. Take the time for others to receive and respond to your communications. Don’t assume that others will “get it” immediately. Instead, ask for questions, clarify any misconceptions, and repeat your communications as often as necessary.
- Be willing to listen to others’ views to broaden your understanding. A fresh perspective may help you overcome an immediate obstacle or unlock a new opportunity to serve your members.

Applying these concepts can help AEs unlock the potential of their staff and members, while fostering the association’s ability to collaborate with other organizations.

BALANCING STAFF AND VOLUNTEER ROLES

AEs and volunteer leaders need to understand their roles and responsibilities, and work together to advance the association’s strategic plan and build a strong and sustainable membership base in the following ways:

- Bringing new members to the association
- Helping members realize individual goals
- Retaining members by ensuring that they are satisfied with the value they receive from the association

In general, association volunteers act as links between the services provided by professional staff and the members whose needs must be met by those services. Staff brings the management and operational expertise to this partnership, and volunteers provide oversight and direction, while supporting staff in delivering services. Neither partner can fulfill the functions of the association alone. Each relies on the other to balance the work and keep the association flying at top speed as the needs of the organization and its members change.

Staff must continually nurture and maintain their relationships with volunteers to best serve the association. Often, that means looking for strategies and techniques to improve the volunteer experience, such as recognizing their contributions, engaging them through advocacy or community service programs, or providing other meaningful incentives.

Understanding the roles that these leaders have in the association is the first step to building strong relationships that allow an association to achieve its goals.

The benefits for an AE who understands the dynamic nature of these relationships include better long-term vision. Staff who see the big picture (i.e., the essential purposes of the associations for which they work) are more likely to develop goals that move the association in a positive direction. Employees with long-term vision are also more likely to be strategic thinkers and less likely to be bogged down by the minutiae of day-to-day activities.

A Balanced Model of Association Leadership

An association's membership size, resources, volunteer involvement and priorities typically shape its operational model. Here are three types of association models:

- **Administrative**—a model often suited for associations with fairly small staff levels. The AE handles business and office management issues under the direction of volunteer leaders who have authority for most decision-making.
- **Management**—a model for associations with larger staffing levels, including positions responsible for specific programs. The AE provides hands-on management, including a focus on community and industry issues, with healthy involvement from volunteer leaders.
- **Leadership**—a model for associations with staffing that allows them to implement programs, products and services that provide enhanced value for members. Volunteer leadership determines the strategic vision, while the senior management team develops goals and plans to implement the vision. The AE has the authority to make operational decisions.

In striving to serve the changing needs of members, an association may move from one operational model to another. For instance, the merger of two small associations might necessitate the adoption of a management or leadership model.

Regardless of the operational model, a balanced approach to the leadership-staff partnership is essential. Some of the benefits include:

- **Positive feelings**—a balanced approach to leadership discourages a “them versus us” attitude and fosters team spirit.
- **More respect**—staff whose expertise is respected by volunteers are more likely to appreciate the unique knowledge that only the members can provide (and vice-versa).

- **Increased productivity**—imagine an association whose staff is given the autonomy to perform the tasks it performs best (with volunteer understanding and approval). In the same association, volunteers have become highly aware of association activities. They are involved and assume responsibility for the roles they are well suited to perform. It is easy to see why a balanced association could be more productive than a less balanced organization. Strike the right balance for success by distributing work among staff and volunteers!
- **Shared skill sets**—a staff that works well with leadership can use volunteers' unique skills to build the association. No one recruits membership support better than an existing volunteer who feels good about his or her membership. Equally important, volunteers are the ongoing source of ideas for needed programs and services, thus enhancing the association's value to its membership as a whole.

Staying Strong

As in any partnership, the relationship between volunteer leaders and staff executives may fluctuate at different times. It is essential for AEs to recognize signs of weakness before it is too late to recapture a healthy pulse.

Some symptoms that could indicate a deteriorating staff-volunteer relationship include:

- Poor communication
- Turf battles
- Inaction or lack of response
- Lack of volunteer or staff commitment

AEs need to take a proactive approach to addressing these issues at an early stage. That includes understanding the driving forces behind conflicts. Differences of opinion about goals, strategies or other issues can be healthy, as they bring out additional information and different views. However, constant battles between staff and volunteer leaders over roles, responsibilities or decision-making power weaken associations and are a disservice to members.

Here are some suggested strategies, which are outlined in more detail in NAR's “AE/Volunteer Relationship Toolkit”:

<https://www.nar.realtor/state-and-local-leadership/ae-volunteer-relationship-toolkit>

- **Listen to leadership.** Try to determine why there is tension or conflict with staff. At this stage, it's usually better not to respond or become defensive. Just be an active listener.

- **Meet individually with leaders.** Sometimes you can learn more from individual meetings than in a group setting. Again, your goal is to understand why conflict is occurring, rather than present an immediate solution.
- **Be aware of your own issues.** Think about how you typically respond to conflict. Do you become defensive right away? Do you go into attack mode? Or are you able to step back and keep the disagreements on a professional level?
- Prepare your response. If the conflict is based on a misunderstanding of roles—such as a board member who wants to do the AE's job—you can clarify those responsibilities. If a lack of information is driving the conflict, then gather the data and provide the facts.
- Be willing to compromise. Don't let your ego get in the way of resolving the conflict. Strive for a win-win solution for everyone.
- Take advantage of NAR resources. NAR offers a conflict resolution program through the NAR HR Solutions team (<https://www.nar.realtor/ae/nar-hr-solutions>). This premium service helps resolve things so you can move forward. NAR also offers the AE Mentor Program (<https://www.nar.realtor/ae/ae-mentor-program>), which can provide you with guidance from your AE peers on how to handle conflict and other matters.

To summarize, identifying problems and taking a preventative approach can go a long way to keep staff-volunteer relationships healthy and productive.

CONTRIBUTIONS OF VOLUNTEER LEADERS

In their governance role, volunteer leaders provide strategic direction and objective advice to an association. A leader's challenge is to put aside his or her business agenda and personal beliefs and provide leadership based on what is best for the association and its members. A leader's vote on issues should reflect the association's highest interests, and a leader's skills should guide members to make the same beneficial decisions.

Strong associations have developed strategies for educating and motivating real estate professionals about the importance of their volunteer contributions. These techniques include:

- A policy manual that clarifies the roles and responsibilities of volunteer leaders and staff.
- A policy statement for volunteer leaders to sign that addresses conflicts of interest, potential liabilities, confidentiality, social media posts and other timely issues.
- Fact sheets with FAQs (frequently asked questions)
- Ongoing leadership training and participation in state and national association programs.

A volunteer leader can also gain a deeper understanding of association membership by:

- Surveying or questioning members from outside his or her own office, talking not as a competitor but as a concerned, caring leader who is trusted to make decisions that can affect membership.
- Understanding and discussing RPAC or legislative issues that affect all members.
- Brainstorming and suggesting ways that the association might work on improving its public image by becoming involved with community activities.
- Tactfully and reassuringly communicating to each broker that his or her votes must reflect the good of the association, not necessarily that of the company.
- Listening, listening, listening and assimilating the opinions, ideas, suggestions and needs of other members.
- Using diplomacy, tact and compromise to solve problems, create new programs, and raise the quality of the association's image, services and public perception.

While it may be difficult for some competitive real estate professionals to join together in a volunteer leadership team, most brokers, agents and managers recognize the importance of a collective approach to addressing the industry's challenges and opportunities.

Principles of Leadership

In 2022, an AEC work group developed “The Principles of Association Volunteer and Staff Leadership” to provide a shared set of positive aspirational principles and key characteristics and behaviors that define exceptional association leadership. The principles serve as a model for volunteer and staff leaders at all levels of the association to consider adopting as a guiding philosophy.

Under this model, associations are guided by the “board governs and staff manages” principle, placing governance oversight in the hands of the board of directors and responsibility for personnel management and operations to the AE. Each association defines the parameters of the relationship based on volunteer leadership engagement and staffing resources as guided by the strategic plan. The principles state:

1. Association leaders rely on clear, open and honest communication with other members of the leadership and staff team to foster and maintain strong and effective partnerships. They work closely, partner, support, collaborate and communicate effectively with each other to enhance opportunities for success.
2. Association leaders maintain professional and collegial relationships, taking care to avoid personal relationships with each other. They support and encourage an environment free from harassment.
3. As ambassadors for the association, leaders conduct themselves professionally and ethically in their business, on social media and at association events, and represent the association with respect and integrity.
4. Association leaders respect the positions within the organization and interact professionally with those in such positions. Personal relationships, opinions and impressions are set aside while working together on behalf of the association.
5. Association leaders continually look to the strategic plan as a roadmap that guides the priorities and initiatives that are to be implemented. Leaders are adaptable to the challenges and obstacles that may arise during the year. Adjusting, pausing or eliminating objectives may be required for the greater good of the association and the current environment.
6. Association leaders are knowledgeable about the governance of the organization and assist members in understanding how they can best contribute to the association.
7. Association leaders actively listen to their leadership partners, members, association staff and elected officials.
8. Association volunteer leaders receive orientation and training from the association staff so they are effectively prepared to lead during their leadership term.
9. Association leaders continuously identify, recruit and mentor future leaders to ensure the association's sustainability.
10. All association leaders respect their fiduciary duties and respect confidentiality.

Download a PDF of “The Principles of Association Volunteer and Staff Leadership” to share with leaders and staff.

<https://www.nar.realtor/association-executives/principles-of-association-volunteer-and-staff-leadership>

RECRUITING VOLUNTEER LEADERS

AEs need to take a proactive approach to involving successful members in advancing the organization's mission. When the association election process begins, don't wait for nominations to ask, “Who will make good leaders?” Make an effort to identify potential leaders in advance to ensure continuity and avoid any interruption in activities due to a vacant leadership position.

Strong associations have guidelines or a policy in place for selecting volunteer leaders. This provides the foundation for consistency in association leadership from year to year, even though individual volunteers will change.

For instance, an association might strive to have leaders from different professional backgrounds (agents, brokers and managers) or from various geographic areas. Other examples include having leaders of different ages or professional skills, such as marketing or finance.

On the flip side, a policy statement on volunteer leadership should also include clear provisions for the removal of volunteers, if necessary. Having a policy in place can reduce personal animosities and conflict should such an action be needed.

Tips for Recruiting Volunteers

Here are some tips for recruiting successful members and helping an association benefit from their volunteer efforts:

- **Issue an annual call.** At least once every year, and more frequently, if possible, an AE should issue a call for volunteers and identify the current opportunities for them to contribute. This can be done at an annual meeting (with forms on hand for volunteers to complete), through print newsletters or mailings, or through email and social media channels.
- **Use current leaders to find new volunteers.** One of the best ways to identify and recruit new volunteers is to tap the experience and personal networks of the current leadership. Find opportunities for today's leaders to reach out to tomorrow's volunteers, as they can provide a first-hand account of the benefits and rewards of volunteer service.
- **Actively identify and recruit specific members for volunteer positions.** Do not wait for members to volunteer. Instead, identify members who will make a valuable contribution to a particular committee, call them, and invite them to serve on that committee. Explain to these members the specific nature of the job at hand and the time commitment associated with it. A personal invitation to serve can be very impactful.

- **Select leaders with the necessary qualifications.** The basics include a willingness to work, a commitment to the association and an enthusiasm that inspires others. Also, make sure that each volunteer position has a clear, written “job description” at the outset, so volunteers understand what is expected of them.
- Seek volunteers from different generations and backgrounds. It is vital for associations to recruit younger leaders who can help grow and sustain the organization in the future. Diversity—in all its aspects—is another important consideration, since volunteer leaders from different backgrounds and experiences can bring fresh perspectives to the association. Diversity in leadership encourages diversity in membership.

Note that taking a proactive approach also applies to the association’s staff. AEs should consider both the immediate and long-term needs of the organization when recruiting and hiring new staff. It is also essential to engage and motivate current staff and provide opportunities for advancement and career development whenever possible.

TRAINING VOLUNTEER LEADERS

Training volunteer leaders should begin as soon as possible after they have accepted their new positions. Basic topics after include association’s strategic planning process, association trends, the responsibilities of leaders and the role of staff members. Here are some suggestions for initial and ongoing training to help the volunteer-staff leadership team stay strong and balanced:

- **Hold an orientation session for new volunteer leaders.** This can include an overview of their new roles and responsibilities, an explanation of staff responsibilities, and the association’s decision-making process. Distribute an association policy manual to each new leaders, along with governing documents that reference association operations and administration. Staff leader should participate in the orientation program so that both perspectives are shared with the new volunteers.
- **Engage new officers, committee chairs and vice chairs.** Officers, committee chairs and vice chairs need training to perform their jobs. This includes understanding the association’s mission, current programs and policy manual. Because they are often prime candidates for higher leadership positions, be sure that any educational program describes the association’s decision-making process. Explain how recommendations from their committees are processed, what leaders, staff and members expect of them, and the support they can expect from staff and leaders.

President-elect Training

Associations should educate the president-elect each year, assuming there is a succession program. This should cover ongoing goals and strategies, and help allay common concerns, such as:

- **Legal exposure.** Explain the association’s corporate structure and discuss the terms of the errors and omissions liability insurance coverage provided by NAR. Also discuss coverage provided by any additional director and officer liability policies carried by the association. Reassure a future president that his or her personal financial risks will also be minimal.
- **Lack of time.** Most REALTOR® association presidents are full-time real estate salespersons or brokers. Reassure an incoming president that it is the AE’s job to act as full-time manager, screening the president from administrative and operational details.
- **Unpreparedness.** Some incoming presidents or leaders might feel inadequate or ill-prepared for the position. This is one of the most common concerns that prevent members from even becoming president. A strong leadership training program, planning meetings, and regular communication with association staff will give incoming presidents the confidence they need to lead.

President’s Orientation

In addition to leadership training, as soon as a new president is elected, he or she should attend a special orientation. During the orientation, the following topics should be discussed:

- Strategic plan
- Association policies and procedures
- Budget and planning process
- Expenditures
- AE and president communication preferences
- Philosophy and objectives of the association
- Current challenges and opportunities

- Dues procedures

These are just a few topics to be covered during such an orientation with a new president. Start a file and continue to add information for future orientations.

An all-inclusive tool to help prepare incoming presidents to lead an association is the *REALTOR® Association Volunteer Leadership Guide*, available at:

<https://www.nar.realtor/ae/volunteer-leadership-toolkit>

Ongoing Training for Leaders

The leadership training process should not end with orientation but continue throughout a leader's term in office. For instance, it could include teaching volunteers how to manage their time and use supportive technologies.

The NAR Core Standards require associations to include the following components in their association's annual leadership training programs:

- Assessment and encouragement of diversity, equity, and inclusion
- Education, understanding and awareness of Core Standards
- Understanding of the roles and responsibilities of staff and volunteer leaders as outlined in the President/Chief Staff Executive Checklist

<https://www.nar.realtor/ae/manage-your-association/president-chief-staff-executive-checklist-introduction>

Volunteer leadership training and education should also include topics such as:

- Role of staff and volunteers
- The association policy manual
- Online, print and broadcast communications, including social media
- Emerging association trends
- Successes and failures of the association
- Strategic plan
- Overall association mission

NAR Resources

REAL Self-Study Course

Learn the basics of volunteer leadership with this no-cost, self-guided online course.

<https://www.nar.realtor/education/leadership-development/realtor-lead-courses/realtors-excelling-in-association-leadership-real>

REALTOR® Learn.Elevate.Accelerate.Deliver (L.E.A.D.)

initiative includes a series of courses. The Vision Course was designed by REALTOR® leaders for REALTOR® leaders and focuses on creating a well-informed strategy for effectively creating a vision, identifying your style of leadership and building your skills in active listening and authentic communication.

<https://www.nar.realtor/education/leadership-development/realtor-lead-courses>

State associations also provide training and resources for working with volunteers. Local chambers of commerce and educational institutions are also good sources for leadership education and training.

BUILDING EFFECTIVE COMMITTEES

Committees are the lifeblood of an association. They provide forums for ideas and visioning and a structure for accomplishing association tasks and projects. Effective committee selection, training and work processes can bring significant rewards, such as:

- **Increased volunteer involvement.** Well-run committees attract interest. Members are more likely to volunteer their time. At the end of their commitment, their sense of satisfaction is likely to be greater. This breeds additional member interest.
- **Increased productivity.** Well-run committees get things done.
- **Increased team spirit.** Effective committees engender team spirit among volunteers. Such committees often rely on the support of an effective staff liaison. This builds respect among staff and volunteers.
- **Increased opportunities for developing leadership.** Committees provide an ideal venue for identifying and preparing future association directors and officers.

Association staff can take several measures to ensure that its committees are effective, productive, resourceful and proactive. These actions include:

- Give committee members meaningful assignments.
- Thoroughly prepare members for meetings.
- Ensure a meaningful purpose for every meeting. (No rule says a committee has to meet every month).
- Follow up on meetings and check on the progress of work assignments.
- Identify effective leaders through an open and selective process.

- Educate members about the benefits to serving on committees.
- Recognize volunteers' efforts.
- Evaluate the committee processes in place on an ongoing basis.

Types of Committees

There are three traditional types of committees, and each type fulfills a specific function:

- **Standing committee.** A standing committee serves a long-term, ongoing association function, such as finance, professional standards, education, public relations, equal opportunity and RPAC. Many REALTOR® associations are decreasing the number of standing committees and using work groups and task forces for specific assignments.
- **Subcommittee.** A subcommittee is part a standing committee. An example is a "programming" subcommittee of an education committee in charge of planning educational programs for the current year. In that case, the entire committee may be considering the more general education picture, including topics such as designations and certification programs, online training, and printed materials.
- **Task force or study group.** A task force is appointed to fulfill a specific short-term goal and should be disbanded once its mission is accomplished, such as a feasibility study for a new association office.

Divide members into subcommittees, task forces or study groups, when appropriate. This is an effective way to address issues more thoroughly and help the full committee make informed decisions more quickly.

The Life of a Committee

In many associations, a committee lives on forever once it is formed. Take care to ensure that any committee is disbanded or consolidated when it has outlived its usefulness. When making such decisions, consider the following questions:

- Are the committees as effective as they might be?
- Are there any activities or methods that will increase their odds for success?

Committee Selection Process

Committees are only as good as the committed volunteers who serve on them. The traditional way to recruit committee members is by asking them to complete committee appointment request forms and return them to the association. This method seldom brings new blood to committees. Overused volunteers can burn out and become less involved or uninvolved.

Good committee volunteers might not beat down an association's door to serve, so leaders and staff might have to go out and find them. Most members cannot resist a personal invitation from the president or other leaders to serve on a committee. Seek members who are committed to working and sharing their energies with the association for at least one year's time.

In some cases, a recruiter might have to pitch the position of committee chair or member by describing the committee charge, its goals and objectives, and its hope for making a difference. A recruiter should also describe how a particular member's skills and talents fit a committee. There are different reasons for serving on committees, such as a desire to make a difference or display loyalty to the association or the committee leader.

There are four basic types of volunteers:

- **Creative.** Creative members often provide the fuel that moves a committee to make decisions. Not all of their ideas are workable, but creative types are always thinking.
- **Pragmatic.** A pragmatic member will keep a creative one from getting carried away with an idea. Pragmatics typically understand the limits on what an association can undertake. It helps if the chair is a pragmatic type who is willing to listen to creative ideas and consider their possibilities.
- **Big thinker.** These members are big-picture people. They rally the association's mission. Although less prolific than creative members, they usually have more foresight, because they have a deep understanding of the association's strategic plan.
- **Team player.** A team player works well with others for the good of all and is integral in committee brainstorm activities. It is important that all committee members have at least some elements of the team-playing trait, especially the chair.

Association leadership and staff should identify members with different personalities who have expertise in each committee's area. A balance of experts and interested members is ideal, and staff should be receptive to interested members and encourage them to become involved in the committee process.

Committee Preparation

- To prepare committee members for their assignments, be sure they understand both the immediate objectives of their work and how their tasks fit into the big picture of advancing the association's goals.
- To ensure that in-person, online or hybrid meetings run as efficiently and effectively as possible, send the agenda and any supplemental resource materials well in advance, along with a cover note explaining the details surrounding the meeting. To reduce the meeting length, request that committee members come prepared to discuss each agenda topic in depth. Give members homework assignments, if necessary. Also, encourage members to ask the chair or other designated resource person about any issues prior to the meeting.

For more on meetings, see the Meeting Management chapter of *The Answer Book*.

Meeting Follow-Up

Be sure that committee members understand their to-do list of tasks and the timeframe for reporting their results. The committee chair can follow up with email, text or phone reminders, if necessary.

Association staff can also connect with committee leaders to discuss how well the process is working and see if any changes need to be made, such as meeting more frequently or shortening meeting agendas.

RECOGNIZING VOLUNTEERS

Be sure to recognize volunteers for their time and expertise. Those who volunteer do so because they are investing in the greater good of the association and because they wish to share their knowledge, resources and time.

Techniques for Rewarding Volunteers

Associations should provide meaningful recognition for committee participation so that members stay motivated and committed to their charges. Options for possible methods for rewarding volunteers include the following:

- A letter of recognition and thanks
- A plaque or printed certificate
- A gift certificate
- A personalized gift
- Continued opportunities for involvement
- Recognition on the association's website, social media and a press release

Some intangible rewards a volunteer can reap from sharing time and knowledge are:

- Social recognition
- Reward of belonging
- Prestige and esteem from increased visibility and responsibility
- Satisfaction of using new skills

ADDRESSING LIABILITY ISSUES

In today's legal climate, potential liability risks are everywhere, making it impossible to form a comprehensive list. However, some key risk areas should be shared with leadership to increase their awareness and help reduce an association's exposure to liability.

Liability Associated with Governance

- Fiduciary responsibility issues
- Errors and omissions issues
- Operational oversight issues

Liability Associated with Being an Employer

- Equal opportunity employment issues
- Records maintenance
- Appropriate documentation, procedures for terminations
- The Occupational Safety and Health Act (OSHA) and other employee safety-related laws and concerns (including environmental issues)

Liability Associated with Antitrust Laws

Certain liability issues and situations that are associated with antitrust laws include those listed below. Be aware of these issues and situations to avoid any antitrust liability.

- Inappropriate conversations concerning local business practices (especially commissions, commission splits and listing terms) that might be perceived as price-fixing

- Inappropriate conversations, including criticism of a local business and/or the suggestion that it should not be included in the local business community which this may appear to be a boycott
- Appearing to conspire which can be just as damaging as a conspiracy
- Arbitrations and ethics hearing panel members must not appear to conspire
- Agreements with related associations must be reviewed by an attorney

Professional Standards Issues

Understand all appropriate procedures and concerns (refer to the Professional Standards chapter of *The Answer Book*, specifically the Code of Ethics and Arbitration Manual:

<https://www.nar.realtor/code-of-ethics-and-arbitration-manual>

Use *The Answer Book*, the sources and staff provided by NAR, along with the guidance of counsel, to reduce an association's liability risks.

DEVELOPING EXTERNAL PARTNERSHIPS

When building partnerships with external organizations, it's important to listen to members and understand their concerns, interests and involvement in the community. That "bottom-up" strategy may well produce far better results than a "top-down" approach, according to Nilofer Merchant in his book, *The New How: Creating Business Solutions Through Collaborative Strategy*.

For AEs, the first step in that collaborative process is understanding how members are involved both within and outside the REALTOR® organization. Here are some survey questions to consider:

- Do any members hold local government offices?
- How many members belong to other real estate-related organizations? If so, what is their level of participation?
- Which members regularly attend face-to-face events around the country and even internationally?
- Are any members active on state or national REALTOR® committees or workgroups?

- Are members active in these organizations:
 - ▶ *Chambers of commerce or other business groups*
 - ▶ *Charitable organizations*
 - ▶ *Cultural organizations such as museums, performing arts and ethnic organizations*
 - ▶ *Colleges, universities, community colleges*
 - ▶ *Religious organizations*
 - ▶ *Social service organizations*
 - ▶ *Local media, such as radio or television shows*

By drawing on this information, AEs can make good decisions about which outside organizations are most important to members and which members can become "ambassadors" in building ties with those groups. AEs will also be able to recommend members for committee and other positions at the state and national levels that will utilize their local expertise and interests, thereby increasing the association's value and interest in promoting professionalism among members.

It's also important for AEs to research the history, goals and membership of external organizations before making a commitment to an alliance or partnership. Spending a little time in the due diligence process can reduce the risk of allying with an organization with hidden goals, questionable funding or an unsavory reputation. Protecting the association should be one of the considerations in establishing new partnerships.

For more on surveying members and assessing their needs, see the Planning and Visioning chapter.

BUILDING PARTNERSHIPS WITHIN THE REALTOR® FAMILY

Local and state associations should be strongly engaged with the NAR, taking advantage of a wide array of leadership, education and professional development opportunities for both volunteers and staff members. State associations also offer helpful services and programs to REALTORS® in local and regional markets. That allows local associations to build partnerships within the REALTOR® family on the state and national level, in keeping with the Three-Way Agreement.

See the Association Structures and Relationships chapter for more detailed information.

Other types of services and support are available through the REALTOR® organization including the following.

Institutes, Societies, and Councils

NAR's affiliated institutes, societies and councils (ISCs) offer a wide range of programs, services, designations, certifications and credentials to meet the need for education, training and development in specialized fields of the real estate industry.

AEs may be able to contact professionals with these specialized credentials for valuable input regarding association services or products relating to their areas of expertise. When planning education programs, for instance, associations may be able to find qualified instructors by reviewing members of these institutes, societies and councils.

For more information, see the Institutes, Societies, and Councils/NAR Designations, Certifications and Certificate Courses chapter of *The Answer Book*.

Commercial

NAR's Commercial staff can visit your association or connect to discuss the benefits of offering commercial services, ways to enhance your current offerings, how to build an effective member development strategy or other issues important to your local needs.

For more information, see the Commercial Services and Structures chapter of *The Answer Book*.

Global

The REALTOR® family extends beyond the borders of the United States to include affiliated organizations in Canada, Mexico, Europe, South America and other countries and continents around the world. NAR Global offers the education, research, partnerships and resources for REALTORS® interested in identifying and capturing their share of this market segment.

For more information, see the Global chapter of *The Answer Book*.

Shared Services

AEs can also reach out to other local associations to explore the possibility of sharing services in a way that benefits all members. Shared services programs help REALTOR® associations expand services and streamline management through strategic partnerships, increasing the association's efficiency and productivity.

For more on Shared Services, see the Shared Services Toolkit on nar.realtor <https://www.nar.realtor/ae/manage-your-association/shared-services> and the Association Structures and Relationships chapter of *The Answer Book*.

BUILDING PARTNERSHIPS WITH REAL ESTATE AND TRADE ORGANIZATIONS

REALTOR® associations can help their members by building strong partnerships and alliances with other real estate groups, as well as business and trade organizations. Here are some examples of the types of local and state organizations that have an impact on real estate markets and activities:

- Government agencies, such as zoning commissions, transportation agencies, airport authorities, tourism agencies, social services, etc.
- Professional licensing boards
- Economic development organizations (public and private)
- Chambers of commerce
- Tourism promotion groups, such as convention and visitor bureaus
- Home builder associations
- Commercial real estate organizations
- Banks, mortgage lenders and other financial institutions
- Insurance agencies
- Local and state bar associations

Many of the following national professional associations have local chapters that can collaborate with REALTOR® associations and their members on issues of mutual interest.

- Asian Real Estate Association of America (AREAA) is a nonprofit professional trade organization dedicated to promoting sustainable homeownership opportunities in Asian American communities by creating a powerful national voice for housing and real estate professionals that serve this dynamic market. Founded in 2003, AREAA has a growing membership that represents a broad array of real estate, mortgage and housing-related professionals who serve the diverse Asian American market. For more information: www.areaa.org.

- National Association of Hispanic Real Estate Professionals® (NAHREP) is the “Voice for Hispanic Real Estate” and a proud champion of homeownership for the Hispanic community. NAHREP is committed to ensuring that its members are prepared to help Latinos who are ready, willing and able homebuyers to experience the highest level of professional service available in the market today. NAHREP’s chapter and national events offer education that’s relevant to local markets, networking with other top producers and speakers whose messages will guide your business to the next level. For more information: www.nahrep.org.
- National Association of Real Estate Brokers (NAREB) is a professional real estate organization with members from multiple disciplines and local chapters across the country that promotes “democracy in housing.” Founded in 1947, it is the oldest minority professional trade association in America. Today, it brings together the nation’s minority professionals in the real estate industry to promote the meaningful exchange of ideas to serve clients. For more information: www.nareb.com.
- The International Real Estate Federation—US Chapter (FIABCI-USA) is a multi-discipline, networking organization for all professionals associated with real estate transactions. It provides information, connections and concierge services to help members expand their global networks. With members in more than 50 countries and World, Regional and National Congresses throughout the year, FIABCI promotes meeting like-minded professionals of the highest caliber anywhere in the world. Closer to home, FIABCI-USA has active councils in Atlanta, Chicago, Denver, Florida, Houston, New York, San Diego, San Francisco, Seattle and Washington, D.C. For more information: www.fiabci-usa.com.
- National Association of Home Builders (NAHB) is a trade association that helps promote the policies that make housing a national priority. Since 1942, NAHB has been serving its members, the housing industry and the public at large by enhancing the climate for housing, homeownership and the residential building industry. A federation of more than 800 state and local associations, NAHB represents more than 140,000 members nationwide. About one-third of NAHB’s members are home builders and/or remodelers, and others are associates working in closely related specialties. For more information: www.nahb.org.
- National Association of Mortgage Brokers (NAMB) is the voice of the mortgage industry, representing the interests of mortgage professionals and homebuyers since 1973. NAMB is committed to promoting the highest degree of professionalism and ethical standards for its members. It provides mortgage professionals with professional education opportunities and supports a consumer education and fraud reporting. As the sole national trade association for this industry, NAMB is affiliated with all 50 state associations and the District of Columbia. For more information: www.namb.org.
- International Council of Shopping Centers (ICSC) focuses on advancing the shopping center industry and promoting its role in the commercial distribution of consumer goods and services. ICSC provides programs and publications in all aspects of shopping center development, finance, management, marketing and other specialized areas of professional interest. For more information: www.icsc.org.
- Self-Storage Association (SSA) serves as the voice of the U.S. and international self-storage industry. Formed in 1975, SSA represents the industry’s 46,500 facilities. The national SSA is formally affiliated with some 38 state and regional associations within the United States, and is affiliated with eight international organizations representing in Europe, Asia, Australia, and North and South America. For more information: www.selfstorage.org.
- American Bar Association (ABA) is one of the world’s largest voluntary professional organizations, with nearly 400,000 members and more than 3,500 entities. Founded in 1878, the ABA provides resources for legal professionals while improving the administration of justice, accrediting law schools, establishing model ethical codes and more. For more information: www.americanbar.org.

BUILDING PARTNERSHIPS FOR STRONG COMMUNITIES

REALTOR® associations can be leaders in building partnerships for strong communities. A collaborative approach is essential when launching civic initiatives to revitalize neighborhoods, improve school programs and create new parks and recreational facilities, to list just a few examples. Real estate professionals can contribute their skills, knowledge and energy to advance these types of initiatives with support from NAR.

Here are several examples of community initiatives:

Placemaking

Placemaking is defined in many ways, from leveraging the power of the arts, culture and creativity to enhance the quality of place, to transforming unwelcoming sites into vibrant community gathering places to creating 24-hour destinations that provide amenities, walkability and economic development. As destinations and a sense of place are created, neighborhoods become more desirable, and properties increase in value.

Potential partners on placemaking projects include:

- Local Main Street organization—
<https://www.mainstreet.org/home>
- Local community arts and cultural organizations
- Local government parks and recreation division
- Local chamber of commerce

Workforce Housing

Many people in our country struggle to find affordable housing options in safe, desirable neighborhoods. This includes much of the workforce who provide vital services to a community such as teachers, firefighters, police officers and health workers. Shortages of affordable housing choices close to where families work can lead to longer commutes, sprawl and traffic congestion that degrade the quality of life for all residents.

Suggestions to advance workforce housing include:

- Hosting a housing forum with regional, state, local and nonprofit housing leaders; local and county governments; financial leaders; lenders; developers; and the business community

- Forming a housing task force with the common goal of expanding affordable housing options
- Partnering with organizations such as HUD-approved housing counseling agencies to provide home buyer education to the community

First-Time Home Buyers

Recognizing the importance of helping renters become owners, NAR assists state and local REALTOR® associations with initiatives to support first-time home buyers.

Smart Growth: Land Use and Transportation Planning

Smart growth is an approach to development that encourages a mix of building types and uses, diverse housing and transportation options, development within existing neighborhoods and community engagement. NAR's Smart Growth Program offers state and local REALTOR® associations ways to engage with government officials, community partners and the general public in planning and designing the community's future.

NAR Resources

NAR offers a wide range of support for local and regional partnership programs, including grants, research assistance, education and training. Through the REALTOR® Party initiative, NAR offers toolkits and publications on topics such as placemaking, public transit planning and workforce housing.

For more information, see the Advocacy and REALTOR® Party chapter of *The Answer Book* or go to: <https://www.nar.realtor/political-advocacy/realtor-party-toolkits-and-publications>.

SOURCES

- Volunteer Leadership Toolkit:
<https://www.nar.realtor/ae/volunteer-leadership-toolkit>
- Shared Services Toolkit:
<https://www.nar.realtor/ae/manage-your-association/shared-services>

2 LEGAL AND POLICY

2.1

Governing Documents and Policy

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INTRODUCTION

NAR is dedicated to providing sound, constructive and effective guidelines for the policies and practices of America's more than 1,100 member associations of REALTORS® and 1.5 million REALTORS® and REALTOR ASSOCIATES® who subscribe to the Code of Ethics of NAR and to the policies set forth in its Constitution and Bylaws.

NAR grants to its member associations a license to use the term REALTOR® and charges such associations with the authority and responsibility for assigning, regulating and enforcing the proper use of the term REALTOR® and REALTOR ASSOCIATES® among its members and within its assigned jurisdiction. It also charges such member associations with the responsibility of enforcing the Code of Ethics.

REALTORS® and REALTOR ASSOCIATES® acknowledge an obligation to the American people. The fact that the citizens of our nation enjoy the finest housing in the world, both in quality of housing and degree of private ownership, attests to the fact that REALTORS® and REALTOR ASSOCIATES® have met the challenge of their obligations. REALTORS® have organized themselves to elevate the profession through their commitment to the Code of Ethics and service to the public.

By recruiting, educating and training, by providing inspirational guidance, and by retaining the confidence and support of REALTORS® and REALTOR ASSOCIATES®, NAR, state associations and local member associations assure the continued ethical and professional competence of those REALTORS® and REALTOR ASSOCIATES® in their communities. Consequently, the nation and its communities are served by the professionalism and high standards of the practices of REALTORS® and REALTOR ASSOCIATES®.

GOVERNING DOCUMENTS—PURPOSE AND FUNCTION

NAR and its local and state associations maintain governing documents and policies that provide the foundation for REALTOR® association governance. They help local and state REALTOR® associations operate legally, ethically and efficiently by establishing a governing structure, organizational rules and policies, and related enforcement procedures. Therefore, AEs must clearly understand and proactively adhere to the various elements described in this chapter.

NAR Governing Documents

The governing documents under which NAR operates are listed below.

- **Most current Constitution and Bylaws of NAR.** The Constitution and Bylaws outline the purpose of NAR as a whole and how it is governed.
- **Official Interpretations of the Bylaws of NAR.** These are interpretations that uphold the Bylaws of NAR.

The NAR Constitution and Bylaws govern NAR and its committees, leadership and relationship with state and local associations. Changes to the Constitution must be approved by the Delegate Body and occur infrequently. The Bylaws are amended periodically, and any changes are approved by the NAR Board of Directors.

Local Association and State Association Governing Documents

The governing documents under which a local or state association typically operates include the following.

- **Articles of Incorporation.** Articles of incorporation comprise a legal document filed with the appropriate governmental agency (such as the Secretary of State) for the purpose of an association's (or any other organization's) incorporation. The contents typically are provided in each state's general incorporation statutes.
- **Association Bylaws.** An association's bylaws, whether local or state, are a collection of rules and regulations under which that organization operates, including qualifications for membership.
- **Association Regulations, Policies and Procedures.** Organizational process adopted by the association's board of directors consistent with the Bylaws.

Most local associations only maintain bylaws and do not have a constitution. Some associations also maintain a separate policies and procedures manual to document financial and employment policies and other procedures. If a policy being adopted creates a mandatory obligation on members, it's usually best to include it in the association's bylaws.

Mandatory Bylaw Provisions

Mandatory policies that must be adopted and followed by state associations and local associations are contained in the bylaws certification form. By adopting the mandatory policies verbatim, as required in the bylaws certification form, state associations and local associations can ensure that their governing documents are in compliance with the policies of NAR, and that the state associations and local associations will be covered by the Professional Liability (blanket errors and omissions) Insurance Policy of NAR.

Multiple Listing Service (MLS) Governing Documents for Local Associations

Depending on whether an association has a MLS, and whether that MLS is incorporated, the governing documents that an MLS might have in place are:

- **MLS Bylaws.** MLS bylaws establish the structure and governance of a MLS.
- **MLS Rules and Regulations.** A set of MLS rules and regulations describes the processes used in the day-to-day operations of an MLS.

Under NAR policy, a REALTOR® association-operated MLS can be operated as a committee of an association or as a separate corporation that is wholly owned by one or more associations.

While NAR's Model Bylaws for Local and State Associations from 2017 continue to be available, a new series called Good Sense Governance (<https://www.nar.realtor/about-nar/policies/good-sense-governance>) provides local and state associations with resources to enable them to implement bylaws, policies and procedures tailored to the association's needs.

POLICY COMPLIANCE BY MEMBER ASSOCIATIONS OF REALTORS®

“Policy compliance” refers to the need for a member association's governing documents to accurately reflect the spirit and intent of policies approved by the Board of Directors of NAR. The various committees of NAR, comprised of REALTOR® and REALTOR ASSOCIATE® members and AEs of member associations, develop policies for adoption by the NAR Board of Directors. Those policies represent a geographical and intellectual consensus of organized real estate and are typically included in a local association's bylaws and MLS governing documents (for instance, regulations, policies and procedures adopted by an association for its governance).

NAR's Professional Liability Insurance Policy provides coverage to NAR, its affiliates, institutes, societies and councils, and to state and local associations. As one of its conditions, this policy states that coverage is provided to member associations when they “maintain strict compliance with the Constitution and Bylaws, Rules and Regulations, and policies adopted by the Board of Directors of NAR.” Member associations' directors, officers, committee members and staff acting in such capacity on behalf of the insured also are covered.

Governing Document Review

State and local associations must certify their bylaws and MLS governing documents include the mandatory policies when there are changes to the mandatory policies. Compliance with policies approved by NAR's Board of Directors is an ongoing obligation of associations. The certification process also helps ensure that member associations will qualify for NAR's Professional Liability (Errors and Omissions) Insurance program. Compliance with policy requirements ensures an association's entitlement to coverage.

Governing documents to be certified by an association include:

- Bylaws Certification Form
- MLS Certification Form

To ensure their continued compliance with approved policies, associations should certify that their bylaws and MLS governing documents include the mandatory provisions verbatim before March 31 in years when the mandatory provisions have been amended.

For more detailed information about NAR's Professional Liability Insurance (Errors and Omissions) Program, refer to the Legal and Regulatory Activities chapter of *The Answer Book*.

CORE STANDARDS

Early in its history, NAR adopted its Code of Ethics in 1913. Three years later, the term REALTOR® was adopted to describe members of NAR. Today, state and local associations of REALTORS®, and Commercial Overlay Associations, as a condition of membership in NAR, must meet NAR's Core Standards. The standards apply to every association, regardless of its membership. The purpose of these standards is to raise the bar for REALTOR® associations and ensure that REALTORS® deliver high-quality service to others. The standards fall into six categories:

1. Code of Ethics
2. Advocacy
3. Consumer outreach
4. Unification efforts and support of the REALTOR® organization
5. Technology
6. Financial solvency

Every local association of REALTORS® shall annually demonstrate compliance with the following Core Standards (www.nar.realtor/corestandards). (As used in this policy, “state association” and “state association of REALTORS®” includes the territorial associations of REALTORS®.) Compliance Cycles run January 1 through December 31.

I. Code of Ethics

1. Every association will provide new and continuing member Code of Ethics training as required by Article IV of the NAR Bylaws.
2. Every association will maintain a viable professional standards process to enforce the Code of Ethics and provide arbitration and mediation as member services. Associations must have a fully functioning professional standards committee with administrative capability to conduct the program or must administer professional standards enforcement through a multi-association (or regional) professional standards agreement with other associations or with the state association.

3. Every association will provide mediation services to members as required by Article IV of the NAR Bylaws. Associations must also offer ombudsman services to members and their clients and customers and may implement a “citation” enforcement policy.

II. Advocacy

1. Unless prohibited by state law and in recognition of state law differences, each association shall include in their dues billing a voluntary contribution for the PAC or the Political Advocacy Fund (PAF) in an amount adequate to meet any NAR-established RPAC fundraising goals. Dues billing for PAC or PAF contributions has been proven to be the most effective method for raising PAC or PAF dollars and in engaging our members in political advocacy*. A local association will have met this Mandatory Core Standard, regardless of whether they collect the full amount of their NAR-established goal, if they include the voluntary contribution on their dues bill.

Notwithstanding the above, a local association that chooses not to include a PAC or PAF contribution on their dues bills, may, in the alternative, meet this Mandatory Core Standard if they deliver to NAR the full amount of any NAR-established RPAC goal contributed by whatever legal means determined to be in the best interest of the local association (i.e., a corporate contribution in the full amount of the NAR-established goal). In whatever manner the NAR-established RPAC goal is met, funds shall be sent to RPAC or the PAF individually or collectively by/through the state association (i.e., one check concept). The intent of this standard is to provide the best opportunity for every association to meet its goal.

*Unless prohibited by state law, it is recommended that to reach the highest participation levels possible, each local association include the contribution to either the PAC or the PAF “above the line” with appropriate disclaimers about the voluntary nature of the member contribution.

2. Each association shall provide or distribute information and communications from NAR and the applicable state association, regarding the value of investing in and the benefits received from the individual’s participation in the PAC.
3. Each association shall demonstrate participation in NAR Calls for Action (e.g., promotion through websites, newsletters, office visits). It is the state and local association’s obligation to provide adequate proof of participation. NAR shall monitor state association participation primarily through the REALTOR® Action Center Response Reports. If there are signs of insufficient participation, NAR shall investigate and encourage compliance. The state associations shall monitor local association participation primarily through the REALTOR® Action Center Response Reports. If there are signs of insufficient participation, the state association shall investigate and encourage compliance.
4. Each local association shall demonstrate participation (if applicable) in State Calls for Action (e.g., promotion through websites, newsletters, office visits). It is the local association’s obligation to provide adequate proof of participation.
5. In addition to the requirements established in subsections A-D, each association must support the REALTOR® Party Vote, Act, Invest goals and must annually conduct at least two initiatives or activities furthering or supporting each of those three goals respectively. Commercial overlay boards must conduct at least one vote and act initiative and two invest initiatives annually. Examples of initiatives and activities satisfying this requirement are available on NAR’s online Compliance Tool and in the Core Standards Frequently Asked Questions (“FAQs”) and in the REALTOR® Party Resource Guide.
6. Associations must conduct or promote a diversity, equity and inclusion activity and a fair housing activity. Possible options for completing this standard include the following:
 - Measure and assess diversity in the association membership and develop an actionable roadmap for local association DEI; NAR has an Insights Hub tool (<https://insightshub.realtor/>) to help with this process.
 - Conduct or promote fair housing training.
 - Conduct or promote an At Home with Diversity (AHWD®) course (<https://www.nar.realtor/education/designations-and-certifications/at-home-with-diversity-ahwd>).
 - Conduct or promote implicit bias training (e.g, NAR’s Implicit Bias video) (<https://www.nar.realtor/videos/bias-override-overcoming-barriers-to-fair-housing>).
 - Form a diversity committee or a fair housing committee.

III. Consumer Outreach

1. Every association will demonstrate engagement in at least four meaningful consumer engagement activities annually, including at least two activities demonstrating how the association is the “Voice for Real Estate” in its market and at least two activities demonstrating the association’s involvement and/or investment in the community.
 - 1.1 Being the “Voice for Real Estate”—promoting market statistics and/or real estate trends and issues (e.g., release through press releases, interviews, etc. of MLS statistics, local market statistics, NAR research reports, local/state analysis of NAR statistics, etc.)
 - 1.2 Community involvement and investment—promoting the value proposition of using a REALTOR® and/or engaging in community activities which enhance the image of the REALTOR® brand, such as organizing human resources (e.g., participating in a Habitat for Humanity build) or conducting fundraising activities to benefit local community or charitable organizations.

To meet these four activities per year requirement, each association must execute a minimum of two “Being the ‘Voice for Real Estate’” activities and two “community involvement and investment” activities during the year. It will not be enough, for example, for an association to engage in the same activity four times each year, nor will financial support of a charitable organization alone be considered to have met this Mandatory Core Standard. Additionally, any one activity can only be quantified in one category.

IV. Unification Efforts and Support of the REALTOR® Organization

1. Every association will maintain, have access to or will have available legal counsel.
2. Associations shall adopt and maintain corporate documents, policies and procedures that conform to local, state and federal laws. Associations will timely file legally required reports and documents (e.g., corporate renewal documents, state and federal tax returns).
3. Every association shall annually certify that its board of directors has reviewed and discussed the association’s business or strategic plan, that the plan includes an advocacy component, a consumer outreach component, a Diversity, Equity and Inclusion (DEI) component, and a Fair Housing component, and that those components have actionable implementation strategies.

4. Local and state association chief staff must complete at least six hours of REALTOR® association professional development on an annual basis. In associations without paid/salaried staff, this requirement is applicable to the individual primarily responsible for performing the functions ordinarily carried out by paid staff in other associations.
5. Each state individually or in cooperation with another state association must annually provide at least six hours of professional development opportunities for local AEs.
6. Associations will promote to their members the importance of participating in any NAR-conducted effort to assess member understanding of the overall value provided by associations at all three levels of the REALTOR® organization.
7. Licensees in limited function referral organizations (LFRO) shall be identified by the local and/or state associations for the purpose of inviting their participation in political advocacy (e.g., PAF and Calls for Action).
8. To ensure proper dues reporting and collection, every state association will provide to each local association a comparative list of non-member licensees to the state membership records, at least semi-annually.
9. Associations must annually offer, promote or provide at least one professional development opportunity for their members.
10. Associations must annually certify they have conducted or promoted a REALTOR® Safety activity.
11. Associations will annually provide resources for or access to leadership development education and/or training for their elected REALTOR® leaders including:
 - Assessment and encouragement of DEI;
 - Education, understanding and awareness of the Core Standards;
 - Understanding of the roles and responsibilities of staff and volunteer leaders as outlined in the *President/Chief Staff Executive Checklist*.
12. Associations will document the training, tools, programs, and resources they offer or provide access to.

Associations with paid staff must adopt policies and procedures for conducting annual performance reviews of their chief paid staff and must annually certify that a performance review for their chief paid staff has been conducted.

V. Technology

1. Every association must have an interactive website (defined as the ability to move between websites and create active links), post access to professional standards and arbitration filing processes on the website and create a link to the websites of the other levels of the association for promotion of member programs, products and services.
2. Every association must utilize an email and/or internet based means for member communication.
3. Associations must have the ability to interact with members in a remote work environment via a virtual meeting platform, such as Zoom, Skype, Webex, etc.

VI. Financial Solvency

1. Every association must adopt policies to ensure the fiscal integrity of its financial operations.
2. All associations, state or local, with revenue of \$50,000 or more must annually submit a report from a CPA which includes either an audit opinion or an accountant's review report. For those associations with annual revenues of less than \$50,000 (including MLS-generated revenue and revenue from other business subsidiaries), a compilation report prepared by a CPA will be acceptable. These thresholds apply to all associations whether tax-exempt or for-profit. It will be left to the discretion of each association as to the frequency of an audit versus a review, recognizing that the costs of each type of engagement vary greatly.
3. Any association considering bankruptcy must first obtain NAR's consent to file for bankruptcy. To the extent permitted by law, any association that declares bankruptcy will be subject to automatic charter review.

Certification Process and Enforcement

Enforcement of the Core Standards is the joint responsibility of the local associations, state and territorial associations, and NAR. REALTOR® associations must certify compliance with the Standards by December 31 of each year. Local associations use NAR's online compliance certification system ("Compliance Tool") to submit the required Core Standards information to the state association for review and validation.

State associations, in turn, provide NAR with the name of each local association meeting the requirements of the Core Standards program. States have until January 31 to certify their local associations' compliance status to NAR. Any association shown as not being compliant is subject to sanctions, up to and including charter revocation. NAR will notify those associations and inform them of their

non-compliance. If the local association chooses to appeal the state association's conclusion, it has 30 days from the date of the notice to file a written challenge to the state association's determination with NAR.

No association will be sanctioned without first being given an opportunity to appear before a hearing panel of the NAR Association Executives Committee to show cause why they believe the state's determination of non-compliance is inaccurate. In such cases, the panel's recommendation will be reported to the NAR Board of Directors for final action. If a local association does not challenge the state's conclusion that the local association did not meet the Core Standards, the fact that the association's charter is being revoked will be included in the NAR Board of Directors consent agenda for dissolution.

NAR Online Resources to Assist Associations in Meeting the Core Standards—The Core Standards topic page (<http://www.nar.realtor/corestandards>) includes the Core Standards, technology resources, shared services and merger toolkits, a database of approved strategic planning/merger facilitators, frequently asked questions and much more.

PURPOSE AND FUNCTION OF A STATE ASSOCIATION OF REALTORS®

A state association has two basic purposes:

- To integrate more closely the work of local, state and national bodies
- To provide a means of permitting an individual in the real estate business, whose place of business is not located in the jurisdiction of a member association of REALTORS®, to become members of NAR

By conscientiously accepting the great charge imposed upon them, state associations have established a record of outstanding service and leadership to their local member associations in their respective states.

State associations are invaluable links between NAR and its member associations. By providing the leadership and expertise at the state level, and by creating an effective liaison between local associations and NAR, a state association plays an essential role in improving the organization of REALTORS®.

PURPOSE AND FUNCTION OF A LOCAL ASSOCIATION OF REALTORS®

An association of REALTORS® is the REALTOR® organization at the local level that exemplifies the REALTOR® concept and organizational intent. The local REALTOR® organization is most visible and best known to the public. General excellence, effective leadership, cooperative effort and responsible participation in community affairs make it an important and respected organization in the community.

Sound policies reflected in an association's bylaws, rules and regulations, and in all practices, policies and procedures, provide a valid basis of association operation that is productive and legally defensible. Conversely, a lack of these characteristics will adversely affect the impression a community will have concerning its association of REALTORS®. This, in turn, will reflect adversely on the image of the real estate profession.

Associations with All-REALTOR® Membership

An all-REALTOR® association is an association of REALTORS® that provides only a REALTOR® class of membership to brokers, salespersons and licensed or certified appraisers—as distinguished from an association that generally classifies broker members and appraiser principals as REALTORS® and salesperson members and non-principal appraisers as REALTOR ASSOCIATES®.

In an all-REALTOR® association, all brokers, salespersons and licensed or certified appraisers deemed qualified for association membership are REALTORS®. Such individuals include principals, partners, corporate officers and trustees of real estate firms actively engaged in the real estate business within the state or a state contiguous thereto, and includes those individuals affiliated with such principals, partners, corporate officers and trustees as employees or independent contractors as salespersons or appraisers.

The concept of an all-REALTOR® association is not a recent development. In some states, member associations have been all-REALTOR® for more than a quarter of a century. Beginning in 1908, the founding date of NAR, member associations were comprised of REALTOR® members. Later, as states were influenced to establish licensing and regulatory agencies, and as states began to license real estate salespersons affiliated with brokers, the dual license concept led local associations to establish a local category of membership—as distinguished from REALTOR®

membership. However, this was only a local category of membership. There were no “associate” members of NAR until January 1, 1974, when the REALTOR ASSOCIATE® program was implemented.

Article 1, Section 3, Membership, as provided for in the Bylaws of NAR, was approved by the Board of Directors in 1972. This section provides that:

Unless qualified salesmen and independent contractors employed by or affiliated with a REALTOR® Member are eligible for REALTOR® Membership in Member Associations, such salesmen and independent contractors shall be eligible for REALTOR ASSOCIATE® Membership in such Member Associations, and all Member Associations from and after January 1974 shall make provision for such REALTOR ASSOCIATE® Membership.

In other words, this provision ensures that all member associations will either permit individuals other than principals to be REALTORS® or to alternatively permit such individuals to be REALTOR ASSOCIATES®.

In recent years, an increasing number of member associations have adopted the all-REALTOR® association concept of operation. This concept is not required by NAR, nor does it enjoy favored status. Adoption of the concept is a matter for local decision and determination by each local member association.

Whether an association is all-REALTOR® or REALTOR® and REALTOR ASSOCIATE®, it cannot require that individuals other than principals of a real estate firm, partnership or corporation seek and accept REALTOR® or REALTOR ASSOCIATE® membership as a condition of employment by or affiliation as an independent contractor with the REALTOR®. This must remain the REALTOR®'s option as a proprietary prerogative.

Thus, it is mandated and required that member associations provide the opportunity for either REALTOR® or REALTOR ASSOCIATE® membership to real estate salespersons, brokers or licensed or certified appraisers other than principals of real estate firms, partnerships or corporations who are employed by or affiliated as independent contractors with a REALTOR®. By virtue of membership in such a local association, REALTORS® and REALTOR ASSOCIATES® are automatically members in good standing in the state and NAR.

LOCAL AND STATE ASSOCIATION GOVERNANCE

Since its beginning, NAR has granted charters to local and state associations of REALTORS®, entering into written agreements. These license associations to use the terms REALTOR®, REALTORS®, and REALTOR ASSOCIATE® in connection with their organizations and further are given the right to license the use of these terms by their members.

Also, each local association and state association agrees to accept and abide by the Constitution and Bylaws, the Code of Ethics, and other rules and regulations and policies of NAR.

By reason of the agreements into which associations and state associations have voluntarily entered with NAR, they are obligated to implement all policies, including the membership policies of NAR, as stated and as amended from time to time. Those membership policies are included in an association's bylaws.

State and local associations have an obligation to establish and maintain reasonable and nondiscriminatory membership policies and to provide membership to all eligible and qualified individuals. They have a responsibility to ensure that full due process is provided in all membership matters, and when denial of membership or suspension or termination of membership is contemplated, to act responsibly with the consultation and advice of legal counsel, to minimize any possible legal liability to the association or association MLS. For more information, see the Membership Policies and Procedures chapter.

State and local associations should also be aware of the provisions contained in the most recent edition of the Constitution and Bylaws of NAR, as amended annually. Also contained in this document are the Official Interpretations of Article I, Section 2 of NAR's Bylaws.

Article I, Section 2 of NAR's Bylaws obligates member associations to assure that their policies are consistent with the Constitution and Bylaws of NAR and to avoid the adoption of any "... rule, regulation, practice or policy inconsistent with or contrary to any policy adopted by the Board of Directors."

How Local Associations and State Associations Adopt National Policies

The policies of member associations are established by the association and MLS bylaws, association and MLS rules and regulations, policies, practices, and procedures, as approved and adopted by each association (i.e., the

association's governing documents), according to its established procedures. Associations must agree to abide by the constitution and bylaws and other rules and regulations of the state association and NAR, and members of these associations have a similar commitment and obligation. All associations and all association members, as a condition of membership, agree to adhere to the Code of Ethics of NAR.

Pitfalls to Avoid When Establishing Policy

Association leadership must resist the temptation to overregulate the activities and conduct of the members. Rules and regulations must be maintained at the absolute minimum necessary to function, and should never inhibit innovation, initiative or competition. In the past, some member associations have adopted MLS rules and regulations that seek to control or standardize such activities as advertising, financing, escrow, surveys and title searches. Such subjects do not properly fall within the purview of an association or association MLS.

Another pitfall to avoid is failing to remain constantly aware of changes made in NAR policy, or to revise policy in an association's governing documents then fail to advise the state association of such changes. Associations should advise the state association of any policy changes. This will ensure that the association remains in compliance with NAR policy and thus remains covered by the Master Professional Liability Insurance Policy.

In summary, having bylaws and rules and regulations that are contrary or inconsistent with NAR policy can bring unnecessary liability to an association.

SOURCES

- National Association of REALTORS® Model Bylaws for Local Member Boards, 2017
<https://www.nar.realtor/about-nar/governing-documents/model-bylaws-for-local-boards>
- National Association of REALTORS® Membership Qualification Criteria
<https://www.nar.realtor/about-nar/policies/membership-qualification-criteria>
- National Association of REALTORS® Constitution and Bylaws, 2023
<https://www.nar.realtor/about-nar/governing-documents/nar-constitution-bylaws>

2.2

Legal and Regulatory Activities

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INTRODUCTION: THE IMPORTANCE OF UNDERSTANDING LEGAL AND REGULATORY ISSUES

Many decisions and actions by REALTOR® associations have significant legal and regulatory implications. It is essential for AEs and their staff members to be familiar with basic legal concepts and issues, and to recognize when legal guidance is required or advisable. Understanding this subject area can be one of the more challenging aspects of association management.

But there are opportunities, as well as challenges, for AEs who stay current with changing laws and regulations. Associations can provide an important service to members by keeping them informed of recent changes in federal, state or local law. A timely webinar, blog, LinkedIn post, newsletter article or email blast, for example, is likely to be welcomed by members who are focused on their day-to-day business activities.

Multiple Legal Aspects

Many aspects of association management involve specific areas of the law, including the following issues:

- Risk reduction/liability concerns
- Professional Liability Insurance Policy
- Conflicts of interest
- Procuring cause disputes
- Americans with Disabilities Act
- Antitrust law
- Document retention requirements
- Copyright law, including use of online materials
- Music licensing, software licenses and photo usage
- Patent law and trademark policy

Engaging Legal Counsel

Because of the importance of legal and regulatory issues for associations and their members, AEs should have an ongoing relationship with legal counsel, as mandated by Core Standards. That might be an in-house attorney, or an outside attorney or firm engaged on a monthly retainer or on an “as needed” basis. Legal counsel must possess a deep understanding of the various legal risks facing the association in order to provide the legal services necessary to reduce or eliminate those risks.

Resources to help AEs find and hire association legal counsel are available on [nar.realtor](https://www.nar.realtor).

<https://www.nar.realtor/ae/manage-your-association/association-policy/selecting-association-counsel>

While much of the material in this chapter focuses on federal laws and regulations that apply at the national level, AEs should also pay close attention to state and local rules affecting associations and members. For instance, real estate practitioners are licensed by each state, raising legal and regulatory issues for association members. Other issues like anti-discrimination or fair housing ordinances, may also affect members in local communities. Engaging experienced legal counsel can help AEs identify and address these types of state and local issues.

<https://www.nar.realtor/ae/manage-your-association/association-policy/selecting-association-counsel>

LIABILITY RISK REDUCTION

“Risk reduction” refers to actions and precautions taken by an organization or a person to reduce exposure to legal claims or to improve the likelihood of prevailing if a claim is brought. In the context of association activities, risk reduction generally refers to adopting and implementing operating policies and practices determined to be legally sound and defensible and taking steps to ensure that members and staff follow those policies.

An important component of risk reduction is providing for appropriate insurance coverage for the association. This includes both the coverage provided by the NAR Insurance Program (*see next section*), which offers coverage only if the association complies with all applicable NAR mandatory policies, as well as obtaining general liability insurance to cover claims that might arise out of ordinary business operations, since those are not covered by the NAR policy.

Liability Issues

In today’s world, liability risks lurk around every corner and it is impossible to create a comprehensive list. However, some key risk areas should be shared with leadership to help reduce an association’s exposure to liability, including the following:

- Risks associated with being an employer
- Risks associated with antitrust laws
- Professional standards issues
- Issues associated with patents, trademarks, licenses and copyrights
- Issues related to educational, training and other published material

Examples of Risks Associated with Being an Employer

- Equal opportunity employment issues
- Harassment of employees by supervisor, other employees or a member
- Using reasonable and appropriate procedures for employee discipline and termination, including maintaining adequate documentation and records
- Occupational Safety and Health Act (OSHA) and other employee safety-related laws and concerns (including environmental and COVID-related issues)
- Americans with Disabilities Act (ADA)

Risks Associated with Antitrust Laws

Certain liability issues and situations that are associated with antitrust laws include those listed below. Be aware of these issues and situations to avoid any antitrust liability:

- Inappropriate conversations concerning local business practices (especially commissions, commission splits and listing terms); this may appear to be price-fixing.
- Inappropriate conversations including criticism of a local business and/or the suggestion that it should not be included in the local business community; this may appear to be a boycott.
- Actions that present an appearance of conspiracy, which can be as damaging as a conspiracy.
- Arbitrations and ethics hearing panel members who appear to conspire with each other or consider their own economic interests when deciding a dispute.
- Agreements with related associations, which should be reviewed by an attorney.

Professional Standards Issues

Understand all appropriate procedures and concerns. Refer to the Professional Standards chapter of *The Answer Book*.

Educational Training and Other Published Material

- Ensuring licenses are secured for the use of any copyrighted material, such as images and music
- Indemnification provisions for copyright infringement
- Including any relevant legal disclaimers, such as, “This information is presented for educational purposes. Please contact your attorney for legal advice.”

Use the resources and staff provided by NAR, along with the guidance of your association’s legal counsel, to reduce an association’s liability risks.

Indemnification Agreements

Indemnification is a concept where one party agrees to defend and pay the costs incurred by another in connection with certain claims against or losses suffered by the other. The right to indemnification is usually contractual. A familiar example of an indemnification agreement is an insurance policy, in which the insurer agrees to indemnify the insured (up to a specified limit) against costs or damages incurred by the insured in the event of specified occurrences.

Many indemnification agreements require payment of defense costs, as well as damages. For example, in the event of an automobile accident, the indemnification provided by the insurer typically requires payment of attorneys’ fees incurred in defending the insured in a lawsuit brought by someone injured in the accident, as well as payment of any judgment entered against the insured in the suit. Another common situation involving indemnification is a corporation agreeing to indemnify its directors for legal costs the directors may incur in fulfilling their duties as directors, including defending claims brought against them arising out of their performance of their duties as directors.

NAR INSURANCE PROGRAM

The NAR Insurance Program provides coverage to NAR, its affiliates, institutes, societies and councils, to state and local associations, and to association-owned multiple listing services (MLS). A critically important aspect of the NAR policy is that coverage is provided only if the entity seeking protection (a local association being sued, for example) is in compliance with the mandatory policies promulgated by NAR’s Board of Directors.

The Insurance Program provides professional liability coverage (errors and omissions, directors and officers, and employment practices); crime loss coverage; cyber coverage; and limited patent infringement protection. Directors, officers, committee members, and staff acting in such capacity on behalf of the association also are covered. The insurance is provided to all qualifying associations at no additional cost.

Each year in January, the Legal Affairs staff of NAR sends an insurance policy packet to all local and state associations.

This insurance policy packet contains such items as:

- Information about NAR policy compliance—a precondition for insurance coverage
- Answers to Frequently Asked Questions (FAQs)
- Information about what to do if the association is sued
- Current professional liability insurance policy
- Current patent infringement policy and overview
- Purchase information and rate sheet for excess coverage

All of these documents, plus additional resources and an overview video, are available at <http://nar.realtor/nar-insurance-program>.

An association’s documents that must be reviewed to confirm compliance with NAR policy are listed in the Governing Documents and Policy chapter of *The Answer Book*.

Under the Professional Liability Insurance Policy, coverage is provided for claims resulting from providing membership services and other activities that are usual to a real estate trade association (Insuring Clause I.A. of the Policy). This coverage includes employment practices claims if the association follows the Employer/Employee Guidelines promulgated by NAR (available at <https://www.nar.realtor/ae/manage-your-association/association-policy/employer-employee-guidelines>)

Additionally, claims expense costs coverage (that is, the cost of attorneys’ fees and expenses to defend a claim, but not liability coverage in the event a judgment is rendered against the insured) under Insuring Clause I.B. is provided for:

- Lockbox claims arising out of the operation of a lockbox system or a key reporting system, but only if the system meets NAR’s lock box security requirements (See MLS Policy Statement 7.31 in the *NAR Handbook on Multiple Listing Policy*)
- Antitrust claims, including alleged restraint of trade
- Claims relating to the NAR Dispute Resolution System
- Breach of contract claims

- Association's endorsement of products or affinity programs
- Operation of a legal hotline by in-house counsel

The policy also includes coverage for a cyber-attack (Insuring Clause I.C.), including network security failure and ransomware. The final piece of the Professional Liability Insurance Policy is basic "crime loss coverage," protecting the association against employee theft (Insuring Clause I.D.).

Limited patent infringement coverage for NAR and REALTOR®-owned MLSs is provided through a separate policy as part of the NAR Insurance Program.

All claims are subject to a deductible as set forth in the insurance policy. An association should alert the insurance company of a claim (such as a demand letter or a lawsuit) or a potential claim (a credible threat of legal action) as soon as possible. Details for reporting a claim are found at <https://www.nar.realtor/legal/nar-insurance-program/how-to-report-a-claim>. Note, if an association does not have litigation defense counsel, the insurance company can recommend counsel.

For questions about the NAR Insurance Program, contact:

Legal Affairs Staff
National Association of REALTORS®
430 N. Michigan Avenue
Chicago, IL 60611
NAR Legal Affairs: 800-874-6500

CONFLICTS OF INTEREST

The concept of "conflict of interest" has several different meanings. At the most basic level—when used by the public and the media—it refers to a situation where personal, financial or business concerns influence decisions made by an AE, officer, director or staff member. While this section focuses primarily on specific situations that are considered conflicts of interest by the law, it is also important to consider how association decisions will be viewed in the court of public opinion. A decision that might be legally justifiable could still provoke a controversy in the local community or in the media.

In the 19th century, the law that governed American corporations generally held that a contract or transaction between an association officer or director and a corporation on whose board he or she sat could be set aside merely because the individual had a personal interest in the transaction. That broad approach was reversed in many cases by the passage of conflict-of-interest statutes in some states and further development of the common law in others.

Current law generally provides that the fact that someone in a position to approve an agreement or transaction has a personal interest in it (that is, a conflict of interest or "self-dealing") alone is often not grounds for undoing a contract. It does not, however, insulate the self-interested association officer or director or the organization that carelessly approves such a contract when the contract is challenged for other reasons such as unfairness or a failure to satisfy the "duty of care." The fiduciary duty of loyalty of association officers and directors requires that they avoid conflicts of interest, or when a conflict arises and cannot be avoided, that they address them appropriately and as required by law.

The goal of these provisions of law is to prohibit transactions between an organization and "insiders" where the insider inappropriately benefits. But the law permits such transactions when they are done on an "arm's-length" fair basis. Thus:

- Contracts or transactions are permitted if they are approved by disinterested decision-makers who have knowledge about the circumstances of a transaction—that is, that another decision-maker has a conflict—so that decisions are both informed and disinterested.
- A contract or other transaction between an organization and an association officer or director usually may not be invalidated if it is objectively fair to the organization, regardless of the circumstances surrounding its approval.

The fairness of transactions involving a potential conflict of interest is usually analyzed by comparing such transactions with similar transactions negotiated by parties dealing at "arm's length" not involving an interested party—that is, parties that have no other relationship and are presumed to base their decisions on rational economic interests.

In most states, a legal challenge to a transaction or other matter that involves a conflict of interest can be brought by association members, voting members (if any), a state attorney general, the Internal Revenue Service (in the case of private foundations), and, in unusual cases, by donors or other constituents.

In general, when an association enters into a transaction with an association officer or director or an entity in which such individual or his or her family has an interest, there is a conflict of interest. However, if the organization has followed the statutory procedures for approving that matter, the courts will uphold the transaction if it is objectively fair to the organization, despite the conflict. If the transaction is not fair, it may be invalidated if challenged by a party entitled to bring such a challenge. In some cases, a challenged transaction approved in accordance with the statutory procedures may still be set aside if it is unfair.

Duty of Loyalty

Conflict-of-interest requirements address one of the paramount duties of association leaders and staff; the duty of loyalty. This duty broadly commands association directors and officers to be faithful to an organization's best interests and not to use their organizational positions or knowledge to advance their own personal financial or other interests, or their personal agenda, at an organization's expense. State statutes, though, often deal with only certain aspects of the broader duty of loyalty. Consequently, the law regarding this duty of loyalty is often primarily established by common law, set forth in the published decisions of court cases.

Following are some examples that illustrate how conflict-of-interest statutes or common law principles may apply.

- **Example:** An association director (or a company owned by an association director) owns property and sells it to the organization. If the price of the property and other terms and conditions of the sale are fair and reasonable in comparison to other similar transactions, the transaction cannot be voided simply on the basis of the conflict if the organization later has reservations about the transaction and wishes not to proceed.
- **Example:** A company owned by an association director approaches the association to sell it some property. The officer brings all relevant facts to the association concerning his or her ownership of the selling company and the terms of the transaction. The association, without the officer's involvement, approves the purchase. If the association later concludes that the property no longer is needed for its program, the organization may not void the contract on the basis of a conflict of interest.

These examples demonstrate that the statutory basis on which a transaction involving a conflict of interest might be voided is quite narrow. As noted previously, in most cases the law provides that self-dealing transactions are not automatically prohibited. Indeed, if they are entered into with full knowledge of the conflict and are "objectively fair," they may be advantageous. A transaction such as the second example, if implemented on unfair terms, may be attacked as violating an association officer's duty of loyalty, but it ordinarily may not be set aside just because a conflict of interest was involved. In fact, transactions involving an organization's "insiders" sometimes might be in an organization's best interest. For example, an association officer may be willing to provide the association with discounted professional services or sell an asset at a favorable price.

In addition to recognizing when a conflict of interest may exist, association management should become familiar with the process for handling conflicts. That process always involves disclosure of the conflict to non-interested decision-makers and, as noted previously, also generally requires that a transaction in which a conflict is present be objectively fair to the association. Whether an officer or director with a disclosed conflict is allowed to participate in the debate of the issue or to vote on the transaction is an important issue. Of course, in any particular circumstances, an association should consult counsel for advice related to the statute in effect in the association's state.

DOCUMENT RETENTION REQUIREMENTS

There are a number of steps an association needs to undertake in creating a document retention policy. Each association should go through these steps on its own, as there is not a "one size fits all" model to follow. The requirements will vary by association based on its size, state legal requirements and its business practices.

The most important aspect, from a legal perspective, is following the policy after it is created, since having a policy that is not followed may be worse than not having a policy.

Process for Creating a Document Retention Policy

Associations need to consult with their attorneys while creating or updating a document retention policy because state law will determine how long an association needs to maintain its records. In addition to complying with legal requirements, an effective record retention policy adopted and followed by the association can reduce the costs and burdens of any future litigation.

Here is a brief description of the process each association should undertake in creating a record retention policy. Following that is a list of different types of documents and some recommended time frames for how long the association should maintain these records. This is not intended to be comprehensive or even authoritative; rather, it is intended to serve as a guide for associations in creating these policies.

- **Identify sources and types of information.** The association should gather together the employees who are familiar with the association's documents and other information. Depending on the size of the association, the number of individuals could vary. A person familiar with the association's electronic documents should be at the meeting.
- **Identify and document current retention policies.** An association should determine what policies (if any) are currently governing its document retention policies and reduce those to writing, including its policies for retaining electronic information.
- **Evaluate existing policies.** The association should then decide whether its current policies are adequate. If not, the association should begin crafting a new policy.
- **Create or update the policy.** Not only should the policy state how long certain documents should be retained, it should also state the:
 - ▶ *policy's effective date and date of last review*
 - ▶ *person responsible for the policy*
 - ▶ *purpose of the policy*
 - ▶ *definitions (if needed)*
 - ▶ *process for preserving records if litigation arises or is likely*
- **Legal review of document retention policy.** Once the association has created a policy, it should seek review of its policy by its legal counsel. The association could choose to involve the attorney at the fourth stage during the crafting of the policy.
- **Distribute policy to employees and make sure that the policy is being followed.** This is the most important step, as having a policy that isn't followed will actually be worse if litigation arises not having a policy at all.
- Periodically review policy to make sure it is still relevant. Set a date in the future to assess the policy.

Issues to Consider When Creating or Updating a Document Retention Policy

A number of issues will arise during the creation or updating of a document retention policy, including the following:

- **Format.** One issue for associations is the format used to maintain documents. Generally, there are no requirements on the type of format an association needs to use to maintain its documents and other information. Reducing paper documents to an electronic format will save physical space but could present authentication issues in court. Therefore, all electronic documents should be stored in a read-only format or other unalterable format in order to demonstrate that the documents are in their original state.
- **Privacy Considerations and proper document destruction.** Certain types of records, such as employment records, are governed by privacy laws, either state or federal. Therefore, an association will need to be familiar with those laws and also any rules or other restrictions governing the destruction of these documents.
- **Other Legal Considerations.** The legal requirements for associations vary based on a variety of factors. For example, certain employment statutes require minimum numbers of employees in the work place before they apply to a business owner. IRS audits are generally initiated within three years, but the IRS can audit a return seven years later if negligence was involved and indefinitely in cases of tax fraud. Each association will need to be aware of the laws that apply to its situation.

Typical Document Retention Periods

Following is list of general documents that associations may maintain in their files. Next to each entry are some suggested time requirements for which the association should maintain these documents. These time requirements are conservative estimates, and do not prevent any organization from extending these time periods beyond these minimums. These requirements vary by state, so consult with your attorney when creating the policy.

Accounting Records

- Accounts payable (seven years)
- Accounts receivable (seven years)
- Annual financial statements (permanent)
- Bank statements (seven years)
- Bank reconciliations (seven years)
- Canceled checks: routine matters (seven years)
- Canceled checks: special (loan repayment, etc.) (permanent)

- Correspondence: routine (four years)
- Deeds and closing papers (permanent)
- Deposit slips (four years)
- Electronic payment records (seven years)
- Employee expense reports (seven years)
- Fixed-asset acquisition invoices (after disposal) (seven years)
- Freight bills (seven years)
- General ledgers (permanent)
- Income tax returns (permanent)
- Inventory count & costing sheets (seven years)
- Insurance policies (after expiration) (four years)
- Investments (after disposal) (seven years)
- Mortgages, loans & leases (paid) (seven years)
- Payroll journals & ledgers (permanent)
- Purchase orders (except accounts payable copy) (one year)
- Purchase invoices & orders (seven years)
- Receiving sheets (two years)
- Sales commission reports (five years)
- Sales records (seven years)
- Sales tax returns & exemption support (five years)
- Subsidiary ledgers (seven years)
- Tax returns (federal & state) (if applicable) (permanent)
- Trial balances (permanent)

Association Corporate Records

- Articles of Incorporation and amendments (permanent)
- Bylaws and amendments (permanent)
- Corporate filings (permanent)
- Corporate Minute Book (permanent)
- IRS Exemption Letter (permanent)

Electronically Stored Information

Specific documents in electronic formats will be treated according to the timeframes set forth elsewhere in the policy. The policy should also state how long an association maintains and stores its backup information and that the purpose of the backups is to recover the association's data in the event of the loss of its network or online system.

Employment Records

- Documents relating to job recruitment: advertising, job orders submitted to employment agencies, interviewing, testing, hiring, training, demotions, promotions, layoffs, discharge and other personnel decisions (one year)
- Employee benefit plan documents (duration of plan)

- Family and Medical Leave Act (FMLA) records including: all FMLA information and notices distributed to these employees and records, including all FMLA disputes. (duration of employment plus ten years)
- Garnishments / wage assignments (three years)
- Immigration I-9 forms (duration of employment plus one year, minimum of three years)
- Medical records relating to the exposure of the employee to any toxic or hazardous substances (duration of employment plus 30 years).
- Payroll records showing name address, date of birth, occupation, rate of pay and weekly compensation (three years)
- Personnel Records (10 years after employment ends)
- Record of all occupational injuries, including those under state workers' compensation law and any ERISA awards (five years for ERISA; state law requirements will vary)

Legal Documents

- Contracts (10 years after expiration)
- License applications (one year after expiration)
- Licenses (one year after expiration)
- Trademarks, patents and copyrights (permanent)
- Warranties and guaranties (two years beyond terms of the warranty)
- Correspondence: legal (permanent)

MLS Documents

- Rules and regulations (permanent)
- MLS policies (permanent)
- Listing agreements (until expiration of listing)
- Sold property information (at least 10 years)
- Lockbox key agreements/Leases (one year after agreement terminates)
- MLS Service Mark License Agreements (Permanent)
- Contracts (10 years after expiration)
- Subscription agreements (10 years after expiration)
- Participation agreements (10 years after expiration)
- Website click-through confirmations (ten years)

NAR / Association Documents

- NAR charter (permanent)
- Territorial jurisdiction (permanent)
- REALTOR® Agreement (until superseded)
- Member file & membership applications (two years after membership terminates, with Social Security number and other financial information removed if applicable)

- Professional Standards Hearing Records: Ethics (result of hearing- permanent; rest of hearing file- minimum of one year after satisfaction of sanctions (if any) and there is no threat of litigation)
- Arbitration/Mediation (minimum of one year after payment of award (if any) and there is no threat of litigation)

Property Records

- Deeds of title (permanent)
- Leases (two years after expiration)
- Depreciation schedules (permanent)
- Property damage (seven years)
- Property tax (permanent)
- Appraisals (permanent)
- Blueprints /Plans (permanent)
- Warranties and guaranties (two years beyond terms of the warranty)

Pension & Profit Sharing

- ERISA disclosure documents (six years from date disclosure was due)
- IRS Determination Letter(s) (permanent)
- Forms 5500 & plan documents (permanent)

AMERICANS WITH DISABILITIES ACT

The Americans with Disabilities Act (ADA) makes it unlawful to discriminate against people with disabilities. The law has five sections or “titles” that apply to employment, state and local government services, public accommodations, public transportation, commercial facilities and telecommunications. Since the enactment of the ADA in 1990, the Department of Justice, the Equal Employment Opportunity Commission (EEOC), and several other federal agencies have issued regulations that offer guidance in complying with the ADA.

Over the years, several federal court opinions narrowly construed the definition of “disability” and ADA protections generally. In response, Congress amended the ADA in 2008, effective January 1, 2009, to “restore the [original] intent and protection” of the act, and as a result broadened the coverage of the act.

The following is an overview of Titles I and III, as amended by the ADA Amendments Act of 2008 (ADAAA). Title I relates to employment and affects real estate offices and association offices if they have the threshold number of employees. Title III relates to the accessibility of public accommodations such as association offices, real estate offices and commercial facilities. REALTOR® associations are authorized to duplicate this information or portions thereof for distribution to members and for inclusion in association newsletters. Definitions and a list of resources are included at the end of this section.

Title I—Employment

Employers covered and the requirements: The act applies to employers with 15 or more employees per each working day in each of 20 or more calendar weeks in the current or preceding calendar year. An individual is disabled under the ADA if he or she has one of the following:

- A physical or mental impairment that substantially limits one or more major life activities;
- A record of such an impairment
- Is regarded as having such an impairment

Examples of major life activities were broadened by the 2009 amendments to the ADA to include eating, sleeping, standing, lifting, bending, speaking, reading, concentrating, thinking, communicating and working. “The operation of major bodily functions” such as “functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions,” are also examples of major life activities.

A few examples of impairments include:

- Mental illness
- Heart disease
- Cancer
- Cerebral palsy
- Muscular dystrophy
- Multiple sclerosis
- Diabetes
- AIDS and HIV infection

Caveat: The determination of a “substantially limiting major life activity” should now be interpreted broadly, and whether an individual’s impairment qualifies as a disability under the ADA “should not demand extensive analysis.” The focus instead should be on whether the employer has complied with the requirements of the ADA. In complying, employers should not give consideration to whether the impairment can be corrected by medication or other means. Employers and courts are to evaluate impairments as though they were not so mitigated (with the exception of the use of “ordinary eyeglasses or contact lenses”). As a result, there is a significantly increased number of employees that will qualify for protection under the ADA. The ADA also increases the protections available to persons who are “regarded as” disabled, although employers have no liability to provide reasonable accommodations to such persons.

Individuals who have successfully completed or are participating in drug treatment programs may be considered disabled. Current users of illegal drugs, homosexuals, bisexuals, compulsive gamblers and kleptomaniacs are not considered disabled, although the gender identity exclusion has been successfully challenged in one federal case.

Under Title I, a qualified person with a disability is someone who can perform the essential functions of the job with or without reasonable accommodation. This means that the individual must satisfy the prerequisites for the job, such as experience, education, licensure, etc., and be able to perform the essential functions of the job.

The act requires that employers make reasonable accommodation to the known physical or mental disabilities of a qualified applicant or employee, unless it would impose an undue hardship on the employer. Reasonable accommodation are decided on a case-by-case basis but may include job restructuring, modified work schedules, providing readers or interpreters, raising a desk for a person with a wheelchair or allowing a person to bring a service animal into the work place.

Whether undue hardship would be imposed on an employer should also be decided on a case-by-case basis. Undue hardship means an act requiring significant difficulty or expense or one that is unduly costly, extensive, substantial, disruptive, or will alter the nature of the employer’s business. The case-by-case consideration will take into account factors such as the size and type of business, the nature and cost of the accommodation and the overall financial resources of the business. If funding is available from another source, such as the individual or rehabilitation agency, this must be taken into consideration when determining undue hardship.

Consequences of Non-Compliance: The Equal Employment Opportunity Commission (EEOC) has jurisdiction over Title I of the act, but in some instances, the designated state human rights agencies may handle Title I claims. Check your state law to determine what the deadline is for filing charges of discrimination. In general, such charges have to be filed within 180 days of the act of discrimination. However, under the Lilly Ledbetter Fair Pay Act of 2009, a disabled employee whose pay was affected by a discriminatory decision or other practice is now able to bring a claim within 300 days of any paycheck that is the result of that decision or practice, regardless of how long ago the decision was made or the practice occurred. Remedies include back pay, punitive damages, emotional distress damages and injunctive relief. Employees in other classes protected by various federal anti-discrimination laws (race, color, religion, sex, age and national origin) are also covered by the extended statute of limitations provided by the Ledbetter Act.

Compliance Checklist for Employers

- Put job descriptions in writing, and identify the essential tasks of each job.
- Review application forms, interviewing practices and selection procedures to assure that uniform questions are asked of all applicants and that disabled individuals are evaluated on whether or not they can perform the essential tasks of the job with or without reasonable accommodations.
- Review office layout to determine reasonable accommodations that could be made to existing facilities to permit accessibility and use by the person with a disability.
- Identify auxiliary services for the visual- and hearing-impaired, and consider job restructuring.
- Review personnel policies to ensure that they do not adversely impact the person with a disability in terms of the workplace or benefits.
- Post notice of the ADA, as required by law.
- Keep written documentation that supports your reasons for decisions that affect employee compensation.

Definitions for Title I

The ADA and its implementation regulations are technical and have many gray areas. The following are definitions that can provide guidance to an association.

Covered entity—an employer, employment agency, labor organization or joint labor-management committee.

Disability—with respect to an individual who:

- has a physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- has a record of such an impairment; or
- is regarded as having such an impairment.

If an individual meets any one of the three tests listed above, he or she is considered to be an individual with a disability for the purposes of coverage under the ADA.

Qualified Individual with a Disability—an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. For the purposes of this title, consideration shall be given to the employer’s judgment regarding what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

Reasonable Accommodation—any change in a job, the work environment or the way things are usually done that allows an individual with a disability to apply for the job, perform job functions or enjoy equal access to benefits available to other individuals in the workplace. May include: (a) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; (b) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

Undue Hardship—an action requiring significant difficulty or expense when considered in light of the following factors:

- The nature and cost of the accommodation needed
- The overall financial resources of the facility or facilities involved in providing the reasonable accommodation, the number of persons employed at such facility, the effect on expenses and resources or the impact otherwise of such accommodation on the operation of the facility
- The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of its employees, and the number, type and location of its facilities

- The type of operation or operations of the covered entity, including the composition, structure and functions of the work force of such entity, and the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity

Title III—Public Accommodations, Commercial Facilities, and Private Entities that Offer Certain Educational Courses

Businesses covered and the requirements: This section of the act covers most businesses that serve the public. It also covers commercial facilities and private entities that offer certain educational courses. It prohibits any private entity that owns, leases, leases to or operates a place of public accommodation from discriminating against the disabled. Examples of businesses covered include hotels, restaurants, libraries, places of education, convention centers, sales establishments (including real estate offices), banks, offices of professionals such as attorneys and CPAs, and real estate association offices. If a real estate broker or agent has a home office in which business is conducted with customers, that portion of the home must also be in compliance with the ADA.

The intent of Title III of the ADA is to provide equal access and services to individuals with disabilities. It requires removing architectural and structural barriers in existing facilities where such removal is readily achievable, easily accomplishable and able to be carried out without undue difficulty or expense. There are exemptions for facilities listed on the National Register of Historic Places under the National Historic Preservation Act or those designated as historic under state or local law, where the removal of barriers would significantly alter the historic character of the buildings and facilities. There is also a narrow exception if it is structurally impracticable to meet the requirements.

There also is an elevator exemption for new small buildings and alterations to existing facilities with less than three stories or less than 3,000 square feet per story. It does not apply, however, to a facility housing a shopping center, a shopping mall or the professional office of a health care provider, or other categories of facilities as determined by the U.S. Attorney General.

Examples of steps to remove barriers include, but are not limited to, the following actions:

- Install ramps
- Make curb cuts in sidewalks and entrances
- Reposition shelves
- Rearrange tables, chairs, vending machines, display racks and other furniture

- Reposition telephones
- Add raised markings on elevator control buttons
- Install flashing alarm lights
- Widen doors
- Install off-set hinges to widen doorways
- Eliminate a turnstile or provide an alternative accessible path
- Install accessible door hardware
- Install grab bars in toilet stalls
- Rearrange toilet partitions to increase maneuvering space
- Insulate lavatory pipes under sinks to prevent burns
- Install a raised toilet seat
- Install a full-length bathroom mirror
- Reposition the paper towel dispenser in a bathroom
- Create and designate accessible parking spaces
- Making drinking water otherwise accessible where an existing water fountain is inaccessible
- Remove high pile, low density carpeting
- Install vehicle hand controls

All altered parts of a covered building must be accessible to the disabled, including individuals with wheelchairs. Additionally, the path of travel from the altered area to bathrooms, telephones, drinking fountains, etc., must be readily accessible unless the cost to do so is disproportionate to the cost of the overall alteration. When a primary function area is altered, the path of travel to the altered areas and the areas serving the altered area, must be made accessible, unless the costs for these changes are disproportionate. The costs for the added alterations are considered disproportionate if they exceed 20 percent of the cost of the alteration. It is still necessary that businesses do as much as possible because the 20-percent guideline is based on the three-year cost of alterations.

An organization's obligation to engage in readily achievable barrier removal is ongoing and should be assessed periodically to determine if there has been a change in circumstances that warrants further readily achievable barrier removal.

A deduction of up to \$15,000 per year is available under the Internal Revenue Code for the expense of removing architectural and transportation barriers. A tax credit is available for certain costs for compliance by small businesses whose gross receipts are not greater than \$1,000,000 or which employ no more than 30 workers. The credit is for 50 percent of the eligible access expenditures that exceed \$250 but do not exceed \$10,250. Check with your tax accountant for more information about these deductions and credits.

Consequences of non-compliance: The Department of Justice has jurisdiction over Title III of the ADA. Both private parties and the Attorney General may initiate actions for alleged violations. A suit by the Attorney General can arise if there is reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to compliance with the ADA or that any person or group of persons has been denied any of the rights granted under the ADA, and such denial raises an issue of general public importance.

Courts may grant equitable relief that may include temporary, preliminary, or permanent injunctions, requiring the provision of auxiliary aids or services and modification of policies to make facilities readily accessible to and usable by individuals with disabilities. The court may also award the prevailing party in a private action reasonable attorney's fee. Additionally, in cases brought by the Attorney General, courts may award other relief as considered appropriate, including monetary damages to persons aggrieved, and to vindicate the public interest, the court may assess a civil penalty up to \$75,000 for the first violation and up to \$150,000 for each subsequent violation.

Recommendations for Buildings that are Public Accommodations or Commercial Facilities

Compliance Checklist

Conduct an office audit to determine readily achievable changes to comply with the ADA. Discuss these changes with representatives of agencies for the disabled to assure their effectiveness and compliance. If a leased office space is involved, while it is both the landlord's and tenant's responsibility to comply with the ADA, check the provisions in the lease which may shift ADA compliance to one party.

Follow these suggestions for barrier removal to make a public accommodation accessible:

- Remove barriers so that the disabled can get through the door. This may include ramping and widening entrances.
- Modify policies, practices and procedures to permit the use of a service animal by an individual with a disability.
- Provide access to those areas where goods and services are made available to the public. This may require raised letter markings on elevator control buttons and installing flashing alarm lights.
- Make restroom facilities accessible to the disabled.
- Make other readily achievable changes.

Meetings, Conventions and Trade Shows

Whenever a place of public accommodation, including a trade association, holds a meeting, class or convention, the event and the space where the event is held are subject to the ADA and must comply with the act by assuring that the space is readily accessible and auxiliary services are available. Responsibility for ensuring ADA compliance for the meeting, class or convention rests with the organization sponsoring the meeting, convention or trade show. However, compliance can be shifted to the meeting facility utilized by the sponsor pursuant to the terms of a contract.

Compliance Checklist

Real estate associations can comply by taking the following actions.

- Because many meeting and convention contracts are negotiated and signed years in advance, review existing contracts to determine if they provide a compliance clause that allocates responsibility to one of the parties for compliance with all relevant federal, state and local laws.
- If a compliance clause does not exist in a contract, negotiate an amendment to the existing contract, which requires the facility to comply with the ADA in areas such as access and setup for meeting functions and displays. Additionally, include an indemnification clause whereby the facility will hold the sponsor harmless from ADA violations within the scope of the facility's activities. The following language is an example:

Hotel acknowledges that it is a 'place of public accommodation' as defined in the Americans with Disabilities Act ("the Act") and hereby represents that its goods, services, facilities, privileges, advantages, and accommodations, to the extent applicable, are in full compliance with the Act and any regulations or guidelines pursuant thereto or as hereafter supplemented or amended. Hotel agrees to indemnify and hold harmless (insert name of association) and all of its officers, directors, members, agents and employees from and against all claims, damages, losses and expenses, including attorney's fees, arising out of or resulting from any allegation or claim that the goods, services, facilities, privileges, advantages, or accommodations provided by Hotel pursuant to this Agreement violated the Act.

Include similar language in all new contracts.

- If a site does not provide auxiliary aids and services, identify organizations or individuals to provide such auxiliary aids and services as required by the ADA.

- For future meetings and conventions, include a question on the registration form, such as: "Do you have any disabilities which require special accommodation? If so, please identify any special accommodations on this form or contact us by phone or email by ____ (date)."

When registrants identify their needs for special accommodation, follow up with them to discuss the special needs and to arrange for such aids or services. The entity, not the individual, is responsible for the cost of such aids and services but can, not the individual, but can provide alternative accommodations to those identified by the individual, provided such accommodations are responsive to the individual needs, if the accommodations that the individual requests are financially or otherwise burdensome. If registrants are participating in educational courses or examinations, additional steps may be necessary (see next section). The entity is not responsible for the costs of personal assistive devices, such as wheelchairs or hearing aids.

Educational Courses

Examinations or courses offered by trade associations related to licensing, certification or continuing education credit must be accessible to persons with disabilities. This means that such courses and examinations must be offered in a place and manner accessible to the disabled, or alternative arrangements must be made to provide comparable service to the disabled individual. Additionally, auxiliary aids and services, such as assistive listening devices or qualified readers, may be required to address the special needs of the disabled.

It is important to note that the disabled individual has the right to choose whether they attend a course in an integrated classroom setting, as opposed to taking the course online or via home study, and your association may still have an obligation to provide an opportunity for that individual to attend the regular program. The association should make every effort to offer the courses or examination in an integrated setting. The fact that a separate program is offered may be a factor in determining the extent of the association's obligation to provide an opportunity for access to the regular program, but only if the separate program is accommodating to the needs of the particular individual with a disability.

Compliance Checklist

- When individuals register for an exam or course, ask the question, “Do you have any disabilities that require special accommodation, including the provision of auxiliary aids and services? If so, please identify the accommodations on this form or contact us by phone or email no later than _____.”
- When registrants identify their need for accommodation, follow up with them to determine the needs and to arrange for such aids or services. The entity, not the individual, is responsible for the cost of such aids and services. Keep in mind, however, that the entity is not necessarily obligated to provide the exact aid or service the registrant requests.
- Structure and administer examinations so that they accurately reflect a disabled person’s aptitude or achievement level, rather than merely measuring his or her impaired sensory, manual or speaking skills.

The ADA positively affects millions of people with disabilities by integrating them into the mainstream of America, and when creating reasonable accommodations, every effort should be made to create an integrated setting.

Website Accessibility

In 2022, the U.S. the Department of Justice issued a “Guidance on Web Accessibility and ADA,” designed to ensure that people with disabilities have equal access to online information.

People with disabilities navigate the web in a variety of ways, such as screen readers for people who are blind, captioning for people who are deaf or hard of hearing, and voice recognition software for people whose disabilities affect their ability to use a mouse. Under the “public accommodations” provision of the ADA, REALTOR® association websites must be designed and implemented to be accessible to people with disabilities.

While the Department of Justice did not define an accessible website, the Web Accessibility Initiative of the World Wide Web Consortium, which is the main international standards organization for the Internet, created what has become the widely-accepted standards for what accessibility means. These standards are known as the Web Content Accessibility Guidelines 2.1 (WCAG 2.1) and include a set of technical standards and specifications to be integrated into a website to make it accessible in these main areas:

- Adaptive and assistive technology which makes content easier to consume by persons with disabilities
- Presentation of content in different ways without losing information or structure

- Web navigation tools to navigate content in different ways, including from a keyboard.

Keep in mind that website accessibility applies to a site’s mobile experience and apps as well.

Compliance Checklist

- Conduct an accessibility audit of your association’s websites and mobile applications.
- Based on the audit results, create and begin executing a plan to address identified accessibility issues.
- Become familiar with the accessibility standards adopted in the WCAG 2.1, or hire an expert who is.
- Include an accessibility policy and notice on your association’s website. Feel free to use NAR’s accessibility statement on your website. You can find NAR’s statement here: <http://nar.realtor/accessibility>.

Definitions for Title III

The ADA and its implementation regulations are technical and have many gray areas. Following are definitions that, along with a list of resources to contact with questions or requests for technical assistance, can provide guidance to an association.

Alteration—a change to a place of public accommodation or a commercial facility that affects or could affect the usability of the building, facility, or any part thereof. Alterations include but are not limited to remodeling, renovation, rehabilitation, reconstruction, historic restoration, changes or rearrangement in structural parts or elements, and changes or rearrangement in the plan configuration of walls and full height partitions.

Auxiliary aids and services—includes:

- Qualified interpreters, note-takers, transcribers and computer-aided transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed captioned decoders, open and closed captioning, telecommunications devices for deaf persons (TDDs), video text displays or other effective methods making orally delivered materials available to individuals with hearing impairments
- Qualified readers, taped texts, audio recordings, Braille materials, large print materials or other effective methods of making visually delivered materials available to individuals with visual impairments
- Acquisition or modification of equipment or devices
- Other similar services and actions

Commercial facilities—facilities intended for nonresidential use and whose operations will affect commerce.

Place of public accommodation—a facility whose operations affect interstate commerce and falls into one of 12 categories listed below.

- Places of lodging (except for owner-occupied establishments renting fewer than six rooms)
- Establishments serving food or drink
- Places of exhibition or entertainment
- Places of public gathering (including convention centers, meeting rooms and lecture halls)
- Retail establishments
- Service establishments (including real estate offices)
- Public transportation terminals, depots or stations
- Places of public display or collection
- Places of recreation
- Places of education (including locations such as association offices where classes are taught)
- Social service center establishments
- Places of exercise or recreation

Qualified interpreter—an interpreter who is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary.

Readily achievable—easily accomplishable and able to be carried out without much difficulty or expense. To determine whether an action is readily achievable, factors to be considered include:

- The nature and cost of the action needed under Title III
- The overall financial resources of the facility or facilities involved in the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility
- The overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities
- The type of operation or operations of the covered entity, including the composition, structure and functions of the work force of such entity; the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity

Service animal—any guide dog, signal dog or dog individually trained to provide assistance to an individual with a disability.

Undue burden—analogous to the definition of undue hardship and, in essence, means significant difficulty or expense.

Resources

- Americans With Disabilities Act Information Line: 800-514-0301
- Architectural and Transportation Barriers Compliance Board accessibility guidelines: 800-872-2253
- NAR Legal Affairs: 800-874-6500

ADA Technical Assistance Program

The Department of Justice ADA Technical Assistance Program provides free information and technical assistance directly to businesses, nonprofit service providers, state and local governments, people with disabilities and the general public. Technical assistance services provide the most up-to-date information about the ADA and how to comply with its requirements.

ADA Information Line

The toll-free ADA Information Line provides information and free publications about the requirements of the ADA including the ADA Standards for Accessible Design. (800-514-0301—voice) or (800-514-0383—TTY)

FAQs about the ADA

Q: Does Title I cover independent contractors and apply if a real estate office has 15 independent contractors rather than employees?

A: Title I covers only employees, not independent contractors. However, the Office on the ADA has indicated that whether an individual is an employee or independent contractor will be carefully evaluated under federal law. For real estate brokers, this means the broker/agent relationship will be evaluated to determine whether an independent contractor relationship actually exists or whether agents are treated as employees.

Q: If a real estate company has a number of branch offices, are employees in each branch office counted separately, or are the numbers totaled to reach the threshold number for Title I?

A: The numbers are totaled example: three branch offices with five employees at each location is a total of 15 employees). Because the threshold number of 15 has been met, Title I applies.

Q: Can a place of public accommodation be covered by both the ADA and the Fair Housing Act (FHA)?

A: Yes. The analysis for determining whether a facility is covered by the ADA is entirely separate and independent from the analysis used to determine coverage under the FHA. A facility can be a residential dwelling under the FHA and still fall in whole or in part under at least one of the 12 categories of places of public accommodation.

Q: How does the “readily achievable” standard relate to other standards in the ADA?

A: The ADA establishes different standards for existing facilities versus new construction and existing facilities where other alterations are being done. In existing facilities, where retrofitting may be expensive, the requirement to provide access is less stringent than it is in new construction. Where alterations to existing facilities are being made, “readily achievable” means that accessibility can be incorporated in the initial stages of design and construction without a significant difficulty or expense.

Q: How does a public accommodation determine when barrier removal is readily achievable?

A: Determining if barrier removal is readily achievable is a case-by-case decision. Factors to consider include:

- The nature and cost;
- The overall financial resources of the facility involved; the number of persons employed at the site; the effect on expenses and resources; legitimate safety requirements necessary for safe operation, including crime prevention measures; any other impact of the action on the operation of the business;
- The overall financial resources of the covered entity, the overall size of the business of the covered entity with respect to the number of its employees; the number, type and location of its facilities; and
- The type of operations of the covered entity, including the composition, structure and functions of the workforce of the parent corporation or entity.

Q: Are public accommodations required to retrofit existing buildings by adding elevators?

A: A public accommodation generally would not be required to remove a barrier to physical access posed by a flight of steps in an existing building, if removal would require extensive ramping or an elevator. The readily achievable standard does not call for barrier removal that requires extensive restructuring or burdensome expense in an existing building that is not otherwise being altered. Thus, where it is not readily achievable to do, the ADA would not require a public accommodation to provide access to an area reachable only by a flight of stairs.

Q: Does the ADA require barrier removal in historic buildings?

A: Yes, if it is readily achievable. However, the ADA takes into account the national interest in preserving significant historic structures. Barrier removal would not be considered “readily achievable” if it would threaten or destroy the historic character of a building or facility that is listed on the National Register of Historic Places under the National Historic Preservation Act (16 U.S.C. 470, et seq.), or is designated as historic under state or local law.

Q: Are portable ramps permitted?

A: Yes, but only when the installation of a permanent ramp is not readily achievable. To promote safety, a portable ramp should have railings and a firm, stable, non-slip surface. It should also be properly secured.

Q: If a public accommodation determines that its facilities have barriers that should be removed, but it is not readily achievable to undertake all of the modifications now, what should it do?

A: The Office on the ADA recommends that a public accommodation develop an implementation plan designed to achieve compliance with the ADA’s barrier removal requirements. Such a plan, if appropriately designed and diligently executed, could serve as evidence of a good faith effort to comply with the ADA’s barrier removal requirements.

Q: Must a real estate agent who uses his or her home (or a portion thereof) as an office, comply with Title III?

A: Yes. If a private residence (or a portion thereof) is used for business purposes and is a place where the real estate agent meets with clients, Title III applies to the private residence, or portion used for business purposes even if they’re also used for residential purposes.

Q: Are model homes and open houses places of public accommodation?

A: Generally, no. Model homes and open houses do not fall under the 12 categories of places of public accommodation. If, however, the sales office for a residential housing development is located in a model home, the area used for the sales office would be considered a place of public accommodation. Although model homes are not covered, the Office on the ADA encourages developers to voluntarily provide at least a minimal level of access to model homes for potential home buyers with disabilities. For example, a developer could provide physical access (via ramp or lift) to the primary level of one of several model homes and make photographs of other levels of the home as well as of other models available to the customer.

Q: Do both a landlord who leases space in a building to a tenant and the tenant who operates a place of public accommodation have responsibilities under the ADA?

A: Both the landlord and the tenant provide public accommodations and have full responsibility for complying with all Title III requirements applicable to places of public accommodation. The landlord and tenant may allocate responsibility in the lease for complying with particular provisions of the ADA. However, any allocation made in a lease or other contract is only effective as between the parties, and both landlord and tenant remain fully liable for compliance with all provisions of the ADA relating to that place of public accommodation.

Q: How is it determined that committee members or registrants for meetings and educational courses are disabled and have special needs?

A: Ask! Add a question to the committee appointment letters and all the registration forms.

- “Please check here if you have a disability which will require special services at a (meeting/course)”. Attach a written description of your needs.
- Include a notice in the registration packet (for on-site registrants) asking those with disabilities who require special accommodation to contact the registration representative.

Q: During a convention, certain tours and recreational activities will be sponsored. Do they need to be accessible to the disabled?

A: Generally, yes, if they can be made accessible. Because tour company services are open to the public, tour companies and the places on the tours are considered to be public accommodations and must take the steps necessary to comply with the ADA. If they do not, you should consider a different company that is in compliance. With respect to recreational activities, they should be made accessible to the disabled to the extent it’s readily achievable to do so.

Q: If ground transportation is provided for certain social functions during a convention, is special transportation for those in wheelchairs necessary?

A: Yes.

Q: When auxiliary aids are to be provided, who decides what type of auxiliary aids is acceptable?

A: The party responsible for the public accommodations should engage in an interactive dialogue with the individuals with disabilities to determine the type of auxiliary aids needed to ensure effective access and communication. In many cases, more than one type of auxiliary aid or service may be acceptable. While consultation is strongly encouraged, the ultimate decision about what measures to take to ensure compliance rests in the hands of the party responsible for the public accommodation, provided that the method chosen results in effective access and communication with the individual with a disability. The specific measures requested by the disabled individual do not have to be provided if they post an undue hardship on the party responsible for the public accommodation.

Q: Who is a qualified interpreter?

A: There are a number of sign language systems in use by persons who use sign language. (The most common systems of sign language are American Sign Language and signed English.) Individuals who use a particular system might not communicate effectively through an interpreter who uses another system. When an interpreter is required, the party responsible for the public accommodation should provide a qualified interpreter—that is, an interpreter able to sign to the individual who is deaf what is being said by the hearing person, and one who can voice to the hearing person what is being signed by the individual who is deaf. This communication must be conveyed effectively, accurately and impartially through the use of any necessary specialized vocabulary.

Q: Can a public accommodation use a staff member who signs “pretty well” as an interpreter for meetings with individuals who use sign language to communicate?

A: Signing and interpreting are not the same thing. Being able to sign does not mean that a person can process spoken communication into the proper signs, nor does it mean that he or she possesses the proper skills to observe someone signing then change his or her signed or finger-spelled communication into spoken words. The interpreter must be able to interpret both receptively and expressively.

Q: If a sign language interpreter is required for effective communication, must only a certified interpreter be provided?

A: No. The key question in determining whether effective communication will result is to ask whether the interpreter is “qualified,” not whether he or she actually has been certified by an official licensing body. A qualified interpreter is one “who is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary.” An individual does not have to be certified to meet this standard. A certified interpreter might not meet this standard in all situations, such as when the interpreter is not familiar with the specialized vocabulary involved in the communication at issue. Note: Providing a transcriber who types (on a computer) or writes the language spoken by the parties is also an option when accommodating an attendee or student who is hearing-impaired.

Q: What obligations does an examiner have if its facilities are inaccessible?

A: Examinations must be administered in facilities that are accessible to individuals with disabilities or alternative accessible arrangements must be made. Effort should be made to provide an integrated setting, but if this is not possible, the examination may be administered to an individual with a disability in a different room or another location. For instance, the entity might provide the examination at an individual’s home with a proctor. The alternative location must, however, provide comparable conditions to where the test is administered to others.

Q: May an educational course provider require that an applicant provide documentation of the existence and nature of the disability as evidence that he or she is entitled to modifications or aids?

A: Yes, except where a disability is obvious. However, requests for documentation must be reasonable and must be limited to assess the need for the modification or aid requested. Appropriate documentation might include a letter from a physician or other professional. The applicant may be required to bear the cost of providing such documentation, but the entity administering the examination cannot charge the applicant for the cost of any modifications or auxiliary aids, such as interpreters, provided in connection with the course.

Q: If a public accommodation makes good faith efforts to comply with the ADA, will that be considered when determining the amount of a civil penalty if non-compliance is found to exist?

A: Yes. When considering what amount of civil penalty, if any, is appropriate, the court is required to give consideration to any good faith effort or attempt by the covered entity to comply with its obligations under the ADA. One of the factors to be considered when evaluating good faith is whether the entity could have reasonably anticipated the need for an appropriate type of auxiliary aid needed to accommodate the unique needs of a particular individual with a disability.

Note: The information about Title III comes from the Title III Technical Assistance Manual of the United States Department of Justice (<http://www.ada.gov/taman3.html>) and from NAR’S Legal Affairs staff.

ANTITRUST LAW

Antitrust laws are designed to protect competition and prohibit collective action by real estate professionals that restrain trade. Real estate is vital to national and local economies alike and thus is often under scrutiny meaning anticompetitive behavior is likely to be detected and pursued. It is important that association staff, real estate brokers and salespeople are aware of and sensitive to the antitrust laws as they apply to their business and to association activities.

Antitrust laws are violated when competitors act collectively to restrain competition. By definition, a trade association consists of a group of competitors acting in a collective fashion. When a trade association acts, the key antitrust question is whether that action limits or restrains competition in some way, and if so, whether it does so unreasonably. Therefore, trade associations must avoid actions that adversely affect the competitive freedom of individual members—who are competitors—to operate their businesses in the way they determine is best.

The most common antitrust issues in real estate include price-fixing and group boycotts. A conspiracy to fix prices, such as commissions or other terms and conditions of the broker-client relationship, occurs when a group of competitors come together and agree on such prices or terms in an effort to, or with the effect of, eliminating competition. To be sure, competitors may not agree on commissions charged or terms and must take care not to imply any such agreement. A group boycott is a concerted effort by a group of competitors to cooperate or not to cooperate with a particular party in an attempt to force a change in a competitor's behavior or to drive competition out of the marketplace. Both conspiracies to fix prices and group boycotts are considered *per se* violations of the antitrust laws, meaning these restraints are deemed to be so inherently anticompetitive that their anticompetitive effects on trade are presumed. Defendants will be given no opportunity to demonstrate the reasonableness of the restraint, and the only question will be whether the defendant participated in the alleged conspiracy.

Trade associations are made up of groups of competitors that gather to promote their common business interests, which provides opportunity for anticompetitive behavior. Trade association staff should be knowledgeable about and alert to any activity that may violate the antitrust laws and be prepared to take action to stop such activities. At the outset, including an antitrust statement in association meeting materials is a smart practice that will alert participants to the sensitivities of these matters and the association's commitment to complying with antitrust laws. Should any potentially concerning discussions take place, someone should be prepared to end the discussion, change the topic or even end the meeting, if necessary.

Brokers are liable for the anticompetitive actions of their salespeople, and therefore it is advisable for brokers to institute their own office antitrust education and compliance programs to sensitize their salespeople to these issues and to avoid intentional or unintentional illegal conduct.

The Board of Choice concept also means that associations themselves are competitors who compete with one another to provide membership services and a variety of other products and services to their respective member real estate professionals. As a result, associations also need to be sensitive to their own competitive conduct as business organizations, and ensure that they do not engage in practices or participate in agreements that restrain competition among associations in that respect. (See the Membership Policies and Procedures chapter of *The Answer Book*.)

Common Sources of Antitrust Programs

Some areas REALTOR® associations should be particularly attentive to potential antitrust concerns are:

- Association meetings
- Agreements or relationships with other boards and associations
- Mergers and acquisitions
- Association and MLS standard forms
- Association advertising publications
- Conduct of grievance and arbitration proceedings

NAR offers several products that can help an association educate its members about antitrust laws, including:

Antitrust Pocket Guide for REALTORS® and REALTOR® Associates

Antitrust knowledge is crucial to a successful real estate practice. This 40-page brochure, designed specifically for real estate licensees, offers information and examples about how antitrust impacts current real estate practices. Topics include: relations with customers, clients, competitors, and an association of REALTORS®; office compliance program; dangerous words and phrases; antitrust compliance policy; and an antitrust self-test. Affordably priced—purchase one for each associate.

Antitrust and Real Estate: Compliance Guide for Association and Board Leadership

A 32-page brochure directed toward REALTOR® associations, AEs and legal counsel. Discusses ways to avoid liability and explains how to conduct association meetings, maintain records, review association and MLS standard forms, and conduct grievance and arbitration proceedings.

Antitrust 101 for Real Estate Professionals

This 16-minute video serves as an educational tool that brokers and associations can use to educate staff and real estate professionals about antitrust laws, including the severe penalties for violating antitrust law. The video uses real-world settings like social media or at an office meeting to demonstrate the scenarios that a real estate professional may face, such as invitations to join a group boycott or engage in price-fixing. The video offers tips and solutions on how to avoid these situations, and there are also quiz questions so that viewers can test their knowledge.

DATA PRIVACY AND SECURITY LAWS

It is important for AEs to know the laws regarding data security and privacy that affect associations and brokerages. There currently is no federal law that addresses a business's collection, use, storage or disposal of the personal information of its consumers. However, a growing number of states, including California, Colorado, Connecticut, Utah and Virginia have enacted data privacy and protection laws, and other states have legislation pending. The purpose of most data security regulation is to encourage businesses to only collect the personal information needed to process the transaction or matter at hand, and to protect personal information under their control in order to avoid misappropriation of that information.

Many states have also enacted data breach notification laws that require businesses to notify individuals when their personal information may have been accessed because of a security breach. NAR's Data Security and Privacy Toolkit provides in-depth information on the various data security and privacy laws of each state, as well as guidance on how to create policies that fit an association's business needs.

(<https://www.nar.realtor/law-and-ethics/nars-data-security-and-privacy-toolkit>)

General Data Protection Regulation

The General Data Protection Regulation (GDPR), adopted in the European Union (EU) in 2018, is a set of regulations that businesses must follow when collecting, using or retaining the personal information of individuals located within the EU. Although the GDPR is an EU law that protects individuals located in the EU, the requirements apply to businesses worldwide that (1) have the intention of offering goods or services to individuals located in the EU, regardless of whether a sale or provision actually occurs, or (2) have some other evaluative purpose for collecting the personal information of an individual located in the EU. Therefore, associations should understand the GDPR protocols regarding the rights of individuals located in the EU as well as the security measures to protect their personal information.

Privacy Policies

Every association and brokerage should have a privacy policy on its website. A privacy policy is a document that discloses, among other matters, the ways a business or association collects, uses, shares, protects and destroys personal information.

NAR's Data Security and Privacy Toolkit provides a checklist of issues to consider and potentially address when drafting a privacy policy that fits an association's business needs and some possible solutions to those issues. A copy of NAR's Privacy Policy is also included for guidance. (<https://www.nar.realtor/law-and-ethics/nars-data-security-and-privacy-toolkit>)

Solicitation and Marketing

Federal privacy laws, such as the Telephone Consumer Protection Act (TCPA) and the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (CAN-SPAM), regulate the use of email, telephone and fax for solicitation and marketing purposes. However, state law may also apply, and you should be familiar with your state laws that govern intrastate communications, as well.

The TCPA prohibits anyone from calling or texting wireless or, in some cases landline, numbers using an automated telephone dialing system (ATDS) or a pre-recorded voice message, unless consent is obtained. Under the TCPA, the Federal Trade Commission (FTC) and the Federal Communications Commission (FCC) created the National Do-Not-Call (DNC) Registry in 2003. Consumers may register their residential and mobile phone numbers on the DNC Registry with the FTC. The registration of a telephone number is permanent.

CAN-SPAM makes it illegal to send unsolicited emails which (a) contain either falsely or misleadingly information, (b) have deceptive subject lines, (c) fail to include a valid physical return address, or (d) do not include an opt-out procedure. It is also illegal for a business to continue sending emails to a user after he or she has opted out.

- In a 2022 article, “Stop Unwanted Robocall and Texts,” the U.S. Federal Communications Commission (FCC) outlined several steps individuals and organizations can take to address illegal and “spoofed” robocalls, including implementing caller-ID services and “spam risk” notifications from telecom carriers.

COPYRIGHT LAW

Copyright protects original works of authorship fixed in a tangible medium of expression, such as novels, movies, music, architecture and computer software. Copyright does not protect facts or ideas. The U.S. Constitution includes a copyright clause that authorizes Congress to guarantee authors of original works the right to protect their work from unauthorized use by others. Congress adopted the Copyright Act to implement this Constitutional authority. An original work is protected by copyright the moment that the work is fixed in a tangible medium, and the author of that work becomes the copyright owner. If the work is created in the course of an employee’s employment or pursuant to a work-made-for-hire agreement, then the copyright owner is the employer or party identified in the agreement. It is not necessary for the copyright owner to federally register his or her work with the U.S. Copyright Office in order to maintain ownership of the copyright; however, there are several advantages and incentives to registering.

First, registering establishes a public record of the author’s copyright claim, which puts everyone on notice that this work exists and that it is owned by the author. Federal registration also serves as evidence in court of the validity of the copyright and the facts stated in the application. That type of evidence may be beneficial whether the copyright owner is a plaintiff or defendant in a copyright lawsuit. Importantly, federal registration of the work is generally a prerequisite to filing an infringement lawsuit in federal court based on the work. And, if the registration is made prior to an infringement or within three months of publication of a work registration, then the copyright owner may collect statutory damages and attorney’s fees from an infringer, rather than simply collecting the actual damages or lost profits suffered.

Today, the term of a copyright is the life of the author plus 70 years after the author’s death. For works made for hire, the term of the copyright is generally 95 years from publication or 120 years from creation, whichever is shorter. Works that are not protected by copyright are in the “public domain” and may be used without restrictions. A work enters the public domain for different reasons, including expiration of the copyright.

Registering MLS Databases

For many decades, MLSs have obtained automated database copyright registrations protecting the arrangement, selection, and coordination of their MLS compilations. These copyright registrations serve to deter unauthorized reproduction and distribution of the MLS compilation.

The automated database copyright registration does not necessarily protect the underlying listing content. Instead, the copyright registration covers the arrangement, selection and coordination of the listing content within the MLS compilation. Databases are eligible for copyright registration when creativity can be shown in:

- **Selection:** how the facts are chosen for inclusion—
- **Coordination:** the order in which the facts are placed—
- **Arrangement:** the arrangement of the facts in the overall database—

An automated database copyright registration never protects facts included in the MLS database because copyright law does not protect facts.

This means that an MLS may not enforce against a third party that copies the underlying listing content in the MLS database without copying the manner in which the MLS selected, coordinated and arranged the listing content.

For those MLSs that receive ownership of the underlying listing content, the scope of the automated database copyright registration extends to the copyrightable elements of the listing content—for example, listing photos and property descriptions.

In August 2017, the Copyright Office issued requests for clarification to hundreds of MLSs regarding their automated database copyright applications. The Office asserted that the applications did not demonstrate sufficient creativity in the arrangement, selection or coordination of the compilation. This response was viewed as a major sea change for MLSs who received this type of copyright protection for decades.

NAR met in person with representatives from the Copyright Office to discuss their position and how it may affect MLSs. These discussions were very productive, and the Copyright Office now acknowledges that an MLS database is entitled to copyright protection if its selection, coordination and arrangement are sufficiently creative. Additional information, including assistance with preparing MLS database copyright applications and a sample template for such applications, is available at: <https://www.nar.realtor/copyright/how-to-prepare-a-descriptive-statement-for-an-mls-database-copyright-application>.

Syndication and Copyright

Syndication of MLS compilations often invokes issues involving copyright protections and proper use of MLS data. Syndication commonly refers to an agreement between an MLS or broker and a third party to advertise the broker's listings on non-MLS websites. The syndication agreement's scope determines how the broker's listings will be displayed on the Internet and where the listings will be displayed by the third-party. NAR has created resources to assist MLSs and brokers with their decisions regarding syndication, which are available at: <http://www.nar.realtor/topics/syndication>.

Registering for Publications or Other Works

Copyright protects original works of authorship, and an MLS may file a copyright application for any publications or other works it creates. To obtain federal copyright registration, the owner must submit to the Copyright Office:

- A properly completed application. Certain applications may now be filed online at www.copyright.gov
- The appropriate fee for each registration
- The requisite deposit copy or copies for the work

If the publication is part of a series, then an application must be submitted for each new addition to the series. Registering one publication in a series does not extend federal copyright registration to future works in the series. Also, two original copies of the publication must be submitted with the application. Photocopies of the work will not satisfy this requirement.

Copyright Notices

A copyright owner should include a copyright notice on its copyrighted works to put others on notice of the works' protected status. A proper copyright notice contains:

- The symbol © or the word "copyright" or the abbreviation "copr."
- The year of first publication of the edition which, in the case of MLS compilations, is the year when the edition will be provided to the MLS participants
- Name of the owner of the copyright, which is likely the association name

For example:

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[Copyright or ©] [Year of first publication]
[Association Name]
All Rights Reserved
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The phrase "All Rights Reserved" is not legally necessary to include but may deter third parties without knowledge of copyright protections from using the work.

A copyright notice should be affixed where it will be seen easily by the public. For online databases, the copyright notice should appear on the initial screen seen by anyone entering the system and also on any reports printed or downloaded from the system. For books, the following locations are recommended:

- On the face of the front cover, if any
- If there is no front cover, on the front page
- On the title page, if any
- On the page immediately following the title page (back of title page), if any
- On the back cover, if any
- If no back cover, on the back page
- On the first page of the main body of work
- On the last page of the main body of work

Resources:

The address for the Copyright Office is:

U.S. Copyright Office
Library of Congress
101 Independence Avenue, SE
Washington, D.C. 20559-6000

The Internet address is: <http://www.copyright.gov/>.

To contact a Copyright Office Information Specialist, call 202-707-3000.

All forms and circulars can be downloaded from the website.

USE OF ONLINE COPYRIGHTED MATERIAL

Many people incorrectly believe they can copy, save, reproduce or otherwise use content available online for their own purposes. This is not so. Put another way, information and material that is “publicly available” (such as on the Internet) is not necessarily “in the public domain” for use by anyone without restriction. Ultimately, the use of third-party materials without permission increases the risk of copyright infringement claims.

This section discusses the use of copyrighted material obtained by an association from online sources, including websites, Facebook, X (formerly known as Twitter), LinkedIn and other digital, social and mobile sites.

Copyright issues involve:

- Whether and how an association and its staff may use a third party’s works published online
- Considerations when publishing third-party content on an association’s own website, blogs or social media posts

Using Third-Party Content

When an association (or anyone, for that matter), intends to reproduce or reprint content from a third party, it is essential to determine:

- Whether that content is protected by copyright
- Who owns or has the right to control that content.

To determine whether you may reproduce content available from third parties, take these steps:

- Determine whether the content is protected by copyright. Remember, an organization or entity typically will claim copyright protection for the online publications, products, etc., that it owns to protect its ownership rights and its ability to control the use of the material.
- If the content is copyrighted, the association must determine if it has permission to use the work. Permission for use may be granted on the website, for example in the Terms of Use. Otherwise, it is necessary to contact the owner for permission, and the website may have instructions for doing so.
- If permission is granted, carefully consider the terms governing use of that content. Such terms may be available on the website, provided directly by the copyright owner or embodied in a license agreement that must be signed. Remember that if a use exceeds the scope of permission, such use will be considered an infringement.

- If necessary, consult with legal counsel regarding any restrictions on use of the content. Legal counsel can help an association understand restrictions or help possibly negotiate new terms.
- Use the content only as permitted by the copyright owner. Include the appropriate copyright notice as provided by the owner and, if necessary, any other terms and conditions of a usage agreement. Using content outside the scope of permission constitutes copyright infringement.
- Keep in mind that the owner may decline your request, in which case you may not use the content.
- If you cannot conclusively determine that you have permission to use the content, do not use the content. For example, you may not be able to determine the owner of the content to obtain permission.
- For more information about avoiding online copyright infringement claims, see this “Window to the Law” video: <https://www.nar.realtor/videos/window-to-the-law/window-to-the-law-how-to-avoid-copyright-infringement>.

Hosting a Blog

If the association’s website includes a blog or any forum that allows visitors to post comments or upload material, then the website’s terms of use should also include a policy regarding that user-generated content (UGC). Such policy may describe what type of UGC is acceptable or prohibited. It may also forbid users from posting any content that he or she does not own all of the intellectual property rights to. It is also recommended to require the user to transfer ownership in the UGC or otherwise grant the association a broad royalty-free license to use the UGC however it would like. NAR has created a checklist to assist associations in drafting a blog policy that fits their specific needs. The checklist is available at: <https://www.nar.realtor/ae/manage-your-association/association-policy/create-a-social-media-usage-policy>.

Associations should also comply with the Digital Millennium Copyright Act (“DMCA”), especially if their website allows UGC. The DMCA is a federal statute that exempts website owners from liability for copyright infringement for content posted to their websites by third parties when the website owners comply with certain procedural requirements. Those criteria include designating a copyright agent with the Copyright Office and on its website, implementing a DMCA-compliant website policy, complying with the DMCA takedown procedure, having no knowledge of complained-of infringing activity, having no knowledge of facts that make any complained-of infringing activity apparent and, finally, if the online service provider is capable of controlling the infringing activity, then it may not receive a financial benefit attributable to the infringing activity.

For more information about the DMCA, view this Window to the Law video: <https://www.nar.realtor/videos/window-to-the-law/protect-your-website-from-copyright-liability>.

Allowing Others to Use Online Content Developed and Owned by an Association

Association staff should determine how it wants the association’s online content to be used by third parties, if at all.

It is likely that much of the online content developed or owned by an association is copyrightable. Such content should carry the association’s copyright and usage notices. Association staff must review and determine which, if any, content available on its site may be copied and used by site visitors, and make that determination clear to site visitors. Often, website owners include this type of information regarding permissions or restrictions in the website’s Terms of Use.

Considerations relevant to this decision include the confidentiality of the information, its economic value, the value of widespread use of the content and the ability of the association to police unauthorized uses, to name a few. These factors and others will play a role in determining whether and how third parties may use the association’s content.

Creative Commons Licensing

With the advent of the Internet and open-source software, as well as the increasing popularity of social media, particularly sites such as YouTube, Flickr, Wikipedia, and others, came a need to specify acceptable uses of copyrighted material beyond “all rights reserved.” In 2002, a nonprofit organization called Creative Commons published Creative Commons licenses—a set of free, public licenses that allow creators to keep their copyrights while sharing their works on more flexible terms than “all rights reserved.” More than 1.6 billion works are available on the Creative Commons site (<https://creativecommons.org/>). The site offers a convenient search tool (<https://search.creativecommons.org/>) to find works that can be used for commercial purposes or modified for an association’s specific needs. It is critical to remember that the content available through Creative Commons is not in the public domain. Associations must be sure to comply with the terms of the applicable license for any content used through Creative Commons.

MUSIC LICENSING, SOFTWARE LICENSES AND PHOTO USAGE

Use of Music at Association Events

Associations must obtain a performing rights license to use live or recorded music at association events, whether virtual or in person. Under federal copyright law “public performances” of copyrighted musical works require a license from the copyright owners or their agents. Public performances include live or recorded music played during association functions such as meetings, conventions and awards dinners.

When an association uses music during a function, it has several options to protect the association from a claim of copyright infringement, including:

- **Go to the source—directly negotiate a license with the copyright owner of the music.** This option is only feasible for functions using an extremely small selection of musical pieces that can be identified in advance.
- **Narrow music choices down—use music not covered by copyright laws.** This option severely limits the choices of music that can be performed, because most popular songs are copyrighted.

- **Blanket license agreements—execute blanket licensing agreements with the American Society of Composers (ASCAP) and Broadcast Music Incorporated (BMI).** By signing such licenses with these two organizations, an association is covered if it plays any music in the libraries of BMI and ASCAP.

BMI and ASCAP are organizations of songwriters, composers and music publishers that protect the rights of their respective members. They do this by:

- Licensing music to users, such as REALTOR® associations
- Collecting fees
- Distributing about 90 percent of each fee to the original songwriter, composer or copyright owner

Associations may obtain licenses from BMI or ASCAP in order to publicly perform the organizations' respective catalogues of music, which is much easier and less expensive than obtaining licenses from each desired copyright owner. BMI and ASCAP are separate entities, so an association must sign separate agreements with both organizations if it wants to use music available for license through both organizations. In fact, it is recommended to obtain licenses from both organizations to ensure the association may play a wide variety of music without the hassle of restricting the playlist to one particular catalogue. Fees for the BMI and ASCAP blanket licensing agreements are based on a formula that includes whether music is live or recorded and the number of attendees present.

BMI and ASCAP do not license directly with live performers. Therefore, associations should not negotiate a contract clause providing that a live performer will secure a license with BMI and ASCAP. Also, a venue's license does not extend to an association's event at the venue. The association must license directly with BMI and ASCAP for the event.

If the exhibitors participating in an association trade show play music in their booths, the association is responsible for music licensing fees. This cost could be passed down to the exhibitor.

Don't assume that an ASCAP or BMI license includes virtual events. Review the license closely to determine if it permits the use of music in connection with virtual events and, if so, the restrictions in connection with such permission.

Although entering into blanket agreements with BMI and ASCAP does not necessarily guarantee that an association will be covered for all existing copyrighted music, it will cover all of the music in the respective libraries of these organizations, the collections of which are quite extensive. BMI represents more than 15 million musical works and 1 million songwriters, composers and music publishers, while ASCAP represents approximately 11.5 million musical works and 735,000 music creator members. For more information about blanket licenses, contact BMI at 212-220-3000 or ASCAP at 800-505-4052. BMI and ASCAP have offices located throughout the United States.

Although an association's unauthorized use of copyrighted music might not be detected, it is not advisable. Without the appropriate licenses, the association is putting itself at risk of being sued for copyright infringement when it features music at association events.

Use of Music in Association Videos

Licenses for the public performance of music at events, including ASCAP and BMI licenses, do not include the right to use the music in videos. A separate license called a synchronization license, or synch license, is required to use music in videos. Notably, this applies to videos of association events. If you are recording an association event where you properly secured a performing rights license to play music at that event, you still cannot video record that event with the music unless you have a synch license for the music.

Software Licenses

Many real estate associations, agents and brokers use proprietary software every day for their ongoing operations. Under the U.S. Copyright Act, software programs are copyrightable works. Many individuals, companies and other entities have developed their own proprietary software applications and programs. They derive revenue from licensing those programs. Usually, a software license will grant permission for one or more end-users to use the application. Anyone using proprietary software should be sure not to violate the terms of any applicable licensing agreement. For instance, making a copy of a software program and sharing it with or selling it to a friend would likely violate that license and federal copyright law.

Other types of software programs are made available to users for free or a modest, one-time fee. Associations should read the fine print of all software license agreements to determine how they are permitted to use the software and whether copying and sharing are permitted under the agreement.

Photo Usage

Photograph usage is another legal issue that can affect real estate associations' online and print publications. Associations must have permission to use photographs that are not their own. Using a photograph without proper permission increases the risk of a copyright infringement claim. Here are some suggestions for proper photo usage:

- Get permission to use any photo from the owner of the photo. If you find a photo online that you want to use, email the contact person and ask for written permission to use the photo in the manner you so wish, such as within your digital or print publication. The owner of the photo may or may not agree to your use. If permission is granted, the owner may ask require attribution and/or payment of a fee. If permission is not granted, you may not use the photo.
- Consider the use of royalty-free stock photos. These images are available from a wide range of online sources at reasonable prices. Because you do not have to pay additional royalty fees, the cost is much less than hiring your own photographer. Be sure to understand and comply with the license for any stock photographs.
- When hiring a photographer, review your contract to be sure the association will own the photos. If ownership is not possible, be sure to obtain from the photographer a broad license to use the photos however desired in the future. You don't want to later learn that the license only permits use of the photos in a narrow manner (for example, an email newsletter), and an additional license is required to post the photo on the association website or social media profiles.
- Have any persons featured in the photographs sign a release permitting the use of their likeness or image. A professional photographer can provide you with a standard release form that provides protection in case the subject of the photo later says that he or she was not aware a photo would be taken or that the photo would be used in a commercial manner. For a group event, you should notify participants in advance that photographs taken at the event may be used by the association.
- Consider including a clause in the employee handbook that the association retains rights to photos taken by staff at association events and activities. Today, virtually all AEs and staff use their smart phone cameras at association events. Ideally, ownership of those images should reside with the association to reduce the risk of unauthorized usage, such as posting humorous images on an employee's Facebook page.

There are other legal and non-legal risks associated with using photos. For instance, if you mistakenly run a photo of a convicted criminal with a caption that identifies the person as a board member, you could be violating defamation laws. That's a worst-case scenario, but it highlights the need for accuracy and double-checking of photos and captions.

A more common issue occurs when an individual being photographed (such as a board member) is unhappy with an "unflattering" photo. This situation can be avoided by showing the individual the photo(s) in advance, when time permits. AEs need to remember that photographs can have a powerful emotional impact and be sensitive to individuals' feelings about the use of their images.

PATENT LAW AND TRADEMARK POLICY

In the past, U.S. patent law has had relatively little impact on real estate associations. That has changed in recent years with the advent of custom software programs and downloadable smart phone applications.

Now, an association that develops a new MLS mobile app, for instance, may be able to patent its invention, if it is truly original. To secure protection, the inventor or developer must apply to the United States Patent and Trademark Office (the USPTO) for review.

In any case, the association should be sure that its new systems or programs do not violate the rights of any existing patent owners. When working with an outside development team or vendor, the association should have the contract reviewed by legal counsel to be sure patent rights are handled appropriately and an indemnification clause is included.

Trademark Policy

Trademarks are unique terms, symbols or a combination thereof that communicate a specific message to the public, such as the source of the goods or services or membership in a group. The REALTOR® membership marks ("REALTOR® Marks") are the collective membership trademarks of NAR. The REALTOR® Marks have one meaning only: a real estate professional who is a member of NAR and subscribes to its strict Code of Ethics.

They include, but are not limited to:

- REALTOR®
- REALTOR ASSOCIATE®
- REALTORS®
- REALTOR® "Block R" logo
- "Block R" mark without the REALTOR® identifier

Note: The REALTOR® “Block R” logo mark may be downloaded at <https://www.nar.realtor/logos-and-trademark-rules/the-realtor%C2%AE-logo>.

It is vitally important to the preservation of the REALTOR® Marks that they be recognized consistently by the public as identifiers of members of NAR. To ensure that the Marks are not used inadvertently and improperly to denote a vocation or business, NAR has established trademark rules governing members’ and associations’ use of the REALTOR® Marks. Members and associations must comply with NAR’s trademark rules when using the REALTOR® Marks. NAR’s Trademark Rules include, but are not limited, to the following:

- Members are licensed to use the REALTOR® Marks in connection with their name or their real estate business name in order to indicate membership in NAR. Members may not include the REALTOR® Marks in business names.
- Descriptive terms may not be used with the REALTOR® Marks (e.g. biggest, professional, top, commercial, Chicago, etc.). This prohibition is set forth in Article V, Section 7 of NAR’s Bylaws.
- The REALTOR® Marks should appear in uppercase lettering with the registration symbol ®, e.g. REALTOR®, whenever possible. If it is not possible to use all uppercase lettering, then the initial “R” must be capitalized and the registration symbol ® must be used, e.g. Realtor®. If it is not possible to use the registration symbol ®, then the Mark must appear in all uppercase letters, e.g. REALTOR.
- The REALTOR® Marks should never appear in all lowercase letters even with the registration symbol, e.g. realtor or realtors®.
- Contextual uses of the REALTOR® Marks must include a tie back to association membership so the meaning of the Marks is clear.

NAR created the Membership Marks Manual and brief videos to assist associations and members in understanding the proper use of the REALTOR® trademarks. The Manual and videos are available at www.nar.realtor/mmm. Associations and members have permission to display the videos freely.

A Local Association’s Responsibilities

When it comes to use of the REALTOR® Marks, member associations are obligated to:

- Become familiar with the limitations, guidelines, and policies set forth in NAR’s Membership Marks Manual available at www.nar.realtor/mmm so that you can provide guidance and answers to questions from members, the media and others concerning the REALTOR® Marks and their proper use.
- Act promptly to cooperate and coordinate with NAR in any and all efforts to halt or prevent persistent, unauthorized or improper use of the REALTOR® Marks by taking appropriate steps.
- Provide educational resources and opportunities to members and the public to assist them in properly using and understanding the REALTOR® Marks.
- Review new members’ REALTOR® M1 information for misuse of the REALTOR® Marks—for example in email addresses or firm names.

Member associations may distribute or sell merchandise bearing the REALTOR® Marks only to members. If the merchandise will be potentially sold to non-members as well, then the merchandise must include the association’s name.

Unauthorized Versus Improper Use of the Membership Marks

Unauthorized uses of the Marks may be:

Unauthorized Use

- By non-members in connection with their businesses, products or services
- By members in connection with activities that do not fall within NAR’s definition of “real estate business,” which includes real estate brokerage, management, appraising and land development or building
- Examples of unauthorized uses include:
 - ▶ A non-member real estate agent using the REALTOR® marks
 - ▶ A member who sells insurance using the REALTOR® marks on his or her insurance company’s business cards and sign

Improper Use

Improper uses involve members or others who are authorized to use the REALTOR® marks but who are doing so incorrectly.

The following examples of improper use serve to illustrate the rules and requirements discussed above and to emphasize correct use of the marks by reference to some common but incorrect usages.

Never hyphenate, reconstruct, expand, combine, abbreviate or divide the REALTOR® marks. The following are examples of improper use:

- REAL-I-TOR
- REALTORrific
- Blue Ribbon Chain, R-E-A-L-T-O-R-S
- Rltr.
- REALTOR—Assistant

Never use the REALTOR® Marks or parts of them to create or construct more complex designs or new terms. The following are examples of improper use:

- BOB's REAL-TORent OF HOMES
- REALTER
- REALRITE
- REALFER

Never use descriptive words or phrases, including geographic locations, to modify the REALTOR® Marks. This is explicitly prohibited by Article V, Section 7 of the Bylaws of NAR. Adjectives may suggest an improper vocational meaning and also tend to distort the consistent understanding and image of the Marks, thereby undermining their identifying function.

The following are examples of improper use:

- Main Street's most qualified REALTOR®
- Consult a professional REALTOR®
- Doe County's leading REALTOR®
- The concerned REALTOR®
- Number one REALTOR ASSOCIATE®
- Your local REALTOR®
- Your international REALTOR®
- Commercial REALTOR®
- Chicago REALTOR®

Never use the REALTOR® Marks to differentiate among members or in a manner that creates or permits the impression that a firm is an association or subpart of the local board of REALTORS® or in a way which suggests that all REALTORS® in a geographic area are part of a single firm.

The following are examples of improper use:

- The REALTOR® with integrity
- NEW YORK, REALTORS® (as a firm name)
- Suburban, REALTORS® (as a firm name)
- Independent REALTOR®

Never use the term REALTOR® or REALTORS® in lieu of the phrase “real estate broker,” “real estate agent” or “real estate salesperson” or in groups or classes of words that describe vocations or professions.. The following are examples of improper use:

- Local lawyers, REALTORS®, insurance agents and bankers attended the meeting.
- Builders-REALTORS®-Insurers

Never use REALTOR® or REALTORS® as part of a firm name or without using punctuation to separate the individual or firm's name from the terms, even when the terms appear on a separate line. The following are examples of improper use:

- Blackacre REALTORS®, Inc.
- Cloud REALTORS® Realty
- Illinois REALTORS®, Inc.

Never use REALTOR® or REALTORS® without separating punctuation between the individual or firm's name and the Marks, even when the Marks appear on a separate line. The following are examples of improper use:

- John Jones REALTOR®
- Sally Brown and Company REALTORS®
- Green, Inc. REALTORS®
- Sarah Smith REALTOR®

Never display the REALTOR® Marks in all lowercase letters, even if using the registration symbol. The following are examples of improper use:

- realtor®
- realtor associate®
- realtor

Before contacting someone who is misusing the REALTOR® Marks, take the following steps:

- Obtain a description or copy of the alleged unauthorized use.
- Name the person or firm responsible for the use.
- Obtain the address of such person or firm.
- Identify the date of use and publication where use appeared.
- Obtain any information available about a possible relationship (ownership, partnership, etc.) between the misuse and see if a former members.
- Check to see if former member has recently become a member of another association.

Upon receipt of the above information, an association should communicate with the alleged “misuser” by taking the following steps:

- Describe the registered status and special meaning of the Mark.
- Request that the misuse be terminated promptly.
- Send a copy of all correspondence to and from the association regarding any unauthorized user with samples of the misuse to the trademark paralegal at NAR's Legal Affairs office at trademark@realtors.org.

Sample letters are available for use by associations in NAR's Membership Marks Manual located at www.nar.realtor/mmm.

Is “REALTOR®” the Right Term? Use the Member Test

Selecting the right word to convey an idea or image is an intricate part of preparing any content for publication. Not only must the nature and knowledge of the audience be taken into consideration, but often there are space or other restrictions that affect choices. Such decisions are never more important than when dealing with articles for or about real estate professionals and when deciding whether the term “REALTOR®” is appropriate in a particular context.

“REALTOR®” is a collective membership Mark owned by NAR and licensed to members of the association to use when identifying themselves as members. In content, including articles, the term should only be used contextually to describe someone as a member of the association. It should never be used to describe someone as a real estate agent or broker or to generally refer to people in the real estate industry. It should be clear from the sentence that the REALTOR® Mark is referring to membership in NAR. The Member Test can help determine whether a contextual use is proper. Replace “REALTOR®” with “member” and consider if the sentence objectively still makes sense; if not, then the use of REALTOR® is incorrect. Please keep in mind that a contextual use of REALTOR® may be incorrect even if the intention is to refer to members of NAR. Incorrect use of the REALTOR® Marks can be replaced with “member of NAR,” “real estate agent,” “real estate broker” or “real estate professional.” More information and examples of the Member Test are available in the Membership Marks Manual (www.nar.realtor/mmm).

Why is it important to distinguish between members and non-members? First, because the term REALTOR® has only one meaning: a real estate professional who is a member of NAR and subscribes to its strict Code of Ethics. The REALTOR® Marks are a universal method that NAR members have to distinguish themselves from all others in the real estate profession. Every time a member uses the term “REALTOR®” incorrectly and allows the public to think that the term describes anyone with a job in the real estate business, he or she demonstrates indifference to its value and diminishes the ability of the term to distinguish members from nonmembers.

On the other hand, each time the term is used correctly, the exact opposite occurs; the value of the term “REALTOR®” is increased not only for that user, but also for every other member, and the understanding of the term “REALTOR®” by the public is enhanced.

Online Use of REALTOR® Marks

The same rules that apply to offline uses of the REALTOR® Marks also apply to online uses, including in domain names, usernames and email addresses. As a reminder, they are:

- The term “REALTOR®,” whether used as part of a domain name or in some other fashion, must be used with the name of a member or a member's firm
- The term “REALTOR®” may not be used with descriptive words or phrases

There are two rule exceptions for use of the REALTOR® Marks in domain names, email addresses and usernames. First, the REALTOR® Marks do not need to appear in uppercase letters with the registration symbol. Second, the REALTOR® Marks do not need to be separated by punctuation from members' names and business names.

Examples of correct use of member John Doe:

- Johndoe-realtor.com and johndoerealtor.com are correct uses of the term as a part of domain names
- johndoerealtor is a correct use of the term as a username; and
- jdoe-realtor@webnetservices.com and jdoerealtor@webnetservices.com are both correct uses of the term as part of an email address

Examples of incorrect uses for member John Doe:

- Number1realtor.com
- numberone-realtor.com
- chicagorealtors.org
- realtorproperties.com
- yourtoprealtor

- miamirealtor
- JohnSmithYourAnytownRealtor.com
- toprealtor@cloudrealty.com
- chicagorealtorjohndoe@gmail.com

The REALTOR® “Block R” logo should not be used as a link on a website because such links suggest an endorsement or recommendation of the linked website by an association. The only exception would be to establish a link to NAR’s website *www.nar.realtor*.

Whether using traditional print media or the Internet, it is essential to use the REALTOR® Marks in accordance with the rules and guidelines of NAR. The REALTOR® Marks should only be used to denote membership in NAR.

The REALTOR® Logo

The REALTOR® “Block R” logo is comprised of three elements:

- the block
- the “R” inside the block; and
- the term “REALTOR®” below the block (called the identifier)

Like the trademarks “REALTOR®,” “REALTORS®,” and “REALTOR ASSOCIATE®,” the REALTOR® Block “R” logo is registered with the USPTO as a membership mark for members to use in connection with their name and the name of their real estate business to indicate membership in NAR.

NAR has also adopted specific rules for use of the Block “R” logo to ensure it is easily identifiable. Those rules require that the logo always have the same overall appearance. The logo as a whole can be of almost any size, but the elements of the logo must always have the same appearance and proportions to each other.

The block should always have the appropriate dimensions, and the “R” must always be the same shape. The identifier must always be the same typeface. This contrasts with the terms “REALTOR®,” “REALTORS®,” and “REALTOR ASSOCIATE®,” commonly used by members in many different typefaces.

To further protect the image of the logo and its clarity in the minds of consumers and other real estate business-people, the rules also require an “area of isolation” around the logo equal to one-half of the logo’s width. This area of isolation is a space within which no competing image or text may enter. Also, the logo may not be made a part of any larger design, except with the express advance approval of NAR, and nothing whatsoever should be placed within the area of isolation.

To assist in assuring a consistent visual image for the Block “R” logo, the use of colors is also restricted. The block must always be a solid color that contrasts sharply with the stylized “R”. The stylized “R” must be the same color as the background on which the logo appears. There is only one exception to these color rules for the logo: if the stylized “R” appears in the color REALTOR® gold, then the rectangular block must appear in REALTOR® blue (or red for commercial purposes), regardless of the background.

Design marks such as the Block “R” logo gain strength from their uniformity. As the public begins to recognize a design as the identifier for a particular group or company, the value of the mark as a consistent means of identification grows. Variations on that uniformity correspondingly weaken the value of the logo. For that reason, it is very important that members periodically check their advertisements to make sure the Block “R” logo is properly displayed. Members must download the logo from *www.nar.realtor*. Never try to or allow anyone to recreate the logo.

NATIONAL ASSOCIATION OF REALTORS® LOGOS

NAR owns numerous marks in addition to the REALTOR® Marks, including its name and parent brand the National Association of REALTORS® and the NAR logo. NAR may utilize the NAR logo to identify that the product, program and/or service is from NAR when communicating with members and the REALTOR® family. NAR also uses a handful of sub-brands (such as REALTOR Benefits® Program) and co-brands (for NAR designations and certifications and specific events), including logos, when communicating with members.

These brands and logos function to position NAR and state and local associations as indispensable organizations for real estate practitioners, and to develop unmistakable recognition of NAR’s products, programs and services within the industry, worldwide.

The need to assure a single, clear message for these brands and logos requires NAR to exercise careful management of their use. In general, NAR is the only entity authorized to develop and use these brands and logos, including, without limitation, the NAR logo. Some exceptions may apply, but they will be assessed on a case-by-case basis. One example of an exception includes state and local associations who partner with NAR in the REALTOR Benefits® Program. In these instances, NAR's Strategic Alliance Team provides approved, properly formatted, electronic logo files and instructions covering their use to the associations involved. These files may not be altered without advance permission from NAR.

SOURCES

- Antitrust Compliance Guide for Association and Board Leadership, NAR Product # 126-1094 (1/15)
<https://store.realtor/antitrust-and-real-estate-compliance-guide-for-association-and-board-leadership-download/>
- *Americans with Disabilities Act*
<https://www.nar.realtor/complying-with-the-americans-with-disabilities-act-ada>
- National Association's Professional Liability Insurance Policy (Log-in required)
<https://www.nar.realtor/legal/nar-insurance-program/current-insurance-policy>
- U.S. Copyright Office website
<https://www.copyright.gov/>
- Americans with Disabilities Act, ADA Title III Technical Assistance Manual <http://www.usdoj.gov/crt/ada/taman3.html#III-7.2000>]
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2.3

Membership Policies and Procedures

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INTRODUCTION

AEs need to have a solid understanding of membership policies and procedures in order to meet the criteria established by the NAR. This is essential for answering questions from volunteer leaders, current and prospective members, and association staff involved with membership recruiting, orientation and retention.

Members and prospects must meet certain criteria to join a state or local association. Those requirements differ depending on the individual's license, position and relationship to the real estate sector. AEs must be able to navigate sometimes complicated issues involving the rights of members, and enforce member accountability, including suspending or expelling members for serious violations of membership policies and procedures.

NAR has established standards for state and local real estate boards that provide for consistent approach to a number of issues related to membership and member services. The individual membership application processes of each real estate association or board is based on the criteria followed by NAR. This chapter covers NAR's Membership Qualification Criteria, recommended application procedures and membership requirements.

NAR MEMBERSHIP POLICY OVERVIEW

Federal and state laws recognize the right of a business, trade or professional association to promote and elevate the professionalism, standards of conduct and type of service provided by its members to the public (clients and customers). Further, the the law generally recognizes the right of an association to limit its rights, benefits, privileges and services to its membership, so long as membership is available on reasonable and nondiscriminatory terms and conditions.

However, a business or trade association that does not provide membership access on reasonable and nondiscriminatory terms is vulnerable to a lawsuit by those persons excluded arbitrarily and unreasonably from membership or arbitrarily and unreasonably expelled from membership in the association. In a lawsuit, access may be granted, and damages may be awarded for injury suffered for any period of time during which services are denied.

Membership Descriptions

Membership in NAR is defined and described in Article III of the Constitution of NAR. Membership consists of eight classes:

- Member boards
- Board members
- National affiliate members
- International members
- Affiliated institutes, societies and councils
- Distinguished service award recipients
- Students
- Academics

For fuller definition and description of membership, refer to Article III and its sections in their entirety and current provisions, as may be amended from time to time.

How NAR Establishes Membership Policy

Membership policy of a business, trade or professional association is created by its governing documents, by interpretations of the governing documents of the association, and by resolutions or statements of policy adopted from time to time. These policies may be recommended or required of association members.

Membership policy of NAR is established by:

- The Constitution and Bylaws of NAR
- Official Interpretations of Article I, Section 2, Bylaws of NAR
- The Code of Ethics and its Interpretations
- Policies approved and adopted, from time to time, by the Board of Directors of the association, such as multiple listing policy and the Membership Qualification Criteria of NAR

The criterion by which NAR is guided when adopting rules and regulations applicable to member associations is to limit such rules and regulations to those issues of common concern to the REALTOR® organization as a whole. Issues of local impact are left for local resolution.

Membership Policy and Board Jurisdiction Committee

Questions of appropriate membership policy that do not appear to have clear and definitive answers in NAR's Constitution, Bylaws or policies approved by the board of directors are referred to the Membership Policy and Board Jurisdiction Committee. A final determination regarding a policy is made by the board of directors.

The purpose of the Membership Policy and Board Jurisdiction Committee is to:

- Develop and recommend membership policies that affect members, local associations and state associations consistent with the Constitution and Bylaws of NAR
- Direct the implementation of membership policy.
- Upon request, interpret membership policy as approved by the Board of Directors
- Monitor and evaluate existing membership policies and recommend modifications thereof

The committee also considers jurisdictional issues, including:

- Applications for new member associations
- Disputes between member associations concerning their jurisdiction or name

Additionally, the committee considers fundamental organizational and structural issues affecting the association.

Availability of Membership on Reasonable and Nondiscriminatory Terms

Membership in a local association of REALTORS® must be available on reasonable and nondiscriminatory terms. Member associations of REALTORS® may have no qualification of membership more rigorous than the Membership Qualification Criteria of NAR for applicants.

These criteria must be applied equally and without discrimination to applicants for membership and current members of the association. When a member fails to maintain the qualifications of membership established in an association's bylaws, the association may reconsider the individual's membership status to determine if the individual is eligible for another category of membership or whether that individual no longer qualifies for any category of membership in the association.

Voluntary Nature of Membership

Membership in an association of REALTORS® is voluntary. No individual is required to seek and maintain membership in an association of REALTORS®, and with one notable exception, all aspects of membership in an association of REALTORS® are completely voluntary. The one exception is stipulated in the Constitution of NAR, which states that, “. . . Each principal, partner, or corporate officer actively engaged in the real estate business within its state shall be required to become REALTOR® Members if any other principal of such firm, partnership, or corporation is a REALTOR® Member.”

The rationale of the single mandatory aspect of association membership is to ensure a complete commitment on the part of all principals (as described above) of any firm to the Code of Ethics of NAR, and to the constitution and bylaws and rules and regulations of the local association, state association and NAR. With respect to this complete commitment, it is contemplated that a firm, partnership or corporation comprised of REALTOR® principals shall fully honor and abide by the same rights and obligations,

Local and State Bylaws

The bylaws of a local or state association of REALTORS® determine the categories of membership. Associations must make REALTOR® membership available to the following groups:

- Principals, partners and corporate officers of real estate firms actively engaged in the real estate business within the state or a contiguous state.
- Real estate salespersons, brokers and licensed or certified appraisers employed by or affiliated as independent contractors with REALTOR® members of the association or, alternatively, make a category of REALTOR ASSOCIATE® membership available to them.

REALTOR® and REALTOR ASSOCIATE® members, in good standing in a local board of REALTORS®, are automatically deemed to be REALTOR® and REALTOR ASSOCIATE® members, respectively, in good standing with the state and national associations.

Institute Affiliate membership must also be made available to individuals who hold a professional designation awarded by an institute, society or council affiliated with NAR that addresses a specialty area other than residential brokerage, and individuals who hold a class of membership in an institute, society or council that confers the right to hold office.

Other categories of membership in a local board may include:

- Affiliate members
- Public service members
- Honorary members
- Student members

The preceding categories of membership are identified and described in the *Model Bylaws for Local Member Boards* of NAR. However, associations may offer other categories of membership that are consistent with the membership policies of NAR.

Membership Qualification Criteria for REALTOR® Applicants Who Are Principals

The following Membership Qualification Criteria have been developed by the Membership Policy and Board Jurisdiction Committee of NAR to provide “reasonable and nondiscriminatory written requirements for membership.” These Membership Qualification Criteria are the most rigorous qualifications that an association of REALTORS® may require of REALTOR® applicants who are principals in a real estate firm. The term “principal,” as used in the NAR Constitution and Bylaws and in this Membership Qualification Criteria policy, includes licensed or certified individuals who are sole proprietors, partners in a partnership, officers or majority shareholders of a corporation, and office managers (including branch office managers) acting on behalf of principals of a real estate firm.

Associations may elect to adopt all, some or none of the criteria. All membership qualification criteria adopted by an association must be set forth in its bylaws.

An association may adopt and may require a REALTOR® applicant to provide satisfactory evidence of the following Membership Qualification Criteria:

1. An applicant must hold a valid real estate license and must be engaged with a real estate firm located within the state where the association is located or a contiguous state.
 - Explanation: Holding “a valid real estate license” means REALTOR® applicants who are principals in a real estate firm must have and maintain a current, valid license or certification to conduct real estate brokerage or appraisal of real property from an appropriate state regulatory agency.
2. An applicant must be actively engaged in the real estate business and its recognized fields.

- Explanation: Being “actively engaged” in the real estate business means that on a continual and ongoing basis, the licensed or certified applicant is affiliated with a real estate firm and holds themselves out to the public as an individual seeking to service and servicing real estate business. Being actively engaged in the real estate business and shall actively seek and service real estate business. It does not contemplate that applicants must devote all or even a majority of their time to the real estate business or derive any particular percentage of their income from such business. In addition, it does not contemplate that applicants shall have no other job or occupation.
 - Where question arises as to whether or not applicants are “actively engaged” in the real estate business, they shall be given the opportunity to present evidence related to the actual and intended scope of their business activities.
3. An applicant must have a place of business within the state or a state contiguous thereto.
 4. An applicant must have no record of civil judgments imposed within the past seven years involving judgments of civil rights laws, real estate license laws or other laws prohibiting unprofessional conduct rendered by the courts or other lawful authorities.
 5. An applicant who has a record of criminal conviction(s) within the past seven years involving a crime that reasonably relates to the real estate business or puts clients, customers, or other real estate professionals at risk, must provide, and the association must consider, mitigating factors relating to that criminal history.
 - Explanation: Associations have an interest in ensuring that REALTORS® will protect the interests, property and funds of their clients and that a REALTOR®’s actions will not discredit the REALTOR® organization or the real estate profession. The U.S. Department of Housing and Urban Development issued its “Guidance on Application of the Fair Housing Act Standards to Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions,” which cautions housing providers to be mindful of using criminal histories in making housing-related decisions may result in a disparate impact on a protected class in violation of the Fair Housing Act. Because the Fair Housing Act extends its protections to individuals seeking membership in a real estate organization, an associations should also carefully consider how it uses criminal history as a basis to deny an individual membership in the association.
- A crime that “reasonably relates to the real estate business” includes those affecting the applicant’s ability to fulfill the responsibilities and obligations of a real estate professional and uphold the REALTOR® Code of Ethics. A crime that reasonably “puts clients, customers or other real estate professionals at risk” includes those involving dishonest, deceptive or violent acts.
 - Applicants must be given the opportunity to provide mitigating factors, and the association must take into consideration such factors, related to the applicant’s criminal history, including but not limited to the: (a) applicant’s age at the time of the conviction(s); (b) nature and seriousness of the crime; (c) extent and nature of past criminal activity; (d) time elapsed since criminal activity was engaged in; (e) rehabilitative efforts undertaken by the applicant since the conviction(s); (f) facts and circumstances surrounding the conviction(s); and (g) evidence of current fitness to practice real estate.
 - Associations should be sure to apply the membership criteria to all applicants uniformly and avoid making exceptions for one applicant while denying an exception to another applicant with a similar criminal history.
6. An applicant must provide information and an association may consider any information related to the following:
 - ▶ *All final findings of Code of Ethics violations and violations of other membership duties in any other association within the past three years*
 - ▶ *Pending ethics complaints (or hearings)*
 - ▶ *Unsatisfied discipline pending*
 - ▶ *Pending arbitration requests (or hearings)*
 - ▶ *Unpaid arbitration awards or unpaid financial obligations to any other association or association MLS*
 - ▶ *Any misuse of the term REALTOR® or REALTORS® by the applicant or in the name of the applicant’s firm*
 - Explanation: Article IV, Section 2, of the NAR Bylaws prohibits member associations from knowingly granting REALTOR® or REALTOR ASSOCIATE® membership to any applicant who has an unfulfilled sanction pending which was imposed by another association of REALTORS® for violation of the Code of Ethics. An applicant who has an ethics complaint or arbitration request or an unfilled sanction that does not pertain to a violation of the Code of Ethics that is pending at another association of REALTORS® may be granted “provisional” membership provided all other qualifications for membership have been satisfied.

- Associations may reconsider the membership status of such individuals when all pending ethics and arbitration matters (and related discipline) have been resolved or within six months from the date that provisional membership is approved if such matters have not been resolved. Provisional members shall be considered REALTORS® and shall be subject to all of the same privileges and obligations of REALTOR® membership.
7. An applicant and the real estate firm in which the applicant is a principal must not be named as a debtor in any bankruptcy judgements or pending bankruptcy proceeding within three years of the date of the application for membership.
 - Qualification: If the applicant or the applicant's real estate firm is named as a debtor in such bankruptcy proceeding, membership may not be denied unless the board establishes that its interests and those of its members and the public could not be adequately protected by requiring that the applicant pay cash in advance for association dues and MLS fees for up to one year from the date that membership is approved. In the event that an existing member initiates bankruptcy proceedings, the member may be placed on a "cash basis" from the date that bankruptcy is initiated until one year from the date that the member has been discharged from bankruptcy.
 8. An applicant must complete the association's orientation course.
 - Qualification: It is presumed that the orientation course to be completed as a prerequisite for membership is confined to the subjects of the constitution, bylaws, policies, rules and regulations of the local board, state association and NAR as well as the Code of Ethics of NAR. It is not contemplated that completion of the orientation course covering topics included in the licensing examination will be required for qualification.
 9. An applicant must agree to continuously abide by NAR's Code of Ethics.
 10. An applicant must agree to abide by the constitution, bylaws, policy, and rules and regulations of the local board, state association and NAR.
 - Explanation: By such agreement in the application, applicants assume a continuing membership obligation.

Important Note to Member Boards

When a board declines to accept an applicant on the basis of failure to satisfy Membership Qualification Criteria 1, 4, 5 or 7, it is recommended that the association seek a declaratory judgment in the civil courts affirming its decision. An association's local legal counsel should advise as to the proper form and procedures in seeking a declaratory judgment. To assist the association's local legal counsel, there is a sample form included in the *Code of Ethics and Arbitration Manual*.

Membership Qualification Criteria for REALTOR® and REALTOR ASSOCIATE® Applicants Who Are Non-Principals

The following Membership Qualification Criteria have been developed by the Membership Policy and Board Jurisdiction Committee of NAR to provide "reasonable and nondiscriminatory written requirements for membership." These Membership Qualification Criteria are the most rigorous qualifications that an association of REALTORS® may require of REALTOR® applicants. The term "non-principal," as used in this Membership Qualification Criteria policy, includes individuals who are engaged in the real estate profession other than as sole proprietors, partners, corporate officers or branch office managers and are associated with a REALTOR® member.

Associations may elect to adopt all, some or none of the criteria. All membership qualification criteria adopted by an association must be set forth in its bylaws.

An association may adopt and may require a REALTOR® applicant to provide satisfactory evidence of the following Membership Qualification Criteria:

1. An applicant must hold a valid real estate license and must be engaged with a real estate firm located within the state where the association is located or a contiguous state.
 - Explanation: Holding "a valid real estate license" means applicants who are non-principals in a real estate firm must have and maintain a current, valid license or certification to conduct real estate brokerage or appraisal of real property from an appropriate state regulatory agency.
2. An applicant must be employed by or affiliated with a REALTOR® as an independent contractor.
 - Explanation: The basic qualification is employment or affiliation with a REALTOR®. The qualification is met by individuals regardless of whether they operate out of the principal office of the REALTOR® or a branch office.

3. An applicant must have no record of civil judgments imposed within the past seven years involving judgments of civil rights laws, real estate license laws or other laws prohibiting unprofessional conduct rendered by the course or other lawful authorities.
4. An applicant who has a record of criminal conviction(s) within the past seven years involving a crime that reasonably relates to the real estate business or puts clients, customers or other real estate professionals at risk, must provide, and the association, must consider mitigating factors relating to that criminal history.
 - Explanation: Associations have an interest in ensuring that REALTORS® will protect the interests, property and funds of their clients and that a REALTOR®'s actions will not discredit the REALTOR® organization or the real estate profession. The U.S. Department of Housing and Urban Development issued its "Guidance on Application of the Fair Housing Act Standards to Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions," which cautions housing providers to be mindful of using criminal histories in making housing-related decisions may result in a disparate impact on a protected class in violation of the Fair Housing Act. Because the Fair Housing Act extends its protections to individuals seeking membership in a real estate organization, an associations should also carefully consider how it uses criminal history as a basis to deny an individual membership in the association.
 - A crime that "reasonably relates to the real estate business" includes those affecting the applicant's ability to fulfill the responsibilities and obligations of a real estate professional and uphold the REALTOR® Code of Ethics. A crime that reasonably "puts clients, customers, or other real estate professionals at risk" includes those involving dishonest, deceptive or violent acts.
 - Applicants must be given the opportunity to provide mitigating factors, and the association must take into consideration such factors, related to the applicant's criminal history, including but not limited to the: (a) applicant's age at the time of the conviction(s); (b) nature and seriousness of the crime; (c) extent and nature of past criminal activity; (d) time elapsed since criminal activity was engaged in; (e) rehabilitative efforts undertaken by the applicant since the conviction(s); (f) facts and circumstances surrounding the conviction(s); and (g) evidence of current fitness to practice real estate.
 - Associations should be sure to apply the membership criteria to all applicants uniformly and avoid making exceptions for one applicant while denying an exception to another applicant with a similar criminal history.
5. An applicant must make written application for REALTOR® or REALTOR ASSOCIATE® membership in the board.
 - This must be a voluntary act by applicants and cannot be a requirement of the board.
 - Explanation: The board may not require that salespersons affiliated with a REALTOR® be members of the board. Neither can the board require that the REALTOR® have such a requirement.
6. An applicant must provide information, and an association may consider any information related to the following:
 - ▶ *All final findings of Code of Ethics violations and violations of other membership duties in any other association within the past three years*
 - ▶ *Pending ethics complaints (or hearings)*
 - ▶ *Unsatisfied discipline pending*
 - ▶ *Pending arbitration requests (or hearings)*
 - ▶ *Unpaid arbitration awards or unpaid financial obligations to any other association or association MLS*
 - ▶ *Any misuse of the term REALTOR® or REALTORS® by the applicant or in the name of the applicant's firm*
 - Explanation: Article IV, Section 2, of the NAR Bylaws prohibits member associations from knowingly granting REALTOR® or REALTOR ASSOCIATE® membership to any applicant who has an unfulfilled sanction pending which was imposed by another association of REALTORS® for violation of the Code of Ethics. An applicant who has an ethics complaint or arbitration request or an unfilled sanction that does not pertain to a violation of the Code of Ethics that is pending at another association of REALTORS® may be granted "provisional" membership provided all other qualifications for membership have been satisfied.
 - Associations may reconsider the membership status of such individuals when all pending ethics and arbitration matters (and related discipline) have been resolved or within six months from the date that provisional membership is approved if such matters have not been resolved. Provisional members shall be considered REALTORS® and shall be subject to all of the same privileges and obligations of REALTOR® membership.
7. An applicant must agree to continuously abide by the NAR Code of Ethics.
8. An applicant must agree to abide by the constitution, bylaws, policy, and rules and regulations of the local board, state association, and NAR.

- Explanation: By such agreement in the application, applicants assume a continuing membership obligation.
9. An applicant must complete the association's orientation course.
- Qualification: It is presumed that the orientation course to be completed as a prerequisite for membership is confined to the subjects of the constitution, bylaws, policies, rules and regulations of the local board, state association and NAR, as well as the Code of Ethics of NAR. It is not contemplated that completion of the orientation course covering topics included in the licensing examination will be required for qualification.
10. An applicant must submit an application for membership that is "acknowledged" by a REALTOR® Principal.

Important Note to Member Boards:

When a board declines to accept an applicant on the basis of failure to satisfy Membership Qualification Criteria 1, 4, 5 or 7, it is recommended that the association seek a declaratory judgment in the civil courts affirming its decision. An association's local legal counsel should advise as to the proper form and procedures in seeking a declaratory judgment. To assist the association's local legal counsel, there is a sample form included in the *Code of Ethics and Arbitration Manual*.

Note: The *Membership Qualification Criteria* reprinted above is available at: <https://www.nar.realtor/search-results?qu=membership%20qualification%20criteria>

NAR offers model governing documents for associations to use as a basis for their own governing documents, and Article V, Sections 1, 2, and 3 provide model language related to membership policies and procedures.

Content Reference for REALTOR® Association Membership Requirements*

BROKER/OWNER	SALESPERSON
Valid License	Valid License
Place of business	Affiliation with/employed by a REALTOR® as an independent contractor
Unprofessional Conduct	Unprofessional Conduct
Membership File	Membership File
Orientation Course completion	Orientation Course completion
Signify intent to abide by governing documents of local, state, NAR	Signify intent to abide by governing documents of local, state, NAR
Intent to abide by Code of Ethics	Intent to abide by Code of Ethics
Bankruptcy	Written membership application
	May require acknowledgment of application by broker or other company officer

*Note: This table intended for illustration only. Refer to actual content for complete understanding.

APPLICATION PROCEDURES AND NEW MEMBER ACTIVATION

Use NAR's Membership Qualification Criteria, along with the association's Bylaws, as the basis for processing new member applications.

The following are suggested guidelines for developing a membership application process:

- Keep a short timeline when processing membership applications. Six months from application to approval is the outside limit. Applicants deserve prompt consideration.
- Make sure an applicant has full disclosure about the membership approval process, including fees and deadlines.
- Assist the member in completing the form when appropriate.

- Advise the applicant of his or her membership approval.
- Keep good records of the application process as associations can be subjects of legal scrutiny.
- Any membership questions should be directed to your state association.

New Member Orientation

If an association's bylaws provide for the completion of an orientation course as a condition of membership, the association should conduct orientation programs on a frequent enough basis to ensure timely processing of applications. If the association has adopted a provisional membership, orientation typically must be completed within a specified time frame after membership has been granted, as established in that association's bylaws.

Membership Requirements

Code of Ethics Training

Once a professional becomes a member, he or she must complete mandatory training to maintain membership. Every REALTOR® is required to complete 2.5 hours of NAR Code of Ethics training every three years. REALTORS® who have completed this training as a requirement of membership at another association or who have completed the New Member Code of Ethics Orientation during any three-year cycle are not required to complete additional ethics training until a new cycle begins.

More detailed information about the Code of Ethics training is available online at: <http://www.nar.realtor/code-of-ethics/code-of-ethics-training-home>.

INSTITUTE AFFILIATE MEMBERSHIP (REQUIRED)

Every association must have a category of Institute Affiliate membership. NAR policy defines this category as membership offered to those who hold designations in a specialty area other than residential brokerage, specifically:

- CCIM Institute (CCIM)
- Counselors of Real Estate (CRE)
- Institute of Real Estate Management (IREM)
- Real Estate Business Institute (REBI)
- REALTORS® Land Institute (RLI)
- Residential Real Estate Council (RRC)
- Society of Industrial and Office REALTORS® (SIOR)
- Women's Council of REALTORS® (WCR)

The NAR Constitution and Bylaws require membership in a local association as a prerequisite for maintaining the designations, and the Institute Affiliate membership category was designed to offer an alternative to the REALTOR® category of membership.

Certain restrictions and obligations apply to Institute Affiliate Members:

- Institute Affiliates may not use the term "REALTOR®" or display the REALTOR® logo.
- They may not hold the office of board president.
- They may not be a participant in the board's MLS.
- Institute affiliate dues are established by the NAR Bylaws. Local boards may not establish additional entrance fees or dues.
- Local boards may, however, develop membership service packages to which institute affiliates may voluntarily subscribe for additional fees.
- Institute affiliate dues are paid directly to the appropriate institute, society or council. A portion of the dues will be credited to the account of the local association or commercial overlay board and to the state association in which the institute affiliate's office is located. Specific amounts are outlined in the NAR Constitution and Bylaws.

AFFILIATE MEMBERSHIP (OPTIONAL)

NAR policy defines Affiliate Members as "real estate owners and other individuals or firms who, while not engaged in the real estate profession... have interests requiring information concerning real estate and are in sympathy with the objectives of the Board." Associations may, at their discretion, expand the affiliate category to include licensed or certified individuals exclusively engaged in a specialty of the real estate business other than brokerage.

Dues for affiliate members are set and collected by local associations. Membership in the state association is governed by the state association's bylaws or policies. There is no general category of affiliate membership in NAR. Local boards may also determine the membership responsibilities and the programs available for this class of members.

AEs are actively reaching out to professionals in allied industries such as mortgage banking and home inspection to reap these rewards:

- Increased revenue from dues and advertising opportunities
- Larger pool of volunteers
- Valuable networking opportunities

- Discounts on services and products for the association and its members
- A large and active grassroots base for legislative activities

For more on recruiting affiliate members, see the Member Development chapter.

THE REALTOR® DUES FORMULA

REALTOR® and REALTOR ASSOCIATE® members do not pay membership dues directly to NAR. Instead, they are deemed members of NAR when the local association or state association has paid its current dues and certified such individuals as members in good standing in the local association or state association.

An initiation fee, if any, charged by an association must not constitute an unreasonable barrier to membership of a person otherwise qualified, nor should an association seek to finance its activities and operations from initiation fees. Therefore, NAR deems any initiation fee in excess of three times the amount of the annual rate of dues as inequitable.

Because participation in an association multiple listing service (MLS) is not mandatory, an association's initiation fee for membership, if any, must be separate from any participation fee that may be charged for the MLS.

Associations adopt and use the designated REALTOR® dues formula established in the mandatory dues provision of the bylaw certification form, because this is the formula used by NAR to assess dues of member associations.

A More Detailed Explanation

NAR requires every real estate firm to designate in writing one principal REALTOR® member who shall be responsible for all duties and obligations of membership, including payment of association dues. Under NAR policy, a "principal" includes sole proprietors, partners in partnerships, officers and majority shareholders in corporations and office and branch managers acting on behalf of a principal(s).

The local association's dues obligation to NAR is calculated using the Designated REALTOR® (DR) dues formula. The DR dues formula computes dues based on the size of a REALTORS® firm (i.e., the number of individuals licensed with the DR) to ensure dues are proportional to the benefits and services received by a firm for the DR's REALTOR® membership.

Under the dues formula, the DR pays a total dues obligation based on number of licensees in the firm but gets a credit against the amount due for each individual licensee who chooses to individually hold REALTOR® membership. The licensees that choose to hold REALTOR® membership pay their dues individually to the association.

The one exception to the DR dues formula is the Limited Function Referral Office (LFRO) policy. The LFRO policy provides a waiver of dues for licensees in a referral-only company owned by the DR or one of a firm's principals that is solely engaged in referring clients to the DR's brokerage company and is not engaged in listing, selling, leasing, managing or appraising real property. (Please note an additional limited exception to the DR dues formula exists in California.)

In order for the association to accurately bill DRs, DRs should complete an association-provided form listing all of the individuals licensed with the firm, what the licensee's primary association is (if any) and if no association is listed, what association the DR pays the non-member licensee fees in. DRs should complete a similar form for licensees affiliated with the LFRO. DRs must update the association if there are any changes to the non-member licensees affiliated with the brokerage or if there are any changes to the licensees affiliated with the LFRO. The association should include a provision in its policy manual or bylaws requiring completion of these forms in order to enforce completion of these forms as a membership duty.

Local associations collect local, state and national dues, remitting the state and national portions. The national portion of dues are due January 1 each year. Associations have discretion to determine the annual billing cycle that works best for them.

The national portion of a new member's dues are prorated throughout the calendar year, unless the new member held membership in the prior calendar year. The national portion of the non-member licensee fee is not prorated for any individual that affiliates with a firm. Local and state associations have discretion to determine what proration policy (if any) works best for them.

If a non-member licensee leaves the DR's firm and a new non-member licensee affiliates with the firm, the association should not assess an additional non-member licensee fee to the DR, the association should only assess an additional non-member licensee fee if there is an increase in the total number of non-member licensees.

The association's policy manual or bylaws should include provisions specifying the procedure for terminating membership as a result of failure to pay dues. The association has discretion to adopt the procedure that works best for them (including immediate termination if dues are not paid within a specified time). If a licensee who holds REALTOR® membership is dropped for nonpayment of association dues and the individual remains with the DR's firm, the dues obligation of the DR will be increased to reflect the addition of a non-member licensee.

If the DR's REALTOR® membership is dropped for nonpayment of association dues, all non-principal REALTORS® affiliated with the DR will lose their membership unless they affiliate with a new DR.

Finally, state and local associations should:

- Review the association's policy manual or bylaws to ensure there is a certification requirement for the DR to report the licensees affiliated with them.
- Review the association's policy manual or bylaws to ensure the billing cycle and process for terminating membership following non-payment of dues accurately reflect the association's process.

DENIAL OF MEMBERSHIP, SUSPENSION, EXPULSION

A real estate association is a membership association or corporation. It is also a business or trade association. It is an association organized for the purpose of improving the business in which its members engage through education, cooperation and exchange of information, and by the establishment and enforcement of ethical standards of practice for the benefit of the public.

In view of this, membership becomes a valuable right and can only be denied, revoked or modified for good cause and only under circumstances that allow due process. An association of business competitors must admit to membership all qualified applicants.

If an applicant is excluded from membership, the grounds upon which he or she is not accepted should be clear, not speculative. No one should be excluded from membership because of a vigorously competitive manner of conducting business. There can be no arbitrary restrictions on membership, not only because of Article 1, Section 2 of NAR's Bylaws, but also because of cogent legal reasons.

Qualifications should be limited to those directly relevant to the legitimate interest of a board. Permissible, valid criteria for REALTOR® and REALTOR ASSOCIATE® membership in a board of REALTORS® is set forth in NAR's Membership Qualification Criteria.

Whenever an application for membership is denied, the body acting on the application should maintain a full record of proceedings, sufficiently detailed to demonstrate, should the occasion arise, the specific basis or bases of disqualification.

Suspension of Membership

"Suspension of membership" means suspension of all association-provided membership rights, privileges and services (including those provided by the state and NAR) not available to non-members for a period not less than 30 days and not longer than one year on terms and conditions expressly stated for an established period of time, including use of the terms REALTOR® and REALTOR ASSOCIATE®, with automatic reinstatement of all withdrawn membership rights and privileges and services at the end of the period of suspension. The 30-day minimum and one-year maximum do not apply where suspension is imposed for a remediable violation of a membership duty (e.g., failure to pay dues or fees or failure to complete educational requirements).

Although membership rights, privileges and services are withdrawn as specified in the notice of suspension, membership, *per se*, continues and the suspended member remains obligated to pay membership dues and to abide by the Code of Ethics during the period of suspension. The suspended member shall not be obligated for payment of other fees or charges except for continued optional services of the board.

Any failure to abide by the terms and conditions of the suspension or by the finding of a violation of the Code of Ethics after a hearing as provided by the professional standards procedures in the board bylaws shall be grounds for consideration as to possible extension of the suspension or expulsion from membership. (Revised 05/04)

If one principal of a firm, partnership, corporation or branch office is suspended or expelled from membership, but the other principals are members in good standing, the firm, partnership, corporation or branch office may continue to use the term REALTOR® or REALTORS® in conjunction with its business if the expelled member severs his or her relationship with the firm, partnership, corporation or branch office.

Expulsion from Membership

Expulsion from membership, as defined in the *Code of Ethics and Arbitration Manual* of the NAR, means expulsion from membership in the board for a period not less than one, but not more than three years, with reinstatement to membership by application only as a new member after the end of the period of expulsion with the application for membership considered on its merits.

Because expulsion of a member may be subject to judicial review, the legal requirements of due process must be followed in any such proceeding. The fundamental elements of due process are:

- Notice
- Hearing
- An opportunity to defend before an impartial body

When an association contemplates denial of membership or expulsion of a member and has reason to believe the individual may resort to litigation, the association should, with guidance of legal counsel, consider seeking declaratory judgment in the appropriate court of the state where the association is located.

MLS PARTICIPATION AND ASSOCIATION MEMBERSHIP

It is reasonable that if a business, trade or professional association makes membership available to all eligible and qualified individuals on reasonable and nondiscriminatory terms and conditions, the rights, benefits, privileges and services can be limited to only members of the association.

Conversely, non-members should not be able to “pick and choose” the rights, benefits, privileges or services available to members, such as the MLS of an association of REALTORS®. To have a sound legal basis for asserting and defending this principle, a local association must have “open doors” of membership on “reasonable and nondiscriminatory” terms. This can be assured by employing the following safeguards.

- Impose no membership qualification requirements more rigorous than the Membership Qualification Criteria of NAR members and REALTOR ASSOCIATE® members, respectively.
- Have no membership policies that are inconsistent with or in violation of the official interpretations of Article 1, Section 2 of the Bylaws of NAR in place.

- Ensure due process in any and all considerations of membership matters, especially with respect to denial, suspension or expulsion from membership. Such denial, suspension or expulsion should only be done with consultation and advice of legal counsel. In each such case, the possible use of a petition for declaratory relief (or similar legal procedure in a state not having declaratory relief procedures) should be considered to confirm the propriety of the association’s actions and to minimize any legal liability that might accrue to the association and its members from such denial, suspension or expulsion.
- Seek information and assistance from the state association and NAR about unusual or difficult matters relative to membership.

If all of the safeguard procedures described above are in place, an association should have a solid and defensible basis for asserting and defending its right to require membership as a reasonable prerequisite to participation in the association’s MLS. However, even if it follows the safeguard practices, an association may encounter an individual or individuals who demand access to the MLS without membership. If this occurs, the association’s leadership should request advice from the state and national associations and its legal counsel.

Procedures to Follow in States Other than California, Florida, Georgia, and Alabama, Upon Demand for MLS Access by Non-Members

If a member association is faced with a demand for MLS participation without membership, the state association and the Member Policy Team of NAR should be notified promptly of such demand and be informed of the details surrounding the matter. Further, upon notification and request, the Member Policy Team will provide any further possible assistance that may be required. A detailed explanation of each step follows.

- Explain that the MLS is a board service, and invite application by any individual or individuals for such membership. Explain and emphasize the many rights, benefits, privileges and services of the board.
- Process any board membership application received from such an individual or individuals. Or, in absence of any application for board membership and upon continued demand for access to the MLS, advise that any request by an individual or individuals will be presented to the board of directors for consideration.

- Upon the continued demand for access to the board MLS without board membership, the board of directors, with advice of counsel, may consider directing the board to:
 - ▶ *file a petition for declaratory relief (or the use of a similar legal procedure in any state not having declaratory relief procedure)*
 - ▶ *seek a judgment to confirm the board's right to condition participation in the MLS on board membership when such membership is available on reasonable and nondiscriminatory terms and conditions to all eligible and qualified individuals*
- If civil suit is to be filed by the board, the board should seriously consider providing the MLS to the individual or individuals demanding access to it, pending any final judgment in the suit. However, the board should document that it does not agree with the individual's alleged legal rights to participate in the MLS without board membership and that the service is being provided as an interim measure until the legal question is adjudicated.

BOARD OF CHOICE

What is Board of Choice? Under previous policies of NAR, REALTORS® were required to join the board whose jurisdiction included the location of their principal place of business, prior to joining any other board. The Board of Choice concept allows REALTORS® to choose their boards based on the factors they decide are most important, rather than being limited by office location or jurisdictional boundaries. At the same time, services of other boards are available without the necessity of holding membership in those boards.

The Board of Choice Policy was adopted by NAR in 1994, and all local and state associations have adopted and implemented this program. The effect on real estate associations was far-reaching and profound, and it is important to understand the program's policies in order to effectively administer it.

Statements of Membership Policy Related to Implementation of Board of Choice

That, effective upon approval by the board of directors, the following statements of membership policy and amendments to the Model Bylaws to implement the Board of Choice proposal be adopted.

The primary board of affiliation elected by a REALTOR® must be in the state where the REALTOR® is a licensed and maintains his or her principal place of business. Licensees affiliated with a REALTOR® firm may choose as their “primary” board any board in the state where the firm maintains a “designated” REALTOR®. [Refer to the below approved policy, “Concerning Board of Choice across State Lines.”]

Membership shall be available in a secondary board on terms and conditions no more stringent than the requirements established in the board's Bylaws for REALTOR® (and REALTOR ASSOCIATE® where applicable) membership. The privileges of membership shall be the same, including the right to vote and hold office. Membership will be granted to individuals who hold REALTOR® or REALTOR ASSOCIATE® membership in their primary board without any requirement that the designated REALTOR® they are licensed or affiliated with hold membership in the secondary board. However, MLS services will only be available if the designated REALTOR® participates in the MLS. Board dues shall not include a national allocation, since NAR dues have been paid through the member's primary board. A state allocation may only be included if the member's primary board is located in a different state.

REALTORS® shall be entitled to purchase services from boards other than their primary board without the necessity of holding membership in those boards. Service fees will be determined by the individual boards. However, the board may require that a REALTOR® (principal) be licensed in the state as a condition of MLS participation. (Adopted 2/94; Amended 11/96)

Concerning Board of Choice across State Lines

That the membership choices currently provided under Board of Choice be expanded across state lines as follows:

- Members may join a primary board across contiguous state lines. State association membership would be in the state where primary board membership is held. (Effective July 1, 1996.)

Portability of Membership Records (Files)

In order to facilitate timely processing of applications for membership and to assist associations in determining an applicant's qualification for REALTOR® or REALTOR ASSOCIATE® membership, associations shall, based on a request from another association, share information about current or former members. Minimum “core” member information shall include:

- Previous applications for membership
- All final findings of Code of Ethics violations and violations of other membership duties within the past three years (when available).
- Pending complaints alleging violations of the Code of Ethics or alleging violations of other membership duties
- Incomplete or (pending) disciplinary measures
- Pending arbitration requests (or hearings)
- Unpaid arbitration awards or unpaid financial obligations to the association or its MLS

An association may, at its discretion, consider information received from other associations when determining whether an applicant satisfies the association's membership requirements as established in the association's bylaws (not to exceed NAR's Membership Qualification Criteria). (Adopted 2/96)

Clarification of the Term “Principal”

The term “principal” as used in the NAR Constitution and Bylaws and in other relevant policies, includes licensed or certified individuals who are sole proprietors, partners in a partnership, officers or majority shareholders of a corporation or office managers (including branch office managers) acting on behalf of principals of a real estate firm. (Adopted 11/96)

Secondary Membership in a Board/ Association

When a member has joined a primary association and paid local, state and national dues, secondary membership may be held in a local association in another state (provided the applicant meets all of the qualifications for membership) without holding membership in that state association. Alternatively, secondary membership may be held directly in the state association without holding membership in a local association in that state. (Adopted 11/96)

Membership Requirements Related to Multiple Office Locations

When considering an applicant for REALTOR® membership who is a principal in a real estate firm, associations have an obligation to determine that all of the principals of the real estate firm who are actively engaged in the real estate business in the state are either applying for or already hold REALTOR® membership (or Institute Affiliate membership, if applicable) in a board or association. (Adopted 11/96)

If an association local, state or national is notified by another association that a REALTOR® member has an office location elsewhere in the state that is not functioning as a “REALTOR® office” (i.e., licensees affiliated with the office are not members or are not accounted for under the DR dues formula), the association where the REALTOR® holds primary membership shall be responsible, in cooperation with the state and national associations, for ensuring compliance with applicable membership policies.

Association Satellite Offices in Other Association Jurisdictions

NAR policy does not prohibit associations from establishing satellite offices (service centers) in other association jurisdictions. (Adopted 05/2008)

Membership Recruitment Dues Incentives

NAR policy does not prohibit associations from offering membership recruitment dues incentives. (Adopted 05/2008)

MLS Access Under Board of Choice

Under Board of Choice, MLS participation is available to any REALTOR® (principal) or any firm comprised of REALTORS® (principals), irrespective of primary membership, subject only to:

- Their agreement to abide by any MLS rules and regulations
- Agreement to arbitrate contractual disputes with other participants
- Payment of any MLS dues, fees and charges

The universal access to the services component of Board of Choice is interpreted as requiring MLS participatory rights to be available to REALTOR® principals, or to firms comprised of REALTOR® principals, irrespective of where primary or secondary membership is held, on the same terms and conditions as MLS is available to primary/secondary members of the local board/association.

The MLS may charge participants and subscribers not holding primary or secondary membership in a REALTOR® association that owns the MLS a different amount than charged to members of the association, provided that such charge is reasonably related to the actual costs of serving those members.

Frequently Asked Questions

These policy statements contain clear directives regarding membership, service choices and association administration, as explained in the following document, which was part of the initial “Board of Choice Implementation Kit,” revised in 1997.

Q: Does implementation of Board of Choice across state lines require amendments to the local association’s bylaws?

A: All necessary provisions to implement Board of Choice across state lines were included in the March 1996 Model Board Bylaws.

Q: Does implementation of Board of Choice across state laws require amendments to state association bylaws?

A: No. Amendments are required to the state association’s bylaws because membership originates at the local level.

Q: Can an association require that applicants for REALTOR® membership be licensed in the state?

A: Associations may, at their discretion, require that all applicants for REALTOR® membership, irrespective of the location of their principal place of business, be licensed in the state as a condition of membership in the association.

Q: What is the “universal access to services” element of the Board of Choice policies?

A: Based on the Board of Choice policies approved by the Board of Directors, REALTORS® are entitled to purchase services from associations other than their primary association without the necessity of holding membership in those associations. Service fees are determined by each individual association.

Q: What is the difference between primary and secondary membership?

A: An individual is a primary member of an association if that association remits state and national dues based on that member. An individual is a secondary member if state and national dues are remitted through another association. Since national dues are only paid once, there is only one primary association.

Q: Must a designated REALTOR® hold secondary membership for affiliated licensees to obtain secondary membership?

A: No. Secondary membership may be granted to non-principal licensees who hold REALTOR® or REALTOR ASSOCIATE® membership in their primary association without any requirement that the designated REALTOR® they are licensed or affiliated with hold membership in the secondary association. However, MLS services are only available to secondary members if their office participates in the MLS.

Q: What are the privileges and obligations of secondary members?

A: Membership is available in a secondary association on terms and conditions no more stringent than the requirements established in the association’s bylaws for REALTOR® and REALTOR ASSOCIATE® (where applicable) membership. Similarly, the rights and privileges of secondary members are the same.

Q: Who is responsible for “policing” the designated REALTOR® dues formula under Board of Choice?

A: The association(s) to which the REALTOR® belongs is responsible. If a real estate firm maintains designated REALTORS® in more than one association, each designated REALTOR® is responsible (per the certification provision in the association’s bylaws) for providing the association(s) where they hold designated REALTOR® membership with a list of names of any non-member licensees affiliated with their office(s). They must also indicate in which association each licensee will be included for the purposes of computing the dues.

The following are some examples of how the dues formula should be administered.

Example: A broker (sole proprietor) has a single office located in Association A’s jurisdiction but chooses Association B as his or her primary association. DR assessments for non-member licensees in the office would be paid to Association B since this is the only association where the broker (DR) holds membership.

This same principle would apply if the broker had multiple office locations in one or more association jurisdictions but chose only one association in which to hold membership.

Example: Two brokers are partners in a real estate firm and have a single office located in Association A's jurisdiction. Broker #1 selects Association A as his primary association, and Broker #2 selects Association B as her primary association. Each broker could be required (per the certification provision in the association's bylaws) to report the total number of non-member licensees in the office (i.e., those licensees who haven't joined either Association A or B) and indicate in which association the licensees will be included for purposes of computing the DR dues. All nonmember assessments could be paid to one association or they could be split between the two associations (such as four non-member licensees reported in Association A; six non-member licensees reported in Association B).

Example: A real estate firm has its principal place of business in Association A with branch offices in Associations B and C. Each office has a different Designated REALTOR® (DR) and each DR has selected the association where his or her office is located as his or her primary association. Each designated REALTOR® could be required to report the total number of non-member licensees in his or her office to his or her primary association and indicate in which association (A, B or C) the non-member licensees will be included for purposes of computing the DR dues. Non-member assessments could be remitted to any one of the associations where the firm maintains a designated REALTOR® (A, B or C).

In the final analysis, every non-member licensee affiliated with a real estate firm will be accounted for in one of the associations where the firm maintains a designated REALTOR® presence. Many state associations have made plans to assume a leadership role in developing licensee-tracking systems, and many states already provide this service through lists obtained from state real estate regulatory agencies.

Q: Must all offices of a real estate firm belong to the same association?

A: Based on the Board of Choice policies approved by the board of directors, a firm comprised of REALTOR® principals that has multiple office locations in the same state must operate each office as a "REALTOR® office." Each office must have a designated REALTOR® and each DR must have a primary association affiliation (though the same DR may be responsible for more than one office). The primary association affiliation for branch offices may or may not be the same as the association selected by the firm's principal office.

Q: Have jurisdictional lines been eliminated under Board of Choice?

A: No. The jurisdictional territory lines are still in effect.

Q: What effect does Board of Choice have on use of the REALTOR® Marks?

A: REALTORS® are authorized to use the Marks anywhere in the state in which they hold REALTOR® membership. Associations will continue to protect use of the registered Marks within their territorial jurisdiction (i.e., use of the Marks by individuals who do not hold REALTOR® membership in any association in the state).

Q: Is "at-large" membership in the state association affected by Board of Choice?

A: No. States may continue to offer at-large membership to individuals whose offices are located in an area not within the jurisdiction of a local association.

Q: Can an association offer volume discounts in dues and service fees to large firms?

A: Yes, if the discounts are made known and available to *all* brokers with firms of similar size. There cannot be a different scale for brokers with the same size firm. Offering these types of discounts is completely a matter for judgment and determination by each local association and is not governed by NAR policy.

Q: Can an association solicit membership from another's territory?

A: An association is free to make potential members aware of the products and services it offers. Members can then determine the association provider of products and services that is best for their business operations.

Q: Are REALTORS® required to hold secondary membership in an association to obtain services from that association?

A: No. REALTORS® are entitled to purchase services from associations other than their primary associations without the necessity of holding membership in those associations.

Q: Must associations make sold data and lockbox services available to REALTORS® who do not hold membership in the association?

A: As previously indicated, under the “universal access to services” component of Board of Choice, REALTORS® (irrespective of where they hold their primary membership) are entitled to purchase services from other associations without holding membership in those associations. This includes comparable sold data that is distributed as a service of the association and access to lockbox systems that are operated as activities of associations of REALTORS®. Service fees are determined by the individual associations.

Q: What requirements can an association establish for participation in its MLS?

A: An association could require that a REALTOR® (principal) be licensed in the state as a condition of MLS participation. Further, one of the conditions of access to an association’s MLS is the participant’s agreement to submit to ethics hearings and arbitration requests filed with the association in which the REALTOR® obtains MLS access but is not a member.

Q: How will the association assess MLS fees for REALTORS® who obtain MLS access but are not members of that association?

A: MLS fees for these participants can be assessed in the same manner that the association assesses MLS fees for association members who participate in the MLS. For example, if MLS fees are assessed based on all licensees in a participating broker’s office, this same policy can be applied to REALTORS® who are participants in the MLS but do not hold membership in the association. An association can, at its discretion, waive fees for those licensees that the participant certifies will not be using the MLS information.

Q: How does Board of Choice affect professional standards enforcement?

A: Complaints alleging violations of the Code of Ethics and requests for arbitration may be filed in or association where a REALTOR® holds membership OR participates in the association’s MLS.

Q: What sanctions can be imposed for violations of the Code of Ethics by REALTORS® who participate in the MLS but do not hold membership in that association?

A: Discipline that may be imposed can be the same as but shall not exceed the discipline that may be imposed on members, except that direct suspension or termination of MLS rights and privileges may also be utilized. If such individuals are found in violation of the Code of Ethics, they may be assessed an administrative processing fee not to exceed \$500, which may be in addition to any other discipline, including fines, that may be imposed.

Q: If a REALTOR® participates in a regional MLS owned by two or more shareholder associations, which one is responsible for professional standards enforcement with respect to those REALTOR® members who participate in the MLS but do not hold membership in one of the shareholder associations?

A: Professional standards enforcement would be the responsibility of the association through which the REALTOR® obtained participation rights. Participation in a regional MLS is only available through one of the shareholder (or signatory) associations. In other words, a REALTOR® cannot obtain direct access to the MLS through the regional entity. Rather, REALTORS® must sign an MLS participation agreement with one of the shareholders (or signatory) associations, which establishes their agreement to submit to ethics and arbitration requests filed with the association from which the REALTOR® obtained MLS access but is not a member.

NOTE: Additional, detailed information about Board of Choice and Board of Choice across state lines is provided in the Board of Choice Implementation Kit.

ANTITRUST CONSIDERATIONS UNDER BOARD OF CHOICE

One of the consequences of Board of Choice is that local REALTOR® associations may now be viewed as competitors in terms of offering services offered to members. Therefore, AEs must understand what the policy means in terms of antitrust laws. Certain conduct should always be avoided, such as any agreement that could be characterized as price-fixing. Other activities, such as board mergers, regionalization of MLSs or joint administration of professional standards enforcement, should generally be permissible. However, these types of agreements should be reviewed by a knowledgeable antitrust attorney.

This issue is explained in the following article from NAR's "Letter of the Law" column:

Never Ever

Price-fixing is a per se violation of the antitrust laws. This means that the courts will not attempt to assess the reasonableness of the conduct or assess the circumstances surrounding it or the consequences flowing from it. If defendants are found to have engaged in price-fixing, they will be found to have violated the law. Real estate brokers learned this lesson in the late 1970s as a result of numerous lawsuits alleging that brokers had conspired to set their commission rates at certain levels. Brokers are now aware that they should never discuss their commission rates or structures with their fellow brokers. This lesson must now be heeded by local associations. Two or more boards should never agree among themselves on the amount of dues or other fees. Indeed, even discussions with other boards in nearby geographic areas regarding the level of dues, fees, or other charges could raise serious antitrust issues.

Boards may participate in cost-gathering surveys but only under certain circumstances. The following three conditions should be met to insulate surveys requesting cost information from antitrust challenge:

1. The survey is managed by a third party such as a government agency or trade association (other than another board of REALTORS®).
2. The information provided by survey participants is at least three months old; and
3. At least five participants supply data for the survey; no single participant's data represents more than 25% on a weighted basis of any statistic and the information is sufficiently aggregated that a recipient cannot identify prices charged by any participant.

Other conduct that should always be avoided is agreements or understandings with competing boards regarding recruitment or solicitation of members, such as an agreement that Board A will not solicit members with offices in Board B's jurisdiction if Board B will do likewise.

Caution Advised

Boards that may be considering merging with neighboring boards need to be mindful of antitrust considerations as they proceed. For example, suppose that Boards A and B are considering a merger. The members of Board A currently pay \$100 per year in dues, whereas the members of Board B pay \$200 in annual dues. After the merger, dues will be \$200 per year. This means that the members of former Board A will now pay \$100 per year more for membership. Antitrust concerns could arise if the members of former Board A have no other board in the vicinity that offers membership at a lower price.

Similarly, concerns could arise if, under the above scenario, the dues of the new board are \$250 per year, so that the former members of both Boards A and B are now paying higher dues.

Yet another example of potential concern could arise if the dues of the new board were \$175, so that former members of Board A are now paying an additional \$75 per year in dues whereas former members of Board B are now pay \$25 per year less.

The lawfulness of the above examples will depend upon the particular facts of each case. The antitrust risk could either be confirmed or dispelled based upon the presence or absence of certain factors such as the following:

- The services offered by each of the former boards and those offered by the new board. If the new board offers more services or improved services, it is a positive factor.
- The reason for the merger. If both boards conclude that members will be better off as a result of the merger, it is a positive factor. This is so even if the cost of membership may be somewhat higher due to increased services.

- The proximity of other boards with lower dues is a positive factor.
- The history of fee levels, the amount of change in fee levels after the merger and the strength of any cost-justification for any fee. A merger that results in a reduction in the overall level of membership dues is a positive factor.
- The practicality of using a joint venture to accomplish a limited purpose rather than a total merger of the two boards. If the pro-competitive purposes of merger can be accomplished by way of a joint venture, then an analysis should be undertaken of why a complete merger is being proposed.

Mergers are appropriate when they result in REALTORS® being better served by having one rather than two boards in a given area. For example, a merger that results in lower membership costs for all concerned should not be a problem. If some REALTORS® will pay more for membership after a merger, the merger might nonetheless survive antitrust scrutiny if it can be shown that:

- There is another board reasonably near that charges less; or
- On balance, the total dues for all members of the merged boards are lower than the dues for all of the members of the prior boards; or
- The lower priced board was losing members and would have had to increase dues and services in order to survive.

It is always appropriate for boards considering a merger to determine whether their goals might be achieved instead through a joint venture. Joint ventures involve collaboration between two or more boards that involves some degree of integration of board resources or sharing of risk. An example would be two boards joining together for professional standards enforcement. Another common example is operating a regional MLS. Joint ventures are less restrictive than mergers and consequently pose less antitrust risk. Joint ventures frequently produce efficiencies from the combination of forces that provide better service to the members or result in a lower cost.

Although most joint ventures between boards should not raise antitrust concerns, boards should be particularly cautious if they are involved with a joint venture that involves the setting of a common price for a good or service sold to members. The joint setting of a price might well be viewed as price-fixing. Boards that come together to purchase MLS for their members must avoid any price-fixing among themselves when determining the price charged to their respective MLS participants.

Similarly, if several Boards jointly purchase lockboxes in order to benefit from the financial savings that can be achieved, those Boards should not agree on a re-sale price to their members. Independent pricing decisions should be made by each Board based upon its administrative expenses and other pertinent factors unique to each Board.

Do not let your antitrust awareness lapse in the era of Board of Choice. Avoid any conduct that could be viewed as price-fixing. Mergers and joint ventures will frequently produce positive results for the members and satisfy antitrust requirements. When in doubt, however, be sure to consult with legal counsel before proceeding.

SOURCES

- *National Association of REALTORS® Model Bylaws for Local Member Boards, 2017*
- National Association of REALTORS® Membership Qualification Criteria
- NAR, Antitrust Considerations under the Board of Choice Policy
- Membership Policies and Procedures Overview
- *Good Sense Governance: Dues Formula*
<https://www.nar.realtor/about-nar/policies/good-sense-governance/good-sense-governance-dues-formula>

2.4

MLS Policies and Delivery of Services

Updated 8.15.2024

Reference material for this chapter is the *Handbook on Multiple Listing*, unless otherwise noted. Each competency indicates where specific information can be found within the Handbook, or other specific links provided.

<https://www.nar.realtor/handbook-on-multiple-listing-policy>

- Understand the value and purpose of MLS, including ancillary services
 - ▶ *Part One, Section 1, Multiple Listing Service (MLS) Defined*
- Be able to describe the differences between core, basic, and optional services
 - ▶ *Part Two, C, Section 8 Categorization of MLS Services, Information, and Products*
- Understand the difference between an MLS subscriber and participant and how their rights/privileges differ
 - ▶ *Part One, Section 2 Definition of MLS Participant*
- Understand that REALTOR membership is a preferred prerequisite for participation but not required in all MLSs across the country
 - ▶ *Part One, Section 2 Definition of MLS Participant*
- Understand the different MLS operational structures (committees, corporations and regional entities) and the NAR MLS policies and model documents
 - ▶ *Part Three, Model Governing Provisions*
- Understand listing content management and distribution including ownership (copyright vs. license), authorized displays and possible uses of MLS data by participants, subscribers and others including IDX, VOW, syndication, aggregation and other service vendors
 - ▶ *Part Two, D, Print and Electronic, Section 1 Internet Data Exchange (IDX) Policy; I, Virtual Office Websites: Policy Governing Use of MLS Data in Connection with Internet Brokerage Services Offered by MLS Participants*
- Understand NAR Model MLS Rules and their impact on MLS services and delivery
 - ▶ *Part Three, Model Governing Provisions*
- Ensure local MLS policies are in compliance with mandatory NAR MLS policies and model documents
 - ▶ *Part Two, B, Section 2 Association and MLS Compliance with National Association Policy*
- Understand the value, functions and awareness of RESO, data dictionary, WEB API and industry data standards
 - ▶ *Part Two, C, Section 12 Real Estate Transaction Standards (RETS) and RESO Standards*
- Enforce NAR MLS Rules and Regulations, including the NAR MLS Antitrust Compliance Policy
 - ▶ *Part Two, A, MLS Antitrust Compliance Policy*
- Understand the use of listing content, intellectual property rights and applicable copyright laws
 - ▶ <https://www.nar.realtor/copyright/managing-listing-content>
- Understand the role of MLS policy and license agreements to authorizing the access to and use of MLS data
 - ▶ <https://www.nar.realtor/copyright/managing-listing-content>
- Understand the potential benefits of MLS regionalization, cooperative, reciprocal, and consolidation agreements
 - ▶ <https://www.nar.realtor/about-nar/policies/mls-consolidation-resources>
- Develop and implement policies regarding data feeds for subscribers, participants and third-parties
 - ▶ *Part Two, D, Section 18, Right of Participant to MLS Data Feed of Listing Content; Section 19, One Data Source; Section 20, Brokerage Back Office Data Feed*
- Develop and implement policies regarding the public distribution and use of MLS statistics
 - ▶ *Part Two, D, Statistical Reports*
- Review the NAR MLS best practices to evaluate any local gaps in data, service, governance, and compliance
 - ▶ <https://www.nar.realtor/about-nar/policies/mls-best-practices>

2.5

Professional Standards

Reference material for this chapter is the Code of Ethics and Arbitration Manual (CEAM), unless otherwise noted. Each competency indicates where specific information can be found within the CEAM or other specific links provided.

<https://www.nar.realtor/code-of-ethics-and-arbitration-manual>

- Know components of the Code of Ethics, the NAR Handbook on Multiple Listing Policy, and the Code of Ethics and Arbitration Manual
 - ▶ *Table of Contents for Interpretations of Code of Ethics, Handbook on Multiple Listing Policy, CEAM*
 - ▶ <https://www.nar.realtor/code-of-ethics-and-arbitration-manual/case-interpretations>
 - ▶ <https://www.nar.realtor/handbook-on-multiple-listing-policy>
 - ▶ <https://www.nar.realtor/code-of-ethics-and-arbitration-manual>
- Be able to explain the duties of the REALTOR® under the Code of Ethics and how they apply to their daily business
 - ▶ *Online at nar.realtor: search “Interpretations of the Code of Ethics” and view the Table of Contents and the case interpretations*
 - ▶ <https://www.nar.realtor/code-of-ethics-and-arbitration-manual/case-interpretations>
- Describe the general steps for processing an ethics complaint and for processing an arbitration request (including who is eligible to file and the differences between an ethics complaint and an arbitration request)
 - ▶ *CEAM Sections 20-23 (ethics) and Sections 47-55 (arbitration)*
- Know the role and scope of the Grievance Committee *CEAM Sections 17-19 (ethics), Sections 40-42 (arbitration)*, Professional Standards Committee *CEAM Sections 21-22 (ethics), 51-54 (arbitration)* and the Board of Directors in *CEAM Section 23 (ethics) and Section 55 (arbitration)* conducting ethics hearings, arbitration hearings and appeal hearings
- Understand and enforce NAR’s Code of Ethics training requirements
 - ▶ *CEAM Professional Standards Policy Statements 47 and 48*
- Understand and enter into a cooperative enforcement agreement
 - ▶ *CEAM Professional Standards Policy Statements 40, Form E-19 and A-19, and Appendix VI to Part Four*
- List the basic principles of due process and how they apply to administrative timelines and the role of the Association Executive to ensure parties receive a fair and impartial hearing
 - ▶ *CEAM Introduction to the CEAM, Section 10, and Summary of Administrative Time Frames (ethics proceedings and arbitration proceedings)*
- Understand the differences between mandatory and voluntary arbitration
 - ▶ *CEAM Section 44 (a) (1-5)*
- Know the elements of an ethics decision including: (1) clearly articulated findings of facts that support the conclusion and are reasonably applicable to the cited articles *CEAM Form E-11 (2) progressive discipline and CEAM Appendix VII to Four (3) use Declaratory Relief when appropriate CEAM Appendix IV to Part Four, Appendix III to Part 10, Form E-18*
- Understand what a REALTOR® association may publish about a member found in violation of the Code of Ethics
 - ▶ *CEAM Section 23(j) and Professional Standards Policy Statement 45*
- Promote and explain the benefits of the mediation and arbitration process
 - ▶ *CEAM Appendix VI to Part Ten and Section 43*

- Promote and explain the benefits and process of the ombudsman service as compared to the ethics and arbitration process
 - ▶ *Online at nar.realtor, search “Ombudsman Process FAQ” and “Local and State Association Ombudsman Services”*
 - ▶ *<https://www.nar.realtor/ae/manage-your-association/local-and-state-association-ombudsman-services/ombudsman-process-faq>*
 - ▶ *<https://www.nar.realtor/ae/manage-your-association/local-and-state-association-ombudsman-services>*
- Understand both employee and member roles in the observance of confidentiality
 - ▶ *CEAM Professional Standards Policy Statement 19, and Form E-10*
- Understand who must be disqualified/excused from any tribunal considering a professional standards matter
 - ▶ *CEAM Section 2(b) and (f), (ethics) and Sections 27 (b) and (f) (arbitration)*
- Understand the NAR Core Standards that apply to professional standards
 - ▶ *Online at nar.realtor: search “Core Standards Criteria” and click on “ethics”*
 - ▶ *<https://www.nar.realtor/ae/manage-your-association/core-standards-for-state-and-local-associations/core-standards-criteria#I-Code-of-Ethics>*
- Understand the relationship between REALTORS® on the various tribunals and their roles compared to the AEs in the professional standards process
 - ▶ *CEAM Section Ten. Also online at nar.realtor: search “Professional Standards Training Guide” and view last two sections*
 - ▶ *<https://www.nar.realtor/about-nar/policies/professional-standards-training-guide>*
- Promote and explain the benefits of the dispute resolution system for buyer and seller processes (DRS)
 - ▶ *Online at nar.realtor: search “Buyer Seller Dispute Resolution”*
 - ▶ *<https://www.nar.realtor/ae/manage-your-association/association-policy/buyer-seller-dispute-resolution-system-drs>*
- Understand the optional sections in the NAR Code of Ethics and Arbitration Manual as they may be adopted at the discretion of the association
 - ▶ *CEAM pages i, ii, iii, and Online at nar.realtor: search “Areas of the Manual Requiring Board/ Association Action”*
 - ▶ *<https://www.nar.realtor/code-of-ethics-and-arbitration-manual/areas-of-the-manual-requiring-board/association-action>*
- Understand the options available to REALTOR® associations to expedite complaints—fast track processing, *Online at nar.realtor: search “fast track ethics mediation CEAM Appendix XI, Part Four, citation policy, Online at nar.realtor: search “Citation Policy,” anonymous complaints CEAM Section 20 (a) second paragraph, and expedited administrative ethics procedures: CEAM Sections 20 (f-q) and Form E-20*
 - ▶ *<https://www.nar.realtor/about-nar/policies/fast-track-supplement-to-cream>*
 - ▶ *<https://www.nar.realtor/about-nar/policies/nar-model-citation-policy-and-schedule-of-fines>*
- Understand sanctioning guidelines and the principles of progressive discipline
 - ▶ *CEAM Appendix VII to Part Four*

3 REALTOR® ORGANIZATION AND REAL ESTATE INDUSTRY

3.1

Advocacy and the REALTOR® Party

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INTRODUCTION

Advocacy is one of the most important aspects of an AE's leadership role. This is a multi-level competency that includes a thorough understanding of the processes and procedures established by NAR for gathering voluntary donations from members and using those funds to support candidates and issues aligned with the goals of real estate professionals, property owners and communities.

AEs need to be aware of the stringent rules and regulations regarding fundraising solicitations, contribution types and limits and NAR's processes to support these nonpartisan advocacy efforts. AEs should also be familiar with the application processes for NAR political programs, grants and resources available to support advocacy at the local, state and national levels.

Other advocacy leadership responsibilities for AEs include:

- Developing and administering education programs for REALTORS® on political and legislative processes
- Providing resources and training to encourage member involvement in political campaigns
- Informing members of state voting registration requirements and processes
- Monitoring and promoting advocacy priorities at the local, state and national levels

- Building connections with government affairs and legal professionals at the local, state and national associations
- Organizing and promoting attendance at NAR's REALTORS® Legislative Meetings
- Promoting participation in the state's legislative activities/lobby day
- Understanding the legal requirements of screening candidates
- Identifying coalition partners, such as real estate industry organizations, housing and finance trade associations, property rights coalitions, workforce and affordable housing organizations, faith-based organizations and chambers of commerce.
- Coordinating with neighboring associations and coalitions on key issues and advocacy efforts.
- Using REALTOR® Party programs, services and grants to support REALTOR®-friendly candidates, mobilize members when action is needed and influence community development decisions.

Many associations engage a Government Affairs Director (GAD) to drive advocacy efforts, including monitoring local government activities, researching political candidates, and identifying relevant housing, private property, fair housing and other issues, while reporting to members and developing calls to action. A GAD, whether hired by one association or shared by several, helps protect members' interests and leads nonpartisan policy efforts primarily on the local and state levels.

NAR'S ADVOCACY GROUP

The NAR Advocacy Group in Washington, D.C., advocates every day on behalf of the nation's more than 1.5 million REALTORS® and 85 million property owners.

The lobbyists, policy analysts, program directors and support staff advocate for federal policy initiatives that strengthen the ability of Americans to own, buy and sell real property. This group also supports the advocacy initiatives of state and local REALTOR® associations by providing a wide variety of resources to harness the power of the REALTOR® Party.

With grassroots strength, politically active members and professional staff, it is no wonder NAR is widely considered one of the most effective advocacy organizations in the country.

Under the Core Standards that all associations must meet, AEs need to have a thorough understanding of two key topics covered in this chapter:

- The value of member engagement in local, state and national advocacy programs and the REALTOR® Party resources to assist in these efforts
- The importance of the REALTORS® Political Action Committee (RPAC) in supporting pro-REALTOR® candidates and the stringent rules governing RPAC's compliance with the law

REALTOR® PARTY RESOURCES FOR STATE AND LOCAL ASSOCIATIONS

In 2012, the NAR launched the REALTOR® Party to help state and local associations strengthen their advocacy and community engagement activities. A powerful alliance of REALTORS® and associations, the REALTOR® Party website advances candidates and public policies that build strong communities and promote a vibrant business environment. It is supported predominantly through member dues.

AEs should know the key REALTOR® Party programs and the value they provide to members and the public. These programs are explained in detail on the *REALTOR® Party* website and cover five general areas:

1. **Community Outreach**—increases state and local REALTOR® association advocacy engagement and influence on community development policy through programs, services and grants
2. **Campaign Services and Issues Mobilization**—provides polling resources, candidate training, voter registration tools, direct mail services and campaign grants to help elect REALTOR® Party champions and advance critical state and local policies
3. **Consumer Advocacy Outreach**—helps local and state associations create consumer advocacy activities in their communities to advance policies that strengthen the real estate market and promote property ownership
4. **Federal Policy and Government Advocacy**—implements a federal public policy agenda guided and directed by volunteer leadership, including resources related to state and local issues.
5. **RPAC Disbursements and Fundraising**—provides grants and tools to help associations raise RPAC dollars

The *Vote-Act-Invest Advocacy Resource Guide* is your go-to source for a comprehensive listing of all the REALTOR® Party programs, grants and resources available to state and local associations. Bookmark it and reference it often!

Start by identifying needs or areas for improvement in your own community. Perhaps it's helping to turn an underused public space into a vibrant one, electing a real estate champion to your city council, providing polling information to your government officials on a critical issue, hosting a workforce housing session or boosting your RPAC investments. These REALTOR® Party tools can help:

Community Outreach Programs

NAR's Community Outreach Programs help REALTOR® associations and members become leaders in their communities on development-related issues that affect the real estate industry. Whether you use these programs to help bring your zoning code into the 21st century, address housing supply and affordability issues, conduct fair housing education and outreach, advocate for broadband options or create a public gathering place, your association can develop positive working relationships with local and state elected leaders and, together, improve your community. These efforts can pay dividends for years to come.

NAR provides Community Outreach grants, toolkits, training, technical assistance, planning sessions and publications, including the Land Use Initiative, the State and Local Growth Polling Program, the State Smart Growth Legislation Program, the Transforming Neighborhoods Program and *On Common Ground* magazine.

Smart Growth Grants support state and local REALTOR® associations' efforts to advance programs, policies and initiatives related to mixed land uses, walkability, public transit, green space preservation and community collaboration to create livable communities.

Placemaking Grants provide financial and technical assistance for REALTOR® associations to engage in placemaking—transforming unused and underused sites into welcoming, accessible community destinations.

Rural Outreach Grants fund state and local REALTOR® association advocacy and education initiatives on challenges that confront rural communities and impact real estate, such as broadband, rural zoning and environmental regulations.

Housing Opportunity Grants support state and local REALTOR® association activities that create or improve systems, programs and policies that expand access to affordable housing.

Fair Housing Grants support state and local REALTOR® association activities that create or improve systems, programs, and policies that uphold fair housing laws and strengthen REALTORS®' commitment to offering equal professional service to all.

Community Outreach Grant Planning Sessions offer REALTOR® associations one-on-one virtual meetings with NAR's Community Outreach staff to brainstorm ways to address affordable housing challenges, community planning and development issues, revitalization opportunities and fair housing education using a Community Outreach Grant and/or technical assistance and services. These sessions provide critical steps to success, including how to write a compelling application.

Land Use Initiative provides analysis and talking points on proposed legislative and regulatory land use and transactional measures—comprehensive plans, amendments, legislation, ordinances or regulations—that impact the transfer of property and/or the interests of REALTORS®. Popular issues covered include point-of-sale requirements, residential rental property regulation, sign regulations, development moratoria, inclusionary zoning, accessory dwelling units, design standards, environmental regulations, transfer taxes and impact fees. All previous analyses conducted on behalf of associations can be accessed through the *LUI database*.

State and Local Growth Polling Program helps REALTOR® associations conduct polling on growth-related issues. The surveys can be used as a powerful tool to showcase the opinions of your community to local and state government officials.

Customized State Smart Growth Legislation Program assists state REALTOR® associations in taking the lead on writing and introducing legislation to better address the challenges of growth and improve local communities.

Transforming Neighborhoods provides analysis, plans and actionable recommendations to REALTOR® associations in partnership with public and private stakeholders to solve issues such as housing affordability, natural disasters and commercial disinvestment. NAR partners with the Counselors of Real Estate (CRE) Consulting Corps to conduct the analysis.

On Common Ground is a biannual magazine on pressing growth and development issues that REALTOR® associations may distribute to public officials to increase visibility and credibility. Local associations can receive copies or request that NAR distribute copies to elected officials. An *online version* is available via the *OCG APP (Apple) (Google Play)*.

Campaign Services and Issues Mobilization Programs

NAR's Campaign Services and Issues Mobilization Programs provide polling resources, candidate training, voter registration tools, direct mail services and campaign grants to help elect REALTOR® Party champions and advance critical state and local policies. With these resources, state and local REALTOR® associations have access to the most recent voter data, data usage tools and professional political consultants.

The *National REALTOR® Voter File*, compiled from individual state voter and state membership files, allows associations to identify individuals to support REALTOR® candidates and issue campaigns. It also includes a list of REALTORS® who are not registered to vote so associations can encourage voter registration among members.

The *State and Local Independent Expenditure (IE) Program* provides each state with funds to support political candidates who support REALTORS® and the real estate industry.

State or local REALTOR® associations select the REALTOR® Party champions to receive IEs. Working with the NAR Campaign Services team, NAR and the state or local association then develop a campaign plan to get these champions elected. Tools include polling, direct mail, email/telephone contacts, social media and digital advertising, as well as radio and TV production.

IE requests are considered by the REALTOR® Party Trustees for State and Local Campaign Services Committee. The trustees will review the IE application, as well as information on the race, to determine whether to support it. Once your IE is approved, the NAR Campaign Services team will help you construct your campaign plan.

Issues Mobilization Grants provide financial assistance to state and local REALTOR® associations to organize and manage effective state and local issue campaigns on public policies (government laws, regulations, courses of action and funding priorities) that affect REALTORS® interests. This includes legislation, ordinances, ballot measures and constitutional amendments.

These grants can only be used for issue campaigns related to real estate issues. Non-real estate issues, such as electoral-related issues (election schedules, voter ID laws, term limits) or public employee issues (pensions, collective bargaining) are not eligible for funding. The grants also cannot be used for legal action or litigation.

State and local REALTOR® associations must review the *guidance document* before applying for a grant. NAR staff is available to assist with the application process.

Once finalized, the State and Local Issues Mobilization Support Committee will review your application by weekly consent agenda or during one of its monthly meetings. Consent agenda meetings are conducted by email, and regular committee meetings are held at NAR's annual and midyear conferences and by teleconference throughout the year. You may be asked to make a presentation and answer questions during the meeting.

Advocacy Everywhere expands the influence of NAR and REALTOR® associations on public policy at the local, state, and federal levels and increases REALTOR® and consumer participation in calls for action (CFAs). CFAs are one of the most powerful ways to communicate REALTOR® Party issues to lawmakers. REALTORS® can send personal letters supporting NAR positions directly to their federal lawmaker with just a couple clicks. Advocacy Everywhere offers state and local associations a full-service provider to expedite a CFA, lowering the time commitment necessary to launch and monitor a successful CFA.

Consumer Advocacy Outreach Program

NAR's Consumer Advocacy Outreach Program empowers state and local associations to conduct consumer advocacy efforts in their communities.

Consumer Advocacy Outreach Grants help local and state associations create consumer advocacy activities to advance public policies that strengthen the real estate market, promote property ownership and build strong communities, leading to a healthy economy. Using these grants, associations can build awareness and educate consumers on legislation or policy changes in their communities.

Consumer Calls for Action—See *Advocacy Everywhere*.

FEDERAL POLICY AND GOVERNMENT ADVOCACY

While the REALTOR® Party is at work in every community in America, NAR's Advocacy Group in Washington, D.C., promotes and protects REALTORS®' interests before the federal government, including Congress, regulatory agencies and the executive branch.

Advocacy staff work to implement a public policy agenda that is guided and directed by the volunteer leadership of the association. NAR continually reviews legislation and federal regulations that could have an impact, positive or negative, on the real estate industry and private property rights.

Influencing the federal government takes many forms, including direct lobbying of Congress and executive agencies by NAR volunteer leaders and staff. It also involves offering expert testimony at congressional hearings and submitting letters to federal agencies and Congress to highlight NAR's positions on critical issues.

In addition, NAR produces resources to support state and local advocacy efforts, including policy statements, white papers, issue webinars, and state and local policy tracking services. These resources can be found on the *REALTOR® Party website* under the State and Local Resources tab or by texting SL POLICY to 30644 to get a link sent directly to your mobile device through REALTOR® Party Mobile Alerts.

NAR's advocacy power stems from our grassroots strength. That's why NAR encourages all members to get involved in the public policy process and communicate with their lawmakers about real estate and housing issues using the resources available on NAR.realtor/Advocacy and RealtorParty.realtor.

NAR has designated teams of REALTORS® in each state and congressional district who build relationships with their federal lawmakers and respond to NAR Calls for Action. Each team is led by a Federal Political Coordinator (FPC), a politically active member who is appointed by the NAR President and reviewed by NAR's Chief Advocacy Officer. FPCs act as NAR's principal member contacts with federal lawmakers.

Each FPC selects a team of REALTOR® members known as Federal Political Contact Members (FPCMs), who help communicate and develop the relationship with their member of Congress. REALTORS® interested in participating on one of these teams should talk with the Government Affairs Director at their state association.

NAR provides an in-person training for FPCs every other year, coinciding with the new Congress, that focuses on NAR's grassroots programs, federal policy issues, grassroots activity reporting and RPAC guidelines.

The Public Issues Advocacy Program is designed to influence voter perceptions on clearly identified federal issues through a variety of communication tactics and techniques. It provides ongoing education to Congress about NAR's priority issues, increases the power of grassroots lobbying by targeting segments of the public to educate them about key legislative priorities (as established by NAR) and urges Congress to support or oppose those legislative objectives.

Other policy and government advocacy resources include:

State and Local Issue Policy Statements: NAR's State and Local Issues Policy Committee identifies, analyzes, and proposes policy statements on state and local issues, which are then considered by the Public Policy Coordinating Committee, Executive Committee and NAR's Board of Directors. A *summary* of these policy statements on issues ranging from rent control to property rights is available on the REALTOR® Party website.

State and Local Legislative Priorities Surveys: NAR surveys state AEs, Government Affairs Directors, and a sampling of the REALTOR® membership each year to identify the legislative priorities for each U.S. state and territory to develop resources in the following year. The survey is conducted by American Strategies, NAR's Research Group, and the REALTOR® Party.

Hot Topic Alerts: These mini white papers cover important trending state and local real estate issues. Each paper contains historical context on the issue, a concise summary of current research and other helpful information, any legal summaries of court cases impacting the policy and additional resources to effectively advocate on the issue. Hot Topic Alerts also highlight state and local REALTOR® associations' advocacy efforts.

State Legislative Monitor and State Legislative Tracking: This database produces a report on trending legislation every Thursday and allows state and local association staff to monitor legislation in their state and other states. Government Affairs Directors and AEs can also receive direct access to the State Legislative Monitor database (FOCUS platform) to customize their own reports.

Local Legislative Tracking: State and local associations have access to FiscalNote Curate, a local policy tracking platform that tracks more than 400 legislative topics across more than 12,000 municipalities nationwide. Pilot access to the platform will be provided to one user per requesting association through **December 2023**.

State and Local Issue Webinars: The State and Local Issues Policy Committee began co-hosting legislative issue webinars with other NAR Governance Committees in 2020 to educate and assist REALTOR® associations and REALTORS® by sharing ideas on how to effectively lobby and support relevant state and local policies.

AEs can draw on these NAR advocacy resources for important and timely content that can be shared with members. Along with keeping members updated about issues affecting states and local communities, communicating this information reinforces the value of belonging to the REALTOR® family.

REALTORS® POLITICAL ACTION COMMITTEE (RPAC)

The REALTOR® Party and RPAC work together to build relationships with elected officials to better position REALTORS® to protect and promote homeownership and private property interests.

Since its inception in 1969, RPAC has supported the election of pro-REALTOR® candidates across the U.S. at all three levels of government. Candidates who receive contributions from RPAC are not selected based on their political party or ideology, but because of their policy positions, voting record and other factors that demonstrate their support for the real estate industry.

Through RPAC, REALTORS® raise and spend money to elect real estate champions—candidates who understand and support our interests. The money comes from voluntary investments made by REALTORS®.

RPAC investments also help us stand up for important issues in your own backyard. RPAC and the REALTOR® Party works every day to fight onerous sign ordinances, remove unfair zoning regulations, beat back taxes on services, advance balanced land use rules and more.

NAR encourages members to voluntarily participate in the political process by investing through RPAC. Each state REALTOR® association determines the portion of RPAC contributions it retains for use to support candidates running for state and local offices, with the remaining portion sent by the state association to national RPAC to support candidates for federal office.

Hard Dollars vs. Soft Dollars

RPAC investments are divided into two categories: hard money and soft money.

- Hard money refers to voluntary investments from individual REALTORS®, which are regulated by campaign finance laws. RPAC investments must be made with a personal check, debit card or credit card and paid with personal funds. You cannot make an RPAC investment with a corporate check or credit card. Hard dollars are used by RPAC to make direct contributions to political committees.

- Soft money is money invested by organizations, corporations, state and local associations and NAR institutes, societies and councils. Soft dollars also include mandatory dues payments or membership assessments. Soft dollars may be used for independent expenditures, Opportunity Race communications and certain other political/advocacy purposes.

Simply put, hard money is the only type of funds that can be used for direct contributions to federal candidates (and in some states to state and local candidates.) Soft money is not subject to the same rules and can't be used for direct candidate contributions, but it can be accepted by NAR and used in other ways to support advocacy efforts.

RPAC Supports Candidates at the National, State and Local Levels

RPAC doesn't just support candidates running for U.S. Congress. RPAC also uses investments from individual REALTORS® for direct contributions to real estate champions running for state offices (like governor), state legislative seats, and local positions (like mayor, city council, property assessors, county supervisors and more).

National, State and Local RPAC Trustees (or in some local associations, the government affairs committee) decide which real estate champions will receive RPAC funds based on questionnaires, interviews, voting records, support of REALTOR® issues and other important factors.

Other Political Advocacy Funding Sources

In addition to making direct RPAC investments, REALTORS® and REALTOR®-friendly entities can financially support NAR's political advocacy efforts in other ways, including:

President's Circle (Hard Dollars)

Political Action Committees, like RPAC, may only legally contribute up to \$10,000 per election cycle to a candidate's campaign committee. The RPAC President's Circle Program allows REALTORS® to make contributions directly to select real estate champions identified by the RPAC Federal Disbursements Trustees Committee as having made significant achievements in advancing the REALTOR® public policy agenda.

Each President's Circle investment is provided from the respective REALTOR® directly to the candidate, making it a hard dollar contribution. President's Circle members must also invest a minimum of \$1,000 each year in RPAC as a Major Investor to be eligible to participate in the President's Circle program.

Corporate Ally Program (Soft Dollars)

Multiple Listing Services (MLSs), NAR affiliates, real estate brokerages, real estate technology businesses, state and local REALTOR® associations, state and local REALTOR® association affiliate corporate members, and NAR institutes, societies and councils can invest corporate (soft) dollars in the REALTOR® Party Corporate Ally Program (CAP). Funds are used to support issue campaigns, Opportunity Races and other political activities. Investments in the Corporate Ally Program count toward an association's fundraising goals.

Setting RPAC Goals

The Federal RPAC Disbursements Allocation is set every two-year election cycle by the National RPAC Trustees. This is the amount deemed necessary to be effective in the federal races in which RPAC will engage during that election cycle.

The National RPAC Fundraising Goal is set by each state and territory association for the coming year. It must be higher than what the state or territory raised the previous year to qualify for the Triple Crown and President's Cup Awards for that fundraising year.

Although the 70/30 percent split policy for sharing RPAC funds between the states and national RPAC was eliminated in 2014, this policy continues with the Major Investor Program. RPAC policy requires that national RPAC receive at least 30 percent of a Major Investor's contribution in order to provide recognition and benefits to the Major Investor. And, of course, 30 percent of the Major Investor contribution received by national RPAC counts toward the state's set goal. President's Circle contributions to candidates do not count toward a state's National RPAC Fundraising Goal or Federal RPAC Disbursements Allocation.

Fundraising Methods and Recognition

Dues Billing

Requesting a voluntary RPAC investment on each member's annual association dues statement ensures that every member is asked to participate. The effectiveness of a dues billing program depends in large part on the design of the solicitation. The easier it is for the prospective investor to participate, the more likely they will invest.

Ask your state RPAC and legal staff if dues billing for RPAC is permitted in your state. To satisfy state law, your members may have to write a separate check and complete a separate transaction for the RPAC portion, or they may be able to include both their dues and RPAC investment in one check/transaction. Your membership database provider or state PAC may have sample billing statements for reference.

Check with your state RPAC and legal staff to determine if the voluntary RPAC investment can be added above the "total amount due" line on the dues billing statement. This is referred to as "above-the-line dues billing." Some state laws dictate specific placement of the RPAC line item.

Determine the suggested voluntary RPAC investment amount you want to include on your dues billing statement. Check with your membership database provider to see what options are available to you for billing at various levels, billing brokers a different amount, billing a member's previous year investment amount, etc.

Ensure your dues billing statement includes the correct federal and any state required solicitation notice or disclaimers. (Check with your state RPAC and legal staff for the required language of the disclosure.)

Events

Special events are a great way to build camaraderie and generate enthusiasm while raising money for RPAC. A signature special event may become the highlight of your fundraising program—something to build up to throughout the year. You may also use an event as a tribute to your Major Investors through selective seating or private receptions, or by hosting a portion of the program in their honor.

RPAC Fundraising Grants help state and local associations increase their RPAC fundraising receipts and participation. Grant amounts vary by association size, and associations' participation in the program is subject to state law. *More information and applications* are available on the REALTOR® Party website.

RPAC Major Investor Fundraising Events help state and local associations recruit new Major Investors and President's Circle members. Associations can be reimbursed up to \$100 per person to host these exclusive events, although such reimbursements may also be limited by state law. *More information and applications* are available on the REALTOR® Party website.

Recognition and Awards

When members see their colleagues recognized at meetings, through awards or on special lists of investors, it may cause them to say to themselves, “Next time, I want to be one of those investors.”

NAR recognizes both individual investors and associations for their RPAC fundraising efforts in several ways. Major Investors are recognized through the Sterling R, Crystal R, Golden R, and Platinum R levels. NAR also recognizes members who have made significant investments over the years through the RPAC Hall of Fame.

State and local associations are recognized for their fundraising efforts through the Triple Crown and President’s Cup Awards.

Investment Limits and Rules

As mentioned earlier, there are many restrictions on how hard money is raised, spent and reported to the Federal Election Commission (FEC).

RPAC may contribute \$5,000 to a federal candidate per election and may use only hard money to make these contributions to candidates.

Certain contributions to national RPAC are prohibited by the FEC or by the national RPAC Trustees policies. These prohibited contributions are:

1. Contributions by corporations
2. Contributions made in the name of another
3. Any part of a cash contribution exceeding \$100
4. All anonymous contributions, regardless of amount
5. Contributions from members who personally provide goods or services under contract to the federal government
6. Contributions by minors under the age of 18
7. Contributions from foreign nationals

Unlike RPAC, NAR may accept corporate investments to the Corporate Ally Program and Political Advocacy Fund, which are primarily used to communicate with NAR members about federal candidates through the Opportunity Race program or to engage in issue advocacy. There are no limitations on the amount of soft money a corporation or individual can provide to the Corporate Ally Program/Political Advocacy Fund, nor is there any limitation on the amount of soft dollars NAR may collect or spend.

Federal laws and some state laws govern the transmittal of RPAC funds. The Federal Election Commission Act (FECA) requires that investments in excess of \$50 be forwarded

from the local association to the state association within 10 days from the date of receipt. Investments of \$50 or less must be forwarded within 30 days.

Remember, there is no federal tax deduction or credit for political contributions, including RPAC investments. Investors should check state law to determine if there are any state income tax benefits for political contributions.

More information is available in the *RPAC Legal and Tax Resources* section of the REALTOR® Party website.

State RPAC Relationship with National RPAC

All 50 states plus the District of Columbia, the Virgin Islands, Guam and Puerto Rico have state level REALTORS® Political Action Committees. State RPACs are responsible for:

- collecting voluntary investments from REALTORS® and their families within that state
- determining whether such investments are permissible under federal law and transmitting to national RPAC its share of the permissible investments
- making recommendations to the RPAC Federal Disbursements Trustees as to which federal candidates running in to the state should receive RPAC support and
- determining which state and local candidates receive RPAC support from the state’s share of RPAC investments

A candidate questionnaire must be completed for all open seat and challenger candidates for the U.S. House and Senate. A candidate interview is highly encouraged to obtain the answers to the questionnaire in person. The candidate questionnaire should be used during the interview and must be emailed to RPAC following completion of an online request for RPAC funds for the request to be considered.

State law will dictate how state RPACs are formed. Some state RPACs are entities with few or no ties to their state association other than common membership. Others may be a standing committee of the state association, with a clear and direct operating relationship between the two.

There are important legal and political considerations when establishing a state RPAC, as well as practical considerations like insurance applications. The professional liability insurance coverage provided by NAR covers state association committees and their members. If a state RPAC is operated as a committee of the state association, that insurance covers state RPAC trustees and officers as well. Where the state RPAC is less closely related to and controlled by the state association, there may be some uncertainty as to the applicability of that coverage. Tax law must also be considered since PACs are separate tax-exempt entities, organized under Section 527 of the Internal Revenue Code.

Cooperative Agreements

RPAC's success stems in large part from cooperative agreements with national RPAC and state RPACs.

The cooperative agreements between national RPAC and state RPACs address the practice of state and local associations soliciting and collecting investments to be shared between RPAC and state PACs and used to support candidates for local, state and federal elected offices.

The state determines the percentage of each investment that will be sent to national RPAC and notifies NAR of that percentage. States can change the specified percentage but not more than once a year. The only exception to this flexibility is that states must provide national RPAC with at least 30 percent of the contributions of individuals seeking to be recognized as RPAC Major Investors to receive Major Investor benefits.

The state RPAC commits to transmit the federal portion of the RPAC investments it collects to national RPAC, and to provide to NAR information about the identity of investors and the date and amount of each contribution.

Under the agreements, national RPAC has the exclusive right to contribute to and make political expenditures in support of candidates running for federal office, while reserving for state RPACs the sole authority to contribute to state and local campaigns. The agreements also assign to national RPAC and the state RPACs, respectively, the responsibility for preparing and filing required reports with federal and state campaign finance agencies.

NAR and RPAC encourage state RPACs to make available to local associations or their local political action committees a portion of the RPAC contributions for use in local elections.

More information on these agreements is available in the *RPAC Legal and Tax Resources* section of the REALTOR® Party website.

Filing Requirements and Electronic Transmissions

National RPAC files monthly reports with the Federal Election Commission. Those reports show all contributions received by RPAC from NAR members and others permitted to contribute. They also show all contributions to federal candidates and committees made by RPAC and other related expenditures.

Copies of national RPAC's reports are available from the Federal Election Commission, 1050 First Street NE, Washington, DC, 20463, and on the *FEC's website*.

With more than 350,000 contribution records received annually by national RPAC, it is not feasible to accept paper submissions of data. Most states utilize computer systems to record membership and PAC contributions, and this technology allows us to export the necessary data directly. Thus, all states are required to submit contributor data through electronic transmission. Any checks or electronic funds transfers are returned to the state if not accompanied by electronically transmitted contributor information.

RPAC Disbursements

RPAC is the largest nonpartisan PAC in the country, with contributions to Democratic and Republican real estate champions nearly evenly split each election cycle.

Here are some of the ways we distribute those contributions:

In-State/Territory Receptions

In-state/territory receptions generally involve REALTORS® from the state, along with the Federal Political Coordinator for the respective U.S. Representative or Senator.

Incumbent House members are eligible for up to \$1,000 in the first year of the two-year election cycle. U.S. Senate candidates are eligible to receive up to \$2,000 of in-state reception funds to be used all at once or in increments (no less than \$500) during the first five years of the six-year election cycle.

State and local associations that do not contribute hard dollars (which are preferred) to RPAC or soft dollars to the Political Action Fund are not eligible to receive in-state/territory reception funds unless approved by a simple majority of the National RPAC Trustees.

Another opportunity is hosting in-state/territory meet-and-greet events, where REALTOR® associations can invite federal candidates to meet with REALTORS® to discuss public policy issues but *not* campaign-related topics. RPAC will provide up to \$1,000 for a state or local association to host a meet-and-greet event for a candidate.

D.C. Receptions

D.C. receptions provide valuable opportunities for NAR Advocacy staff to develop relationships with federal elected officials.

Incumbent House members can receive up to \$2,000 in D.C. reception funds per two-year election cycle. U.S. Senate candidates can receive up to \$3,000 in D.C. reception funds, of which \$1,000 is accessible every second year of the six-year term. Unused funds may be carried over to the following years of the term.

Special Recognition Fund

The Special Recognition Fund provides a higher level of financial support for members of Congress who have been extraordinary supporters of the real estate industry.

Polling

Periodically, RPAC conducts and provides polls as in-kind contributions to a candidate. RPAC also conducts polls for internal use to assist State Trustees Committees in making a candidate funding recommendation. Internal polls are funded through the Political Advocacy Fund, while RPAC funds are used for polls to be shared with candidates.

Political Party Investments

Political party investments allow RPAC to increase its visibility in U.S. House and Senate races. RPAC typically makes annual contributions to the National Republican Senatorial Committee, Democratic Senatorial Campaign Committee, National Republican Congressional Committee, Democratic Congressional Campaign Committee, Republican National Committee and Democratic National Committee.

Leadership PAC Investments

Many incumbents also have a leadership PAC into which they can raise additional funds beyond the \$10,000 limit for their candidate campaign committee. Leadership PACs must use funds raised to support other candidates. This provides another avenue for RPAC to support our real estate champions.

Federal Opportunity Races

The Federal Opportunity Race program targets REALTOR® members in key congressional races to help elect real estate champions. In top-tier races, NAR provides on-the-ground field workers to assist local practitioners in marshaling support for a candidate.

Federal campaign finance law allows NAR, through its Opportunity Race program, to leverage soft money (not RPAC money) to help elect pro-REALTOR® candidates. The Opportunity Race program is funded through voluntary RPAC corporate contributions—soft dollars. RPAC saves our hard dollars to be used only for direct contributions to candidates.

The Opportunity Race program has three levels of support, with each level generally defined by the amount of voter contact between NAR and its members in support of the chosen federal candidate. Level 1 is reserved for top-tier candidates in highly competitive races. Level 2 is for candidates in competitive races who will benefit from REALTOR® engagement. Level 3 is for less competitive races where RPAC needs to show support for real estate

champions. The two main considerations for selecting a level for each race are the candidate's support of our issues and how likely the candidate is to win.

Federal Independent Expenditures

An independent expenditure is a communication that expressly advocates the election or defeat of a clearly identified candidate that is not made in cooperation, consultation, or concert with, or at the request of the candidate. Both NAR and RPAC may lawfully engage in federal independent expenditures. Independent expenditure communications are almost always supportive of real estate champions.

State trustees cannot request an independent expenditure for a federal candidate. However, before an independent expenditure may be considered by the NAR RPAC disbursements trustees, the state must first have requested a Level 1 Opportunity Race, the highest level of member-to-member communications on behalf of a candidate.

RPAC Fundraising and the Law

RPAC fundraising efforts raise important legal considerations. State associations, state RPACs, local associations, association RPAC committees, and individual NAR members must thoroughly understand the legal limitations, procedures, and consequences of RPAC fundraising activities.

Both federal and state election laws govern and affect RPAC fundraising activities. Because of the wide range of state and local election laws, and the difficulty in making generalizations, these laws are not discussed here. Before conducting any fundraising programs, state and local associations, along with their REALTORS® Political Action Committees and individual members who plan RPAC fundraising, *must* verify compliance with state and local laws and are encouraged to consult a political law attorney..

For additional information and specifics on RPAC fundraising requirements and tax guidelines, visit the *RPAC Legal and Tax Resources* page on the REALTOR® Party website.

Federal Election Campaign Act (FECA)

The Federal Election Campaign Act of 1971 (FECA) regulates the conduct and financing of federal political campaigns. This includes regulating the operation of federal political action committees (PACs) such as RPAC. RPAC fundraising falls under the jurisdiction of federal election laws because the national RPAC uses the funds it collects to attempt to affect the outcome of federal elections by making contributions to or expenditures supporting candidates for federal office.

The FECA and the Federal Election Commission's (FEC) rules and regulations cover every aspect of federal PAC fundraising, including:

- Who can be solicited to contribute
- What constitutes solicitation of a contribution
- Prohibited contributions
- Contribution limitations
- Contributor information required to be reported to the FEC
- Time limits for receiving, transmitting and depositing contributions

Understanding and complying with the law's provisions will ensure your association avoids the consequences of FEC enforcement proceedings, which may include civil penalties for violations of the FECA of up to \$5,000 or the amount of money involved in the particular violation. In cases when a violation is "knowing and willful," these amounts may be doubled, and criminal penalties, including imprisonment, are possible.

Who Can Be Solicited?

The FECA limits the class of individuals that may be solicited to contribute to RPAC. This "restricted class" or "solicitable class" consists of association members, including individual affiliate members, executive and administrative personnel of REALTOR® associations and the immediate families of any of those individuals. Under limited conditions, employees of REALTOR® associations other than executive and administrative personnel may also be solicited.

Any individual in the restricted class may be solicited for RPAC an unlimited number of times in any legally permissible way, except that non-executive or administrative employees of associations may only be solicited twice per year in writing, in a communication directed to their homes. Individuals not in the restricted class, regardless of their relationship with state association or local associations, cannot be solicited for RPAC in any way at any time.

Those with individual affiliate member status in local or state associations may also be solicited. Any dues-paying affiliate member of a local association, in accordance with a provision of the association's bylaws that permits that individual to be a member, may be solicited and may contribute voluntarily and personally to RPAC.

What Is a Solicitation?

Because of the restrictions on who may be solicited, the definition of what constitutes a solicitation is important. This issue commonly arises when considering whether an organization may publish articles about its PAC fundraising

activities or reproduce contribution forms in the organization's newsletter, magazine, social media or other periodical where some copies may be distributed to individuals outside of the restricted class.

The FEC takes a very broad view of the term "solicitation" and considers a solicitation to be any statement that provides the recipient with information about the PAC and the fact that the PAC has a need for or collects contributions. A statement about RPAC accompanied by information about how to contribute, such as providing an address where contributions can be sent or received, is deemed a solicitation.

On the other hand, a communication is *not* a solicitation if it neither "encourages readers to support the PAC's activities (by making a contribution) nor facilitates the making of contributions." Facilitation of the making of contributions would include providing information on how individuals may contribute to the PAC, such as including an address to send contributions or a website link to make contributions.

As noted earlier, only individuals who are members of the restricted class may be solicited for RPAC. To ensure compliance with this FECA provision, RPAC should not be actively promoted or discussed in the presence of persons not in the restricted class, whether in writing, in person or online.

In addition, when using association publications to inform people about RPAC, carefully consider:

- Whether the article is merely an RPAC informational piece or a solicitation and
- Who receives the publication

If an article can be fairly characterized as "informational only," it may be printed in an association publication distributed to persons outside of the restricted class. An article that constitutes a solicitation may not be distributed to persons outside the restricted class.

You must be cautious about including information about RPAC on social media. If the information constitutes a solicitation, it must be placed behind a firewall so it is accessible only to individuals within the solicitable class. Guidelines on how RPAC information can be posted on association websites and social media is available on the *RPAC Online Posting Guidelines* page on the REALTOR® Party website.

Contribution Solicitation Notice

Political action committees are required to advise prospective contributors that their contributions are voluntary and that the funds contributed will be used for political purposes. To ensure that no pressure or duress is used when soliciting and collecting RPAC contributions, the FECA

requires that all written RPAC solicitation materials include a notice that contains *all* of the following:

- A statement that contributions to RPAC are not deductible for federal income tax purposes
- The political purpose of RPAC
- A statement that RPAC contributions are voluntary
- A statement that a member may refuse to contribute without reprisal
- If a contribution guideline is suggested, a statement that a member is free to contribute more or less than the suggested amount and that NAR or any of its state or local associations will not favor or disfavor any member because of the amount contributed or a decision not to contribute
- The percentage split between national RPAC and the state RPAC, as determined by the state association and
- A statement that a portion of the investor's contribution will be applied to their federal contribution limit

A suggested method of providing appropriate notice is to give each solicited member an RPAC flyer or brochure that contains the necessary information. In the case of dues billing solicitations, the information must be plainly printed on the dues statement. A clearly identified and visible footnote is sufficient.

Required Contributor Information

Federal law requires gathering certain information about RPAC contributors. RPAC keeps a record of each contribution, including:

- Date of receipt and amount
- Contributor's full name, including first name, middle name or initial and last name
- Contributor's Members First Engagement System (M1) membership identification number when available
- Contributor's mailing address

All RPAC solicitors should gather this necessary information when they collect RPAC contributions from other members. This information must accompany each transmittal of funds to national RPAC.

Contribution Time Limits

The FECA states that RPAC contributions of more than \$50 must be forwarded to the treasurer of national RPAC or a designated receiving agent within 10 days of the date of receipt. Contributions of \$50 or less must be forwarded within 30 days.

For this purpose, the state RPAC or association is the designated receiving agent for national RPAC. Thus, all

contributions collected by the local association must be transmitted to the state association or PAC within the applicable 10-day or 30-day time limit.

Federal law also requires that all RPAC contributions be deposited within 10 days of when they come into the possession of the designated agent of the RPAC treasurer. That means that upon receipt of contributions from a state association, national RPAC must deposit those funds within 10 days.

It is equally important that states promptly transfer the federal portion of RPAC contributions to NAR. Many states use a state transmittal account into which they deposit RPAC contributions. RPAC contributions must be deposited in the transmittal account within ten days of receipt by the state PAC.

The state PACs transmittal to national RPAC must occur regularly—at least monthly and preferably more often.

The One-Third Rule

The FEC's one-third rule applies to fundraising events and activities conducted to solicit voluntary PAC contributions where prizes, merchandise or entertainment is provided to contributors in exchange for their contributions. This rule applies to RPAC fundraising efforts conducted by the national, state and local associations, because a portion of RPAC contributions are provided to and used by national RPAC to support federal candidates.

The one-third rule states that a fundraising event or activity offering prizes, merchandise or entertainment such as a raffle or an auction must result in contributions of at least three times the (fair market) value of the items given to contributors or entertainment provided. If that amount is not received, the entity conducting the event must be reimbursed by the PAC in an amount sufficient to reduce the net expenditure—such as the cost or fair market value of items of merchandise or services or entertainment provided to contributors—to one-third of the total contributions collected.

RPAC Fundraising Training

NAR's *RPAC fundraising webinars* are designed to help REALTOR® volunteers and association staff learn more about RPAC without leaving the office. The webinar sessions are interactive and cover a variety of topics.

Federal election laws, rules, and regulations are complex and can change. The state association, state RPAC, or association legal counsel should periodically review all fundraising activities to ensure compliance with current federal, state and local laws. NAR staff are also available to assist state and local associations in applying federal law to RPAC fundraising activities.

3.2

Association Structures and Relationships

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INTRODUCTION

As the real estate industry becomes more complex, REALTOR® associations find new ways to provide services that help their members succeed in their chosen markets. Fortunately, there are various options regarding relationships, such as shared services, collaborations, mergers or consolidations.

But before looking at these potential options, AEs need to understand the fundamental structures pertaining to organized real estate. For example, most real estate associations are structured as 501(c)6 trade organizations, which have certain tax advantages compared with for-profit corporations. A nonprofit subsidiary, such as a charitable or educational foundation, may be structured as a 501(c)3 organization. Income and tax considerations can affect association strategies in a variety of ways, and should be taken into account whenever considering a new relationship with another association.

For more information on 501(c)(6) and 501(c)(3) structures, see the Financial, Budget and Tax Management chapter of *The Answer Book*.

THE THREE-WAY AGREEMENT

Understanding the underlying structure of organized real estate provides a foundation for making well-informed decisions relating to other relationships.

First of all, the NAR is a large organization with state and local associations that must clearly understand and proactively adhere to the various elements described in this chapter.

The term “Three-Way Agreement” refers to the structure of the REALTOR® organization. This agreement was established among the national, state and local associations. With this agreement, NAR grants each association the right to control the terms “REALTOR®” and “REALTOR ASSOCIATE®” within its territorial jurisdiction. It also permits associations to allow individuals who are qualified for membership to use the terms REALTOR® and REALTOR ASSOCIATE®. In turn, the state associations and local associations agree to:

- Accept the charge of properly granting and regulating the use of the terms “REALTOR®” and “REALTOR ASSOCIATE®”
- Subscribe to the Code of Ethics of NAR
- Uphold and enforce the Code of Ethics within the association’s jurisdiction

The REALTOR® organization is a “federation,” which means that all local associations and their REALTOR® members are members of the state association of REALTORS® in the state where their association is located and also of NAR.

This federated structure strengthens the REALTOR® organization by providing a framework for effective communication, delivery of services and enforcement of the REALTORS® Code of Ethics. The size of the REALTOR® organization (more than 1.5 million members at this writing), also a product of the federated structure, contributes substantially to the political influence of NAR, thereby enhancing its effectiveness in lobbying for causes that contribute to the protection of private property rights.

In the simplest of terms, the federated structure allows the REALTOR® organization to use its combined resources (both human and financial) and influence to have a unified, powerful voice in shaping public policy, set recognized standards for ethical real estate practice, and contribute to the betterment of the real estate industry.

For more details on the Three-Way Agreement, see the Governing Documents and Policy chapter of *The Answer Book*.

BOARD OF CHOICE

In the past, REALTORS® were required to join the association whose jurisdiction included the location of their principal place of business, prior to joining any other association. The “Board of Choice” concept, put in place by NAR in 1991, allows REALTORS® to choose their associations based on the factors they decide are most important, rather than being limited by office location or jurisdictional boundaries. At the same time, services of other associations are available without the necessity of holding membership in those associations, which is considered universal access to services. Service fees are determined by each individual association.

For more information on Board of Choice, see the Membership Policies and Procedures chapter of *The Answer Book*.

EVOLVING TO MEET MEMBERS’ NEEDS

State and local associations should periodically review their organizational structures and consider changes that might help them deliver better or more efficient services to their members. There are several alternative models—including mergers, consolidations, shared services and collaborative programs—that can bring together additional resources on behalf of members. Another option might be a multi-board management arrangement, whereby a small local association’s administration is assumed by the state association or another local association and exists without its own AE. However, different associations have different structures and models that must be taken into account when considering these relationships.

For REALTOR® associations, judicious use of these structural relationships—such as shared services and/or some form of merger—can help to expand service capabilities. Since these options have both advantages and drawbacks as strategies for meeting member needs, it is essential that leadership and management make informed decisions. The NAR Library and Archives and the Shared Services Toolkit at <https://www.nar.realtor/ae/manage-your-association/shared-services> provide excellent support for associations considering their options.

Scenario Planning

Scenario planning can help associations considering their options in meeting the evolving needs of their members. It is an exercise that involves identifying plausible futures, or scenarios, and formulating possible responses. At its most basic, scenario planning poses the question, “If this happens, what will the association do or look like?”

Scenario planning can avoid the internally focused thinking that sometimes results from traditional strategic planning processes and produce results faster than traditional methods.

For more on developing scenarios, as well as strategic planning, see the Planning and Visioning chapter of *The Answer Book*.

STRUCTURAL AUDITS

Along with financial audits, associations should also undertake structural audits to review their current strengths, governance, facilities, technology, staffing, services and communications with members. This can be undertaken after a scenario planning exercise or separately, as determined by association leadership.

A structural audit is a top-to-bottom review of an association, looking at everything from governance to the ability to serve member needs in a changing real estate environment. The review typically includes an in-depth examination of the following:

- Governance of the association
- All policies and procedures, including those that may need to be developed
- The finances of the association, including reserves, cash flow and controls
- Staffing and staff-to-member ratios
- Association staff position descriptions and professional development
- Facilities and adequacy
- Membership records and maintenance procedures
- Membership services in general
- Technology products and services
- Education and training
- Communications
- Public relations
- Online and social media presence
- Professional standards administration
- MLS/information services, including regionalization and reciprocity
- Lockboxes and procedures
- Governmental affairs and RPAC

- Relationships with other REALTOR® associations
- Relationships with non-REALTOR® associations
- Legal services and an antitrust audit
- Membership meetings and networking
- Strategic planning and implementation

Finding a Structural Auditor

A consultant who understands the industry and where it is going can serve as an effective structural auditor. An AE with a strong background in REALTOR® association management or a REALTOR® volunteer leader who has been highly involved in association management as a consultant could provide this service.

What is involved?

A structural audit begins with communications between the auditor and the association to determine the extent of the structural audit, the timelines and the nature of the issues that are driving the need for a structural audit. Usually, a questionnaire is sent to the AE for completion and returned to the auditor at least a week in advance of the audit. The auditor will work very closely with staff, particularly the AE, prior to, during and following the structural audit. However, the involvement of volunteer leadership is critical.

Who needs a structural audit?

Every association, regardless of size, should have a structural audit completed at least every 10 years, or more frequently if the following occurs:

- The association has experienced a significant drop in membership (20 percent or more)
- The association has grown by more than 40 percent over a five-year period.
- Budget cuts have led to the elimination or reduction of key services
- A new AE has been hired and there is a consensus that processes, procedures, facilities and staffing are not adequate to best serve the needs of the membership
- Surveys or focus groups reflect satisfaction levels with association services at less than 70 percent, or declining by 10% or more since the last survey
- There has been an incident involving key staff that relates to misappropriation of funds, improprieties by association staff or an apparent or perceived breakdown in the relationship between the AE and staff

- A general disconnect exists between staff and volunteer leadership.
- The association is in meltdown—all systems have broken down and volunteer leaders are struggling to determine why and what to do.
- The association has recently merged, taking in another association.

How Does the Structural Audit Process Fit with Strategic Planning?

A structural audit is an integral part of strategic planning; however, structural audits are not used as frequently unless the above conditions exist. Strategic planning is an organized process whereby an association is taking charge of its strategic direction, business planning and future. Strategic planning generally does not involve issues of structure, policies and procedures, staffing and the division of responsibilities between volunteer leadership and staff.

When appropriate, the structural audit is a vital and ancillary part to the planning process, helping the association maximize its relevance to its membership. In most instances the structural audit report and recommendations will drive the strategic planning process and help the association overcome any shortfalls in staffing, communications, technology and services.

A structural audit should not be considered a substitute for strategic planning, but as an adjunct to strategic planning that will provide beneficial results for both the association and its members.

COLLABORATION

One of the structural options for REALTOR® associations is to collaborate with other associations through a partnership, a strategic alliance or shared services. Whatever the name, it all comes down to one thing: two (or more) entities working together.

Collaboration is “a mutually beneficial and well-defined relationship entered into by two or more organizations to achieve results they are more likely to achieve together than alone,” according to Michael Winer and Karen Ray, in *Collaboration Handbook: Creating, Sustaining, and Enjoying the Journey*.

By pooling their knowledge, skills and resources, real estate associations can operate more efficiently, and significantly enhance their offerings to members. Collaboration also facilitates the growth of best practices throughout an organization. But for a collaboration to be effective, both parties need to have a clear understanding of the goals of their relationship, the roles each will play and the steps necessary to achieve those shared goals.

The following article, “15 Steps to Collaboration,” is taken from the Collaboration Handbook.

Critical Checkpoints: 15 Steps to Collaboration

1. Identify emerging needs in the internal or external marketplace, then determine what potential exists for possible collaboration (and potential collaborators). [This is best accomplished through the strategic planning process.]
2. Create mutual goals. After choosing potential collaborators, establish mutual ideas, goals, and philosophies for the alliance. Look for enough compatibility to challenge and stimulate one another over time, as well as the presence of mutual trust. A level of tolerance must exist on behalf of the collaboration for cultural norms, idiosyncrasies, and time perspective.
3. Choose complementary partners. When choosing potential collaborators, consider these criteria:
 - Familiarity (similarities in purpose, expertise, community, customers, or members will help the collaboration gel)
 - Power (choose collaborators who have the power to achieve results)
 - Stimulus (some collaborators are “queen bees” who attract others; queen bees may not remain with the collaboration long, but their presence will attract those who will)
 - Variety (some people can conceptualize and have a high tolerance for process, whereas others prefer to implement specifics later on; successful collaborations need varied skills and abilities)
4. Establish a core focus and shared vision of the collaboration.
5. Serve each collaborator’s interests in one fashion or another. Self-interests [what is in the best interest of the members] must remain in the forefront throughout the life of the collaboration.
6. Educate all parties about the knowledge, skills, and abilities each brings to the table.

7. Determine the type of partnership to create. Will it be equal, an associate relationship, or a combination in between? Key factors to consider include the level of financial risk, and/or financial assets being contributed to the partnership, availability of time and energy for the project, and prior existence of any intellectual property tied to the project.
8. Determine roles. Figure out what roles (including financial) each party will play during the course of the project. Make sure those roles are defined and clearly documented for future reference. Be accountable for your role, until the parties change the structure of established roles.
9. Specify results. Desired results must be concrete, attainable, and measurable. The more specific the desired results, the better you'll know how the collaboration is progressing. Those results will remind you to stop, look around, determine whether you're succeeding, then decide whether you should continue on, correct your course, or terminate the project.
10. Establish communication links and communicate openly and frequently.
11. Expect conflict. Conflict is inevitable and actually highly desirable. Lack of conflict often indicates that issues are buried. Collaborations must form a new culture distinct from that of each individual collaborating organization. Conflicts arise as you create the new culture. By not allowing conflict, you limit your ability to change. Ideally, you need to expect, promote, and manage conflict throughout the life of the collaboration. To manage conflict, you need to:
 - Clarify the issues (the root cause of the conflict, not just the surface symptoms)
 - Create a conflict resolution process (revisit the vision, select a facilitator, separate the conflict from concepts of right and wrong, make sure everyone is heard, and don't burn bridges)
 - Resolve the unresolvable (by exploring even the most difficult conflict situation)
12. Work the plan. Create a working plan and support the intent to continually have it in action. Review the results of the action taken, and make expedient and necessary changes that will support the health of the collaboration over the life span of the alliance.
13. Get buy-in up front. Get the buy-in of your immediate support system (staff, board of directors, membership) before entering the collaboration. Educate them about expenditures of time, money, energy, and other resources that will be needed to successfully launch the project(s) your collaboration represents.
14. Set a minimum "no exit" time period that collaborators will agree to. New ventures take time to be planted, watered and nourished, weeded, and ultimately harvested.
15. Provide recognition and visibility. We all know the power of recognition--the same holds true within the framework of collaboration between organizations. Our members want to know we're doing all we can to stretch the dues dollars they invest in us. What better way to add value than by keeping them informed about our collaborative efforts.

SHARED SERVICES

Shared services programs can help REALTOR® associations expand services and streamline management through strategic partnerships. Collaborations, partnerships and other mutually beneficial relationships among REALTOR® associations can enhance the level of service to all members, increase an association's efficiency and productivity and help all involved meet the Core Standards.

NAR's shared services resources include a series of simple-to-follow steps in assessing association programs to facilitate the process of reaching out to other associations that may complement those programs. For more information: <https://www.nar.realtor/ae/manage-your-association/shared-services>

What Are Shared Services

Shared services can take a variety of forms, depending on each association's relationship, resources, size and needs. Associations can contract with each other to provide services, such as member record-keeping. They can mutually sponsor programs such as leadership training, co-develop products or materials, or purchase services from other associations. Depending on the shared services agreement, the host association may be able to charge an additional fee for non-members participating in these programs or activities.

"Shared services" can be self-administered or facilitated with shared services experts. Professional facilitators can guide association executives and leadership through the process of uncovering the best partnership opportunities for their associations.

Who Can Share Services

Any size association can benefit from a shared services effort that would leverage the talents of one association and staff to optimize services for members and other associations. Association partnerships can build greater efficiencies on the local or state level. REALTOR® associations might even consider sharing services with associations outside of the REALTOR® organization.

Association Benefits

Sharing services can save associations the time and cost of duplicating services developed by other associations. It can also provide the resources to offer new services previously unaffordable. By pooling resources to develop programs or address common issues, AEs' workloads are lessened, staff responsibilities are reduced and potential new revenue streams are created. Associations in mutually beneficial partnerships make the REALTOR® organization as a whole stronger, more efficient and more effective.

For example, one association may be known for delivering quality classroom education programs while a nearby association has invested in technology for delivering online education. Sharing those strengths could be a natural way to benefit members in both associations.

The Impact of Shared Services

The shared services approach is a move toward an environment of collaboration among associations, so that no one association feels overwhelmed by the rapid pace of change and the ever-increasing expectations and demands of REALTOR® association members. Collaboration helps associations keep up with the growing demands of their members for technology and information services, among other creative programs, to keep REALTORS® as the first point of contact in all real estate transactions.

Through shared services, practitioners have access to more relevant member services, more updated opportunities, and more resources than are currently available through the local association, alone.

Ten Potential Shared Services

Here are 10 services and competencies that could present an opportunity to share services or collaborate with another association:

- Communications
- Education
- Financial management and reserves
- Government advocacy; political involvement (government affairs directors)

- Office facilities and locations
- Professional and legal services
- Real estate tools
- Real estate-related affiliations and other relationships
- Staff training and development programs
- Technology and related services

Considering Shared Services

Before an association can begin to think about outsourcing or strategic partnerships, it needs to do four things:

- Clearly identify its “core business.” What is our association’s primary reason for being in the first place?
- Clearly identify the functions and activities that cannot be duplicated by any outside source or potential partner. What activities does our association do better than any other party?
- Clearly identify the functions and activities that can be done as easily or better by someone else. How can our association gain time and resources through outsourcing or partnering and redirect energy to our core business?
- Clearly identify the functions and activities that have high priority and/or high member value that could be added if resources are available. What new member services could be offered if resources were leveraged or made available as a result of shared services?

MERGERS/ CONSOLIDATIONS

Generally, the purpose of an association merger is to pool resources and create a larger, stronger organization that has more financial resources and greater assets. In the technology sector, for instance, it is far less costly to maintain one member database, one website and one office network than to operate two separate systems. However, there may be residual value on those digital assets, from social media content to association blogs. Therefore, once a decision has been made to merge or consolidate associations, a plan needs to be put in place to inform and educate members about the changes, the reasons and the benefits.

Because one local association’s fundamental mission (to provide services and promote the common interests of all its members) is identical to the missions of its neighbor associations, a merger could reaffirm and expand upon the principles and ideals of two or more associations. A secondary reason local associations may merge or consolidate is due to their inability to adhere to NAR’s Core Standards and the resultant need to build capacity.

Successful Consolidations

Consolidation can take many different formats or structures—not just a merger. As outlined in “*Elements of a Successful Merger*,” by Jerry Matthews in REALTOR® Association Executive, Winter 2011, there are five major unification models:

- **Absorption**—one association is simply absorbed by another.
- **Merger**—two or more associations form one united organization.
- **Overlay**—cooperation between two or more associations to form a new NAR- recognized association that focuses on the delivery of one area of service to a unique subset of members.
- **Alliance**—when two or more associations establish a framework within which all or certain types of future program or service collaborations will operate.
- **Cooperative venture**—a separate entity owned and operated by two or more local associations.

Two other options to consider include:

- **Shared services**—when two or more associations agree to share the costs of providing an ongoing member service, as discussed above
- **Multi-management**—when a small association’s administration is assumed by the state or another local association. The small association still exists but without its own AE.

Any of these models and options can create synergy for real estate associations, depending on local nuances. And there are specific critical issues that must be resolved regardless of format. To be successful, a consolidation must be done for the relevant purpose, based on the appropriate model, and address all the critical concerns.

Joining Forces

The following article, “The Whys and Hows of REALTOR® Association Mergers and Consolidations,” was prepared by NAR Legal Affairs staff.

Mergers or consolidations of REALTOR® associations can often be advantageous for everyone involved. There can be economies of scale, improved or expanded services, and more effective lobbying.

However, mergers or consolidations can present a number of legal concerns and pitfalls, which is why it’s wise to act cautiously when merging or consolidating with another association. Carefully consider why the association wants to merge or consolidate and follow the processes mandated by state statutes, your association’s bylaws, and NAR’s merger and name approval procedures.

Merge, Consolidate—What’s the Difference?

First, let’s distinguish between a merger and a consolidation. A merger occurs when one association transfers all its property to another association and then dissolves. The other association continues to exist

With a consolidation, two or more associations terminate their existence and form a new association. In either case, the new or surviving association gets all the assets and liabilities of the original parties to the merger or consolidation

A threshold consideration for the associations that are contemplating a merger or consolidation is why the two (or more) associations want to do so. If the associations have or appear to have anticompetitive reasons, such as wanting to limit the choices of where prospective members can join, they’ll violate state and federal antitrust laws

In fact, you should always be alert to antitrust concerns when the merger or consolidation results in an increase in dues or service fees. These concerns, however, can be mitigated if the association can demonstrate that:

- A nearby association charges lower prices for similar services.
- An independent association can still enter the market.
- The association would have had to raise its fees anyway.
- One of the associations was going to dissolve unless the merger occurred.
- A large majority of members are in favor of the increased fees.

Reasons that don’t raise antitrust concerns include the associations’ desire to deliver services more efficiently, be more effective in such activities as lobbying, reduce overhead and other costs, make more services available to members, and provide new services together that neither party had been able to provide separately.

Follow Proper Procedures

NOTE: NAR offers a Merger Kit for associations contemplating a merger, and you can obtain one by contacting NAR's Member Experience team (312-329-8399) or at NARPolicyQuestions@nar.realtor.

The process of negotiating a merger or consolidation is filled with antitrust pitfalls as well. Exchanging competitively sensitive information can raise antitrust concerns such as price fixing. Such information should therefore be given only to those parties who need it to evaluate the transaction and shouldn't be used by either association to make pre-merger operational decisions.

Before embarking on a merger or consolidation, review all corporate documents to determine how the association must proceed and how various association activities will be affected. First, check the association's articles of incorporation (and amendments), bylaws, and minutes. These, together with state statutes, will spell out how many of the members or directors or both need to approve a proposed merger or consolidation.

Next, check the following materials to see whether they place any limitations on a proposed merger or consolidation or whether they'll need to be amended to reflect the new status.

- Surveys and appraisals of real and personal property
- Employment and other contracts
- Pension plans
- Leases
- Loans, notes, mortgages
- Insurance policies
- Federal tax-exemption letter

Once the documents have been reviewed, the association will need to draft a plan of merger or consolidation, setting forth all the terms, including the names of the current parties, the new name of the association, changes in the articles of incorporation (for a merger), new information for articles of incorporation (for a consolidation), and all other provisions on which the parties have agreed.

The plan will need to be approved in accordance with the provisions in each association's bylaws as well as state statutes. Typically, a two-thirds vote of members (where an in-person meeting is held) is required. Once approved, the plan should be filed with the secretary of state. The final step is to follow

NAR's merger and name approval procedures (see "Association Merger Procedure" and "Procedure for Approving Names of Associations" on the Law and Policy section of www.nar.realtor).

<https://www.nar.realtor/about-nar/policies/association-merger-procedure>

<https://www.nar.realtor/about-nar/policies/procedure-for-approving-names-of-associations>

Mergers and consolidations are a good way to offer members greater value. But associations should take great care to meet all internal and state law requirements and to avoid federal and state antitrust inferences.

THE BENEFITS OF MERGING/CONSOLIDATING

According to NAR's Merger Kit, here are some of the potential benefits of a merger involving two or more associations:

- Increase an association's appeal to area members, who in many cases would no longer be required to pay multiple association dues
- Decrease the association's direct costs (such as each local association's office building, salaries for each association's staff, cost to operate each multiple listing service, etc.)
- Enhance services provided to members, including additional educational offerings, more efficient and effective professional standards enforcement and improved MLS systems
- Increase the local association's operating income, which could result in hiring a staff person to manage association operations and provide continuity from year to year
- Enhanced ability to cope with market fluctuations and rising costs of operations
- Increased opportunities for wider recognition within the community and organized real estate

SOURCES

- "Elements of a Successful Merger," by Jerry Matthews, REALTOR® AE Magazine, Winter 2011
- Shared Services, NAR website: <https://www.nar.realtor/ae/manage-your-association/shared-services>

3.3

Commercial Services and Structures

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INTRODUCTION

Commercial real estate is a highly diverse market that differs in many ways from the residential field. AEs need to understand the nuances of commercial real estate transactions—including sales, leases and property management—in order to meet the needs of all their members and identify new opportunities to grow and strengthen their organizations.

Commercial real estate is defined as any property except those with one to four residential units or condominiums, townhouses, manufactured homes or individual homes that are sold individually, even though they are part of a larger group. (Non-owner-occupied investment residences are included in the commercial real estate category.)

Commercial real estate uses include office (high-, mid- and low-rise buildings), industrial (manufacturing and warehouse), retail (malls and neighborhood shopping centers), hospitality (hotels and resorts), healthcare (hospitals, urgent care centers, outpatient surgery facilities and medical offices), storage (self-service facilities), technology (data centers and cellular towers) and land (raw or undeveloped tracts, entitled properties and subdivided parcels). In addition, there are many mixed-use commercial projects that combine two or more of these uses on a single property.

In both residential and commercial real estate, the duty of the REALTOR® is the same: to represent the best interest of the client. Typical commercial services include brokerage (representing a buyer or seller), leasing (representing a landlord or tenant) and property management (representing the owner). As a result, the commercial sector provides REALTORS® with a wide range of career opportunities.

In commercial real estate, buyers and sellers, landlords and tenants are usually motivated by financial and business opportunities, and emotions play a much smaller role than in the residential sectors. Transactions can be far more complex and take many months or even years to complete. Not all properties for sale are listed on an MLS, and local market information may be a key value agents can bring to a client. While some commercial clients will want to use all of a broker's services in identifying a site, negotiating with the other parties, and managing the transaction process, others may only need a broker for certain aspects of the deal. Finally, each representation and compensation agreement is different—there are no standard forms.

In smaller markets, a commercial broker may practice all types of real estate—land, residential, retail, office, and industrial. But in larger, more urban markets, a broker should consider specializing rather than trying to keep up with all types of commercial properties. Each type of commercial real estate has its features and demographic requirements. For example, what is critical to the owner of a retail shopping center may not be important to the owner of warehouse and vice versa.

TYPES OF COMMERCIAL REAL ESTATE

As noted above, commercial real estate is defined as any property except property with one to four residential units or condominiums, townhouses, manufactured homes or individual homes that are sold individually, even though they are part of a larger group. This chapter focuses on four of the major categories.

Office

Office space falls into many categories. These are the most common:

- **Converted homes, also called cottage style**—typically suitable for small businesses
- **Low-rise**—one to three stories high, found in suburban and some urban areas
- **Mid-rise**—three to 10 stories high, found in suburban and some urban areas. In some markets, this might be considered a high-rise
- **High-rise**—more than 10 stories (although in some markets, 10 to 15 stories may be considered mid-rise) and typically found in central business districts (CBDs) and employment centers

- **Specialty**—medical offices, entertainment centers, co-working facilities, historical buildings, government buildings, institutional facilities

Industrial

Industrial real estate properties are typically used for manufacturing or warehousing. The most common types include:

- **Office/showroom, flex space, office/warehouse**—a combination of office and industrial
- **Warehouse**—bonded facilities, climate-controlled, single user or multiple users
- **Manufacturing**—the type of manufacturing makes a difference as does the area where the facility is located. Some areas are designated “Foreign Trade Zones” where goods may be imported and the tariff paid once they are assembled. Some cities and counties differentiate between light manufacturing and heavy manufacturing.

Retail

Retail properties can be found in virtually every community, large or small. The most common types include:

- **Single user (freestanding)**—these properties are used by drug stores, restaurants, banks or other destination-oriented retailers.
- **Big box**—this generally refers to large single-user stores designed for large regional or national companies. Because of market changes as well as planning and zoning requirements, many of these properties have been repurposed for other uses.
- **Neighborhood shopping center**—these centers usually have one or more anchor tenants, such as a grocery store, and other shops providing goods and services, such as a cleaner, nail salon, frame shop, etc. They may also have outparcels for standalone single-tenant use.
- **Regional shopping center**—these open-air and enclosed (mall) properties service a larger region with a mix of local, regional and national tenants.
- **Specialty center**—these centers focus on a specific retail use, such as entertainment, home décor or nautical stores, and include outlet centers offering discounted products.

Land

“Under all is the land” is the opening line of the REALTOR® Code of Ethics. It is also the beginning of every new residential or commercial development. Unlike an office building, warehouse or a shopping center, a tract of land does not have an existing structure. A commercial practitioner will analyze the property for its intended use, including zoning, accessibility, soils and environmental issues.

THE KEY PLAYERS

Real Estate Brokers. Although not all commercial agents hold a broker’s license (some hold a salesperson license), commercial agents tend to refer to themselves as brokers. Therefore, the term “broker” typically includes the commercial agent.

Lenders. As in most business transactions, financial resources often need to be secured. The lender may be a construction lender, an acquisition lender, an equity lender, a permanent lender or a combination of financial sources.

Architects, Engineers and Land Planners. In the case of development, redevelopment or even the leasing of property, buyers may need the help of an architect, engineer or land planner.

Accountants. Some buyers and sellers also need financial advice on the acquisition or disposition of their property.

Attorneys. Buyers and sellers also need legal advice from an attorney experienced in commercial real estate transactions.

Appraisers. Most lenders will ask for a commercial appraisal before extending the loan.

Other Consultants. Other specialists may be needed to handle certain aspects of the transaction, such as:

- Rezoning/land
- Historical designation
- Traffic flow and volume
- Environmental matters
- Business brokerage

In a commercial transaction, coordinating various experts is the exception rather than the norm.

TYPES OF TRANSACTIONS

Commercial real estate transactions generally fall into two categories: sales and leases, tailored to meet the needs of the parties. Many REALTORS® also engage in property management, and those agreements are also customized for each situation.

Sales Agreements and Contracts

Any commercial brokerage agreement should specify who is being represented (unless the broker is acting in a non-agency capacity as permitted by state law), what the duties will be and how the broker will be compensated. The amount of commissions and the amount paid to each broker is a function of the market and are always negotiable.

Note: Any examples of commission structure or other compensation are for the purpose of explanation of concepts. These are not to be used as suggestions for compensation. Practitioners should refer to their office policy when structuring any commission or compensation structure.

Most commercial contracts are drafted by attorneys, as opposed to the standard forms completed by residential real estate agents. Many times, a letter of intent will be used initially to outline the proposed business terms of a transaction before the attorney starts drafting a contract. It is important to discuss these points and wording with an attorney, as there are conflicting case laws on the enforceability of a letter of intent. Certain provisions can cause a letter of intent to be treated as a contract, and brokers are not permitted to draft legal documents for others.

There are several due diligence clauses in commercial purchase agreements, including:

- Financing
- Physical inspections
- Lease and contract review
- Zoning and land use issues
- Easements
- Environmental studies
- Soil studies
- Traffic studies
- Market studies
- Feasibility studies
- Survey
- Title
- Use
- Appraisal

Some contracts require buyers to proceed if state provisions are met. Others may give buyers the right to purchase or back out during the due diligence period. (This is like an option in a contract. The earnest money may or may not be refundable.)

Leasing Agreements and Contracts

A commercial broker can represent the tenant or landlord (or both, or neither, in states where that is an allowed practice) in the lease negotiations. There can be a tenant representation agreement (tenant rep) or a landlord listing (lease listing) agreement or other fee agreement. The agent's compensation needs to be specified in writing. If agents are sharing commission, there needs to be a co-brokerage agreement.

All leases need to stipulate the date, term, rent, etc. In commercial leases however, these can all be negotiated depending on the parties' objectives. Other clauses may specify how tenants can use the space, tenant allowances for improvements, and rights and use of common areas. There are also important differences between net leases (where tenants pay most expenses) and gross leases (where the landlord pays).

Commercial brokers also handle land leases, which allow a user to lease the land for a period of time (usually a long period) and construct a building. At the end of the lease, ownership of the building remains with the landowner.

Property Management Contracts

A commercial broker may contract directly with a property owner to manage one or more commercial or residential properties. If the owner has extensive holdings, the property manager might engage a commercial broker as a subcontractor to handle part of the owner's portfolio.

In any case, the manager's duties typically include leasing spaces, collecting rent, arranging tenant upfitting, handling repairs and conducting routine maintenance. Responsibilities, staffing arrangements and fees are among the key issues that should be clearly defined in the written contract.

MARKETING COMMERCIAL PROPERTIES

Commercial brokers market properties in a variety of ways, depending on the nature of the project and representation agreement. For instance, a large apartment community, office building or shopping center may require a far more extensive—and expensive—marketing plan than a small outparcel or single-tenant property. Here are a few of the options.

Commercial Information Exchange (CIE)

Commercial Information Exchange (CIE) is an online commercial property listing service operated by a local or state association to serve its commercial market. The CIE helps commercial participants share information about commercial property, recent sale or lease transactions, market statistics and contracts. The CIE has no offers of cooperation and compensation. Any compensation agreement related to the property included in the CIE compilation must be made on an individual basis outside the CIE between the participants involved.

Commercial Multiple Listing Service (CMLS)

The CMLS is also an online property listing service that has the similar functionality as a CIE. It provides commercial participants with the ability to share information about recent commercial sales or lease transactions, market statistics and contracts. In addition, it allows authorized participants make blanket unilateral offers of compensation to other participants to make for their service in the sale and lease of such listings.

Other Strategies

Listing brokers' strategies may include:

- Posting the listing on major commercial property sites like LoopNet or CREXi
- Posting on the broker's website and on social media pages
- Sending emails to local brokers
- Calling targeted buyers or brokers
- Hosting events at the site
- Placing signage on the property

NAR'S FOCUS ON COMMERCIAL REAL ESTATE

NAR supports commercial real estate practitioner members by providing services that include advocacy of relevant issues, research on local market and industry trends, access to technology tools, education through NAR's institutes, societies and councils, and networking opportunities at events and through social networks. NAR advocates a public policy agenda that supports the entire commercial real estate industry.

The NAR Commercial team manages much of the direct services and directly supports local and state associations with programs to help strengthen and grow the engagement of commercial members.

As an AE, you can take advantage of NAR Commercial services as well as your own resources to advance the interests of commercial members. Here are several strategies to consider:

- Incorporate a commercial-specific division into a multiple listing service (MLS).
- Operate a commercial information exchange (CIE) or commercial MLS for members to cooperatively share listing information.
- Communicate the value of commercial real estate to your community, as well as its economic impact on local, regional and state markets.
- Inform members of NAR Commercial resources, including research and technology tools and advocacy.

The following sections outline NAR Commercial's specific programs and services.

NAR'S COMMERCIAL RESOURCES FOR ASSOCIATIONS

Developing Commercial Services

NAR's Commercial staff can visit your association or connect to discuss the benefits of offering commercial services, ways to enhance your current offerings, how to build an effective member development strategy or other issues important to your local needs. There is no cost to the association.

Building and Maintaining a Strong Commercial Membership

Including commercial members on key committees and your board of directors provides important representation of your commercial membership. Also, offering commercial-focused education is critical to ensuring your commercial members are happy with your educational opportunities and also well-versed on complex and ever-evolving commercial practices and trends.

Commercial Membership by Design Course

This program is for all association staff. It teaches you how to engage your existing commercial membership base, educate your entire membership on key commercial industry statistics and issues, and attract new commercial members through intentional "by design" involvement.

Commercial Leadership Workshop and Forum

The Commercial Leadership Workshop and Forum provide opportunities for local and state association members, staff and volunteer leaders to come together to network, share issues, discuss local association best practices for recruiting/retaining commercial membership and engage in problem-solving discussions. The Commercial Leadership Workshop is held prior to the Leadership Summit event in August; the Commercial Leadership Forum is held during NAR's REALTORS® Legislative and the NAR NXT meetings. All are welcome to attend.

Commercial Services Accreditation

NAR recognizes local and state associations for their commitment to offer commercial services, programs and benefits for members. The accreditation can also be an integral part of a successful membership recruitment and retention plan. Learn more at the Commercial Resources for Associations page:

<https://www.nar.realtor/ae/manage-your-association/commercial-resources-for-associations/commercial-services-accreditation>

REALTORS® Property Resource (RPR)—Commercial

This exclusive benefit allows REALTOR® members to measure, predict and target the right location for their clients by providing access to advanced "big data" analytical tools. For additional information visit RPR Commercial at: <http://blog.narrpr.com/commercial/#>.

Data and Tools Resources

Commercial practitioners need access to listing services, property data, marketing services and other commercial real estate-related data and technology resources. As a member service for real estate professionals engaged in commercial transactions, NAR provides a list of products, services and tools that may serve the needs of commercial practitioners. Find the list of resources, and product discounts at www.nar.realtor/commercialdata.

Discovering Commercial Real Estate Course Sponsor

Your association can become an official course sponsor by licensing the Discovering Commercial Real Estate course. Educate your entire membership about the relationship between commercial and residential real estate while generating non-dues revenue. This is an ideal introductory course for those who are newly licensed and/or residential agents who want to learn more about commercial real estate.

<https://www.nar.realtor/commercial/discovering-commercial-real-estate>

National Commercial Awards

NAR honors accomplished REALTORS® in commercial real estate by celebrating their local achievements on a national level. Learn more about how you can take this opportunity to recognize an award-winning commercial professional from your association:

<https://www.nar.realtor/about-nar/awards-and-recognition/national-commercial-awards>

Commercial Innovation Grants

This program assists REALTOR® associations with funding for new services or programs that have a direct commercial member benefit and add value. Application and funding happens twice a year.

<https://www.nar.realtor/about-nar/grants-and-funding/commercial-innovation-grants>

REALTOR® Party—Community Outreach Grants

Funding is available to state and local REALTOR® associations to help plan, organize and implement community outreach programs to impact efforts to revitalize downtowns and suburbs, create great places, enhance housing options and focus on land use in communities. Funding is also available for other initiatives including polling, issues mobilization and more. Visit the REALTOR® Action Center at <https://realtorparty.realtor>.

COMMERCIAL OVERLAY BOARD AND STRUCTURES

In 1992, the NAR Board of Directors authorized the establishment of Commercial Overlay Boards (COB). A COB co-exists and shares (overlays) geographic jurisdiction with one or more REALTOR® association, in order to better serve members in a commercial market area. At the same time, the territory currently assigned to existing associations remains intact as well as their right and obligation to provide services to their members. COB jurisdictions may be local, multi-market, statewide or interstate.

Purpose of a Commercial Overlay Board

A COB provides commercial members with a separate REALTOR® identity in their local market area that enhances their image in the corporate community and among commercial practitioners. It also:

- Provides an organizational voice to influence legislation, liaison with other industry groups and positively impact their local communities
- Promotes the interests of commercial members at the state and national REALTOR® levels
- Offers education programs, seminars and courses to keep members current on vital issues to enable them to better serve the public, and that meet state-mandated continuing education license requirements
- Provides the services and programs that attract new members, retain existing members and help them become more successful commercial practitioners
- Facilitates the creation of a local Commercial Information Exchange (CIE) or Commercial/Industrial Multiple Listing (C/I MLS) or other property services
- Provides the body of peers needed to enforce the NAR Code of Ethics and Standards of Practice, and to administer mediation and arbitration
- Promotes professional designations and certification programs that are available through the five NAR Commercial Affiliates (CCIM, CRE, IREM, RLI and SIOR), through state associations and through NAR
- Provides a venue for those in affiliated industries to network with members with whom they conduct business

Commercial Structure

This term refers to a specialized commercial organization with a parent association. The Terms “Commercial Division,” “Council” or “Society” are synonymous and used interchangeably.

- Whether the commercial structure division is operated as a committee or a separately incorporated wholly owned subsidiary corporation will depend on the needs of the members and the resources of the parent association. The association's bylaws will need to be modified to accommodate the commercial structure.
- A Cooperative Multi-Board or Regional Division is established by two or more parent associations acting in partnership to meet the needs of commercial members in a market area.
- Commercial Committee is a standing committee of a parent association or association that allows representation of commercial members and encourages their participation in the organization.

If you are interested in developing a COB in your area or a Commercial Structure within your current association, NAR has developed step-by-step guides to help you along the way. Go to <https://www.nar.realtor/ae/manage-your-association/commercial-resources-for-associations/forming-a-commercial-overlay-board-or-structure>. NAR staff are available to help you assess your readiness, create a membership development plan and support you along the way.

NAR'S RESOURCES FOR COMMERCIAL PRACTITIONERS

NAR offers many resources available for those in the business of commercial real estate, including the following. For a complete listing of commercial member services, go to <https://www.nar.realtor/commercial>.

Commercial Connections

NAR's quarterly commercial publication, Commercial Connections, carries recent news, research, public policy updates and development trends. It is printed and mailed to any member who self-identifies as commercial in REALTORS® M1 and it is also available at: <https://www.nar.realtor/commercial>.

Commercial Digest

This monthly newsletter provides updates on the latest advocacy efforts, new resources, upcoming classes and events, discounts and other relevant items for the commercial real estate member.

Commercial Issues and Actions Summary

This white paper summarizes advocacy efforts by www.nar.realtor/commercial.

Education and Professional Development

NAR's institutes, societies and councils (ISCs) provide educational coursework in the classroom and online, as well as highly regarded designations. These include CCIM Institute, the Institute for Real Estate Management, REALTORS® Land Institute, the Society of Industrial and Office REALTORS®, and the Counselors of Real Estate. Consider partnering with NAR's institutes, societies and councils when offering commercial real estate education at your association.

NAR also offers the Discovering Commercial Real Estate (DCRE) course, which provides a basic overview of what commercial real estate is and how it differs from residential real estate. The DCRE course is ideal for residential agents to better understand what their counterparts do and how it impacts them. It is also ideal for those interested in a career in commercial real estate. Learn more at <https://www.nar.realtor/commercial/discovering-commercial-real-estate>.

REALTORS® Property Resource (RPR)

Created by NAR for the sole purpose of providing REALTORS® with the data they need to meet the demands of their clients, RPR Commercial provides comprehensive market data, including demographic, psychographic and spending data information. Search for properties, trade area details, market analysis tool and create branded reports that are all available for no additional cost.

Commercial Market Insights Report

The Commercial Market Insights Report is a monthly report and provides in-depth analysis and market insights on the commercial real estate market, with a focus on multi-family, office, industrial and retail properties. The report can be found at <https://www.nar.realtor/commercial-market-insights>.

Commercial Real Estate Metro Market Reports

The reports include 25 indicators on economic, demographic and commercial market data that provide REALTORS® with information on the factors driving commercial real estate transactions in 390 markets. The report can be found at <https://www.nar.realtor/research-and-statistics/research-reports/commercial-real-estate-metro-market-reports>.

Commercial Research Studies

NAR conducts research studies on emerging trends, such as case studies on the conversion of vacant retail malls, hotels and offices into multifamily housing, the impact of the pandemic on leasing conditions, Section 1031 exchanges and the effect of electric vehicle charging stations on retail trade.

<https://www.nar.realtor/research-and-statistics/research-reports/commercial-research>

NAR'S COMMERCIAL AFFILIATE ORGANIZATIONS

NAR has five affiliate organizations that offer education programs and coursework specifically for the commercial practitioner to become more knowledgeable in a particular specialty area or for a beginner commercial practitioner to learn in depth practices for engaging in commercial real estate transactions. Each of these organizations offers prestigious designations that are highly respected within the commercial real estate industry.

CCIM Institute (CCIM)

<https://www.ccim.com>

The CCIM Institute was established in 1954 to give commercial real estate practitioners a previously unrealized opportunity to further their business practices through focused education and networking opportunities.

Today, CCIM is the global leader in commercial and investment real estate education and services. The coveted CCIM designation, recognized as a hallmark of professional competency, affords members an undisputed competitive advantage. The designation is conferred to commercial real estate professionals who have completed an extensive curriculum of 200 classroom hours, in addition to industry experience. The CCIM education curriculum addresses financial analysis, market analysis, user decision analysis and investment analysis—the cornerstones of commercial investment real estate.

Counselors of Real Estate (CRE)

<https://www.cre.org/>

The CRE is the membership organization established exclusively for real estate advisors who provide intelligent, unbiased and trusted advice for a client or employer.

Founded in 1953, the organization serves members worldwide, all who hold the “CRE” credential. CREs are linked to one another by their commitment to integrity, competence, community, trust and service; they adhere to a strict Code of Ethics and Standards of Professional Practice. CRE-designated members hold prominent positions in real estate, financial, legal and accounting firms, as well as in government and academia. Membership is only extended by invitation on a sponsored or self-initiated basis.

The purpose of the organization is to serve as an information resource and to provide its members with opportunities for professional development, knowledge sharing and networking, all grounded in a culture of camaraderie.

Institute of Real Estate Management (IREM)

<http://www.irem.org/>

IREM is an international community of real estate managers dedicated to ethical business practices, maximizing the value of investment real estate, and promoting superior management through education and information sharing. IREM is the home for all industry professionals connected to real estate management.

IREM provides training, information, research, analysis and practical advice for those who manage income-producing real estate of all types, at all career levels. IREM® resources are designed to help members maximize the value of the real estate and safeguard those who live, work and shop in the properties they manage.

The Institute awards the following credentials: Certified Property Manager® (CPM®) designation, Accredited Residential Manager® (ARM®) certification, Accredited Commercial Manager (ACoM) certification and Accredited Management Organization® (AMO®) accreditation.

REALTORS® Land Institute (RLI)

<http://www.rliland.com>

The RLI is the professional membership organization for real estate practitioners who specialize in land transactions, including agriculture and farmland, ranches, timber, recreational, transitional, and special-use properties. In addition to providing networking and referral opportunities, RLI offers superior education through its LANDU curriculum and professional development programs.

Members of the REALTORS® Land Institute may earn the prestigious Accredited Land Consultant (ALC) designation, which is conferred to only those land specialists who complete a rigorous education program and who achieve a required volume of successful land transactions.

Society of Industrial and Office REALTORS® (SIOR)

<http://www.sior.com>

The Society of Industrial and Office REALTORS® (SIOR) is the leading professional commercial and industrial real estate association. SIOR members are knowledgeable, experienced, and successful commercial real estate brokerage specialists. Real estate professionals who have earned the SIOR designation are recognized by corporate real estate executives, commercial real estate brokers, agents, lenders and other real estate professionals as capable and experienced brokerage practitioners.

SIOR designees can hold the following specialty designations: industrial, office, sales manager, executive manager or advisory service. SIOR also includes associate members who include corporate executives, developers, educators and other involved in the commercial real estate industry.

INSTITUTE AFFILIATE MEMBERSHIP AND DUES

Under NAR's guidelines, every REALTOR® association must have a category of Institute Affiliate membership defined as membership offered to those who hold designations in a specialty area other than residential brokerage, specifically:

- Certified Commercial Investment Member Institute (CCIM and CIREI)
- Counselors of Real Estate (CRE)
- Institute of Real Estate Management (IREM)
- REALTORS® Land Institute (RLI)
- Society of Industrial and Office REALTORS® (SIOR)

The NAR Constitution and Bylaws require membership in a local association as a prerequisite for maintaining the designations, and the Institute Affiliate membership category was designed to offer an alternative to the REALTOR® category of membership.

Certain restrictions and obligations apply to Institute Affiliate Members:

- Institute Affiliates may not use the term "REALTOR®" or display the REALTOR® logo.
- They may not hold the office of board president.
- They may not be a participant in the board's MLS.
- Institute Affiliate dues are established by the NAR Constitution and Bylaws. Local boards may not establish additional entrance fees or dues.

- Local boards may, however, develop membership service packages to which Institute Affiliates may voluntarily subscribe for additional fees.
- Institute affiliate dues are paid directly to the appropriate institute, society or council. A portion of the dues will be credited to the account of the local association or commercial overlay board and to the state association in which the Institute Affiliate's office is located. Specific amounts are outlined in the NAR Constitution and Bylaws.

SOURCES

- "Discovering Commercial Real Estate," National Association of REALTORS®, December 2015, <https://www.nar.realtor/commercial/discovering-commercial-real-estate>
- NAR's Commercial Services, <https://www.nar.realtor/commercial>

3.4

Diversity, Equity and Inclusion

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INTRODUCTION

REALTOR® associations place a high value on diversity, equity, and inclusion (DEI). Diversity characteristics such as race, religion, age, sex, gender identity, sexual orientation, socioeconomic status, language, family status, national origin and ability within oneself or among a group of people. Equity eliminating obstacles that would otherwise hinder the participation, contribution or success among a dimension of diversity. Inclusion involves meaningfully engaging the interests and aspirations across every dimension of diversity to foster a high sense of value, belonging and empowerment within a given community. DEI is increasingly important for associations in a number of ways, including:

- **Internally.** By employing a diverse workforce, associations can access a wide spectrum of skills, knowledge and ideas, thus providing better service to members.
- **Membership.** An association's membership base should reflect the diversity of the area's population in order to provide better service to consumers.
- **Leadership.** A diverse volunteer leadership group can help an association achieve its core purposes of inclusive educational opportunities, achieving equity through advocacy, professionalism and providing great service across every segment of our diverse membership.
- **Community.** A diverse real estate association that prioritizes equity and inclusion can be a powerful advocate for fair housing issues that affect its members, while providing a stronger voice on behalf of homeowners, businesses, commercial property owners and other key members of the local community.

AEs can support the principles and practices of diversity, equity and inclusion in their associations and communities in many ways, including the following:

- Communicate demographic and other market information to members and volunteer leaders.

- Be an advocate for the values of diversity, equity and inclusion in the real estate sector.
- Actively strive to increase diversity in the association's board of directors and committees to be inclusive and reflect the membership.
- Identify potential leaders representing diverse cultures, experiences and demographics.
- Promote coalition-building in the real estate industry, including internal and external partners.
- Develop community outreach, leadership development and mentoring programs aimed at increasing the pipeline of talent among traditionally disadvantaged groups.

POPULATION DIVERSITY

Any discussion of diversity in the housing market, in local communities and in REALTOR® associations begins with an understanding of the changing age, ethnic and immigration trends in the nation's population.

Unlike many developed nations, the U.S. population continues to grow, reaching approximately 334 million in 2023, according to estimates by the U.S. Census Bureau. Perhaps even more important, the nation is becoming an increasingly diverse society. About 60 percent of the U.S. population was White, 19 percent was Hispanic or Latino, 13.5 percent was Black, 6.1 percent was Asian, 1.3 percent was Native American, and 2.9 percent was multiracial.

To ensure the real estate profession best serves the surrounding community it represents, association leaders must prioritize DEI in their strategic planning efforts. Here are highlights of the Census Bureau's 2017 projections, cited in "Demographic Turning Points for the United States: Population Projections for 2020 to 2060."

Population Growth:

- Nearly 79 million people in the next four decades reaching 404 million in 2060.
- 1.8 million people per year between 2017 and 2060.

Aging

- The 65-and-older population is projected to nearly double in size in coming decades, from 49 million in 2016 to 95 million people in 2060.

Race and Ethnicity

- The non-Hispanic White population is projected to decline over coming decades, from 199 million in 2020 to 179 million people in 2060.

- People of two or more races constitute a population that is projected to be the fastest-growing racial or ethnic group over the next several decades, followed by Hispanics and Asians.

The foreign-Born

- The nation's foreign-born population is projected to rise from 44 million in 2020 to 69 million in 2060.
- Net international migration is expected to be the primary driver of population growth in 2030.

U.S. Housing

Minority and immigrant households represent a major segment of the housing market.

- Households of color accounted for 55 percent of the total growth in homeowners in 2019-21, according to Harvard University's 2022 report, "State of the Nation's Housing."
- Black-owned households in 2022 stood at 45.3 percent—28.7 percentage points below the rate for White households.
- The rate for Hispanic-owned households was 49.1 percent—24.9 percentage points below the rate for White households.

"These wide disparities are in part the legacy of centuries of discrimination—in education and labor markets as well as in housing—that has constrained the earning power of households of color," said the Harvard report.

RACIAL, ETHNIC AND CULTURAL DIVERSITY

REALTOR® associations should be aware of the demographic diversity of their members and the broader community. As cities and regions across the country become more diverse, successful associations actively seek to reflect that diversity in their services, programs, membership and especially in their leadership.

Associations that actively encourage inclusion of diversity in leadership will realize increased member involvement and community support. They also show local communities that they understand local needs, are an inclusive organization and want to work with all parts of a diverse community.

NAR works closely on many initiatives with the following four multicultural real estate organizations:

- The National Association of Real Estate Brokers (NAREB or Realtists) was formed in 1947 by chartered African American real estate professionals out of a need to secure the right to equal housing opportunities, regardless of race, creed, or color. For more than 75 years, NAREB has participated in meaningful legal challenges and has supported legislative initiatives that ensure the availability of fair and affordable housing for all Americans.
- The National Association of Hispanic Real Estate Professionals (NAHREP) focuses on advancing sustainable Hispanic homeownership by educating and empowering the real estate professionals who serve Hispanic home buyers and sellers, advocating for public policy that supports the association's mission and facilitating relationships among industry stakeholders, real estate practitioners and other housing industry professionals.
- The Asian Real Estate Association of America (AREAA) is a nonprofit professional trade organization dedicated to promoting sustainable homeownership opportunities in Asian American communities by creating a powerful national voice for housing and real estate professionals that serve this dynamic market.
- The LGBTQ+ Real Estate Alliance (The Alliance) is a nonprofit member organization dedicated to empowering the LGBTQ community on the path toward homeownership.

Each of these organizations may have a local board or chapter in your market area. You are encouraged to reach out to these organizations to learn more about the demographics of your market area and the real estate professionals serving that market.

Partnering with a local chapter or board of a multicultural real estate organization, can bring the following benefits:

Value and Respect

REALTORS® already active in these groups who see that their input is sought, views valued, and talent and skills engaged, see value in their membership. Seeing their local association partner with these groups shows that their engagement, ideas and leadership are valued in both organizations.

Leadership

Members who are inspired to engage in association matters advancing real estate and community issues often build leadership skills that can benefit both organizations. Inclusion of diverse leadership in our industry strengthens both the REALTOR® and multicultural organization.

Improved Policy and Programs

Gaining different perspectives from the members and leaders of all organizations helps to develop policy and programs that are relevant and inclusive to the market and membership.

Increased Professionalism

Providing equal and professional services requires an understanding of the needs and issues facing multiple communities. Engaging with multicultural real estate organizations opens avenues to community leaders and advocates to understand how REALTORS® can better serve the communities.

Expanded Influence

Community leaders and policy makers representing many local and national multicultural demographic groups, seeing partnership, mutual respect and inclusion, are more likely to view an association's advocacy on real estate issues as coming from the communities and constituents they represent.

Current information on your community's demographics is generally widely available. The Census Bureau and local and state economic development offices have data that can help you understand the demographics of your community and market area.

GENERATIONAL DIVERSITY

Like racial and ethnic diversity, "generational diversity" is an increasingly important topic for REALTOR® associations. "Generational diversity" means ensuring that all different age groups or generations are represented by association leadership, staff and membership.

One of the challenges for AEs is to bring together:

- The Silent Generation (born between 1925 and 1945), who are primarily retirees
- Baby Boomers (1946-1964), who are in or moving toward retirement
- Generation Xers (1965-1982), who are moving into senior-level career positions
- The Millennials or Generation Y (1983-2000), who are active in the workplace and moving up the career ladder
- Generation Zers (born after 2001), who are an important segment of the workforce and a growing presence in the housing market

Connecting with all these generations has become critical, because the nation, including the REALTOR® family, must prepare younger workers for higher-level jobs early in their careers. That's because there simply are not enough people available in Generation X to replace the Boomers as they retire.

This changing of the guard in terms of generations means that REALTOR® associations need to look carefully at the issue of succession planning. That includes attracting younger members and helping them prepare for leadership positions in the future.

YPN: The Future of the Real Estate Industry

Since 2006, the Young Professionals Network (YPN) has been helping younger REALTORS® build a stronger link with the real estate industry. Through networking events, blogs and other activities, the NAR program gives YPN members of any age the tools they need to advance their careers and have fun in the process.

YPN helps young real estate professionals excel in their careers by giving them the tools and encouragement to become involved in four core areas:

- **REALTOR® associations.** Attend REALTOR® conferences and pursue leadership roles with their local, state, and national association.
- **Real estate industry.** Take an active role in policy discussions and advocacy issues; be informed about the latest industry news and trends.
- **Peers.** Network and learn from one another by attending events, participating in online communication, and seeking out mentoring opportunities.
- **Community.** Become exceptional members of their community by demonstrating a high level of REALTOR® professionalism and volunteering for personal causes.

Many state and local REALTOR® associations have already started a Young Professionals Network. If you're an AE considering the establishment of a YPN, the YPN Start-Up Kit provides ideas to help you energize the young professionals in your real estate market.

<https://www.ypn.realtor/lead/start-up-kit/>

NAR'S DIVERSITY, EQUITY AND INCLUSION STRATEGIC PLAN

To support participation of diverse member voices, NAR has adopted a Diversity, Equity and Inclusion Strategic plan. The plan includes a focus on leadership, advocacy, culture and partnership, with the following six pillars:

1. **Executive Commitment.** Diversity, equity and inclusion are prioritized, built into our association structures and process, and measured consistent with other NAR strategic initiatives.
2. **Membership.** We have a diverse membership that is represented in our leadership, governance, and committee structures.
3. **Culture.** We have an inclusive association culture where everyone feels welcomed and connected, feels a sense of belonging and realizes the NAR value proposition.
4. **Advocacy.** We promote public policy and provide programs to advance broader homeownership availability and affordability in all communities. We prioritize efforts to narrow homeownership gaps among demographic groups and promote strong enforcement of anti-discrimination laws in the housing market.
5. **Partners.** We identify and develop a diversity of partnerships to better serve our members, the real estate industry and communities.
6. **Communication and marketing management.** We deliver the DEI message to the hearts and minds of our members, the real estate industry and communities.

For more about the strategic objectives of NAR's DEI Strategic Plan: <https://www.nar.realtor/about-nar/strategic-framework-and-2023-2025-strategic-plan>.

NAR'S CODE OF ETHICS AND STANDARDS OF PRACTICE

In recent years, the NAR Board of Directors amended the Code of Ethics and Standards of Practice to strengthen the REALTOR® commitment to providing equal professional service. A REALTOR® is subject to disciplinary action under the Code of Ethics with respect to all of their activities. Following is the wording relating to discrimination in the Code of Ethics and Standards of Practice of NAR:

Article 10: REALTORS® shall not deny equal professional services to any person for reasons of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity.

REALTORS® shall not be parties to any plan or agreement to discriminate against a person or persons on the basis of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity.

REALTORS®, in their real estate employment practices, shall not discriminate against any person or persons on the basis of race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity.

Related Standards of Practice

Standard of Practice 3-11: REALTORS® may not refuse to cooperate on the basis of a broker's race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity.

Standard of Practice 10-1: When involved in the sale or lease of a residence, REALTORS® shall not volunteer information regarding the racial, religious or ethnic composition of any neighborhood nor shall they engage in any activity which may result in panic selling, however, REALTORS® may provide other demographic information.

Standard of Practice 10-2: When not involved in the sale or lease of a residence, REALTORS® may provide demographic information related to a property, transaction or professional assignment to a party if such demographic information is (a) deemed by the REALTOR® to be needed to assist with or complete, in a manner consistent with Article 10, a real estate transaction or professional assignment and (b) is obtained or derived from a recognized, reliable, independent, and impartial source. The source of such information and any additions, deletions, modifications, interpretations, or other changes shall be disclosed in reasonable detail.

Standard of Practice 10-3: REALTORS® shall not print, display or circulate any statement or advertisement with respect to selling or renting of a property that indicates any preference, limitations or discrimination based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity.

Standard of Practice 10-4: As used in Article 10 "real estate employment practices" relates to employees and independent contractors providing real estate-related services and the administrative and clerical staff directly supporting those individuals.

Standard of Practice 10-5: REALTORS® must not use harassing speech, hate speech, epithets, or slurs based on race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity.

ADVANCING ASSOCIATION DIVERSITY

One of the best ways for REALTOR® associations to serve the evolving needs of their members and communities is to promote inclusion of diversity in membership, engagement and leadership. This can be done in several ways, including the following:

- Become a model for diversity. Review current leadership and staff members to see if they reflect the membership and community. The results can help guide future recruiting and hiring plans.
- Expand your leadership team. Three steps to a diverse leadership are broadening your qualifications, reaching out to diverse groups in the market and nurturing a pool of potential leaders reflecting your community.
- Review the membership for diversity. Are there any groups (ages, ethnicities, gender, etc.) that are over- or under-represented? If so, it is important to make sure that all demographic groups in your market and service area have their voice present in the association.
- Offer training on diversity and inclusion, especially addressing implicit bias, to your staff and leadership. NAR's education and learning programs can help association members and staff understand diversity in the customer base and local market (more information later in this section).

- Be an advocate for fair housing in your community. Many local organizations look to REALTORS® to provide leadership on housing-related issues. Coordinating initiatives related to fair, affordable and workforce housing can strengthen an association's community relationships while benefiting people of all ages, races, ethnic backgrounds and other diverse characteristics. See the Fair Housing chapter for more information.

AN ASSOCIATION ROADMAP

To assist local associations in advancing DEI principles, NAR has published “An Actionable Roadmap for Local Associations.” It provides a guide for planning activities that will identify, engage and mentor leaders representing the diversity of the local community and real estate market. It includes broad action areas and a list of possible activities and available resources in each area. Even as an association succeeds in its DEI activities and starts to see increasing engagement and leadership among different groups, it is important to monitor and evaluate current activities.

Here are the four basic steps:

Step 1: Research

In your community and market area, whose needs and interests may be overlooked or misunderstood? What are the demographics of your membership and leadership, and who on the association staff can take on DEI responsibilities? Most often these will be racial and ethnic groups, but you may also want to look at generational groups, LGBTQ+ inclusion or religious groups.

The demographics of the association's membership can be obtained through the NAR Insights HUB, which allows the local association's Point of Entry to access data on the local association's membership. Look for percentages of your membership especially relative to population demographic groups in your community.

Step 2: Discovery

If you find one or more demographic groups that are not well-served, identify members serving the under-represented community, if and where they gather to discuss real estate, the real estate-related issues they need action on, their knowledge and experience with the community, and their passions for member education, ethics and advocacy. You might also want to help your members learn about the under-represented groups.

Step 3: Engagement

Encourage the involvement of members and build relationships that broaden community connections. Engagement is often more successful when you match the activities with the member's interests and passions. It is important to seek and engage members who share an interest in the key purposes of the association.

Step 4: Realize the benefits

To realize the benefits of an inclusive leadership, be intentional about mentoring and training new leaders, building off your ongoing efforts to include diversity on your key committees and in your activities. It also requires engagement of the association's leadership with the leadership and activities of any multicultural or related group of REALTORS® in your area.

Many members will engage with a multicultural local group or perhaps a business group. It is important that REALTOR® association leaders are involved in those groups as well. Doing so will help your discovery and engagement efforts as well but will pay off when leaders of those groups see how they can contribute as REALTOR® leaders.

NAR DEI EDUCATION, LEARNING AND GRANTS

NAR offers a number of education, learning and grant programs to advance DEI in the real estate industry. Please see the Fair Housing chapter for additional programs.

NAR's Spire Mentoring Program

NAR's Spire mentoring program helps individuals learn the fundamentals of the real estate industry, fosters education, empowers serious consideration of real estate as a career path and cultivates the development of generational wealth through property ownership.

Local associations are invited to join NAR Spire as partner associations to promote this program as an in-person learning experience. Associations are critical to the recruitment and pairing process, enabling mentors and mentees to connect locally. Each partner association should designate a staff member to serve as the Spire Champion and liaison to NAR Spire staff. The champion will lead recruitment, review applications and maintain an active participant list.

<https://www.nar.realtor/nar-spire>

REALTOR® L.E.A.D.—Diversity, Equity and Inclusion (DEI) Course

A component of the REALTOR® L.E.A.D. program, this online/self-paced course provides REALTOR® volunteer leaders with a better understanding of the concepts of diversity, equity and inclusion, as well as an introduction to the social psychology that makes it either easier or harder to live out DEI. Topics covered include:

- What “diversity, equity and inclusion” means and the difference between equity and equality
- How stereotypes, prejudice and discrimination can prevent you from practicing diversity, equity and inclusion
- What racism, sexism, ageism and ableism are and how diversity-through-complexity can benefit the members of your workplace
- How communication, both verbal and non-verbal, can be misinterpreted or misused when you make assumptions
- Ways you can promote a sense of belonging in your organization and promote distributive justice as you incorporate diversity, equity and inclusion into your personal leadership style

<https://www.nar.realtor/education/leadership-development/realtor-lead-courses>

“Leading with Diversity” Workshop

NAR’s “Leading with Diversity” workshop is a three-hour program for your association’s leadership to explore how inclusion of diversity will strengthen your association and identify the types of activities that will work best.

<https://www.nar.realtor/ae/leading-with-diversity>

At Home With Diversity® Course

NAR has developed a comprehensive cultural diversity outreach program to help real estate companies diversify their workplaces and improve the industry’s ability to serve culturally diverse consumers. The curriculum encompasses the topics of diversity, equity, inclusion, fair housing and risk reduction.

At Home with Diversity® has three major goals: heightening awareness of cultural and personal biases, learning about inclusive, multi-cultural marketing and advertising strategies, and formulating an inclusive business. The At Home with Diversity® course counts toward six hours of professional development for professional staff as required by NAR Core Standards. The online course has CE credit in over 40 states.

Once approved, real estate professionals who are certified are permitted to use NAR’s At Home with Diversity® logo in their advertising and promotional materials. This logo serves as a valuable marketing tool for real estate professionals to attract additional clients. A full list of At Home with Diversity certification benefits may be viewed at www.ahwd.realtor.

The At Home with Diversity course also fulfills elective credit for the Accredited Buyer’s Representative (ABR®), Certified International Property Specialist (CIPS), Seller Representative Specialist (SRS) and Graduate, REALTOR Institute (GRI) (depending on state), and counts as a task in the C2EX program.

NAR (through CSRE) licenses state and local associations, firms, franchises and other proprietary schools to offer this certification course.

<http://www.nar.realtor/ahwd> or send an email to ahwd@nar.realtor

Diversity and Inclusion Grants

NAR’s Diversity Program provides funding to state and local REALTOR® associations to enhance the inclusion of diversity in their leadership and collaborate with local chapters of national multicultural real estate organizations. The Diversity and Inclusion Grants can support state and local association activities in several key target areas.

Grants of up to \$1,000 are available to support an association’s local event with the goal of advancing diversity and inclusion within the association. Grants may also be used to collaborate with a local chapter of a national multicultural real estate organization or to support the attendance of a local REALTOR® association officer or senior staff at a national conference of a multicultural real estate organization.

SOURCES

- NAR Diversity, Equity and Inclusion
Resources: <https://www.nar.realtor/diversity/diversity-equity-inclusion-resources>
- NAR Diversity, Equity and Inclusion Strategic Plan
https://cdn.nar.realtor/sites/default/files/documents/dei-strategic-plan-2022-11-04.pdf?_gl=1*c2189d*_gl*_au*NTk0OTI5NDEyLjE2ODU1MDM2MzI
- NAR's Actionable Roadmap for Local Associations
<https://www.nar.realtor/ae/actionable-roadmap-for-local-association-diversity-and-inclusion>
- NAR's Spire Program
<https://www.nar.realtor/nar-spire>
- U.S. Census Bureau. "Demographic Turning Points for the United States: Population Projections for 2020 to 2060." <https://www.census.gov/library/publications/2020/demo/p25-1144.html>
- U.S. Census Bureau. "Quick Facts," 2019. <https://www.census.gov/quickfacts/fact/table/US/PSTO45219>
- U.S. Census Bureau. "The Foreign-Born Population in the United States: 2010," May 2012 <https://www.census.gov/library/publications/2012/acs/acs-19.html>
- Brownstein, Ronald. "The March of Diversity." The National Journal Online. Saturday, December 19, 2009, http://nationaljournal.com/magazine/the-march-of-diversity-20091219?mrefid=site_search
- Harvard University. "State of the Nation's Housing." Published in 2022, https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_State_Nations_Housing_2022.pdf
- Frey, William H. "Diversity Explosion: How new racial demographics are remaking America", 2014, Brookings Institution Press
- Home Buyer and Seller Generational Trends, <https://www.nar.realtor/research-and-statistics/research-reports/home-buyer-and-seller-generational-trends>
- A Snapshot of Race and Home Buying in America, <https://www.nar.realtor/research-and-statistics/research-reports/a-snapshot-of-race-and-home-buying-in-america>
- Choosing a Career in Real Estate: A perspective on Gender, Race, and Ethnicity, <https://www.nar.realtor/research-and-statistics/research-reports/career-choices-in-real-estate-through-the-lens-of-gender-race-and-sexual-orientation>

3.5

Fair Housing

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FAIR HOUSING LAWS

As REALTORS®, our livelihood depends upon making the American Dream of homeownership accessible to all qualified buyers. Fair housing laws and Article 10 of the REALTOR® Code of Ethics were enacted to protect home seekers' ability to purchase or rent a home in the neighborhood of their choice without barriers based on their race, color, national origin, sex, religion, disability, familial status, sexual orientation or gender identity. Housing discrimination distorts the marketplace, prevents qualified buyers and renters from accessing housing opportunities and constrains economic growth. Moreover, violations of fair housing laws can lead to financial consequences and reputational harm for REALTORS®, brokerage firms and REALTOR® associations.

As community leaders, REALTORS® can be powerful advocates for fair housing at the local, state and national levels. In turn, real estate associations can organize activities and projects to promote fair housing initiatives, and build strong coalitions and partnerships with community organizations and local leaders.

An AE should be a leader in advancing fair housing in the following ways:

- Promote the principles of fair housing to members and the community.
- Incorporate fair housing issues into education programs for members.
- Develop regular fair housing communications to members.
- Be familiar with NAR fair housing resources and grant opportunities to support local initiatives.
- Understand how fair housing laws, including those relating to advertising, are enforced in the community.
- Educate members on fair housing testing and its implications, including financial consequences and reputational damage.

- Foster partnerships with community organizations promoting fair housing and housing opportunity for underserved populations.

In addition, AEs should consider recognizing members who have been effective advocates for fair housing, such as establishing an annual fair housing award or nominating a member for NAR's Fair Housing Champion Award. AEs can also organize events like a fair housing summit, or create partnerships with local media to build awareness of the importance of fair housing. Many associations organize activities in April, the anniversary of the passage of the Fair Housing Act of 1968, which is recognized nationwide as Fair Housing Month. But fair housing themes should not be limited to April; they should be incorporated into events throughout the year.

Because many REALTORS® are focused on their daily business activities, associations should strive to keep their members informed of these activities, as well as local, state and federal fair housing laws and any recent revisions or important legal cases. This is a clear opportunity for associations to deliver an important value to members through timely emails, texts, blogs, social media posts, webcasts or educational programs. In doing so, an association should have close ties to an attorney who is knowledgeable about fair housing laws so that updates can be shared quickly with members. The association should also keep up to date with NAR's fair housing programs and policy stances.

U.S. Fair Housing Law

The main federal law protecting civil rights in the private housing market is the Fair Housing Act of 1968 (Title VIII of the Civil Rights Act of 1968, 42 U.S.C. §3601 et seq., and its Amendments of 1974, 1988, and 1995). The 1974 amendments added sex as a prohibited basis for discrimination. The 1988 amendments added disability and familial status as protected classifications.

The Civil Rights Act of 1866, a Reconstruction-era law, also prohibited discrimination in property transactions but went largely unenforced. State and local laws may add additional protections and prohibitions.

The Fair Housing Act and the Seven Prohibited Bases for Discrimination

The Fair Housing Act protects people from discrimination when they are renting or buying a home, getting a mortgage, refinancing a mortgage, obtaining an appraisal, seeking housing assistance or engaging in other housing-related activities.

The Fair Housing Act prohibits discrimination because of:

- Race

- Color
- Religion
- Handicap (disability)
- Familial status (presence of children under 18 in the family; pregnancy)
- National origin
- Sex (gender)

In regard to the last category, the U.S. Supreme Court held in *Bostock v. Clayton County* (2019) that discrimination “on the basis of sex” encompasses discrimination based on sexual orientation and gender identity under the Civil Rights Act of 1964. Some federal courts have begun applying that interpretation to the Fair Housing Act, as well. On January 20, 2021, President Biden issued Executive Order 13988, ordering all federal agencies that enforce civil rights laws, including the Fair Housing Act, to adopt the *Bostock* interpretation of “sex.” The U.S. Department of Housing and Urban Development announced shortly after that state and local civil rights agencies receiving HUD assistance would be required to adopt this interpretation.

What Does the Fair Housing Act Prohibit?

The Fair Housing Act makes it illegal to take any of the following actions because of race, color, religion, sex, disability, familial status or national origin:

- Refusing to sell, rent or negotiate for housing, or otherwise making a dwelling unavailable
- Setting different terms, conditions or privileges of sale or rental, or offering different services in connection with a sale or rental
- Denying that housing is available for inspection, sale or rental, when it is available
- Using advertising that expresses a preference or limitation with respect to the sale or rental of housing.
- Imposing different sales prices or rental charges for the sale or rental of a dwelling
- Using different qualification criteria or requirements
- Providing differential treatment in the financing, appraisal and insuring of housing

The Fair Housing Act also forbids:

- Discrimination when providing access to REALTOR® multiple listing services (MLS) or other services, organizations or facilities that relate to the business of selling or renting dwellings
- Retaliating against any person because that person has made a complaint, testified, or assisted in any proceeding under the Fair Housing Act

Special Note: Steering

“Steering” is when a real estate agent makes choices or assumptions for buyers or tenants about where they want to live based on a prohibited characteristic under fair housing law, such as race, national origin or religion. For example, an agent who makes decisions on whether to show or offer homes in certain neighborhoods to certain prospects because of the racial or ethnic makeup of a community would be engaging in steering. Likewise, an agent who makes comments about whether a client should consider a community because of its racial makeup would be engaging in steering.

Additional Protections for Persons with Disabilities

In addition to outlawing discrimination against people with disabilities, the Fair Housing Act requires housing providers to make reasonable accommodations and allow reasonable modifications that may be necessary for persons with disabilities to enjoy their housing.

- A reasonable accommodation is a change, exception, or adjustment to a rule, policy, practice or service that may be necessary for a person with a disability to have an equal opportunity to enjoy a dwelling, including public and common use spaces.
 - ▶ For example, a reserved parking space might need to be designated near the main entrance for someone with disabilities.
 - ▶ Another example would be allowing an assistance animal, such as a seeing-eye dog, even if the building rules prohibit pets.
 - ▶ If the person with a disability requires a live-in companion, that might also be a reasonable accommodation, even if the rules bar an unrelated person from living in the unit.
- A reasonable modification is a structural change made to existing premises to afford a person with a disability full enjoyment of the premises.
 - ▶ Examples include the installation of a ramp into a building, lowering of the entry threshold of a unit or the installation of grab bars in a bathroom.
 - ▶ A housing provider must permit a person with a disability to make reasonable modifications at his/her own expense.

- ▶ If the change would make it more difficult for someone without a disability to use the same residence later, the property owner may enter into an agreement that calls for the tenant to restore the unit to its original condition when the lease ends. For example, lowering the kitchen counter-tops might be helpful to a person in a wheelchair but inconvenient to another tenant. The owner or landlord can't require a security deposit for those changes but might consider opening an escrow account where the tenant puts in money to restore the unit after tenancy.

Exemptions to the Fair Housing Act

All real estate professionals need to recognize and avoid the types of discrimination specified in the Fair Housing Act. The Fair Housing Act does have several exemptions, however, which come into effect in certain, specified situations. In these situations, the broad provisions of the federal act may not apply; however, there may be other federal laws, such as the Civil Rights Act of 1866, the Americans with Disabilities Act (ADA) or state or local fair housing statutes that still apply. When in doubt, it's important to contact a knowledgeable attorney.

The statutory exemptions to the Fair Housing Act include the following:

- **Religious properties.** If a religious organization provides housing incidental to the purpose of the facility—such as a pastor's house or a seminary dormitory—the organization is allowed to discriminate on the basis of religion. However, the religious organization is still forbidden to discriminate on other grounds, such as race, color or national origin.
- **Private clubs.** If a private club provides housing, it can limit housing to members of that club. However, the housing must be incidental to the purpose of the club, such as a collegiate club in a major city. Also, the club cannot limit membership for other reasons (such as race, color or national origin) to circumvent the Fair Housing Act.
- **Single-family house sold without the use of a broker.** The owner of a single-family house may sell or rent the house directly to a purchaser or renter without regard to most provisions of the Fair Housing Act, if:
 - ▶ The owner does not use a real estate broker or agent; and
 - ▶ The owner does not have an interest in more than three single-family houses at one time.

The Fair Housing Act's prohibitions on discriminatory advertising still apply to this property owner. If the owner does not reside in the house or is not the most recent resident of a rental property, only one such sale can be made in a two-year period. Some state civil rights and local statutes do not contain this exemption, so this property owner may still be subject to state or local fair housing laws.

- Owner-occupied property with fewer than four units (the “Mrs. Murphy” exception). As in the previous example, the owner of an owner-occupied property with fewer than four units is exempt from the Fair Housing Act, except for the prohibition on discriminatory advertising. This can create a challenge for the agent or broker. For instance, an owner may hire a professional and then say, “I don’t want any children living in my building.” A knowledgeable agent or broker should let the owner know that making that statement violates the law and counsel the owner about the best way to rent or sell the property in accordance with the Fair Housing Act.

There are exemptions related to housing for older persons:

- If housing is designed for persons 55 and older and occupied by persons 55 and older, the owner, landlord or community can exclude families with children (including pregnant women, adoptive children and foster care children). For housing to qualify for this exemption, three requirements must be met:
 1. There must be rules, policies and procedures that state the owner’s intention to provide housing for older persons. This statement must be included in any owner covenants and rental policies.
 2. At least 80 percent of the units must be occupied by at least one person who is 55 years of age or older. For example, husband, 57, and wife, 53, would be included in that 80 percent calculation; however, if the husband and wife are both 53, they would not be included in the calculation.
 3. The owner or landlord must have age verification procedures in place, such as requiring an owner or renter to show a driver’s license or passport.

When marketing and advertising units, housing for older persons must present itself in ways that a reasonable person would refer to housing for persons age 55 years and older. Therefore, an ad should reference “55 Years and Older” to avoid the risk of discrimination. An ad that says “Adult Housing” or “No Kids” would not be consistent with the spirit of the law.

As long as a housing property meets those requirements, it is not subject to the provisions of the Fair Housing Act related to families with children. However, other provisions of the Fair Housing Act (prohibiting discrimination on the basis of such characteristics as race, color or national origin) still apply.

As part of their due diligence process, real estate professionals who take a listing or assist in the rental process in a building or housing community serving this market should be sure the three conditions listed above have been met, and any existing signs or advertisements use the preferred wording of “55 years and older.” If legal problems relating to the community arise later on, the agent or broker will have evidence that he or she took the listing in good faith that the property was exempt under the 55-and-over provisions of the Fair Housing Act requirements at the time of engagement.

Where to Report Discrimination?

Acts of housing discrimination may be reported to the U.S. Department of Housing and Urban Development, state or local fair housing agencies, a state licensing body, a local board of REALTORS® or to a private nonprofit fair housing group.

The following link includes additional information on how to file a complaint: https://www.hud.gov/program_offices/fair_housing_equal_opp/online-complaint.

State and Local Fair Housing Laws

State and local governments may enact fair housing statutes and ordinances that offer additional protections beyond federal law. The Fair Housing Act authorizes HUD to review state and local ordinances and certify those that are “substantially equivalent” to the Fair Housing Act, meaning that the state or local law includes rights and remedies that are at least as strong as those of federal law. If a state or local statute is deemed by HUD to be substantially equivalent, HUD will refer complaints it receives from that jurisdiction to the appropriate state or local agency for investigation.

HUD regulations make clear that substantially equivalent state or local statutes could include those that provide broader protection than the Fair Housing Act. As such, state or local ordinances could include coverage for discrimination based on:

- Age
- Source of income
- Marital status
- Sexual orientation
- Gender identity

- Occupation
- Veteran status

Be sure to check your state and local laws for additional protections that go beyond federal law.

ADVERTISING PRACTICES

The Fair Housing Act prohibits using any advertising or making any statement in connection with the sale or rental of housing that indicates a preference or limitation for applicants or prospects because of a prohibited basis. HUD regulations require the prominent display of HUD's fair housing poster containing a fair housing slogan and logo.

When developing advertising, real estate professionals often look for lists of acceptable and unacceptable words to stay on the right side of fair housing law. Keep in mind that whether or not use of a particular word constitutes a violation may depend on context. Instead of relying on lists of words, keep the following rules of thumb top-of-mind when developing advertising:

- Focus on the property, not the people. Focus on the property and the amenities in your listing description, not on who you think an ideal buyer or renter would be.
- Do not make statements that express a preference for one personal characteristic over others or exclude persons because of a prohibited characteristic.
- Always include the fair housing logo and/or the "Equal Housing Opportunity" slogan in your advertising.
- Do not exclude from your marketing campaign persons in protected classes, such as families with children, people of certain racial or ethnic backgrounds, persons with disabilities, etc.
- If you feature human models in your advertisements, ensure that the images are inclusive and representative of demographic groups in your area.
- Always give truthful information about the availability, price, amenities, and features of a housing unit.

Placing Advertisements

Advertising in the media, including ads placed only in selective online sites or print publications, could also violate fair housing laws. For example, problems might arise when an advertisement is placed only in a particular geographic or zoned edition of a major metropolitan newspaper, in smaller newspapers or on websites specializing in a particular segment of a community. Be consistent when advertising properties and communities in each medium. Advertise in media that will reach all different audiences, not just one.

Using Human Models in Real Estate Advertising

Exercise caution when using human models in real estate advertising. Under certain circumstances, the exclusive use of white models has been held to communicate a preference for white applicants or prospects. While the Fair Housing Act does not contain an affirmative obligation to choose human models in direct proportion to the racial composition of the market place, a real estate professional who uses human models in advertising is well-advised to make special efforts to use people of color and white models, as well as children and disabled persons.

Online Issues

A real estate professional should avoid using any wording in texts, emails, blogs, social networking conversations, video posts and other forms of digital communication that could be considered discriminatory. These messages can easily be misconstrued, forwarded to a friend or sent to the real estate editor of a local paper. They live forever in cyberspace and can be used as evidence in a fair housing or discrimination lawsuit. Be aware of the law and be wary of everything you say, text or post online.

In addition, Standard of Practice 10.5 of the NAR Code of Ethics prohibits the use of any harassing speech, hate speech, epithets or slurs based on race, color, religion, sex, handicap disability, familial status, national origin, sexual orientation or gender identity at any time—not just in advertising or in the course of selling real estate.

Americans with Disabilities Act (ADA) and Disability Provisions of the Fair Housing Act

Many REALTORS® confuse these two laws related to working with people with disabilities.

The Americans with Disabilities Act (ADA) makes it unlawful to discriminate against people with disabilities in many areas of public life, including public accommodations. The key points of this law, which affects many aspects of real estate, are covered in the Legal and Regulatory Activities chapter. The Fair Housing Act prohibits discrimination because of disability in housing and housing-related transactions.

Public accommodations covered by the Americans with Disabilities Act (ADA) include real estate offices and commercial buildings. The ADA and Fair Housing Act overlap in coverage of rental or sales offices related to housing, as well as areas in a residential building or community that may also be available to members of the public, such as a lobby, or community amenities like swimming pools, a game/video room, a lounge or the laundry facilities. In a golf course community, a public course might need to comply with ADA regulations, even though the ADA does not affect the surrounding single-family homes.

FAIR HOUSING TESTING

Testing is an investigative process designed to uncover discrimination in housing. Akin to “secret shopping,” testing has been used as a civil rights enforcement tool for over 40 years and is recognized by federal and state courts as an important and effective tool for objectively detecting discriminatory practices.

A test is a simulated interaction between a tester and a business entity. For example, two testers with identical qualifications, seeking a similar house in a similar location, will separately enter a real estate brokerage seeking service. The only difference between the two testers is their race, national origin or other prohibited basis for discrimination. The testers record their interactions, and any difference between the way the two testers were treated is examined. If a pattern of differential treatment is found, the agent or brokerage may be liable for discrimination. Testing is also used for research purposes to assess the level of discrimination in a particular housing market.

Testing has demonstrated that discrimination in real estate is continuing and widespread. HUD’s most recent national *study* of discrimination in real estate found statistically significant evidence that Black, Hispanic and Asian homebuyers who contacted agents about recently advertised listings were shown fewer homes than equally qualified Whites. A *Newsday investigation* of discrimination in real estate sales on Long Island found that equally qualified Black home seekers received unequal treatment from real estate agents 49% of the time, Hispanic buyers received unequal treatment 39% of the time and Asian buyers 19% of the time.

- [https://www.huduser.gov/portal/Publications/pdf/ HUD-514_HDS2012.pdf](https://www.huduser.gov/portal/Publications/pdf/HUD-514_HDS2012.pdf)
- [https://projects.newsday.com/long-island/ real-estate-agents-investigation/](https://projects.newsday.com/long-island/real-estate-agents-investigation/)

After *Newsday* published its investigation, the New York state legislature launched hearings into real estate discrimination, subpoenaed agents and brokers and introduced a slate of new legislation intended to combat discrimination in real estate. As of publication, at least one real estate agent has lost her license as a result of the investigation.

Because testing uncovers discrimination that is often hidden, NAR supports increased funding for testing. As part of ACT!, NAR announced that it would launch a self-testing program for brokerages that want to assess their own levels of compliance and remediate problems. The program launched in 2022.

FAIR HOUSING TRAINING REQUIREMENT FOR NAR MEMBERS

NAR’s Board of Directors approved a fair housing training requirement in May 2023. New member applicants need to complete two hours of fair housing training, and current members must complete two hours of fair housing training every three years as a condition of REALTOR® membership. The three-year cycle coincides with NAR’s existing Code of Ethics training requirement and begins in 2025.

Courses satisfying the NAR requirement are:

- At Home With Diversity, a course to help real estate professionals work successfully in an increasingly diverse marketplace
- Bias Override: Overcoming Barriers to Fair Housing, a course to help real estate professionals identify and interrupt stereotypical thinking to avoid fair housing pitfalls

- Qualified equivalent courses provided by state and local associations, institutes, societies and councils, and their partnered providers
- Qualified equivalent fair housing courses approved by state licensing authorities for an existing state fair housing requirement
- A to-be-created non-residential practitioner course focused on bias and anti-discrimination training
- Fairhaven. NAR's online fair housing simulation is being updated to meet the stated learning objectives and two-hour minimum time frame so it can be included in the list of qualifying courses and serve as the no-cost option.

The recommendation came from a work group appointed by NAR's Member Policy and Board Jurisdiction Committee, which advanced the recommendation to the board. NAR's Association Executives, Professional Development, Diversity and Fair Housing Policy committees also voted in support of the new fair housing training requirement.

ARTICLE 10 OF THE REALTOR® CODE OF ETHICS AND THE EQUAL PROFESSIONAL SERVICE MODEL

Article 10 of the REALTOR® Code of Ethics

REALTORS® shall not deny equal professional services to any person for reasons of race, color, religion, sex, disability, familial status, national origin, sexual orientation, or gender identity. REALTORS® shall not be parties to any plan or agreement to discriminate against a person or persons on the basis of race, color, religion, sex, handicap disability, familial status, national origin, sexual orientation, or gender identity. (Amended 1/23)

REALTORS®, in their real estate employment practices, shall not discriminate against any person or persons on the basis of race, color, religion, sex, handicap disability, familial status, national origin, sexual orientation, or gender identity. (Amended 1/23)

The Equal Professional Service Model

The Equal Professional Service Model is an effective tool to help agents consistently provide the same level of service to all prospects and clients. The Equal Professional Service Model helps REALTORS® set up a consistent approach to getting listings, showing homes and following up with customers and clients. It will also help document that an agent's conduct has not been discriminatory in the event of an allegation that unequal treatment has occurred.

To encourage responsible compliance with fair housing laws, NAR has developed the Equal Service Checklist:

- Develop policies or procedures concerning treatment of prospects and clients during their initial contact with the firm.
- Obtain objective information regarding the prospect or customer's needs and wants. The Prospect Equal Service Form (in NAR's "Fair Housing Handbook," Appendix F, page 40) can assist with collecting this type of information.
- Let the customer set the limits of the housing search. For example, desired communities or areas, features in a home, price and financing options.
- Offer a variety of choices (location, types or styles of properties).
- Require good record keeping.
- Establish a method of monitoring and evaluating service provided.

Brokers can learn more about developing a fair housing compliance program in the fair housing chapter of Real Estate Brokerage Essentials, available on the REALTOR® store: <https://store.realtor/real-estate-brokerage-essentials/>.

FAIR HOUSING RESOURCES FROM NAR

Fair Housing Grant Program

The Fair Housing Grant program provides funding to state and local REALTOR® associations to support fair housing programs in our industry and in our communities. Find the most up-to-date Fair Housing Grant criteria, regulations, and deadlines, as well as other fair housing resources at <https://realtorparty.realtor/state-local-issues/issues/fair-housing>.

NAR's Fair Housing Toolkit

The toolkit provides ideas for using fair housing grants.

<https://realtorparty.realtor/state-local-issues/issues/fair-housing/toolkit>

Level 1 Grants

Level 1 Fair Housing Grants may be used to hold educational activities such as a class or forum, to host a speaker who can address fair housing issues or for speaker/author fees for a facilitated “book club” activity. Maximum award: \$3,000

Level 2 Grants

Level 2 Fair Housing Grants support activities that address fair housing issues in a community. Activities should involve partnerships with local agencies or organizations that further the fair housing mission and have a broad community reach. Activities previously supported by a grant are not eligible for funding. This includes updated or enhanced activities or recurring/annual events. Maximum award: \$7,500

Some ideas for fair housing programming at your association, both at no cost and using Level 1 and Level 2 grants, are below.

No-Cost Ideas Using Existing Resources

- **Issue a proclamation.** Work with your town, county or city to issue a proclamation recognizing the importance of fair housing and equal housing opportunities.
- **Fair housing social media campaign.** Make weekly posts about fair housing law, local fair housing history, stories about fair housing champions in your community, etc.
- **Share stories.** Use the association's existing newsletter, social media, podcasts or other communication channels to feature local fair housing champions and REALTORS® who are leaders in fair housing advocacy.
- **Fairhaven challenge.** State associations—challenge locals to complete NAR's online fair housing training, Fairhaven; honor the top five highest percentage of completion at the state convention. Local associations—challenge small, medium and large brokerages to complete Fairhaven; honor the brokerages in each size category with the top five highest percentage of completion at an annual awards event. See page 12 for more information on Fairhaven.

Level 1—Fair Housing Grant Ideas

- **Book Club /discussion club.** Select a book, documentary or article on a fair housing issue and hold a virtual or in-person book/discussion club meeting. Invite the book author, a REALTOR®, community leader or staff from a fair housing agency to lead the conversation. Fair Housing book, article, and film recommendations from NAR are here: <https://www.nar.realtor/fair-housing/fair-housing-month>.
- **Hold a class.** Provide educational opportunities for members to learn about fair housing and their responsibilities under the law. Grants can cover Bias Override, NAR's new implicit bias certificate course.
- **Guest speaker.** Host a local or national speaker to discuss a particular aspect of fair housing.

Level 2—Fair Housing Grant Ideas

- **Co-branded one-pager/brochure.** Collaborate with a fair housing agency/nonprofit to create a co-branded educational piece for members and/or consumers that explains rights and responsibilities under the Fair Housing Act.
- **Legislative initiatives.** Propose state legislative or local ordinance provisions that further fair housing. NAR consultants can help with drafting.
- **Work in partnership.** Collaborate with a local organization with a fair housing mission on their initiatives to promote equal housing opportunities in the community.
- **Speaker series.** Organize a series of three or more speakers around a theme, such as working with clients with disabilities, the history of fair housing law or recognizing implicit bias.
- **Fair housing symposium.** Bring together REALTORS®, consumers and community stakeholders to discuss the importance of fair housing and local efforts to ensure equal housing opportunities.
- **Develop curriculum.** Work with a course developer and fair housing experts to design a fair housing education course for members.
- **Fair Housing Month posters.** Distribute NAR Fair Housing Month posters to area principal and managing brokers along with a personal invite to the association's fair housing events, education and activities.
- **That's Who We R fair housing assets.** Create public-facing marketing that amplifies *That's Who We R Fair Housing Assets*.

NAR's ACT! Fair Housing Initiative

NAR launched its new Fair Housing Action Plan, abbreviated ACT!, in 2019 to emphasize Accountability, Culture Change and Training in the industry. Among other things, the plan commits NAR to:

- Work with state AEs to ensure that state licensing laws include effective fair housing training requirements and hold real estate agents accountable to their fair housing obligations.
 - ▶ *In May of 2022, NAR's Board of Directors adopted policy urging state associations to examine their licensure laws for effective fair housing training requirements. NAR fair housing staff can provide AEs with resources to examine and analyze their law.*
- Launch a Public-Service Announcement Campaign that reaffirms NAR's commitment to fair housing and how consumers can report problems.
 - ▶ *See the "That's Who We R" fair housing assets provided on the following page.*
- Integrate fair housing into all REALTOR® conferences and engagements;
- Explore the creation of a voluntary self-testing program, in partnership with a fair housing organization, as a resource for brokers and others who want confidential reports on agent practices so they can address problems.
 - ▶ *The self-testing pilot launched early in 2022.*
- Create more robust fair housing education, including implicit bias training and education on how the actions of REALTORS® shape communities.
 - ▶ *NAR launched Fairhaven: A Fair Housing Simulation in 2020 and Bias Override: Overcoming Barriers to Fair Housing in 2022.*
- Profile leaders who exemplify the best fair housing practices and workplace diversity.
 - ▶ *See "Being the Change" videos and Fair Housing Champion Award information on the following page.*
- Develop materials to help REALTORS® provide consumers with information on schools that avoids fair housing pitfalls.

Fair Housing Resources

Fairhaven: A Fair Housing Simulation

<https://fairhaven.realtor>

Fairhaven is an interactive online simulation training in which agents confront discrimination in real estate transactions, from the point of view of both agent and client. In this cutting-edge training, agents work against the clock to sell homes in the fictional town of Fairhaven, confronting various scenarios where discrimination gets in the way. Agents make choices about how to handle each scenario and receive actionable feedback that they can apply to their daily business interactions. The course also puts agents in the role of a client experiencing discrimination. The client point-of-view scenarios are paired with powerful testimonials illustrating the impact of housing discrimination in real people's lives. At the end of the experience, learners will receive a performance report summarizing each of their interactions and providing insight into their overall performance.

Association staff can track their members' participation. Here's how to pull member completion reports through the Fairhaven platform:

1. Log in at fairhaven.realtor (this is the same login and password you use for nar.realtor).
2. Click on the menu in the upper right corner (it looks like three stacked horizontal lines).
3. Click on "Staff Admin." You will now see a list of all association members who have accessed Fairhaven.
4. The "Attempt Status" column will tell you whether the member's attempt passed, failed or is still in progress.
5. Click on "download CSV" to get a spreadsheet with member completion information.

Find marketing assets for Fairhaven here:

<https://www.nar.realtor/fair-housing/fairhaven/fairhaven-assets>

Bias Override: Overcoming Barriers to Fair Housing

REALTORS® are committed to abiding by fair housing laws and the Code of Ethics. But sometimes, our brains take shortcuts that can lead us astray. Bias Override: Overcoming Barriers to Fair Housing is an NAR certificate course that helps real estate professionals interrupt stereotypical thinking so they can avoid fair housing pitfalls and provide equal professional service to every customer or client. Participants will learn about the mind science of identity, study how implicit bias can result in fair housing violations and engage in interactive exercises to enhance communication skills and business relationships with clients of all backgrounds. This three-hour classroom course can be taken online or in person and may be submitted for CE credit in your state.

Learn more about the classroom course here: <https://www.nar.realtor/fair-housing/bias-override-overcoming-barriers-to-fair-housing>

That's Who We R Fair Housing Assets

NAR launched a consumer-focused fair housing campaign in 2020 as part of the broader “That’s Who We R” advertising campaign to emphasize that providing equal service is part of the REALTOR® brand. Assets from that campaign may be found here:

<https://www.nar.realtor/thats-who-we-r/fair-housing-assets>

NAR Fair Housing Champion Award

NAR and *realtor.com* Fair Housing Champion Award honors REALTORS® who have gone above and beyond to advance fair housing and expand homeownership in underserved communities. The award provides a prize that winners can dedicate to a housing-related nonprofit organization of their choice. The Fair Housing Champion Award was launched in 2022.

Learn more about the Fair Housing Champion Award here: <https://www.nar.realtor/fair-housing/fair-housing-champion-award>

“Being the Change” Videos

In 2021, as part of its ACT! Fair Housing Initiative, NAR began profiling REALTOR® fair housing leaders who are “being the change” in their businesses and communities. These video profiles continued into 2022 and with the partnership of *realtor.com*, became the Fair Housing Champion Award. The 2021 videos are archived on the Fair Housing Champion Award page.

<https://www.nar.realtor/fair-housing/fair-housing-champion-award>

Fair Housing Month Assets

NAR provides a poster, social media assets, a proclamation for your local government body and more resources to support your Fair Housing Month efforts each April at:

<https://www.nar.realtor/fair-housing/fair-housing-month>

SOURCES

- *Code of Ethics of the National Association of REALTORS®, 2023*
- *Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended in 1974, 1988, and 1995)*
- *Fair Housing Handbook, Fifth Edition. National Association of REALTORS®*

3.6

General Real Estate Practices

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THE REAL ESTATE TRANSACTION

Like any business, the real estate industry ultimately depends on the customer: an individual, couple, family, partnership, business or nonprofit organization seeking to buy, sell or manage a residential or commercial property. While the central piece of any transaction is real estate brokerage—representing the seller or buyer in a transaction—it is important to remember that many other types of professionals may be involved in the process, from attorneys and inspectors to lenders and title insurance agents.

This chapter provides an overview of the business of real estate, from the parties involved and the elements of the real estate transaction to the law of agency and the relationship between real estate brokers and salespersons, and the potential for legal liability that arises in a transaction. While the transaction process is similar throughout the United States, state and local regulations and practices will affect the various aspects of buying, selling and managing real estate properties.

BUYERS AND SELLERS

Real estate customers may be divided into buyers and sellers, with investors often considered a separate category. Here is a closer look at their typical goals and desires, which drive this service-oriented industry:

Buyers—Buyers seek to purchase real estate properties for many reasons, including a place to live (by themselves or with others), a vacation or getaway residence used for part of the year, or financial investment. Buyers may be found in a local community, other parts of the United States or in foreign nations.

Buyers desire to purchase properties that suit their needs at the lowest possible price. They also want to be sure the property is in good condition or purchase the property at a price that reflects the cost of potential repairs. Therefore, they may hire an inspection service to review the property prior to closing the transaction. They want to be sure they have a clear legal claim to the property and frequently purchase a title insurance policy that protects them should a competing claim arise after the closing. They also buy homeowner's insurance or property and casualty policies to protect against loss due to fire, theft, wind and other conditions. However, a different set of considerations may apply if a buyer purchases a farm or ranch, raw land, a vacant lot or a property with a "tear-down" building whose value is the underlying land.

Most buyers also need to finance a portion of the purchase price and turn to a lender—a bank, lending company or the seller—to obtain a mortgage, which is a loan secured by the property itself. Many buyers benefit from loans insured by the Federal Housing Administration (FHA) or the Department of Veterans Affairs (VA) and made by an approved lender in accordance with each agency's regulations.

If the buyer has a relatively small down payment, the lender may require the purchase of private mortgage insurance (PMI) to protect its financial interest in the property. The lender may also hire an appraiser to be sure the property is valued appropriately, require the seller to provide an inspector's report to verify the property's condition and obtain its own title insurance policy to protect its financial interests.

After the closing, the lender may sell the loan (or purchase other loans) in the secondary mortgage market, whose key players are the Federal National Mortgage Association (Fannie Mae), a quasi-government agency that purchases any kind of mortgage loans from primary lenders, the Federal Home Loan Mortgage Corporation (Freddie Mac), which primarily purchases conventional mortgage loans and the Government National Mortgage Association (Ginnie Mae), a government agency that guarantees timely payment of principal and interest on mortgage-backed securities comprised of pools of FHA and VA loans.

Sellers—Sellers generally seek to obtain the highest price possible for their property in accordance with local market conditions. They may be moving to a new community, upgrading to a larger house, downsizing after their children have left home or retiring to a home in a new location. In some cases, the sellers may need to dispose of their property as quickly as possible, making price a secondary consideration. These cases, often called "distress sales" may occur in cases of death, divorce or financial problems. Sellers who are behind on their mortgage payments, facing a job-related loss of income or suffering from other financial hardships may seek to sell their property before it enters the foreclosure process, when the lender can legally assume ownership of the property. If foreclosure occurs, the lender then assumes ownership and usually becomes the seller.

Investors—Investors are buyers and sellers focused primarily on the financial aspects of a real estate transaction. However, it should be remembered that many investors—including those from outside the United States—may also plan to reside in an investment home or condominium for part of the year and rent it during other periods. Investors may purchase residential or commercial properties or buy vacant or "raw" land anticipating a future sale at a higher price. Investors typically would like to pay the lowest possible price—including any repairs, renovations or cosmetic improvements—and have the property generate income as quickly as possible. With smaller properties, such as a duplex or an apartment unit, the investor may be a hands-on owner, finding renters and maintaining the facility. But in many cases, the investor will hire a building contractor to make repairs, a leasing agent to bring in tenants and a property manager to handle the day-to-day operations. In many cases, real estate professionals are engaged to handle the leasing and property management functions.

While this chapter focuses primarily on residential real estate, it's important to understand that buyers, sellers and investors have similar motivations in commercial real estate transactions. However, business or investment considerations, rather than emotions, drive the investment decision process.

THE ROLE OF A REAL ESTATE PROFESSIONAL

A small percentage of sellers prefer to handle a transaction themselves, and their properties are often called “for sale by owner” or FSBOs. And there are a limited number of buyers who prefer to deal directly with the seller themselves. But the financial size and complexity of a typical real estate transaction mean that most buyers, sellers and investors seek assistance from a licensed professional, a REALTOR® who can guide them through the process and support their goals.

Representing a seller or buyer is the essence of real estate brokerage—the core of this industry. In order to serve sellers, buyers and investors, brokerage companies engage licensed salespeople—also known as real estate agents, associates or sales associates—who deal directly with customers.

As compensation for their services, brokers usually receive a commission that is typically split between the company and the agent, according to the terms of a contract or agreement. In cases where the seller and the buyer are represented by agents, each side will receive a portion of the commission.

A real estate brokerage office can be as small as one person or include thousands of real estate agents, assistants and office staff. It can be independently owned and operated or part of a regional or national franchise. Real estate brokers today have several different business models for serving their customers, including “virtual” firms where agents work from home offices and “one-stop” companies that may offer mortgage loans, title insurance or other products through affiliated companies.

From an agent’s perspective, there are a wide range of potential markets and customers to serve: families in a local neighborhood, singles seeking a low-maintenance condominium lifestyle, first-time buyers fulfilling their dreams, retirees moving from distant states, vacation home buyers from other countries and commercial property owners of all types. The possibilities are almost endless. And many real estate agents have built successful careers outside traditional brokerage, becoming leasing specialists, property managers or consultants to commercial investors.

Like brokers, agents also utilize a variety of business models. Many become specialists in a particular market or type of clientele, developing their expertise and knowledge. To deliver services in the most effective and efficient manner, other successful agents have built teams that may include licensed or unlicensed professionals.

While the agent or agent team conducts transaction-related activities on behalf of the broker, it is important to remember that the broker is ultimately responsible for the agent’s actions.

Regardless of roles and business models, both agents and brokers should be careful to document their actions in serving buyers and sellers. That includes keeping copies (electronic or print) of all contracts, agreements, disclosures and other forms given to their customers, as well as the date the documents were signed. Customers should also receive completed copies of these documents for their own records. Record-keeping requirements may be specified by state laws and regulations and/or by brokerage companies.

Agents and brokers should also document any significant questions and answers that arise in a conversation. Keeping comprehensive records of every transaction and documenting relevant information given to a buyer or seller is important for avoiding misunderstandings during the transaction process and after the closing. It can also provide agents and brokers with protection in the event of a lawsuit from a dissatisfied customer.

ELEMENTS OF A REAL ESTATE TRANSACTION

A typical transaction has several distinct stages, as outlined here.

- **Representation agreement.** A brokerage firm can enter into two basic types of representation agreements. The first is a listing agreement with the property owner (seller). This contract outlines the commission to be paid to the brokerage firm in the event of a sale. On the other side of the transaction, a potential buyer may enter into a representation agreement with a real estate agent/broker. After reaching agreement on these agreements, the seller and buyer then review and sign agency disclosure forms.
- **Offer and negotiations.** A prospective buyer may make an offer to buy the property. The offer may be at a price above or below the listed price, depending on market conditions. The offer may also include contingencies, such as the buyer’s ability to obtain financing, or ask for furnishings or appliances such as the home’s refrigerator and washer/dryer to be included in the sale. After the buyer’s agent submits the offer, the listing agent will review the details with the seller. Most states require that all offers be presented in a timely manner. The seller may accept, reject or counter the buyer’s offer. If negotiations are concluded successfully, then the transaction moves forward to the next stage.

- **Contract.** A purchase agreement or contract is a written agreement between the buyer and the seller, usually prepared by the agents acting on their behalf. The contract sets the terms and conditions, such as the sales price, earnest money deposit and contingencies, as well as the timetable for the real estate transaction.
- **Deposit.** The buyer gives the seller an earnest money deposit for the property in accordance with the contract. Those funds are typically conveyed to the broker and held in trust by an escrow agent, such as an attorney or title company, until the transaction is completed. Deposited funds, as well as any additional down payment monies and loan proceeds, are disbursed according to the contract terms.
- **Due diligence.** A due diligence period may be specified in the contract or may be set by state law. This is a window of time for the buyer to determine that the property is satisfactory and may include arranging for inspections and reviewing property disclosure forms (see Seller's Disclosures section later in this chapter) and homeowner association regulations, if applicable. Depending on contract terms and state law, a buyer may be able to cancel the transaction during the due diligence period without forfeiting the deposit.
- **Inspections.** During the due diligence period, the buyer will typically engage a home inspection service to verify the condition of the property. If problems are found, the buyer and seller may renegotiate the sale price, or the buyer may decide to cancel the transaction.
- **Financing.** The buyer goes to a lender, such as a bank or mortgage company, and applies for a loan to finance a significant portion of the purchase. If the lender approves the loan, the buyer can then move forward to complete the transaction.
- **Appraisal.** As part of the loan review process, the lender will usually order an appraisal of the property to determine its current market value.
- **Homeowner's insurance.** The lender will usually require the buyer of a residential property to purchase a homeowner's insurance policy to protect against financial losses in the event of fire, theft, water damage or other problems. Note that in many locations, buyers may need to purchase more than one insurance policy, such as a federal flood insurance policy for low-lying properties or a windstorm/hurricane policy for coastal locations in the Southeast states.
- **Title insurance.** The lender or the buyer will select an attorney or title insurance company to research the legal history of the property and ensure that ownership passes cleanly from the seller to the buyer. Note that a title insurance policy does not guarantee that the

buyer is the new owner; it simply provides financial reimbursement in the event there is a successful challenge to the ownership. Also, if a lender purchases a title insurance policy, the buyer's interest may not be automatically covered. In some cases, the buyer must purchase a separate policy.

- **Settlement.** Prior to the actual closing, both the buyer and seller receive a set of settlement documents, detailing the various fees incurred in connection with the transaction, and showing the amount of additional funds the buyer will need to pay and the amount the seller is expected to receive. In some cases, these documents may be reviewed by attorneys representing the buyer or seller. In any case, the real estate agents, mortgage lender or title company may need to answer questions from their clients about these documents.
- **Closing.** The buyer and seller complete the sale by executing necessary documents, transferring the deed to the buyer and making payments as specified in the sales contract and mortgage agreements.

Real estate professionals must be familiar with local and state laws governing real estate transactions in their market, as well as local customs regarding the responsibilities of all participants.

Listing and Marketing Properties

In any real estate market, it is the sellers who provide the inventory of properties available for sale. Therefore, virtually every real estate transaction handled by a real estate broker or agent begins with a representation agreement or listing agreement (it is called a listing agreement because the seller agrees to have the property posted to the area's multiple listing service [MLS]). Basically, the seller chooses a real estate professional to market the property and find a buyer. (For more on listing contracts, see Agency and Subagency section in this chapter.)

Here are the general steps that occur relating to the listing and marketing of a property:

- A broker/agent makes a listing presentation to the client, which usually includes the agent's competitive market analysis (CMA) and/or an opinion of value for the subject property.
- A representation agreement or listing contract is completed and signed by the broker/agent and the seller.
- Agency disclosure forms are completed and signed by the broker/agent and the consumer. Brokers/agents who wish to represent both the buyer and the seller in a transaction should consult their state's agency laws to determine what agency disclosure and representation requirements must be followed.

- Any required property disclosure forms are completed and signed by the seller.
- A file is created for the listing and is maintained by the listing broker/agent and any staff.
- A profile sheet for the property is submitted to the MLS, and the listing is included in the MLS system.
- A “For Sale” sign is placed on the property, if approved by the owner and subject to local requirements.
- Showing instructions are outlined for office staff and agents (such as whether there is a lockbox located at the listed home, or whether an agent is required to pick up a key for showings).
- A marketing plan is developed for the listing, either at the time that the listing presentation is made or immediately upon the signing of the listing agreement. Examples of marketing methods include information about the listing posted at Realtor.com, the listing firm’s website and on social media sites, as well as advertisements in the local newspaper or magazine, etc.
- A marketing packet for other brokers/agents and customers is prepared and distributed through many channels, including marketing groups, open houses, targeted mailings, mobile applications, social media and more.
- The home is sold!
- The closing information is reported to the local MLS.
- Thank-you letters are sent to the purchaser, seller or both parties, depending on whom was represented.

Both agents and brokers need to understand the importance of respecting individual privacy in marketing listed properties to potential buyers. Federal and state laws may apply when making phone calls or sending texts, emails or faxes. For instance, many individuals have listed their numbers with the federal Do-Not-Call/Fax registry. Also, the CAN SPAM Act makes it imperative for real estate agents and brokers to receive an “opt-in” from prospects before sending them email messages. Anyone who receives these emails must also be given an option to unsubscribe from the service.

Violating federal and state privacy laws may result in significant fines or other penalties. They can also damage agent’s or broker’s reputation if buyers or sellers post complaints on social media pages or contact local consumer watchdog agencies. The bottom line: Consumers who consider their privacy has been violated are unlikely to engage that agent or broker to represent them in a transaction.

Use of Forms

To assist their members, many local and state associations have developed standard forms for many aspects of a property transaction, typically through a forms committee with the assistance of association legal counsel and/or local real estate attorneys. The following are some examples:

- Listing agreement
- Buyer representation agreement
- Agency representation agreement
- Property disclosure form
- Contract to purchase a single-family home
- Contract to purchase a condominium

The terms, deadlines and conditions specified on these forms will vary from state to state, depending on applicable laws and regulations in each jurisdiction. In some cases, the forms might need to be translated to Spanish, Portuguese, Mandarin Chinese or another language so buyers or sellers who do not speak English may better understand the transaction. Also, these standard forms may need to be updated from time to time due to changes in state laws or regulations.

AEs should understand that these forms are intended to be used as guidelines for agents and brokers during the normal conduct of their business. Each form must be fully and accurately completed by the real estate professional to reflect a unique transaction. AEs should be sure to communicate the nature and purpose of these standard forms to avoid misunderstandings with practicing professionals. Offering guidance and education through articles and courses can help members understand how to use the association’s forms.

Seller’s Disclosures

In most states, sellers and their real estate agents are obligated to disclose known material defects in a property to all potential purchasers. This is generally true whether the purchaser is a client of the licensee (acting as a buyer’s broker) or a customer of the licensee (acting as a subagent or in a non-agency capacity.) Almost two-thirds of all lawsuits filed against real estate brokers allege failure to disclose material property defects. (See Principles of Misrepresentation Liability later in this chapter.)

Because a home is the largest single investment that most people make during a lifetime, it is important that all relevant information regarding its condition be provided to buyers prior to the purchase. Some local and state associations have developed standardized property condition disclosure forms, in consultation with legal counsel, to help their members serve buyers and sellers. Brokers and their agents can use these forms to elicit information about the physical condition of the property from the seller and convey those facts to the buyer. Effective use of these forms

results in fewer surprises to purchasers after the closing, thereby reducing the likelihood of claims for liability on the part of both the real estate broker and the seller.

Property condition disclosure forms are completed by the seller and provided to the purchaser. The seller, who in most cases is also the occupant, is in a superior position to the real estate broker to be aware of information about the condition of the property. These forms provide written documentation of the information provided by the seller to the buyer about the condition of the property.

While the use of such forms does not eliminate a real estate licensee's duty to disclose to potential purchaser's information about any material property defects about which the real estate licensee may be aware of or learn, it does shift from the licensee to the seller some of the risk of failing to disclose such known defects or conditions. The documentation created by the use of such disclosure statements also provides evidence of the disclosures made by the seller to a prospective purchaser, and thereby assists in the timely and effective resolution of disputes about the condition of the property. Each of the parties to the transaction, in fact, benefits from using a written property condition disclosure form.

Most disclosure forms also recommend that a purchaser obtain an independent home inspection. When a purchaser follows that recommendation, the burden of determining the condition of major features or systems in the home, such as the electrical system, the roof or the furnace, falls to an individual with requisite expertise rather than to the seller or agent. In such cases, the likelihood of claims against the seller is reduced and the seller's ability to defend against such claims is enhanced.

A seller's property condition disclosure report, whether required by state law or used on a voluntary basis, can be a valuable tool, because it helps parties avoid misunderstandings regarding the condition of the property. As a consequence, such a reporting form helps avoid claims for misrepresentation of the condition of the property.

Laws that Affect Real Property

Every real estate transaction is subject to a multitude of local, state and federal laws. All real estate brokers and salespeople must have a clear understanding of these laws, and brokers must take responsibility for educating their licensees. As a member benefit, REALTOR® associations often provide education about real estate laws and regulations.

Remember, it is the job of the AE to help association members become versed in legal changes and developments, while also reminding members to consult legal counsel, rather than attempting to act as an attorney, in any real estate transaction.

Real Estate License Laws

Real estate license laws exist to protect the public from fraud, dishonesty and incompetence in real estate transactions. In the United States and Canada, the activities of real estate professionals are regulated by license laws established in their respective states (as well as the District of Columbia, Puerto Rico and U.S. territories). The Association of Real Estate License Law Officials (ARELLO) shares information about and promotes "the uniform policies and standards for administering and enforcing state license laws."

Each state has its own license laws, rules and regulations, and a real estate commission that oversees the activities of real estate professionals. The laws, rules and regulations achieve the goal of ensuring a standard of competence and professionalism by:

- Establishing basic requirements for obtaining a real estate license and, in many cases, requiring continuing education to keep a license
- Defining which activities require licensing
- Describing the acceptable standards of conduct and practice for licensees
- Enforcing those standards through a disciplinary system

It is the responsibility and obligation of all real estate professionals to stay informed about all current federal, state and local laws pertinent to real estate. In addition to the local and state REALTOR® associations and NAR, the best information provider is the state regulatory agency and ARELLO.

For information on regulating agencies for individual states in the US and for Canadian provinces, visit the ARELLO website at <https://www.arello.org>.

THE REAL ESTATE SETTLEMENT PROCEDURES ACT (RESPA)

Congress enacted the Real Estate Settlement and Procedures Act (RESPA) in 1974 to encourage American homeownership while providing protections for consumers in the home buying process. After assessing the types of protections that could be offered reasonably, Congress decided not to regulate the costs of a real estate settlement directly but rather to focus reforms on lending practices and closing and settlement procedures. As such, the legislation provides that abusive practices, such as unearned fees and kickbacks, be regulated, and that information on the settlement process and associated fees is provided to consumers.

In the 2000s, there was increased interest in comprehensive RESPA reform legislation, particularly after the nationwide wave of foreclosures, short sales and other distressed property transactions. NAR was actively engaged in this reform effort through a coalition of industry and consumer groups. In 2008 HUD published a new RESPA rule, which made obtaining mortgage financing clearer and helped consumers determine if their actual closing costs were within established tolerance requirements.

Under the rule, HUD required mortgage lenders and mortgage brokers to provide consumers with the standard good faith estimate (GFE) form within three days of receiving an “application.” The GFE form includes a summary of the key terms of the loan, as well as an estimate of total settlement charges, which HUD expanded and reorganized in certain instances. The rule also requires a mortgage lender or broker to keep the GFE’s stated settlement costs available for 10 business days to allow the consumer to comparison shop with other loan originators.

“Know Before You Owe”

In 2011, RESPA came under the jurisdiction of the Consumer Financial Protection Bureau (CFPB), which now enforces its provisions. In 2013, the CFPB issued its final rule to integrate the Real Estate Settlement Procedures Act (RESPA) and Truth in Lending Act (TILA) disclosures and regulations, under the Know Before You Owe (KBYO) mortgage initiative. The KBYO rules and forms took effect on October 3, 2015.

The Know Before You Owe mortgage initiative is designed to empower consumers with the information they need to make informed mortgage choices. It includes the implementation of the TILA-RESPA Integrated Disclosure rule, which is often referred to as “TRID.”

In 2016, CFPB released a proposed rule to amend the KBYO regulation, addressing consumer and industry issues, including NAR’s primary concern with lenders and title companies’ growing reluctance to share the new required closing disclosure with real estate professionals. On July 7, 2017, the CFPB released the final rule amending the “Know Before You Owe” mortgage disclosure rule. As advocated for by NAR, the final rule clarifies the ability to share the closing disclosure with third parties.

This new TILA-RESPA Integrated Disclosure rule took effect in 2017 with a mandatory compliance date of October 1, 2018. In general, the new rule simplified and consolidated some of the required loan disclosures and changed the timing of some activities in the mortgage process. The goal is to ensure smooth and on-time closings. The form’s design and language made the loan terms and loan costs easier to understand and potential errors or problems easier to recognize.

For more information, see the Field Guide to the TILA-RESPA Integrated Disclosure Rule at <https://www.nar.realtor/trid-tila-respa-integrated-disclosure#section-166126>.

BROKER/SALESPERSON RELATIONSHIPS

Brokerage companies are the historic foundation of the real estate services industry. They educate, train and motivate the sales professionals who serve consumers, and provide their agents with the tools needed for business success. Currently, there are several distinct business models for serving consumers, including:

- “One-stop” companies that offer real estate brokerage, mortgage, title insurance and/or homeowner’s insurance under one roof. This model is often implemented to enhance profitability and offset declining margins in real estate brokerage.
- Full-service, full-commission brokerage firms that focus on personalized assistance with the real estate transaction. Firms split a customer’s commission between the company and its agents based on a previously agreed-upon parentage basis. This continues to be the dominant business model in the industry.
- Virtual brokerage companies. Unlike traditional firms, these companies provide online support to real estate professionals, who may work from small offices or their homes. This minimizes the broker’s capital investment in bricks and mortar offices.
- Discount brokers that promote low price and may offer a menu of marketing services to sellers. This segment typically sees growth in a “seller’s market,” when buyers compete for residences, but is less popular in a “buyer’s market,” when a full-service approach may be necessary to sell a home.
- Flat-fee services (both physical office and online) that provide minimal marketing assistance to FSBO (for sale by owner) sellers. This service is a combination of lower price and defined services.

In all cases, brokers have certain legal and financial responsibilities related to the members of their sales team, including issues related to the nature of those types of relationships.

The relationship established between a broker and salesperson is one of three possible types:

- Employee
- Common-law independent contractor
- Statutory independent contractor

Note: Information in this section is mostly of a general nature and focuses primarily on the implications of federal law. Accordingly, an association should supplement this information with the advice of legal counsel, particularly when reviewing specific requirements for compliance with state and local laws. NAR cannot guarantee that adhering to the guidelines outlined in this section will preclude a real estate licensee from being involved in litigation. However, knowledge of and attention to the intricacies of the employment and independent contractor relationships should serve to minimize the exposure to and risk of lawsuits.

Here is a brief overview of the legal classifications affecting the broker/salesperson relationship.

Employee

A real estate salesperson is generally considered an employee if the broker has the right to control and direct not only the result to be accomplished but also the details and means by which the result is accomplished. In other words, the broker says, “Your objective is to sell this property, and here is a detailed program of how I am requiring you to do it.” This general definition is often refined by the Internal Revenue Service, which has 20 factors it considers in making a distinction between an employee and an independent contractor.

Statutory Independent Contractor

This classification was created by Congress in 1992 to clarify the IRS classification. It said that to qualify as a statutory independent contractor, the three following criteria must be met:

- The sales associate must be a licensed real estate salesperson.
- Substantially all the sales associate’s remuneration for the services performed as a real estate salesperson must be directly related to sales or other output rather than to the number of hours worked.

- A written agreement must exist between the sales associate and the person for whom he or she works, and such an agreement must provide that the sales associate will not be treated as an employee with respect to such services for federal tax purposes.

This three-part statutory test addresses the independent contractor issue only for federal tax purposes. The statute does not control whether a salesperson is an employee or an independent contractor under the various state laws governing worker’s compensation, unemployment compensation or state income taxation. Such determinations are governed by varying state statutes or judicial decisions (state common law). A broker must be in compliance with the laws of the state in which the business is located.

Common-Law Independent Contractor

As stated above, the Internal Revenue Service lists 20 factors it considers when determining whether individuals are employees or common-law independent contractors for federal tax purposes:

- Instructions
- Training
- Integration
- Services rendered personally
- Hiring, supervising and paying assistants
- Continuing relationship
- Set hours of work
- Full-time required
- Doing work on employer’s premises
- Order or sequence set
- Oral or written reports
- Payment by hour, week or month
- Payment of business and/or traveling expenses
- Furnishing of tools and materials
- Significant investment
- Realization of profit or loss
- Working for more than one firm at a time
- Making service available to public
- Right to discharge
- Right to terminate

These rules are, of course, subject to interpretation by the IRS, and in some cases, exceptions can be made due to the federal “Safe Harbor” Rule, included in the Revenue Act of 1978.

These exceptions are increasingly rare, however, and brokers should be advised to consult legal counsel and/or tax experts.

This exemption does not apply to state law requirements, such as state income tax withholding, workers compensation and unemployment compensation. Nor does it apply to legal liability, for example, for tortuous acts of the sales associate.

A Comparison of Brokerage/Salesperson Practices

PRACTICE	EMPLOYEE	COMMON-LAW INDEPENDENT CONTRACTOR	STATUTORY INDEPENDENT CONTRACTOR
1. Training and education can be required	Yes	No	Yes
2. Business forms can be required	Yes	Yes	Yes
3. Minimum earnings can be required	Yes	No	Yes
4. Office manuals can be required	Yes	No*	Yes
5. Sales meetings can be required	Yes	No	Yes
6. Managerial positions are OK	Yes	No	Yes
7. Territorial assignments are okay	Yes	No	Yes
8. Immediate termination is okay	Yes	No	No
9. Work other than sales is okay	Yes	No	Yes
10. Payment of business cards by broker is okay	Yes	No	No
11. Office space provided by broker is okay	Yes	Yes	Yes
12. Secretarial help provided by broker is okay	Yes	No	Yes
13. Auto provided by broker is okay	Yes	No	No
14. Floor time can be required	Yes	No	Yes
15. Number of hours worked/overtime can be required	Yes	No	Yes
16. Paid by salary	Yes	No	Yes**
17. Commissions	Yes	Yes	Yes
18. Bonus, overrides, etc.	Yes	No	Yes**
19. Draws are okay	Yes	No	No
20. Broker may pay for automobile insurance	Yes	No	No
21. Broker may pay for E&O insurance	Yes	Yes	Yes
22. Broker may pay real estate license fee	Yes	No	No
23. Broker may pay REALTOR® dues	Yes	No	No

* With exceptions (see explanations)

** If based on sales performance (the total of these amounts may not exceed 10% of the salesperson's total annual income for real estate sales)

As stated previously, the classification of a salesperson for federal tax purposes may not be controlled at the state level because varying definitions exist for employees and independent contractors under state statutes. As such, contributions on behalf of a salesperson might have to be made for state income tax, worker's compensation or unemployment compensation. It is extremely important for brokers to review state requirements with legal and tax counsel.

Other Federal and State Law Issues

The broker/salesperson relationship is also affected by a number of issues at the state level, including state laws, regulatory requirements and tax rules. The following is a brief overview of these issues, bearing in mind that each state (as well as the District of Columbia, Puerto Rico and U.S. territories) have their specific requirements.

Worker's Compensation

State worker's compensation programs provide financial compensation to workers and their dependents in the event of injury or death during the course of employment. While laws vary from state to state, the employer is usually liable for work-related accidents without regard to negligence. Generally, employers carry worker's compensation insurance or self-insure for this type of liability. Employers must provide coverage for employees. Whether an independent contractor must be covered under worker's compensation laws is determined by state statute and interpretive judicial decisions.

A broker may withhold a percentage of an employee salesperson's income for disability insurance or pay premiums for worker's compensation. A broker should not make any contribution for disability insurance on behalf of independent contractor salespeople, unless required to do so by state law. Brokers should be aware of their obligations under the laws of the state in which their business is located.

Unemployment Compensation

A broker must contribute a percentage of the employee's income for federal unemployment insurance (FUTA) and, in some states, for state unemployment compensation insurance. A broker's liability to pay state unemployment compensation taxes is determined by state statute, as interpreted by the courts. Some states do not assess an unemployment compensation tax if compensation is solely in the form of commissions. Additionally, in some states, salespeople are exempt from the statutes. A review of state law is necessary to determine whether an independent contractor will be exempt from unemployment compensation insurance.

Social Security

Under the Federal Insurance Contributions Act (FICA), a broker must deduct a small portion of an employee's income for Social Security benefits. The broker also must make an employer contribution on behalf of that individual. A broker is not required to make Social Security contributions on behalf of independent contractors or to deduct Social Security contributions from commissions paid to independent contractors. The independent contractor, as a self-employed individual, is responsible for the payment of Social Security taxes.

Income Tax

Compensation paid by brokers to employees is subject to applicable federal, state and municipal income tax withholding requirements. A broker is not required to withhold or deduct federal income taxes from commissions earned by independent contractors. However, a broker must file IRS Form 1099 indicating the amount of commissions paid to independent contractors in any one calendar year. The independent contractor is individually responsible for filing estimated tax returns, and for remitting the proper amount to the IRS as a self-employed individual.

State income tax withholdings are not necessary for common-law independent contractors, but may be necessary for statutory independent contractors, depending on the requirements of state law. State law also may require a broker to file informational returns similar to IRS Form 1099 to report earnings from which no withholdings were made. Failure to comply with tax responsibilities or the misclassification of a salesperson as an independent contractor can result in tax assessments against the broker, including back taxes, interest and penalties. Also, in some situations, the IRS may make personal claims against officers or owners who failed to collect and pay over the required taxes.

A Word About Teams

Agent teams play an increasingly greater role in the real estate industry, blurring the lines between independent salespersons and traditional brokers. Therefore, AEs need to understand the internal relationships within teams as well as teams' overall relationships with their brokers.

In a typical team, the leader or leaders will be independent contractors who are supervised by the brokerage firm. Licensed salespersons who belong to the team may also be independent contractors, or they may be employees of the team itself. Unlicensed members of the team, such as a marketing specialist, transaction coordinator or personal assistant are usually employees of the team leader.

In any case, AEs should be aware of these types of team dynamics in order to address the needs of this growing segment of the association membership. Stay informed on the latest developments on teams at <https://www.nar.realtor/partnerships-teams>.

Conclusion

It is clear that the broker/salesperson relationship brings with it duties and responsibilities, whether a salesperson is an employee, a common-law independent contractor or a statutory independent contractor. Brokers and salespeople alike must be clear about the nature of their contractual relationships and operate in compliance with the terms and conditions of the written agreement. Not doing so may result in unfulfilled expectations on the part of one or both of the parties and a relationship that becomes legally indefensible in a court of law or upon scrutiny during an IRS audit.

THE BASICS OF AGENCY RELATIONSHIPS

Information in this section is provided by NAR Legal Affairs staff.

Fiduciary Duties Owed by an Agent to a Principal

In an agency relationship, the real estate licensee owes certain fiduciary duties to a principal (buyer or seller). These fiduciary duties are in addition to other duties or obligations set forth in a listing agreement, buyer representation agreement or other contract of employment. Subagents of the broker also owe the same fiduciary duties to the broker's principal. The traditional fiduciary duties include:

Loyalty. This duty obligates an agent to act, at all times, solely in the best interests of the principal, excluding all other interests, including those of the agent.

An example of a breach of the duty of loyalty would be if a real estate licensee purchases a property listed with his firm and immediately resells it at a profit. Such conduct usually is considered lawful by an unlicensed individual acting at arm's length, but in this case the licensee would be considered to have stolen an opportunity for profit that rightfully belonged to the principal, the original seller.

Obedience. An agent is obligated to promptly and efficiently obey all lawful instructions of the principal that conform to the purpose of the agency relationship. This duty does not include an obligation to obey unlawful instructions, such as to misrepresent the condition of a property.

Disclosure. An agent must disclose to the principal all known relevant and material information pertaining to the scope of the agency relationship. This duty includes any facts affecting the value or desirability of the property, as well as any other relevant information pertaining to the transaction, such as the other party's bargaining position.

An agent's duty of disclosure to his or her principal must not be confused with a real estate licensee's duty to disclose any known material facts to non-principals, such as customers. The duty to disclose known material facts is based on a real estate licensee's duty to treat all persons honestly. The duty of honesty does not depend on the existence of an agency relationship.

Confidentiality. An agent is obligated to safeguard the principal's lawful confidences and secrets. Therefore, an agent must keep confidential any information that might weaken the principal's bargaining position. The duty of confidentiality precludes a licensee who represents a seller from disclosing to a purchaser that the seller can, or must, sell a property below the listed price. Conversely, a broker who represents a purchaser is prohibited from disclosing to a seller that the purchaser can, or will, pay more than what a purchaser has offered for a property.

The duty of confidentiality does not include an obligation by a broker representing a seller to withhold known material facts about the condition of the seller's property from the purchaser, or to misrepresent the property's condition. To do so would constitute misrepresentation and impose liability on both the broker and the seller.

Most state laws specify what a licensee's duty is when it comes to keeping information confidential following the termination of an agency relationship.

Reasonable Care and Diligence. An agent is obligated to use reasonable care and diligence when pursuing the principal's affairs. The standard of care expected of a buyer or seller's real estate broker is that of a competent real estate broker. By reason of his or her license, a broker is considered to have real estate skill and expertise that is superior to that of the average person.

As one who represents others in their real estate dealings, a broker or salesperson is under a duty to use superior skill and knowledge while pursuing the principal's affairs. However, no licensee is expected to perform tasks or know information outside the scope of his or her real estate license. Real estate licensees are not expected to perform services normally provided by engineers, lawyers, accountants, or other professionals. If the principal raises a concern that is outside of the scope of the licensee's responsibility, the licensee should acknowledge that fact and suggest that the principal seek assistance from a reliable outside source.

Accounting. An agent is obligated to account for all money and property belonging to the principal that is entrusted to that agent. The duty compels a real estate practitioner to safeguard any money, deeds or other documents entrusted to him or her relative to his client's transactions or affairs.

Rescission

A principal has a right to rescind any transaction that involves an agent's breach of fiduciary duty. Rescission is a legal remedy through which the court attempts to restore parties to their original status before the transaction occurred. When a real estate transaction is rescinded, the purchaser deeds the property back to the seller, and the seller refunds the purchase price.

A real estate transaction that is tainted by an agent's breach of fiduciary duty is presumed to be unfair to the principal. Therefore, a principal is entitled to rescind such a transaction without showing that the transaction in fact was unfair in price or terms, or that the agent acted in bad faith. In a case of undisclosed dual agency, whether intentional or accidental, the purchaser or seller only needs to establish the existence of the undisclosed dual agency situation in order to seek rescission.

Forfeiture of Commission

An agent who breaches a fiduciary duty while acting as an agent for a principal is considered to have breached the implied terms and conditions of employment. Fiduciary duties are imposed on an agent by implication, and these are in addition to any express obligations set forth in an employment agreement. Consequently, an agent who breaches a fiduciary duty is not entitled to payment, and can be ordered to return any compensation received, including a real estate brokerage commission.

Damages

An agent also can be expected to pay any damages caused by his or her breach of fiduciary duty. Damages in a real estate transaction may include, for example, any difference between the sales price and the price of a higher offer the licensee failed to reveal, or any profits earned by a licensee who purchased property from the principal, and then resold at a higher price.

Other possible ramifications resulting from a real estate licensee breaching a fiduciary duty include:

- **Loss of license.** Real estate license laws in most states prohibit licensees from acting as undisclosed dual agents and also prohibit many other forms of conduct that could constitute breaches of a licensee's fiduciary duties to a principal. Thus, a licensee who breaches his fiduciary duty places his or her real estate license in jeopardy.
- **Code of Ethics violations.** A breach of a fiduciary duty may be a violation of NAR's Code of Ethics.

AGENCY AND SUB-AGENCY RELATIONSHIPS

Under the real estate license laws of every state, a real estate salesperson does not have the authority to act independently of a broker. A salesperson only can legally perform the functions of an agent when holding an active real estate license under a real estate broker or brokerage firm. He or she is an agent of the real estate broker, who in turn is licensed to act as an agent for the public in matters related to real estate.

An agent of an agent/broker is a "sub-agent." A sub-agent is employed to act for another agent by performing functions undertaken for a principal. The agent agrees to be responsible for the conduct of the sub-agent.

A sub-agency relationship exists when the principal expresses or implies that the principal's work may be delegated to the agent's agents. The understanding between the agent and principal includes the knowledge that a sub-agent has the same authority as the agent him or herself. The agent is liable to the principal for any wrongful conduct committed by any of the sub-agents. Conversely, the agent and principal also may be liable to third parties for any wrongful conduct of the sub-agents.

Because a sub-agent is an agent of an agent, a sub-agent owes the same fiduciary duties to the agent's principal as the agent him or herself does. In the real estate industry, a salesperson is an agent of the broker and a sub-agent of the broker's principal. That salesperson owes fiduciary duties to two principals—the broker and the broker's principal.

Types of Brokerage Relationships with Consumers

Types of brokerage relationships with consumers can include:

- Seller representation
- Sub-agency
- Buyer representation
- Dual agency
- Designated representation
- Non-agency representation

Seller Representation

A seller's representative or seller's agent, also known as the listing agent, is employed by and represents the seller in a real estate transaction. All fiduciary duties are owed to the seller. The agency relationship usually is evidenced by a listing contract.

Types of Listing Contracts

There are three primary types of listing contracts: An exclusive right to sell listing, an exclusive agency listing, and an open listing.

- **Exclusive right to sell listing**—provides that if the listed property is sold during the term of the listing, the broker receives the negotiated commission, regardless of who sells the property.
- **Exclusive agency listing**—gives the broker the right to find a purchaser on behalf of the seller. However, in this type of arrangement, the broker will not receive a commission if the seller sells the property.
- **Open listing**—a seller lists a property with one or more brokers and agrees to pay a negotiated commission to the broker who actually produces a ready, willing and able buyer.

Once a property is listed, the seller's agent either may attempt to locate and represent a purchaser for the property (assuming the seller has given permission to do so), or may offer to cooperate with another licensee (such as a sub-agent, buyer's representative or transaction broker) who will attempt to find a purchaser for the property. As stated previously, the duties a sub-agent owes to the principal are the same as those owed by the agent to the principal. Likewise, a sub-agent can create the same liabilities for the principal as the agent.

Sub-Agency

A sub-agency relationship usually is created when a listing broker offers to cooperate with other brokers as sub-agents, through a MLS or other means. A sub-agent can work in the same firm as the listing broker (such as a salesperson) or in another firm. In either case, the sub-agent owes fiduciary duties to the listing broker and to the seller, and works with a purchaser as a customer, not as a client.

If not properly disclosed, a sub-agent's relationship with a buyer-customer can be misunderstood by the buyer. Since a sub-agent works closely with potential buyers, he or she must be careful not to do or say anything to a buyer that would imply an agency relationship exists between them. This could result in an undisclosed dual agency situation. To avoid such a precarious position, a licensee acting as a sub-agent should be extremely careful to make appropriate disclosures to potential buyers in a timely fashion.

To help prevent an implied agency relationship, a sub-agent should avoid the following actions:

- Referring to the buyer as the "client" or "my buyer"
- Referring to the buyer and subagent as "we" or "us" and the seller and listing agent as "they" or "them"
- Advising the buyer what to offer on the property or offering any advice on negotiating strategies
- Providing the buyer with information on the seller's bargaining position

A buyer-customer who is working with a sub-agent is not represented by the licensee but can expect the licensee to treat him or her honestly. In this situation, the licensee works with, rather than for, the buyer. A licensee acting as a sub-agent cannot assist the buyer in any manner that would be detrimental to the interests of his client, the seller. For example, the licensee may not negotiate on the buyer's behalf, and may not reveal to the buyer any confidences of the seller.

A sub-agent working with a buyer-customer generally may provide the buyer with certain types of services without creating an agency relationship with the buyer. These types of services usually are factually based, and do not involve the licensee's judgment.

Examples of services that could be provided to a buyer-customer without creating an agency relationship include:

- Showing the buyer listed properties meeting the buyer's criteria concerning location, price and size
- Describing a property's amenities and making factual representations about the property's condition and status
- Transmitting any offers made by the buyer to the seller or listing broker
- Informing the buyer about the availability of financing, legal, home inspection, title and other related services

Buyer Representation

A buyer representative or buyer's agent is a real estate licensee who is employed by and represents the buyer in a real estate transaction. The number of licensees practicing buyer representation and the number of consumers desiring this type of relationship have increased significantly in recent decades. In part, this has been a logical outgrowth of state-required disclosures to consumers of brokerage relationships. Fully understanding that the listing broker represents the seller, more buyers are choosing to have licensees represent their best interests in a real estate purchase transaction.

It is immaterial whether a buyer representative is paid by the buyer or seller, or through a commission split with the listing agent. The payment of compensation does not establish an agency relationship. A buyer's agent owes fiduciary duties to the buyer, regardless of which party provides compensation to the agent.

Buyers unfamiliar with the area and/or the home buying process, such as out-of-town, international and first-time buyers are excellent candidates for buyer representation. Also, in certain situations where the buyer has a preexisting relationship with the licensee, buyer representation should seriously be considered. This is due to the likelihood that the licensee will know confidential information about the buyer. Examples: buyers who are close friends, relatives, business associates, partners and former clients and customers.

A buyer agency relationship often is evidenced by a written buyer representation agreement with the buyer. While not all states require a written agreement, it is prudent for licensees to use written buyer representation agreements. The agreement should set forth what the buyer expects of the licensee during the period of representation (such as making presentations and negotiating offers and counteroffers and providing advice about financing and coordinating inspections).

It is important that a buyer representation agreement state the amount of compensation, when the compensation is earned by the licensee, when it will be paid, who will pay it and how it will be paid. A buyer's agent may be paid directly by the buyer through a flat fee, hourly rate or retainer (retainers may not be permitted in some states), or he or she might receive a percentage of the listed or sales price of the property purchased. Alternatively, with the buyer's consent, a buyer's agent may accept an offer of compensation through a MLS and be paid by the listing broker. No matter what the arrangement, it should be completely outlined in the agreement.

A common type of buyer representation agreement is the exclusive buyer agency agreement. This type of agreement provides that if the buyer purchases a property during the term of the agreement, the buyer representative (i.e., the procuring agent) receives the negotiated compensation, irrespective of who showed the property to the buyer.

Once a buyer representation relationship has been established, a buyer representative needs to work with the buyer to determine the property needs and to seek properties that fulfill those requirements.

When helping a buyer prepare an offer, a buyer representative can advise on what should be included in the offer, how much the property may be worth, and how to negotiate counteroffers. Even after an offer is accepted, the buyer representative still may be obligated to assist the buyer in fulfilling the conditions and contingencies in the agreement. The buyer representative also should inform the buyer about other professionals whose help will be necessary to complete the home buying process, such as lenders, attorneys and home inspectors. As always, the licensee may provide the buyer with a list of several professionals in each category. The buyer representative should avoid endorsing any particular professional, leaving the selection to the buyer.

Dual Agency

Dual agency is a relationship in which the brokerage firm represents both the buyer and the seller in the same real estate transaction. A dual agency relationship does not carry with it all of the traditional fiduciary duties to the principals; instead, dual agents owe limited fiduciary duties to the consumers, but in all cases dual agency is based on informed consent from both buyer and seller.

All real estate professionals need to understand that an undisclosed dual agency—formed without the knowledge and informed consent of both principals—is always illegal.

In general, when acting as a dual agent, a licensee should not, without the express written consent of the affected party:

- Disclose to the buyer that the seller may be willing to accept less than the listed price or less favorable terms than are found in the listing.
- Disclose to the seller that the buyer would be willing to pay more than the offered price or accept less favorable terms than are contained in the listing.

In other words, a licensee should not disclose to one party any confidences shared by the other party that might place the disclosing party at a disadvantage.

Types of Dual Agency Situations

There are two circumstances in which a dual agency relationship typically arises. One such circumstance is when a listing agent sells his or her own listing to his or her own buyer-client and no other licensees are involved in the transaction (see illustration below). This kind of dual agency relationship is problematic because the confidences of both clients are placed with the same individual licensee.

Broker	
Salesperson	
Buyer-client	Seller-client

When a buyer-client is interested in a salesperson's listing, there are several choices to consider when making the decision about how to proceed. The salesperson may become a disclosed dual agent, may refer the buyer to another salesperson in his office (which still may be considered dual agency, depending on state law), or may refer the buyer to another brokerage firm altogether, thus eliminating the dual agency issue.

The second circumstance of dual agency is when the buyer is represented by one salesperson in the brokerage firm and the seller is represented by another salesperson in the same firm (see illustration below), unless the broker uses the brokerage practice of designated representation. (See the next section for explanation about this policy.)

Broker	
Salesperson 1	Salesperson 2
Seller-client	Buyer-client

This form of dual agency arises whether or not the salespeople work together in the same office location or in different offices of the same brokerage firm (see illustration that follows.) They are both licensed to represent the same principal.

Broker	
Office A	Office B
Salesperson	Salesperson
Seller-client	Buyer-client

Licensees need to recognize when dual agency situations arise and must be cognizant of the fact that in a dual agency relationship, both consumers are clients. A dual agent may not negotiate on behalf of one client because it would be to the detriment of the other client, whom the dual agent may not even know.

Designated Representation

If allowed under state law, designated representation (also called, among other things, “designated agency” and “appointed agency”) is a brokerage practice that allows the managing broker to designate which licensees in the company will act as agents of the seller and which licensees in the company will act as agents of the buyer, without the individual licensees being dual agents.

Under designated representation, the individual licensees working with the buyer and the seller give their clients full representation with all of the attendant fiduciary duties. The designated representative is the only practitioner affiliated with the brokerage who has an agency relationship with that particular consumer. State laws vary as far as the managing broker's relationship with the consumers. In some states, while the individual designated representatives working with the buyer and the seller are not dual agents, the managing broker is a dual agent. Other states specifically provide that the broker is not a dual agent in designated representation situations.

It is important to note that designated representation is not intended to limit a managing broker's obligations and duties with respect to supervising licensees affiliated with his or her brokerage, nor is it intended to affect the broker's contractual rights, including the broker's right to compensation.

Non-Agency Relationships

Many states have adopted laws specifically permitting variations on non-agency brokerage relationships with consumers. These laws and the allowed non-agency relationships vary greatly from state to state. One should not assume that a licensee functioning as a non-agent in one state has the same duties and responsibilities as a licensee functioning as a non-agent in another state.

In some states where non-agency relationships are permitted, these relationships involve some of the same fiduciary duties to a consumer as those that are present in an agency relationship, but this is not true in all states that allow non-agency relationships. In addition to the differences in duties and responsibilities owed by licensees acting as non-agents, states use a variety of different terms for a licensee acting as a non-agent.

These non-agency terms include:

- Transaction broker
- Intermediary
- Facilitator

In a pure non-agency relationship, the licensee would not owe the traditional fiduciary duties to the consumer. Even so, a licensee still would owe the consumer duties imposed on all licensees by the state's law, for example, the duty of accounting. Some have used the term "facilitator" to describe a licensee acting as a pure non-agent. A facilitator has been defined by some as "a person who assists the parties to a real estate transaction to reach agreement between them without being an advocate for the interest of either party." This means that a facilitator would not be able to act as an advocate for the interests of any party to a transaction, except for the mutual interest of all of the parties to reach an agreement. The licensee would not be able to negotiate for the benefit of either party would not be able to advise the purchaser about the price or terms of the offer for the property, and would not be able to advise the seller about what price or terms to accept. Since there would not be a duty of confidentiality in a pure non-agency relationship, some argue that the licensee would be free to disclose to all parties everything known about each of the parties, even to the parties' detriment.

BROKER LIABILITY

Managing risk is one of the most important aspects of a broker's role. This section provides an understanding of the legal basis for the most common claim brought against brokers and salespersons—misrepresentation—and provides an overview of the disclosures and other documentation that can help brokers avoid or reduce liability.

Principles of Misrepresentation Liability

Information in this section is provided by NAR Legal Affairs staff.

Errors and omissions insurance and other statistics clearly indicate that misrepresentation tops the list of claims against real estate brokers. These claims are most commonly brought by disgruntled purchasers who discover defects in the physical condition or other undesirable characteristics of the property after closing rather than before. Prudent brokers develop policies and practices that will eliminate the possibility of such claims or at least minimize the risk that purchasers will encounter such problems after closing.

Caveat Emptor—Caveat emptor or "buyer beware" requires only that a seller of property and his or her broker speak truthfully if they speak at all. In most states, the doctrine of caveat emptor has shifted from "buyer beware" to "broker take care" through case law, so that sellers and brokers are obligated to affirmatively disclose known property defects. The doctrine also has been eliminated in many states as applied to real property sellers by adoption of seller property condition disclosure statutes or by extending consumer protection or deceptive trade practices laws to real estate transactions. Even in some states where caveat emptor is applied by the case law, there have been adopted seller disclosure requirements that obligate the seller to disclose certain specified information about the property. Thus, sellers and real estate brokers now often have a duty to disclose material facts about defects or other adverse conditions of property being sold and may be liable for failure to do so.

Fact versus Opinion and Materiality—Only statements of fact can result in liability under the law of misrepresentation. Thus, the initial issue in any misrepresentation case is whether the statement that is the basis of the claim was one of fact or simply an opinion. Statements of opinion are not properly the basis for a claim or a suit by the purchaser, since they ordinarily are not considered definitive statements upon which the purchaser may claim to have reasonably relied upon in deciding to purchase the property. Opinion statements, however, can be actionable if they are stated as if they are factual, particularly if made without qualification of authority or otherwise in a position to know the truth.

Example: A broker's opinion about real estate boundaries, property values or zoning will be treated as a fact unless clearly stated as merely an opinion, since the broker may be presumed to be authoritative on such property issues. A statement that is clearly one of opinion would be, "In my opinion, this property is likely to appreciate in value." A statement such as, "I don't think the property taxes will go up much in the next few years," might be deemed a statement of opinion or might later be construed as factual in nature.

Statements that can result in misrepresentation claims must also relate to facts that are material. A fact is material if a reasonable purchaser would consider the fact important in making a decision whether to purchase the property or determining the price of other terms and conditions to be offered for the property.

Example: A broker's misstatement of the size of the property by a very small amount, such as a statement that a home is 2,100 square feet when it is in fact 2,090 square feet is probably not sufficiently material to be the basis of a misrepresentation claim.

THE LEGAL BASES OF MISREPRESENTATION LIABILITY

A misrepresentation claim against real estate brokers or agents may be based on the following:

- Fraud
- Negligent misrepresentation
- Negligence
- Innocent misrepresentation
- Statutory or regulatory claims

Fraud or Intentional Misrepresentation

A fraud or intentional misrepresentation claim requires the injured party, such as the purchaser, to show that:

- The real estate broker made a false representation of a material fact (not opinion).
- The real estate broker knew (or, in some cases, should reasonably have known) the statement to be false.
- The statement was justifiably relied on by the purchaser.
- The statement resulted in injury to the purchaser.

There are two kinds of fraud cases: active and passive. Active fraud involves an affirmative statement by a broker that a defective or undesirable condition does not exist when it does or that a desirable condition is present when it is known that it is not.

Example: In one case, a broker informed a purchaser that the entire parcel was zoned for business, even though he was actually aware that a portion of the property was zoned for residential development. The court held that the buyer was entitled to rely on the broker's representation regarding zoning and concluded that the broker had committed fraud. The broker was held liable to the purchaser in the amount of \$16,600, which was the difference between the actual value of the property and the value of the property, had it been zoned entirely for business, as represented.

Other similar cases involved false statements made with the knowledge of their falsity regarding the availability of water, the adequacy of the HVAC system, utility connections, basement flooding and termite infestation.

Active fraud does not, however, consist only of making knowingly false statements to a purchaser. In some cases, brokers hold other brokers liable for a false statement made without any conscious knowledge of the truth or falsity of the statement or a statement made with reckless disregard for the accuracy of the statement. For example, a broker risks liability for fraud if he or she makes a statement that the condition of a home's roof is good when in fact he or she has no information about the roof's condition and has not made any attempt to determine whether the statement is accurate. If it turns out that the condition of the roof is poor and the purchaser is thereby injured (such as by having to install a new roof), the broker's statement of the roof's condition will likely be found fraudulent.

Other actions held to be fraudulent include:

- Incomplete statements or representations designed to conceal from the purchaser the existence, nature or extent of a defect

- Actions or statements intended to preclude or limit the purchaser's opportunity to inspect the property and discover defects
- Misrepresentations made innocently where, upon later discovery of the error, the broker fails to correct the misinformation previously provided to the purchaser

A broker may also be liable for another type of fraud, sometimes referred to as passive fraud. This situation occurs when a broker knowingly fails to disclose a defect that is known to the broker but is unknown to the purchaser. Passive fraud contrasts with active fraud in that the latter involves an affirmative false statement about the condition of the property, while the former involves no statement at all but simply the failure to advise of a known defective or undesirable condition. As noted previously, courts in a vast majority of states have concluded that a broker and a seller have a duty to disclose material defects of which they are aware, especially if a purchaser would be unlikely to discover the defects himself or herself.

Brokers can avoid liability for passive fraud by disclosing to prospective purchasers all material property defects of which they have knowledge. A broker should carefully question the seller regarding the condition of the home and disclose, and/or require the seller to disclose, all known material defects. In some states, this occurs through completion and delivery of a seller's property condition disclosure form that is required by law.

As described previously, the doctrine of caveat emptor generally insulates a broker's failure to make affirmative statements about known defects. Even states still clinging to that doctrine, however, may make it inapplicable to cases where the defect threatens the health or safety of property occupants or where the defect is not reasonably discoverable by the purchaser prior to the purchase.

Negligent Misrepresentation

Unlike fraud, a broker can be held liable for negligent misrepresentation without having actual knowledge that a statement of material fact was false. A broker's liability for negligent misrepresentation stems from his or her lack of care in obtaining or delivering accurate information to a purchaser, rather than an intentional scheme to deceive or mislead. To prove negligent misrepresentation, the injured party must show:

- That the real estate broker made a false representation of a material fact (not opinion)
- Adequate care in confirming the validity of the representation or in relaying the information was not exercised
- Which representation was justifiably relied upon by the purchaser, resulting in injury to the purchaser

Negligent misrepresentation may occur when a broker relies on information provided by the seller and provides that information about the property to the prospective purchaser, even though a cursory examination of the property would indicate that the seller's statements are incorrect.

Example: One broker relied on the seller's statement that a home was connected to a sewer system but failed to notice certain indications that it was not connected. These included the absence of pumps to push the sewage up to sewer level and the fact that the sewage drain exited the basement in the opposite direction of the public sewer. The court determined that a careful, experienced broker would have recognized these factors to indicate that the property was not connected to the sewer and concluded that the broker had made a negligent misrepresentation. The broker was held liable to the purchaser for the \$8,600 difference between the value of the property as it existed and the value of the property had it been connected to the sewage system as represented.

Courts have imposed an obligation upon brokers to act carefully to make accurate representations to purchasers and where necessary to confirm the representation they make. For example, a broker should not affirmatively state that the roof does not leak unless he confirms this fact with reliable evidence. Conversely, however, a broker is generally not held liable for false statements based on apparently reliable, but incorrect, information, as long as the broker has acted carefully in obtaining, conveying and, when necessary, confirming the information. If the broker has a reasonable basis for making a statement to the purchaser and a reasonable basis to believe that a statement is true, courts have usually not held a broker liable if his or her statements turn out to be untrue.

Brokers may avoid or withstand claims of negligent misrepresentation by acting, at all times, reasonably and with due care. Brokers must take care not to make any representations, unless they have a reasonable basis for making them and have no actual knowledge that the statements may not be true.

One of the most common sources of information about the property and its condition is, of course, the seller. With the increasing use of property condition disclosure forms, a question that often arises is the extent to which the broker may rely on statements made by the seller about the property. As indicated earlier in this section, brokers may generally rely on statements made by the seller unless the broker has reason to believe, based on his or her own observations and examination of the property, that the seller's statements are untrue.

Negligence

The basis of a negligent action is a broker's duty to use reasonable care in discovering, as well as disclosing, material defects in real property. Like negligent misrepresentation, the theory of negligence does not require a broker to actually be aware of the property defect. Unlike negligent misrepresentation, however, a claim for negligence may be asserted against a broker who has not made a specific affirmative misrepresentation of a material fact. It may be sufficient for a broker to fail to act with sufficient care to recognize and disclose otherwise unidentified defects.

A negligence claim includes the following elements:

- A material defect. That the broker failed to identify because he conducted an inadequate investigation
- That the broker did not disclose because he had not discovered the defect. Resulting in injury to the purchaser

Negligence claims involve a broker's alleged failure to exercise adequate care in ascertaining information about a property. Such claims differ from negligent misrepresentation because they are not based on specific (incorrect) representations about the property but relate to defects or problems about which the broker made no statement at all. Thus, a broker may be liable for misrepresentation under negligence principles, not only for what was known and not disclosed or disclosed incorrectly, but also for his or her failure to disclose material defects about which the broker had no knowledge but about which he or she should have known.

Innocent Misrepresentation/Strict Liability

Only two jurisdictions (District of Columbia and Wisconsin) impose the onerous burden of liability for any material misrepresentation a broker may make about a property, even if a broker acted carefully, reasonably and diligently. In these states, a broker may be held liable for a misrepresentation made without knowledge that it is incorrect and without any showing that he or she was negligent or otherwise acted improperly in failing to determine that the representation was, in fact, false. Thus, in these jurisdictions, brokers can act responsibly and exercise all reasonable measures of care yet be held liable for making a wholly honest and innocent mistake. Such liability is imposed on the theory that as between an innocent broker and an innocent purchaser, the broker should know the law and also because the broker may be able to protect himself or herself with insurance.

Statutory Liability for Misrepresentation

The final basis on which brokers may be subject to claims for damages or other penalties arising out of defects discovered after a home purchase is the various state statutory prohibitions against unfair or deceptive trade practices. Most states have adopted statutes prohibiting consumer fraud, intentional or negligent misrepresentation, or unfair and deceptive trade practices. In some states, such statutes specifically include real estate services or have been held to apply in actions brought by real estate purchasers against brokers. Brokers may also be subject to sanction, suspension or even termination of their real estate license for misrepresentation under the state's real estate license laws or regulations. Some states also allow a private individual to bring a suit for damages based on a violation of the real estate commission's rules and regulations. These statutes and regulations can be quite onerous, in some situations allowing for payment by the guilty party of damages and attorney fees. Brokers should be familiar with the laws of the states where they practice.

Remedies for Misrepresentation

Courts can impose a variety of penalties on brokers who have been found liable for misrepresentation under one of the above-described theories:

- Actual damages
- Punitive damages
- Rescission
- Loss of license
- Criminal charges
- Code of Ethics violations

DISCLOSURES AND DOCUMENTATION TO REDUCE LIABILITY

Purchasers are increasingly prone to bring misrepresentation claims against real estate brokers and their agents when they discover a previously unidentified defect or other undesirable feature of the property. For that reason, brokers should carefully develop and conscientiously follow policies and practices designed to identify and disclose adverse property conditions and thereby avoid making misrepresentations. Such policies and practices also establish a record of a broker's efforts in this regard and put the broker in the best possible defensive position in the event of a misrepresentation claim.

A number of practices can help brokers reduce the possibility of incurring liability for misrepresentation or negligence. Some of the procedures and actions for brokerages to consider are:

- Document statements and events.
- Conduct an examination of the property and watch out for red flags.
- Describe the property carefully and factually.
- Answer specific questions carefully.
- Encourage the use of other professionals.
- Keep current on new developments affecting real estate.

Brokers should take particular care in “sight unseen” transactions where the buyer purchases a property without physically visiting it, instead relying only on photos or online virtual tours. In addition to the practices detailed above, brokers can work with legal counsel to draft a written addendum to clarify the broker's role and emphasize the buyer's responsibilities. The addendum should acknowledge that the buyer—not the brokers, agents or seller—is responsible for personal verification, walk-throughs and professional inspections to confirm that the property is satisfactory.

Certain potential adverse conditions or features of a property may raise particularly complex questions about the extent to which a broker must disclose the presence or even the potential presence of such conditions. These include disclosure of property “stigmas,” that is, non-physical aspects of the property, such as its history, disclosure of environmental concerns affecting the property, and

disclosure questions raised by the presence of convicted sex offenders in the community and identification of such individuals on registries maintained under so-called “Megan's Laws.”

Stigmatized Property Disclosure

A disclosure issue of growing concern among real estate professionals is the matter of property “stigmas.” Licensees involved in the sale of “stigmatized property” are frequently required to make difficult decisions about what must be, what should be, and in some cases, what should not be disclosed to prospective buyers.

NAR defines stigmatized property as: “property that has been psychologically impacted by an event which occurred, or was suspected to have occurred, on the property, such event being one that has no physical impact of any kind.”

There is little case law dealing with how real estate brokers must handle disclosure of property stigmas. Some states have addressed certain specified stigmas by adopting statutory or regulatory directives as to how brokers may, or must, handle disclosure of certain matters. In the absence of such specific legal guidance, however, brokers should look to the fundamental principles of misrepresentation liability developed in the context of more familiar property conditions and defects, as described above. Those principles suggest that the following disclosure practices may be beneficial.

The Department of Housing and Urban Development (HUD) has specifically concluded that it is illegal for real estate agents to make unsolicited disclosures to prospective purchasers that a current or former occupant of the property has AIDS. If a prospective purchaser directly asks an agent if a current or former occupant has AIDS and the agent knows this to be the case, HUD has advised only that the agent should not respond. While HUD has not provided a “correct” response, NAR has developed the following suggested response:

“Our firm's policy is that we do not answer inquiries of that nature because we believe such information is not material to the transaction. In addition, any response by our firm may violate federal or state fair housing laws. If you believe that information to be relevant to your decision to buy the property, you must pursue this investigation on your own.”

Megan's Law

Under the Violent Crime Control and Law Enforcement Act, released sex offenders are required to register with local law enforcement agencies, and their addresses must be made available to the public. This amendment is called Megan's Law after the seven-year-old New Jersey girl who was raped and murdered by a twice-convicted sex offender who lived across the street.

NAR recognizes the value of Megan's Law as a means of protecting citizens, particularly children, from sex offenders who pose a substantial danger because of their high recidivism rate. In most states, however, Megan's Law is silent about whether real estate licensees have a duty to disclose the information that is available under these laws.

A broker's first step in developing a brokerage disclosure policy on such matters is to get a clear understanding of what state law, if any, requires or permits. Unless state law is clearly to the contrary, the following general guidelines should help brokers when developing such a policy.

- The prospective buyer asks if a released registered sex offender lives nearby—If a real estate professional has personal knowledge that an offender does live nearby, he or she should disclose that information and also advise the buyer to check with the local law enforcement agency which keeps a registry of released sex offenders for verification and additional information. If a real estate professional has no knowledge that a released registered sex offender lives nearby, he or she should state that he or she has no personal knowledge and advise the buyer to check with the local law enforcement agency.
- The prospective buyer doesn't ask if a released registered sex offender lives nearby—If it is known that an offender lives nearby, disclose this information and also advise the buyer to verify it with the local law enforcement agency. If a real estate professional has no personal knowledge that an offender lives nearby, there probably is no duty to seek out this information. Simply refer the prospective buyer to the local registry.
- The seller asks advice as to whether she should disclose that a released registered sex offender lives nearby—Listing brokers should encourage their sellers to disclose, and to authorize the broker to disclose, any reliable information of this nature that they may have. If the sellers refuse to do so, they should consider declining the listing or ending the listing relationship.

Again, brokers and agents are advised to check state law and any municipal regulations carefully and have legal counsel review any brokerage disclosure policy for compliance with these laws.

Other Stigmas

Although federal law provides some guidance for handling disclosures of property occupants with AIDS and state laws may govern issues relating to sex offenders, real estate professionals often have questions regarding disclosure of other stigmas. As noted previously, the most common of such stigmas are serious crimes or other notorious events believed to have occurred on the property. The following suggested practices or steps are designed to help a listing broker, when faced with information regarding a potential stigma, determine whether or not a stigma is material to a particular real estate transaction and the extent, if any, to which it should or must be disclosed.

Step 1

Determine whether the information is fact or fiction.

Step 2

Check state laws that may address stigmas. If there is no law governing disclosure, a broker must make a more complex and less definitive business judgment regarding disclosure of the stigma.

Step 3

Determine materiality. To determine whether a stigma is material, one should consider whether knowledge of the stigma would affect the decision of most reasonable people to buy the property or the amount of money they would be willing to pay for the property.

Most stigmatized property circumstances involve stigmas that are less sensational than, for example, a multiple murder. Such stigmas may, in fact, have little or no impact on the desirability of a property or its market value.

If a broker determines that a stigma is indeed a material fact, and no privacy or other rights of particular individuals or persons forbid disclosure, the broker is advised to disclose the stigma as a material fact.

Step 4

Discuss disclosure with the seller(s). As the listing agent, a broker should discuss a stigma with the seller(s) to explain the need for and benefits of disclosing the stigma.

Environmental Hazards Disclosures

Another important special case of circumstances that generally requires disclosure in real estate transactions is the presence of environmental hazards and conditions on or, in some cases, near the property. This is due to the serious impact environmental problems may have on the health and well-being of occupants or users of a property, and that the presence of environmental hazards can substantially affect the value, salability and use of real property.

In some cases, the value of a property may be less than the cost of correcting or removing environmentally hazardous substances or conditions required by law or required by safety or prudential considerations. In other cases, the cost of correcting an environmental problem may not be as significant, but the risks to property occupants or users for failing to discover and resolve an environmental problem may be serious. For these reasons, many environmental hazards and conditions have become increasingly well-recognized and of concern to parties and real estate professionals involved in real estate transactions.

Environmental matters present significant factual differences from the typical misrepresentation situation. In the case of environmental concerns, the nature of the problem may be unfamiliar to real estate buyers and sellers and, in many cases, even to real estate professionals themselves. The problem of discovering the existence, nature or extent of an environmental problem is often more difficult than in the more common case of ordinary property defects and may require special testing and/or the retention of specially qualified experts. Also, correcting an environmental problem may be more difficult, more costly and more time-consuming, or it might be simply difficult to find firms qualified to perform such work.

To minimize the risk of liability and to appropriately fulfill their legal and ethical duties and responsibilities to clients and customers, real estate agents should adopt and follow policies and procedures similar to those involving misrepresentation generally:

- Be aware that environmental problems and issues may affect real estate and result in liability for sellers, brokers and agents.
- Learn and know the most common environmental problems affecting real estate, including the nature of the hazards presented to occupants and users of affected properties, and the warning signs or “red flags” indicating that such problems may be or are present.
- Discuss with the seller anything the broker observes indicating that an environmental problem might be present and reach an understanding and agreement on a course of action to correct the problem and disclose the concern to potential buyers in the course of marketing the property.
- Be sure to disclose to potential property purchasers any environmental problems with a property that are known to be present or any indications that certain problems may or are likely to be present.
- Be aware of and comply with all duties and obligations imposed by local, state and federal laws, and regulations.
- Provide to interested and concerned clients and customers information about environmental issues and hazards by having readily at hand and distributing brochures, pamphlets and other publications issued by federal, state or local government agencies about such matters.

Common Environmental Hazards and Conditions

The most common environmental hazards that affect real estate include:

- Asbestos
- Sulfur-emitting drywall
- Formaldehyde gas and urea-formaldehyde foam insulation
- Lead-based paint
- Radon gas
- Underground storage tanks
- Electromagnetic fields
- Waste disposal sites
- Mold

Asbestos

Asbestos is a mineral fiber widely used in the past as thermal insulation because of its excellent fire- and sound-retardant qualities. The presence of intact asbestos-containing material is not a health hazard. A health hazard may occur, however, when asbestos-containing materials are disturbed by physical destruction, direct impact, or mere decay and asbestos fibers are thereby released into the air.

Sulfur-Emitting Drywall

During the early and mid-2000s, many new homes in the Southeast and Southwest were constructed with drywall imported from China or other foreign locations. In some cases, the drywall emits sulfur-based gases that result in an unpleasant odor in the home and corrode copper wiring, plumbing fixtures, air conditioner coils and metal picture frames. Because the gases can seep into hidden areas of a home and affect heating, air conditioning and plumbing systems, remediating a drywall problem can be an expensive proposition.

Formaldehyde Gas and UFFI

Formaldehyde is a gas emitted by a variety of common household materials including most particularly, the thermal insulation known as urea-formaldehyde foam insulation, or UFFI. Materials used in plywood, furniture, carpeting, draperies and other materials, particularly when such materials are new, may also emit formaldehyde gas.

When formaldehyde gas is released into building interiors, it may cause problems ranging from minor complaints of eye, nose and throat irritation to potentially serious health effects. Even the most serious of these problems are not ordinarily caused by levels of formaldehyde gas commonly present in homes, but different people react quite differently to various levels of exposure to formaldehyde gas.

Lead-Based Paint

Lead is a heavy metal that is hazardous to health if ingested or inhaled. Lead can be extremely toxic. It impairs the physical and mental development of children and aggravates high blood pressure problems in adults. Lead was previously used as an additive to paint to improve the durability of the paint. Use of lead in paint was subsequently prohibited, and EPA, HUD and the Consumer Product Safety Commission (CPSC) have all moved to take action to restrict public exposure to lead and to prevent further discharge of lead into the atmosphere. Another now-prohibited important source of lead is exhaust fumes from cars using leaded gasoline.

The concern about lead poisoning in housing arises principally from the presence of lead-based paint and lead plumbing. Although the manufacture of lead-based paint was banned in 1978, it is estimated that between 30 and 40 million older homes and numerous apartment units still contain lead-based paint.

Effective in 1996, federal regulations require that sellers, lessors and their agents take specifically prescribed actions to inform buyers and tenants of the existence or possible presence of lead-based paint and lead-based paint hazards in residential premises constructed before 1978.

Radon Gas

Radon is a radioactive gas produced by the decay of certain naturally occurring minerals in the ground. When inhaled, radon or radon-related particles may be deposited in the lining of the lung, where they damage lung tissue and may transform normal cells into cancer cells. Long-term exposure to radon thus increases the risk of contracting lung cancer. This risk increases with the amount of radon gas to which one is exposed and the length of time that exposure continues. Radon cannot be detected without actual testing in the home, although one may be able to obtain clues as to the likelihood of the presence of radon from local, state and federal environmental and health officials or from information about radon in nearby homes.

Underground Storage Tanks (USTs)

Underground storage tanks may contain or have previously contained liquids or other materials that could be hazardous if discharged freely into the ground. Because such tanks or the piping associated with operation of the tanks often deteriorates and leaks, they represent a potentially immense national problem. EPA estimates that there are between 1.5 and 2 million underground storage tanks currently in use and a significant number of abandoned tanks. Only a small percentage of these are protected against corrosion and leaking, and EPA estimates that there may be as many as 100,000 leaking tanks with the number quickly rising.

Thus, the presence of underground storage tanks on a property can represent a serious potential problem and a source of liability for the owner, since leaking storage tanks pose severe contamination problems for soil and water supplies. Even a slow leak of one gallon per day can contaminate the water of a community of 50,000 people to the point of endangering public health.

Electromagnetic Fields (EMFs)

Electromagnetic fields are sources of electric and magnetic energy created whenever electric current is flowing, such as in the use of electrical appliances or the transmission of electricity. Common sources of EMFs in a home are various electrical appliances (electric lights, toasters, clocks, electric blankets and hairdryers) and electric transmission and residential distribution lines.

Because of the equivocal nature of the research regarding the health effects of EMF exposure, it is unclear whether real estate professionals have any legal or professional duty or obligation to “look for” or disclose anything that might suggest the possibility of exposure to EMFs.

Waste Disposal Sites

Waste disposal sites may be authorized landfills used for disposing of community waste, landfills approved to receive industrial and agricultural hazardous wastes, unauthorized and illegal dump sites used by “midnight dumpers,” or simply sites previously subject to industrial uses where wastes or other hazardous materials were intentionally or accidentally discharged on the site.

The potential presence of hazardous wastes or other contaminants on property also poses certain economic and practical risks. The Comprehensive Environmental Recovery, Conservation and Liability Act (“CERCLA,” also known as the “Superfund” law) imposes on current and most prior owners of certain severely contaminated properties the obligation to clean up such properties or to bear the financial responsibility for costs incurred by the government in cleaning up the contamination.

Accordingly, real estate professionals should review any available information regarding former uses of the property, advise potential purchasers to seek expert assistance to determine whether a site has been contaminated and contact local or state authorities for information about any problems affecting the property.

Mold

Mold is a naturally occurring, living organism that is present virtually everywhere. But if a property is seriously impacted by mold (high concentrations of active colonies and/or substantial growth), a complete remediation of the property may be required—at a high cost to the buyer or seller.

Real estate professionals may consider taking prudent measures, as described generally herein, to address mold disclosure in order to be better able to defend against claims asserting that they failed to disclose the presence or possible presence, of mold growth that is asserted to have produced adverse health effects on residents.

Rather than testing, most sources recommend an inspection of the property with two particular things in mind. Assuming there is no visible mold growth in a property, a mold inspection will look for, first, any appearance or evidence of water intrusion or accumulation and second, musty or other odors suggesting the presence of mold colonies. An inspection should also ask current owners or occupants for any knowledge of a water intrusion problem, since such problems would also be a signal of the need for further investigation. The inspection should also seek information about secondary effects of mold, such as respiratory, allergic or other adverse health conditions suffered by occupants of the property of the kind attributed to mold.

NAR RESOURCES FOR BROKERS

- Hot Topics in Broker Risk Reduction <https://www.nar.realtor/legal/hot-topics-for-brokers>
- Window to the Law Monthly Video Series <https://www.nar.realtor/videos/window-to-the-law>
- Real Estate Brokerage Essentials: Navigating Legal Risks and Managing a Successful Brokerage <https://store.realtor/real-estate-brokerage-essentials/>
- REALTOR® Magazine Broker to Broker Network <https://magazine.realtor/for-brokers/network>
- Antitrust 101 Video <https://store.realtor/antitrust-101-for-real-estate-professionals-download/>
- Data Privacy and Security Toolkit <https://www.nar.realtor/data-privacy-security/nars-data-security-and-privacy-toolkit>
- Cybersecurity Checklist <https://www.nar.realtor/law-and-ethics/cybersecurity-checklist-best-practices-for-real-estate-professionals>
- Wire Fraud Consumer Education Card <https://www.nar.realtor/financing-credit/crimes/protect-your-money-from-mortgage-closing-scams-when-buying-a-home>
- TCPA Quick Reference Guide <https://cdn.nar.realtor/sites/default/files/documents/TCPA-Quick-Reference-Card.pdf>
- Education Courses for Management and Leadership <https://www.nar.realtor/edmatrix.nsf/coursetopic?OpenView&Start=1&Count=500&Expand=9#9>

For more resources and industry advice on specific topics, refer to the topics index page. <https://www.nar.realtor/topics>

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Global

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INTRODUCTION

Real estate activity spans the globe, including international buyers and investors seeking U.S. residential and commercial properties. Additionally, many U.S. residents purchase property abroad for use as a vacation home or to rent out for income. Therefore, AEs need to understand both the inbound and outbound flows of real estate activity in order to support their members effectively.

As the global market recovers from the COVID-19 pandemic, the United States will continue to be a powerful magnet for international buyers for several reasons.

- Home prices in many U.S. metro areas are inexpensive compared with prices in major international cities.
- Many foreign buyers are familiar with the financial advantages of owning U.S. property as an investment asset and appreciate the nation's longstanding system of law and support for private property rights.
- International owners tend to cluster in U.S. neighborhoods and communities, adding a local dimension to the global market. That means AEs should become familiar with the global demographic and cultural aspects of their markets.

International buyers, sellers and investors traditionally constitute a significant share of the U.S. commercial market as well. Many new offices, shopping centers, hotels, apartment buildings and other types of commercial properties have been developed or financed, in whole or in part, by non-U.S. residents.

While many factors affect the flow of real estate activity—such as the strength of the U.S. dollar and economic conditions in different countries—the global segment will continue to be a significant factor in the U.S. residential and commercial markets in the future.

ABOUT NAR GLOBAL

NAR has been active in global real estate since the 1950s. Today, NAR Global offers the education, research, partnerships, and resources for REALTORS® interested in identifying and capturing their share of this market segment.

- Historically, nearly one-third of REALTORS® serve global clients.
- U.S. residential and commercial properties continue to be attractive to foreign buyers, creating opportunities for REALTORS® to grow their businesses.
- Outbound demand for global retirement and vacation homes is expected to increase in the coming decade from the aging Baby Boom generation.
- NAR has built a network of cooperative agreements with more than 100 real estate associations in over 75 countries and is actively expanding this network.

Global real estate for NAR members includes both inbound transactions (buyers/investors, referrals) and outbound transactions (investors, referrals, second-home seekers)—for both residential and commercial real estate.

The term international or foreign client refers to two types of clients:

- **Non-resident foreigners (Type A)**—non-U.S. citizens with permanent residences outside the U.S.
- **Resident foreigners (Type B)**—non-U.S. citizens who are recent immigrants (less than two years at the time of the transaction) or non-immigrant visa holders who reside for more than six months in the U.S. for professional, educational or other reasons.

Global real estate (domestic and inbound/outbound) is not just a niche activity but is integrated into all sectors of the real estate business. Failure to recognize this opportunity and to understand associated risk factors with international transactions can create a barrier to success for real estate professionals and can mean lost income/business opportunities/competitiveness in all markets.

To help U.S. and international real estate professionals better understand these opportunities, NAR Global publishes a number of research reports, including the following:

- **International Transactions in U.S. Residential Real Estate.** This profile includes the top five countries of origin for foreign home buyers, an analysis of their purchases and how these buyers are utilizing the services of REALTORS®.

- **Commercial Real Estate International Business Trends.** The Commercial Real Estate International Business Trends report discusses the trends in foreign buyer purchases of U.S. commercial real estate in the “small commercial real estate market” (sales of below \$2.5 million) and in the “large commercial real estate market” (sales of \$2.5 million or over).
- **State-by-state international business reports.** These downloadable reports look at international business activity by state, including the number of foreigners arriving from various countries, homeownership rates and top exports.
- **Local market assessment case studies.** These state-level case studies can help you learn to identify and cultivate global business, which is a growing real estate specialty in the U.S.

For more information, go to: <https://www.nar.realtor/research-and-statistics/research-reports#international>.

A PROFILE OF INTERNATIONAL TRANSACTIONS IN U.S. RESIDENTIAL REAL ESTATE

Here is a look at the role of international buyers in the U.S. residential market from April 2022 to March 2023, based on NAR’s “International Transactions in U.S. Residential Real Estate 2023.”

Foreign buyers purchased \$53.3 billion worth of U.S. existing home sales, about 2.3 percent of total volume of existing-home sales. There were 84,600 foreign buyer purchases during this period, about 1.8 percent of the total. Fifty-one percent of purchases were from foreign buyers who resided in the U.S. as recent immigrants or who held visas to stay in the U.S., and 49 percent were buyers who resided abroad.

In terms of dollar volume, the top five countries of origin were China, Canada, Mexico, India and Colombia. Among the states, Florida had the largest share, attracting 23 percent of foreign buyers, followed by California and Texas (11 percent each), Arizona and North Carolina (4 percent each).

Other highlights from the 2023 report:

- **\$396,400**—foreign buyer median purchase price (compared with \$384,200 for all U.S. existing-homes sold)

- **42 percent**—foreign buyers who paid all-cash (compared with 26 percent among all existing-home buyers)
- **50 percent**—foreign buyers who purchased property for vacation home, rental or both, compared with 16 percent among all existing-home buyers
- **76 percent**—foreign buyers who purchased a detached single-family home or townhome
- **45 percent**—foreign buyers who purchased in a suburban area

COMMERCIAL REAL ESTATE INTERNATIONAL BUSINESS TRENDS

NAR's "2022 Commercial Real Estate International Business Trends" report discusses the trends in foreign buyer purchases of U.S. commercial real estate in 2021 in the "small commercial real estate market" (sales of below \$2.5 million) and in the "large commercial real estate market" (sales of \$2.5 million or over).

The year 2021 was a remarkable year for the commercial real estate market, because it bucked expectations of a prolonged downturn. While the office property market had a huge loss in office occupancy of about 143 million square feet from 2020 Q2 through December 2021, absorption increased in the multifamily, industrial and retail trade sectors. Since the pandemic, about 1 million more rental apartment units have been absorbed through December 2021. In the industrial property market, nearly 700 million square feet was absorbed since 2020 Q2 through December due to the strong demand for logistics space to support the acceleration of e-commerce.

Surprisingly, the retail brick-and-mortar property market saw positive net absorption of 48 million square feet since the pandemic, with strong absorption of neighborhood malls and strip centers that offset the declining occupancy in malls. Hotel occupancy rates also rose in 2021, to about 56 percent by year-end from 42 percent in the prior year, due to rising vaccination rates and more personal and business travel.

Canada remained the top inbound country with \$19.2 billion of U.S. commercial real estate in the four quarters ending 2021 Q3, up 63 percent from the prior four quarters. Singapore rose to second place, purchasing \$7.9 billion of U.S. commercial real estate, up 153 percent, followed by South Korea, Saudi Arabia, Germany, the United Kingdom, Switzerland and Bahrain.

Meanwhile, in the small commercial real estate market, transactions of NAR's 80,000 commercial members increased to an estimated \$4.8 billion in 2021 from \$2.0 billion in 2020. The dollar volume of international sales is now on par with the pre-pandemic level in 2019. Foreign buyers accounted for 3.1 percent of the estimated \$155.9 billion in commercial real estate transactions in 2021 among NAR commercial members.

Florida was the top destination of foreign buyers of U.S. commercial real estate for NAR commercial members, with a 22-percent share. Texas came in second with a share of 14 percent, followed by California with a share of 9 percent. Georgia, New Jersey and North Carolina each took a 5 percent share of the market, while Arizona accounted for 4 percent.

While Canadians, Asians and Europeans were the largest buyers of U.S. commercial real estate valued at \$2.5 million or over, the major buyers of NAR's commercial members were from Latin America and Canada. Mexico was the top country of origin (23 percent). Other Latin American buyers were from Colombia (10 percent), Argentina (8 percent), Venezuela (8 percent) and Brazil (5 percent). Rounding out the Latin America buyers were from the Dominican Republic, Chile, Ecuador, Honduras and Peru. Canada was the second-largest foreign buyer of commercial real estate brokered by NAR commercial members, at 13 percent.

Other highlights of the commercial report:

- **43 percent**—purchased properties for rental purposes
- **\$704,500**—median purchase price (compared to \$501,300 median price for all buyers)
- **59 percent**—foreign buyers who paid all-cash
- **65 percent**—foreign buyers working with NAR commercial members who primarily purchase properties in non-Central Business Districts (non-CBD sales made up only 47 percent of the investments in the large commercial real estate market (\$2.5 million or over)).
- **96 percent**—foreign investors working with NAR commercial members who are mostly individual investors, only 4 percent are institutional investors (compared to the large commercial market (\$2.5 million or above), in which institutional investors account for 70 percent of the foreign buyers).

CERTIFIED INTERNATIONAL PROPERTY SPECIALIST (CIPS) DESIGNATION

The Certified International Property Specialist (CIPS) Designation is the only designation of its kind in the real estate community. It's synonymous with advanced expertise, a global perspective and distinct understanding of a global buyer and seller, and comes with powerful brand recognition around the world. There are currently more than 4,000 designees in more than 50 countries. You and your members can search for a designee by location, specialties, language and name at <https://www.nar.realtor/cips-search>.

The CIPS course curriculum includes six courses—two required courses for U.S. members and four elective courses. To earn the designation, you must complete the two core courses and three electives of your choice. The five days of coursework focus on critical aspects of transnational transactions including currency and exchange rate issues, cross-cultural relationships, regional market conditions, investment performance, tax issues and more.

All CIPS courses are online at the *Center for REALTOR® Development*. In addition to the coursework, a designation application must be submitted with 100 points of international experience (such as language fluency, designations, speaking/writing opportunities, involvement in transactions, etc.). There is a one-time application fee of US\$75, and annual dues are US\$220.

Joining the CIPS Network as an AE

AEs can earn the CIPS designation and use the network to stay informed on international real estate trends, support members who practice global real estate in local markets and realize new opportunities for important member services.

To become a CIPS designee, all association staff must take all five required courses plus attend the four-hour Global Programs for Associations course, which focuses on developing and growing global member programs at your association that will prepare REALTORS® to succeed in a global marketplace. Each CIPS course counts toward six hours of professional development hours as required by NAR Core Standards, with Global Programs for Associations counting toward four hours of professional development.

This course is open to all association staff, volunteer leadership, or anyone interested in understanding the value of global programs at his/her association. In addition to the coursework, a designation application must be submitted with 100 points of international experience (such as conferences in U.S. or abroad, etc.). There is a one-time application fee of US\$75, and annual dues are US\$95.

To learn more about earning your CIPS Designation, go to: <http://www.nar.realtor/designations-and-certifications/cips-designation/become-a-cips-designee#aes>.

GLOBAL BUSINESS COUNCILS

Global Business Councils are comprised of volunteer leaders and staff liaisons within the local or state structure of NAR. These groups take the lead in planning global programs, hosting educational events and collaborating with other boards and outside entities to build awareness among members of the global business opportunities within their own market. REALTORS® are always trying to gain and maintain their competitive edge, and more than \$175 billion worth of U.S. residential and commercial real estate is sold to foreign and immigrant buyers annually. Global Business Councils communicate the importance of these opportunities and underscore REALTORS® international and multicultural real estate transaction expertise and potential.

Global business includes transactions with foreign nationals, immigrant clients, buyers with extended family abroad, employees/owners of foreign corporations, multilingual families and other groups residing in communities in every state.

AEs can promote global awareness and business in many ways, including the following:

Establish Global Programming

Part of the process of building global programming is assessing the association, membership and community in which the association serves. Researching and understanding the diversity and makeup of the membership, the languages they speak and the communities they represent can show the need for global programming at both the state and local level. From that basic understanding of the members and communities you serve, you can begin to build programming that aligns with the needs of your members and their business to help them better serve their clients in your community.

International transactions are more complex than domestic ones, they require a certain skill set and more specialized partners in order to complete the transaction. Identifying those partners (mortgage bankers, immigration/visa attorneys, translation services, currency exchanges, etc.) in your market and connecting your members to them is key. It not only helps your members be aware of the services they can use for their clients, but it can also provide you with new partners for future sponsorship opportunities or community outreach programs. You can also connect to other multicultural real estate organizations such as AREAA (Asian Real Estate Association of America) or NAHREP (National Association of Hispanic Real Estate Professionals) to bring further educational, leadership and networking opportunities to your members. Global business is happening in your local market. You have members that are very active in that space, and if you haven't provided a space for them to engage, you're likely missing out on their ideas, voices and future leadership in your organization.

As you can see, these groups act as a REALTOR®-driven community organization, helping REALTORS® build partnerships with globally minded businesses, mortgage brokers, attorneys, and other relevant local entities as well as positions their association as the voice for global real estate in the local market. More than 130 global business councils now exist, operating on varying budgets. NAR Global can help you and your association establish a Council.

Global Achievement Program

Every year NAR recognizes associations whose global business councils build international awareness among their members. Any association with global programming is welcome to participate in this recognition program. Participating councils are divided into four status classifications based on their level of activity: silver, gold, platinum and diamond. Councils are evaluated in five focus areas: business plan, marketing & communication, events/education, outreach, and benchmarking. A council need not meet every criterion listed for a given status level if the size or demographics of its parent association do not warrant or allow it to do so. Those councils achieving each status classification are reviewed on a case-by-case basis and announced by the NAR Engagement Team every November. A council's status year begins at NAR's NXT, The REALTOR® Experience.

Offer CIPS Courses

Associations can license and deliver these courses, providing their members with valuable information and serving as a source of revenue. See the above section for more details. To find out how to obtain a CSRE or global license to host the courses email cips@nar.realtor or go to www.nar.realtor/global.

Build Relationships with Economic Groups and Government Entities

Strong global programs are those that have reached outside their "four walls" and connected to the larger global community to ensure that the residential and commercial real estate sectors are part of larger discussions on foreign direct investment opportunities in your state or community. These relationships take time to build and might include opportunities for outbound missions to foreign markets, or inbound inquiries related to major international investments.

Provide Access to Global Resources

AEs can use NAR Global resources to provide members with timely information on the global real estate market and opportunities in the association's specific areas. For more information: www.nar.realtor/global.

GLOBAL ALLIANCES

International REALTOR® Membership

Members of the more than 100 NAR bilateral partners throughout the world can join NAR and take advantage of the networking, referral and exposure opportunities. In an industry where relationships are key to business success, International REALTOR® membership helps more than 6,000 global professionals build their businesses.

The names and contact information for International REALTOR® members is entered into the “Find a REALTOR®” database at no cost. Inclusion in this global database increases global exposure and referral potential. Members also have the opportunity to connect with other professionals by joining social networking groups and/or by attending one of the many REALTOR® events; the REALTORS® NXT, The REALTOR® Experience is attended by more than 2,000 overseas associates from over 70 countries and 20,000 U.S. REALTORS®.

For more information on International REALTOR® membership, go to: <https://www.nar.realtor/global/international-realtor-membership>.

Fostering Global Alliances

NAR fosters global alliances in other ways, including the following. (For more information, go to www.nar.realtor/global/global-alliances).

- **Bilateral Partners.** NAR maintains formal relationships with more than 100 like-minded organized real estate entities around the world, giving REALTORS® confidence in working with professionals that abide by a code of ethics. These bilateral partnerships exist in over 75 countries and help NAR expand the International REALTOR® network, locally protect our trademark in their country, promote NAR values and programs, and expose our members to local opportunities in markets around the world.
- **Global Meetings and Events.** NAR keeps track of real-estate conferences, events and other activities around the world. For an updated list, go to <https://www.nar.realtor/global/global-meetings-and-events>.

- **Ambassador Associations.** This program is designed to help enhance member connections to real estate opportunities and share association best practices around the world by connecting NAR’s bilateral partners with a partner state or local U.S. REALTOR® association. The Ambassador Association works closely with the Global Ambassador assigned to that country and NAR’s Global Coordinator for that part of the world. The program also gives members of the Ambassador Association the opportunity to expand their global business networks and get involved in international real estate activities at the local or state level.
- **Global Ambassadors.** NAR members appointed by the NAR President to serve as his or her liaison to real estate professionals in their assigned countries. Global Ambassadors are generally CIPS designees and, ideally, have some knowledge of the countries’ culture and language. Global Ambassadors serve at the discretion of the President for a term of one year and may be re-appointed. Global Ambassadors work to help maintain NAR’s important relationships with foreign real estate associations. There is an annual call for applications to be considered for one of the 27 roles. (Find Global Ambassadors here: <https://www.nar.realtor/intlnet.nsf/SearchPL?>)

Specifically, the objectives of the Global Ambassador Program are:

- ▶ To promote ethical real estate practices and the REALTOR® network and value through International REALTOR® Membership
- ▶ To help NAR’s bilateral partners implement best practices utilizing NAR tools, products and services
- ▶ To help NAR’s bilateral partners understand their partnerships with NAR and to assist them as it relates to the partnership
- ▶ To help maximize engagement between NAR and its bilateral partners and to assess their ability and willingness to work with NAR
- ▶ To be a resource to NAR’s members—both domestic and international

- **Global Coordinators.** NAR members appointed to serve at the discretion of the NAR President for a term of one year and may be re-appointed. Global Coordinators ideally should be a CIPS designee, should have served as a Global Ambassador for a minimum of three consecutive years before their appointment and be committed to travel to his/her respective region. If necessary, they should be committed to recruit, guide and recommend Global Ambassadors and Ambassador Associations. By virtue of these appointments, Global Coordinators also serve on NAR's Global Business and Alliances Committee (GBA). The primary objective of Global Coordinators is to support and assist the NAR Global Ambassadors achieve their goals and objectives:

- ▶ To develop and strengthen NAR's existing bilateral relationships as well as evaluate any new potential partners
- ▶ To promote International REALTOR® membership
- ▶ To promote the educational programs, certifications and designations of the NAR and its affiliates
- ▶ To promote participation by foreign delegations to the NAR NXT, the REALTOR® experience

Here are some additional NAR global member service resources:

NAR Global Social Media:

- *NAR Global LinkedIn*
- *NAR Global Facebook*
- *NAR Global X (formerly known as Twitter)*

International Research—As described above, NAR Research provides annual reports, including “International Transactions in U.S. Residential Real Estate” and State-by-State International Business Reports (for all 50 states).

Real Estate Practices Around the World—A searchable library of real estate practices by country. Answers to these commonly asked questions were provided by NAR's Cooperating Association in that country.

<https://www.nar.realtor/global/real-estate-practices-around-the-world>

How to Start a Global Business Network—This provides you with the framework for global engagement to help you start/grow global programming at your state or local association. It is the framework for the four-hour Global Programs for Association course.
<https://www.nar.realtor/global/global-business-councils/how-to-start-a-global-business-network>

Platinum Perspectives—An audio series launched in 2019 that includes interviews with Platinum Global Achievement Program Award-winning councils in addition to other topics that relate to global understanding in the larger marketplace.
<https://www.nar.realtor/platinum-perspectives>

NAR en Español—This initiative has since 2018 helped local and global members leverage their Realtor® affiliation while facilitating various networking and educational resources for Spanish-speaking members.
<https://www.nar.realtor/nar-en-espanol>

For information on these topics, go to <http://www.nar.realtor/global>—the online home to all NAR Global resources.

SOURCES

- National Association of REALTORS®. “International Transactions in U.S. Residential Real Estate 2021.”
<https://www.nar.realtor/research-and-statistics/research-reports/international-transactions-in-u-s-residential-real-estate>
- National Association of REALTORS®. “2022 Commercial Real Estate International Business Trends”
<https://www.nar.realtor/research-and-statistics/research-reports/commercial-real-estate-international-business-trends>

3.8

Institutes, Societies and Councils, and NAR Designations, Certifications and Certificate Courses

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INTRODUCTION

NAR's affiliated institutes, societies, and councils (ISCs) offer a wide range of programs, services, designations, certifications and credentials to meet the need for education, training and development in specialized fields of the real estate industry. Upon completion of relevant course work, participants can earn designations or certifications from these affiliate groups in a wide range of professional disciplines. These affiliated institutes, societies and councils also offer outstanding professional publications and technical journals, ongoing educational programs and business contacts that help professionals move ahead in any of the major real estate specialties.

This chapter presents an overview of these specialized real estate activities that help real estate agents and brokers build their skills and serve their clients more effectively in diverse specialties of the real estate business, such as brokerage, marketing, management, counseling, farm and land specialization, appraisal and international real estate. It includes a section on NAR Academy at Columbia College, which offers degree programs for REALTORS®.

However, AEs should know there are many designations outside the REALTOR® family that may be offered by other organizations, such as real estate brands and franchises. A designation not supported by NAR should be listed separately in any communication or educational materials along with the non-NAR organization issuing that designation.

Because AEs may be called upon to answer questions about these specialized programs, it is important for AEs to be able to do the following:

- Identify the institutes, societies and councils and understand the scope of their respective designations.
- Identify the various NAR designations and certifications and certificate courses and understand their purpose in the marketplace.
- Promote and/or offer NAR/ISC designation and certification programs to increase the levels of skill and professionalism in the membership.
- Know the steps needed to bring a NAR designation or certification course to the association and what resources and support are offered by NAR and the ISCs. Reaching out to the appropriate NAR or ISC program is a good way to start the process.
- Be aware of programs offered by NAR Academy in partnership with Columbia College.
- Identify and assess the need for developing specialty sections or councils, such as appraisers or property managers.
- Identify partnership opportunities when offering designation courses and the potential for non-dues income.

AEs may be able to contact professionals with these specialized credentials for valuable input regarding association services or products relating to their areas of expertise. When planning education programs, for instance, associations may be able to find qualified instructors by reviewing members of these institutes, societies and councils.

In addition, NAR's Commercial Real Estate team provides education and information resources in areas related to commercial real estate, including commercial brokerage, property management and commercial leasing. See Commercial Services chapter.

In order to stay current with members' needs and market changes, AEs should assess the potential benefits of developing specialty sections or councils within the association. For example, a growth in the local rental market might increase the need for specialized offerings to residential property managers.

For general information about all NAR designations, visit: <https://www.nar.realtor/designations-and-certifications>.

AFFILIATED INSTITUTES, SOCIETIES AND COUNCILS

The eight affiliated institutes, societies and councils of NAR are:

- CCIM Institute (CCIM): <https://www.ccim.com>
- Residential Real Estate Council (RRC): <https://crs.com>
- The Counselors of Real Estate® (CRE®): www.cre.org
- Institute of Real Estate Management (IREM®): www.irem.org
- Real Estate Business Institute (REBI): www.REBINstitute.com
- REALTORS® Land Institute (RLI): www.RLILand.com
- Society of Industrial and Office REALTORS® (SIOR): www.sior.com
- Women's Council of REALTORS® (WCR): www.wcr.org

CCIM Institute

430 N Michigan Avenue, Suite 700

Chicago, IL 60611-4092

312-321-4460 • courseinfo@ccim.com • www.ccim.com

CCIM Institute courses are designed to enhance the success of commercial real estate professionals regardless of specialty. Since its founding more than 50 years ago, the institute has been educating real estate specialists across continents and industry categories, including investors and investment counselors, asset managers, brokers, appraisers, corporate real estate executives, property managers, developers, commercial lenders and other professionals.

Many professionals go on to earn the CCIM pin, which represents proven expertise in investment analysis. Along with the core curriculum, CCIM Institute offers more than 60 other courses, along with custom training to advance professional career goals.

Residential Real Estate Council (RRC)

430 N. Michigan Avenue

Chicago, IL 60611

800-462-8841 • crshelp@crs.com • www.crs.com

The Residential Real Estate Council (RRC) is the leading education, business and networking organization for residential REALTORS®. RRC was created to empower residential real estate professionals with the tools and opportunities needed to maximize their income and professionalism in residential real estate. The council's education includes classroom courses, self-paced eLearning, live and on-demand webinars, videos and more.

The council awards the CRS designation to experienced REALTORS® who have completed advanced professional training and demonstrated outstanding achievement in residential real estate. Other certifications focus on mastering residential competencies with practical tools and resources.

The Counselors of Real Estate® (CRE®)

430 N. Michigan Avenue
Chicago, IL 60611-4089
312-329-8427 • info@cre.org • www.cre.org

The Counselors of Real Estate® is the international professional organization of prominent commercial real estate practitioners recognized for their expertise, experience and ethics in providing advice that influences real estate decision-making. Membership is by invitation, though professionals with at least 10 years of industry experience may apply. Established in 1953, the organization serves 1,100 members worldwide who have earned the prestigious CRE credential. The organization's annual "Top Ten Issues Affecting Real Estate" is an example of the thought leadership for which counselors are known.

Institute of Real Estate Management (IREM®)

430 N. Michigan Avenue, Suite 500
Chicago, IL 60611-4090
800-837-0706 • getinfo@irem.org • www.irem.org

The Institute of Real Estate Management (IREM®) is an international institute for property and asset managers, providing knowledge to take on real estate management's most dynamic challenges. IREM's worldwide membership includes approximately 20,000 individuals and 560 companies, including associate, student and academic members. IREM promotes ethical real estate management practices through the following certification programs:

- **CPM:** The Certified Property Manager designation is the premier real estate management designation for experienced property and asset managers, especially those who manage large residential, commercial, retail or industrial properties, or mixed portfolios.
- **ARM:** The Accredited Residential Manager certification is the industry's most respected certification for specialists in residential property management, which is recommended for those who manage residential properties primarily at the site level.
- **ACoM:** The Accredited Commercial Manager certification is a valued industry certification for commercial site managers of office buildings, retail properties, industrial facilities and other commercial properties.
- **AMO:** The Accredited Management Organization accreditation recognizes excellence among real estate management firms that achieve the highest level of performance, experience and financial stability. It is recommended for principals of real estate management firms or heads of the property management department within their companies and to have been qualified, via their management responsibilities, as executive CPMs.

Real Estate Business Institute (REBI)

430 N. Michigan Avenue
Chicago, IL 60611
800-621-8738 • info@rebinstitute.com • www.REBIInstitute.com

With more than 31,000 members worldwide, the Real Estate Business Institute (REBI) provides comprehensive education, services and resources designed to elevate the careers of today's real estate professionals. REBI's expansive portfolio of offerings includes the following designations and certifications:

- **CRB:** The Certified Real Estate Brokerage Manager (CRB) designation is the credential for brokers, owners, managers and team leaders. The CRB designation signifies the highest level of achievement in real estate brokerage management.
- **C-RETS:** The Certified Real Estate Team Specialist (C-RETS) certification is the credential for high-performance teams. It is designed to elevate and enhance team development, individual leadership skills and improved financial performance.
- **RENE:** The Real Estate Negotiation Expert (RENE) certification is designed to elevate and enhance negotiation skills for real estate professionals.
- **SRS:** The Seller Representative Specialist (SRS) designation is awarded to real estate professionals who demonstrate the knowledge and skills essential for seller advocacy.

REALTORS® Land Institute (RLI)

430 N. Michigan Avenue
Chicago, IL 60611
800-441-LAND (800-441-5263) • RLI@realtors.org • www.rliland.com

The REALTORS® Land Institute, "The Voice of Land," elevates the level of professionalism in the land industry by providing members with tools and resources to build their businesses through the Accredited Land Consultant (ALC) Designation.

Members specialize in land brokerage related to all types of land and specialty properties, including vacant land, transitional and development land, subdivision and lot wholesaling, site selection and assemblage of land parcels, farms, ranches, recreational, timber, vineyards and orchards. They also have the expertise required to assist clients in obtaining appraisals and land valuation, auctions and farm and land management.

Society of Industrial and Office REALTORS® (SIOR)

1201 New York Avenue, N.W., Suite 350
Washington, D.C. 20005
202-449-8200 • membership@sior.com • www.sior.com

The Society of Industrial and Office REALTORS® (SIOR) is the leading professional office and industrial real estate brokerage association. With more than 3,400 members in 39 countries, SIOR represents today's most knowledgeable, experienced, and successful commercial real estate brokerage specialists. The SIOR designation is granted in one of six specialist categories:

- **Industrial Specialist**—transaction specialist
- **Office Specialist**—transaction specialist
- **Industrial and Office (Dual) Specialist**—transaction specialist
- **Advisory Services Specialist**—consultant or advisory practitioner
- **Sales Management Specialist**—manage at least 10 sales or leasing agents
- **Executive Specialist**—manage 100+ agents in three or more offices

SIOR memberships include designee (for those earning the designation), member associate (for those early in their careers) and affiliate (for companies).

Women's Council of REALTORS®

430 N. Michigan Avenue
Chicago, IL 60611
800-245-8512 • wcr@wcr.org • www.wcr.org

Women's Council of REALTORS® (WCR) is a nationwide community of 12,000 real estate professionals in more than 250 local and state networks with volunteer managers. Members gain visibility among peers and the public, as well as local, state and national networking opportunities and referrals.

The council offers the Performance Management Network (PMN) business leadership designation. It includes a wide range of topics, such as leadership, negotiating, networking and business planning.

NAR DESIGNATION AND CERTIFICATION COURSES

Accredited Buyer's Representative (ABR®) Designation

430 N. Michigan Avenue
Chicago, IL 60611
800-648-6224 • rebac@nar.realtor • www.rebac.net

The Accredited Buyer's Representative (ABR®) designation is the benchmark of excellence in buyer representation. The designation program establishes a foundation of training, skills and resources to help real estate professionals succeed as a buyer's representative. The ABR® designation two-day core course is specifically designed to help REALTORS® conduct a buyer counseling session, sign buyer-clients to a written buyer representation agreement, negotiate buyer-clients' offers and bring the transaction to a successful close.

At Home with Diversity® Certification

430 N. Michigan Avenue
Chicago, IL 60611
ahwd@nar.realtor • www.nar.realtor/ahwd

At Home With Diversity® (AHWD) teaches real estate professionals to increase their sensitivity and adaptability to local, state and national market trends. The curriculum encompasses topics of diversity, equity, inclusion, fair housing and risk reduction. Participants gain practical skills and tools to effectively serve all clients.

Certified International Property Specialist Designation (CIPS)

430 N. Michigan Avenue
Chicago, IL 60611
800-874-6500 • cips@nar.realtor • www.nar.realtor/cips

The Certified International Property Specialist (CIPS) designation prepares REALTORS® to service the growing global market in their communities by focusing on topics of culture, exchange rates, investment trends and legal issues as they relate to real estate transactions. Please note that association staff members can earn this designation, as well as REALTORS®.

NAR's e-PRO® Certification

430 N. Michigan Avenue
Chicago, IL 60611
877-397-3132 • epro@nar.realtor • www.epro.realtor

NAR's e-PRO certification program helps real estate professionals master advanced digital marketing techniques and increase their ability to reach customers, expand their capabilities and build trust by safeguarding client information.

Graduate, REALTOR® Institute (GRI) Designation

430 N. Michigan Avenue
Chicago, IL 60611
800-874-6500, ext. 8267 • gri@nar.realtor • www.nar.realtor/gri

The Graduate, REALTOR® Institute (GRI) designation gives real estate professionals knowledge and skills relating to technology trends, legal and regulatory issues, sales and marketing techniques and other topics.

NAR members can earn the GRI designation by completing the GRI program offered through state REALTOR® associations. Contact your state association for information on program requirements, course schedules, location and tuition.

NAR's Green Designation (GREEN)

430 N. Michigan Avenue
Chicago, IL 60611
800-874-6500 • green@nar.realtor • www.green.realtor

NAR's Green designation teaches real estate professionals how to help clients make informed choices about the resource-efficiency and performance of the homes they live in, sell and buy. The program includes a focus on residential green features, market research and client communication tips. Designees are members of the Green REsource Council, which is committed to making timely and relevant information and tools available.

Military Relocation Professional Certification (MRP)

430 N. Michigan Avenue
Chicago, IL 60611
mrp@nar.realtor • www.militaryrelocationpro.org

When military staff and their families relocate, the services of a real estate professional who understands their needs and timetables makes the transfer easier, faster and less stressful. The Military Relocation Professional (MRP) certification course focuses on educating real estate professionals about working with current and former military service members to find the housing solutions that best suit their needs and take full advantage of military benefits and support.

Pricing Strategy Advisor (PSA) Certification

430 N. Michigan Avenue
Chicago, IL 60611
800-874-6500 • psa@nar.realtor • www.pricingstrategyadvisor.org

Determining property values depends on professional expertise and competence, the best use of technology and approaching the pricing assignment from various perspectives. The Pricing Strategy Advisor (PSA) certification enhances skills in pricing properties, creating CMAs, working with appraisers and guiding clients through the home valuation process.

REALTORS® Commitment to Excellence (C2EX)

430 N. Michigan Avenue
Chicago, IL 60611
888-299-9669 • C2EX@nar.realtor • www.c2ex.realtor

The Commitment to Excellence (C2EX) program empowers REALTORS® to evaluate, enhance and showcase their highest levels of professionalism. It's not a course, class or designation—it's an endorsement that REALTORS® can promote when serving clients and colleagues. It generates a customized learning path and recommends experiences and resources to enhance individual skill sets.

Residential Accredited Appraiser (RAA) and General Accredited Appraiser (GAA) Designations**NAR Appraisal**

430 N. Michigan Avenue
Chicago, IL 60611-4087
800-874-6500, ext. 8267 • appraisal@nar.realtor • www.nar.realtor/appraisal

NAR awards two appraisal designations to appraisers (who may earn both); the Residential Accredited Appraiser (RAA) and the General Accredited Appraiser (GAA). The program requires 45 hours of course work for the RAA or 60 hours for the GAA in addition to the Appraiser Qualification Board's education requirement at the time of certification.

Resort and Second-Home Property Specialist (RSPS) Certification

430 N. Michigan Avenue
Chicago, IL 60611
800-874-6500, ext. 8268 • resort@nar.realtor • www.nar.realtor/resort

The Resort and Second-Home Property Specialist (RSPS) certification gives real estate professionals the specialized skills and knowledge to maximize the business opportunities in the vacation home, second home, college housing and investment properties markets.

Seniors Real Estate Specialist® (SRES®) Designation

430 N. Michigan Avenue
Chicago, IL 60611
800-500-4564 • sres@nar.realtor • www.sres.realtor

The Seniors Real Estate Specialist® (SRES®) focuses on helping real estate professionals build key skills in counseling adults aged 50+ through selling a home, buying rental property moving to a senior community and many other issues.

Short Sales and Foreclosure Resource (SFR®) Certification

430 N. Michigan Avenue
Chicago, IL 60611
877-510-7855 • sfr@nar.realtor • www.realtorsfr.org

The Short Sales and Foreclosure Resource (SFR®) certification assists real estate professionals serving sellers facing the complexities of short sales as well as buyers pursuing short sale and foreclosure purchase opportunities.

For more information about hosting any of NAR's designation and certification courses (with the exception of the RCE designation), please contact Dawn Headtke at dheadtke@nar.realtor or 800-874-6500.

REALTOR® ASSOCIATION CERTIFIED EXECUTIVE (RCE) DESIGNATION

430 N. Michigan Avenue
Chicago, IL 60611
800-874-6500, extension 8545 or 8514 •
rholland@nar.realtor • www.nar.realtor/rce

AEs (chief staff executives and staff specialists) interested in demonstrating commitment to the field of REALTOR® association management pursue the REALTOR® association Certified Executive (RCE) designation offered by NAR. The RCE is a professional certification program for REALTOR® AEs that recognizes the attainment of a wide variety of skills through education and experience. The designation signifies accomplishment, initiative and professional development, and indicates AEs who are committed to the organization.

In 1991, AEs made a commitment to recognize those goal-oriented AEs who are at the top of their profession. Since that time, REALTOR® AEs have volunteered their time and expertise to create this designation program, and many have joined with NAR to develop and implement a course of study and evaluation process that results in the award of a REALTOR® association Certified Executive designation—the RCE.

Advantages of Earning the RCE Designation

- **Recognition:** The initials “RCE” after one’s name tells others that this AE has gone the extra mile and made a firm commitment to REALTOR® association management.
- **Reward:** RCE designees are invited to attend the RCE Leadership Luncheon (sponsored by the RCE Certification Advisory Board) to network and hear keynote presentations on REALTOR® industry issues. Special programs designed for designees and their leadership are held during national meetings. New designees are recognized annually during the AE Institute.
- **Relationships:** Networking and mentoring are two important functions of the program. RCE designees are in good company with other AE leaders.
- **RCE Designation Eligibility**

Applicants can apply for the designation if they are a full- or part-time employee of a local or state association of REALTORS®, a business which is, directly or indirectly, wholly owned by one or more REALTOR® association(s), a regional multiple listing service owned by a REALTOR® association(s) or an employee of NAR.

RCE Designation Process

How to achieve the RCE designation:

- Initiate the certification process by completing an online Applicant Data Form (ADF) (www.nar.realtor/rceadf:nsf), and earn a minimum of 350 points.
- Complete the REALTOR® Association Management Self Study Course or the Advanced REALTOR® Association Management Self Study Course within three years prior to the July 1 or December 1 deadlines.
- Submit application and pay a non-refundable application fee of \$395.
- Register to take the RCE exam, and pass each of the three modules with a passing score of 75 percent.

RCE CAE + 5 Program

The RCE CAE + 5 program is a special program for AEs who hold the Certified Association Executive (CAE) designation (offered by ASAE), and who have three years of full-time or five years of part-time REALTOR® association or real estate management experience.

Requirements

- Complete a one-page application.
- Pass a 50-question, multiple-choice examination on REALTOR® association topics.

AE Competencies / RCE Body of Knowledge

Recognizing that the profile of REALTOR® AEs is changing as they strive to keep pace with the dynamic changes in the real estate industry, the AE Competencies and Body of Knowledge is an evolving document, reviewed on an ongoing basis. Its purpose is to identify the areas of information, knowledge and expertise with which REALTOR® AEs should be familiar.

For a copy of the AE Competencies / RCE Body of Knowledge, go to: <https://www.nar.realtor/ae/professional-development/ae-competencies-and-body-of-knowledge-a-guide-for-the-successful-realtor-association-executive>

For more information about the RCE designation, contact Renee Holland at NAT, 800-874-6500, ext. 8545, send an email to rholland@realtors.org, or visit the RCE website: www.nar.realtor/rce.

NAR ACADEMY AT COLUMBIA COLLEGE

1001 Rogers Street
Columbia, MO 65216
833-843-3225 • www.nar.realtor/nar-academy

NAR has partnered with Columbia College in Columbia, Missouri, to offer expanded access to academic programs to association members through NAR Academy. Under the agreement, Columbia College is the exclusive higher-education partner for more than 1.3 million NAR members, providing opportunities for them to complete a variety of certificate and degree programs, including real estate-specific offerings.

NAR Academy at Columbia College offers:

- Certificate in Real Estate Leadership
- Certificate in Real Estate Negotiation
- Certificate in Digital Marketing for Real Estate
- Associate degrees in Business Administration, Real Estate Management
- Bachelor's degrees in Accounting, Business Administration, Finance, Human Resources Management, Innovation and Entrepreneurship, Management, Marketing, Organizational Leadership, and Real Estate Management
- Master of Business Administration degree with an emphasis in Real Estate Management, Human Resources Management, and Accounting

NAR members can receive \$100 per eligible course in financial support from the Center for Specialized REALTOR® Education (CSRE). The CSRE is a NAR wholly owned subsidiary that creates and facilitates educational programs in real estate, working to elevate professional standards through designations, certifications and degrees in real estate.

3.9

Real Estate Trends

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INTRODUCTION

The national real estate playing field is always changing, creating both opportunities and challenges for REALTOR® associations and their members. Market forces, consumer behaviors and demographic trends are among the many forces that shape the real estate industry.

To serve their members and adapt to changing conditions, AEs need to stay informed about issues and trends that could impact their members, including competitors to REALTORS®, such as FSBOs, third-party aggregators, and iBuyer models. These trends can affect associations in the following ways:

- Membership increases/decreases
- New demands for products and services
- Technology investments
- Legal issues
- Communication tools and trends
- Dues and pricing structures
- Succession planning and other demographic issues

AEs need to pay attention to changing federal, state and local regulations regarding real estate, as they may affect members' business, and consumer buying and selling behaviors. For instance, a revision of state licensing rules could affect every residential and commercial agent and broker. Keeping track of legal and regulatory changes can also position associations as an important source of information and may create opportunities for webinars, podcasts and other educational programs.

In the face of change, a key question for AEs, as well as brokers, agents, multiple listing service (MLS) organizations and ancillary services, is how to continue to add value to the process of buying, selling and investing in real estate. That means reviewing and rethinking old assumptions, anticipating market trends and providing the right package of services. It also means positioning the REALTOR® association as a strategic resource for members and as a champion of positive change in the community.

NAR'S STRATEGIC FRAMEWORK AND STRATEGIC PLAN

NAR takes a proactive approach to real estate trends, focusing on ways to shape the future of the industry for its members and the communities they serve. In that regard, the NAR has adopted a Strategic Framework and Strategic Plan for the next few years that includes:

- **Mission.** To empower REALTORS® as they preserve, protect, and advance the right to real property for all.
- **Vision.** To be a trusted ally, guiding our members and those they serve through the ever-evolving real estate landscape.

In keeping with its mission and vision, NAR's Operating Values are:

- **Right to housing.** We believe that every individual should have access to safe, decent, affordable housing.
- **Real estate impact.** We believe that a thriving residential and commercial real estate market is a critical economic engine to support healthy vibrant communities.
- **Private property rights.** We believe that the freedom to buy, sell and utilize property, as protected by the 5th Amendment, underlies all real estate transactions and markets.
- **Homeownership.** We support the broadest opportunity for homeownership and promote the benefits to individuals, families and the community.
- **Entrepreneurship.** We believe that every individual should have the freedom to pursue their business goals and succeed in creating the quality of life they desire.
- **Professionalism.** We believe that all REALTORS® ascribe to the highest standards of ethics and professionalism.

NAR's Six Long-Term Goals/Pillars

Leadership and Influence

NAR will continue to be the trusted voice for real estate. NAR will advocate for the issues that impact the development of sustainable, vibrant, accessible communities. NAR will seek to partner with those who can drive innovation in the business of real estate and in meeting the changing needs of the consumer.

Industry Outreach

NAR will unite all facets of the residential and commercial industry to create a powerful, cohesive voice for real estate. NAR will advance the real estate profession worldwide.

Member Success

NAR will pursue innovative programs, products and services that support the productivity and success of the REALTOR®. The value of membership in NAR will be clear, essential and undeniable.

REALTOR® Brand

NAR will serve the member and the consumer by setting and enforcing the standard for the consistent, ethical practice of real estate. The REALTOR® will be recognized and trusted as the consumer's advocate and the expert advisor for all things real estate.

Member Experience

NAR will provide a customized member experience, targeting communication, service delivery and engagement opportunities to meet individual member needs and expectations. NAR will provide opportunities for members to collaborate, learn and grow across disciplines.

Organizational Development and Performance

NAR will be a nimble, decisive leader in shaping the future of real estate.

For more on NAR's Strategic Framework and 2023-2025 Strategic Plan:

<https://www.nar.realtor/about-nar/strategic-framework-and-2023-2025-strategic-plan>

MARKET TRENDS

Supply and demand are the fundamental drivers of the real estate market and have a major impact on association members. Higher demand for homes or commercial properties can spur increases in business activity, benefiting REALTORS® and affiliated professionals. Conversely, a slump in demand can mean lower incomes for real estate professionals, perhaps leading to a decline in association membership.

On the demand side, key considerations include population growth, economic activity, price levels and mortgage rates. A community with a growing population from immigration or from family creation (more births than deaths) will likely have a greater demand for housing than a region that is gradually losing population.

A region that is attracting new businesses and supporting the growth of existing companies will generate new jobs. That will bring in new workers, who need housing or allow current residents to become first-time home buyers.

Price levels and mortgage rates are two more factors that impact demand—at least in the moderate price range, the largest segment of the market. Higher prices and rates make it more difficult for potential buyers to purchase homes, while lower prices and rates make home buying more affordable. To address this issue, many associations have launched affordable housing initiatives in partnership with local, state and federal organizations.

On the supply side, U.S. home builders have ramped up their production of single-family and multi-family homes, but the level of new construction is much lower than the boom years of the early 2000s. As a result, the demand for existing homes will remain strong, barring an unexpected downturn in the economy.

To stay current with the market, AEs should pay attention to new housing permits. Starts and completions will affect the supply of housing in local and regional markets. It's also a good idea to monitor new commercial development and construction activity as that can affect the supply of office, retail, industrial or hospitality properties.

Market Challenges

Affordability is one of the key challenges facing the nation's real estate market. Rising home prices, coupled with relatively high mortgage ranges make it more difficult for buyers to achieve the American dream of homeownership. This is particularly true in communities where median income levels are well below housing prices.

The overall number of residential transactions may stay level or even decline in the next few years. That's because there may be fewer household moves in the future as many professional/service jobs can be done remotely from any location. Corporate transfers may also decline, impacting the relocation market. In addition, seniors may be more likely to age in place rather than moving to smaller "retirement homes."

The "stay-put" trend actually extends to all buyers, according to the annual NAR's "Profile of Home Buyers and Sellers." In 2020, buyers who bought before the COVID-19 pandemic said they expected to live in their homes for a median of 15 years, compared to 10 years for those buyers who bought during the pandemic.

Other trends affecting the housing market include the following:

- **Fewer international buyers.** International buyers from Canada, Europe, China, Mexico, South America, Africa and the Middle East play a major role in many state real estate markets. However, U.S. immigration policies, combined with a strong dollar, have slowed the pace of sales to international buyers.
- **Extreme weather events.** Wildfires, floods, hurricanes, blizzards and prolonged heat waves may make regional markets less attractive in the future. Weather risks can also affect insurance costs and even lead some owners to sell and move to a different community. On the other hand, states and regions with lower risk of natural disasters could see a resurgence in demand for homes.
- **Sustainability.** Associations and members should become familiar with adaption and resilience strategies on a community, state and national level. For instance, homes can be "hardened" to protect against windstorm damage, and landscaping can be designed to reduce the risk of wildfire damage.
- **Property taxes.** Changes to local and state property tax rates and rules can affect demand for homes. Communities with higher tax rates may be less affordable for first-time and moderate-income buyers. In addition, limits on the deductibility of property taxes on federal income tax returns has made lower-tax regions more attractive to affluent owners.
- **Government regulations.** Federal, state and local regulations can affect real estate brokerage, licensing and educational requirements. New laws, ordinances and rules can also affect the transaction process, making it imperative for AEs to stay current with the legal and regulatory landscape affecting their members.

DEMOGRAPHIC TRENDS

From a demographic standpoint, the 80 million members of the Millennial generation born between 1980 and 1998 will be dominating the nation's housing market for the next decade. They are rapidly being joined by the Gen Zers, now in their teens and 20s. That's not to say that the Gen Xers (50 million), the Boomers (76 million) or the aging Silent Generation (24 million) will be exiting the market. It's more that the tastes, values and activities of these younger buyers and renters will shape the demand for real estate products and services.

Overall, U.S. population growth has slowed, according to “A 2020 Census Preview of Population and Congressional Reapportionment” by the Brookings Institute. That study found that the 2010s was a decade of fewer births, more deaths and uneven immigration. The 2018-19 period had an exceptionally low growth rate of 0.48 percent, with immigration declining to 595,000 people—the lowest level since the 1980s—and a drop in natural death increase to below 1,000,000.

The nation’s population growth has also been uneven, with higher rates for some states in the Southeast and Mountain West and lower rates in the Midwest and Northeast. The changes in population also reflect migration patterns that have favored the Sunbelt states for several decades.

Other demographic trends include:

- **Greater diversity.** Throughout the nation, African Americans, Hispanics, Asian Americans and other demographic groups are vital forces in the real estate market. A more diverse society is creating a greater need for real estate professionals to understand their clients’ cultural nuances in real estate and investment transactions.
- **Single heads of household.** In the past decade, a growing number of single women and men have become homeowners, and approximately 26 percent of all buyers are single. For real estate professionals, it’s important to understand that their housing needs may be quite different from traditional families and couples, such as a greater preference for a multifamily residence that offers security, privacy and social interaction.

CONSUMER TRENDS

In every real estate transaction, the consumer stands squarely at the center. It is the buyer and the seller who make the decisions that are executed by brokers, agents, lenders, attorneys and other professionals involved in the real estate transaction.

To support consumers, NAR created HouseLogic.com, a free source of information and tools to help owners make smart decisions about their homes. With authoritative content covering home improvement, maintenance, taxes, finance insurance, buying and selling, HouseLogic can help consumers increase and protect the value of their homes.

Consumer attitudes and behaviors related to real estate usually change gradually—especially since the home buying/selling transaction remains a complex, large-scale financial transaction for most people. Today’s consumer is much more informed and savvy than in the past due to the outpouring of real estate data online. However, consumers still rely on REALTORS® to make sense of the data and help with making an offer and closing the transaction.

Consumers typically want REALTORS® to offer:

- Convenient search tools, including full information about listed properties
- Robust websites with comprehensive information for buyers and sellers
- Immediate responses to their text, social, email or voice communications
- Personal, friendly service from both the agent and the real estate company
- A smoothly integrated transaction process with effective solutions for any hurdles along the way and no surprises at closing
- Low fees and commissions or a choice of fee packages
- More financial transparency at every stage of the transaction
- A convincing sense that the agent and broker add value to the buying/selling experience

A PROFILE OF BUYERS AND SELLERS

Approximately nine out of 10 buyers and sellers are satisfied with their real estate professionals, according to the 2022 NAR “Profile of Home Buyers and Sellers.” Based on nearly 10,000 responses to a questionnaire mailed to a large national sample of consumers, this report was among a series of NAR annual surveys evaluating demographics, marketing, preferences and experiences of home buyers and sellers.

“The real estate industry is unique in that participants share vital information with their competitors,” said Lawrence Yun, NAR chief economist. “The industry is also very entrepreneurial. Real estate professionals constantly experiment with business models and cater to a wide array of consumer interests and preferences. NAR embraces this competition, and to succeed in this marketplace, REALTORS® must place a high priority on client satisfaction.”

Here are highlights of the 2022 survey:

Characteristics of Home Buyers

- First-time buyers made up 26 percent of all purchasers, down from the previous year's 34 percent. This is the lowest share of first-time buyers since the data collection began.
- The typical first-time buyer was 36 years old, rising from 33 the year before, while the typical repeat buyer age climbed to 59 years. Both are all-time highs.
- Sixty-one percent of recent buyers were married couples, 17 percent were single females, nine percent were single males, and 10 percent were unmarried couples. This is the highest share of unmarried couples recorded.
- Among first-time buyers, 18 percent of buyers were unmarried couples, and five percent were other household compositions. Both are the highest shares recorded.
- 14 percent of home buyers purchased a multi-generational home—to take care of aging parents, because of children or relatives over the age of 18 moving back home, or for cost-savings.
- Eighty-eight percent of buyers were White/Caucasian, eight percent were Hispanic/Latino, three percent were Black/African-American, two percent were Asian/Pacific Islander, and three percent identified as other. The share of White/Caucasian buyers and Hispanic/Latino buyers both grew, while the shares of other racial and ethnic groups declined.
- Ninety-one percent of recent home buyers identified as heterosexual, two percent as gay or lesbian and two percent as bisexual. Five percent preferred not to answer.
- Twenty-two percent of recent home buyers were veterans, and one percent were active-duty service members.
- At twenty-two percent, the primary reason for purchasing a home was the desire to own a home of their own. For first-time buyers, this number jumps to 62 percent.

Characteristics of Homes Purchased

- 12 percent of buyers purchased a new home, and 88 percent of buyers purchased a previously owned home.
- Most recent buyers who purchased new homes were looking to avoid renovations and problems with plumbing or electricity at 41 percent. Buyers who purchased previously owned homes were most often considering better price at 31 percent.
- Detached single-family homes continued to be the most common home type for recent buyers at 79 percent, followed by mobile or manufactured houses at 8 percent.

- Senior-related housing held steady this year at 7 percent (for buyers over the age of 60), with 17 percent of buyers typically purchasing condos and 8 percent purchasing a townhouse or row house.
- The median distance between the home that recent buyers purchased and the home they moved from was 50 miles. This is a significant increase in distance moved, as the distance between 2018 and 2021 was a median of 15 miles.
- For buyers, 49 percent cited quality of the neighborhood as the most important factor determining the location. Convenience to friends and family, and overall affordability of homes were both cited at 37 percent.
- Buyers typically purchased their homes for 100 percent of the asking price, with 28 percent purchasing for more than asking price.
- The typical home that was recently purchased was 1,800 square feet, had three bedrooms and two bathrooms, and was built in 1986.
- Overall, buyers expected to live in their homes for a median of 15 years, while 28 percent said that they were never moving.

The Home Search Process

- For 47 percent of recent buyers, the first step they took in the home buying process was to look online at properties for sale, while 18 percent of buyers first contacted a real estate agent.
- 86 percent of recent buyers found their real estate agent to be a very or somewhat useful information source.
- Buyers typically searched for 10 weeks, looked at a median of five homes and viewed four homes only online. The number of weeks searching for a home grew from eight weeks in 2020 and 2021 reports.
- Nearly all buyers (96 percent) used online tools in the search process.
- They typically conducted 60 percent of their Internet searches on a mobile device and 34 percent on a desktop or laptop.
- Ninety-one percent of recent buyers were at least somewhat satisfied with their recent home buying process.

Home Buying and Real Estate Professionals

- Eighty-six percent of buyers recently purchased their home through a real estate agent or broker, and 10 percent purchased directly through the previous owner.
- Having an agent to help them find the right home was what buyers wanted most when choosing an agent, at 49 percent.

- Thirty-eight percent of buyers used an agent that was referred to them by a friend, neighbor or relative, 12 percent used an agent that they had worked with in the past to buy or sell a home, and 10 percent found their agent when inquiring about a specific property found online.
- Sixty-seven percent of buyers interviewed only one real estate agent during their home search.
- Eighty-nine percent of buyers would use their agent again or recommend their agent to others.

Financing the Home Purchase

- Seventy-eight percent of recent buyers financed their home purchase, down from 87 percent in the 2021 report.
- The typical downpayment for first-time buyers was six percent, while the typical down payment for repeat buyers was 17 percent.
- For 47 percent of buyers, the source of the down payment came from their savings, 38 percent of repeat buyers cited using the proceeds from the sale of a primary residence, while 22 percent of first-time buyers used a gift or loan from friends or family for the down payment.
- For first-time home buyers, 26 percent said saving for a downpayment was the most difficult step in the process.
- The majority of first-time buyers did make financial sacrifices to purchase a home. For those who did, the most common sacrifices buyers reported were cutting spending on luxury goods, entertainment and clothes.
- Buyers continue to see purchasing a home as a good financial investment. Eighty-eight percent reported they view a home purchase as a good investment.

Home Sellers and Their Selling Experience

- The typical home seller was 60 years old, an increase from 56 the previous year.
- For all sellers, the most commonly cited reason for selling their home was the desire to move closer to friends and family (21 percent), moving due to retirement (11 percent), or the neighborhood has become less desirable (11 percent).
- Sellers typically lived in their home for 10 years before selling. This is an increase from eight years in the previous year's report but reverts back to the same tenure seen in 2019 and 2020.
- Forty-one percent of sellers traded up to a larger home, and 32 percent purchased the same size home.
- Eighty-six percent of home sellers worked with a real estate agent to sell their home, 10 percent sold via FSBO, and less than one percent sold via iBuyer.

- For recently sold homes, the final sales price was a median of 100 percent of the final listing price, the highest recorded since 2002.
- Recently sold homes were on the market for a median of two weeks, an increase from one week the prior year.
- Only 20 percent of sellers offered incentives to attract buyers, a drop from 26 percent of all sellers in the previous year.
- Ninety-one percent of sellers were at least somewhat satisfied with the selling process.

Home Selling and Real Estate Professionals

- Sixty-three percent of sellers found their agent through a referral from a friend, neighbor or relative or used an agent they had worked with before to buy or sell a home.
- Eighty percent of recent sellers contacted only one agent before finding the right agent they worked with to sell their home.
- Thirty-nine percent of sellers used the same agent to purchase a home as to sell. A share which rises to 85 percent for sellers who purchased a new home within 10 miles.
- Eighty-six percent of sellers listed their homes on the MLS, which is the number one source for sellers to list their home.
- Seventy-four percent of sellers reported that they provided the agent's compensation.
- The typical seller has recommended their agent once since selling their home. Twenty-seven percent of sellers recommended their agent four or more times since selling their home.
- Eighty-five percent said that they would definitely (73 percent) or probably (12 percent) recommend their agent for future services.

For-Sale-by-Owner (FSBO) Sellers

- Ten percent of recent home sales were FSBO sales, up from seven percent the previous year.
- The majority of FSBO sellers, 50 percent, knew the buyer of the home.
- Within rural areas, 13 percent sold via FSBO, compared to six percent of sellers in suburban areas.
- FSBO typically sell for less than the selling price of other homes; FSBO homes sold at a median of \$225,000, significantly lower than the median of agent-assisted homes at \$345,000.

BROKERAGE TRENDS

Efficiency, productivity and flexibility are essential for brokers to achieve their business goals. In an always-changing market, many brokers are moving away from engaging a large sales force to “fewer heads and more productive arms” to provide a higher level of customer service. They are also taking advantage of work-from-home technology to reduce their physical office footprints. Others continue to add ancillary services, such as mortgage lending and title insurance to offer “one-stop” service to consumers, while enhancing profitability.

While many variations on the traditional brokerage model have been introduced in the past decade, they have failed to gain traction, except in niche markets. That’s because approximately 90 percent of buyers and sellers continue to value the services of a trusted real estate professional to advise them and represent their interests in the transaction.

The Competitive Landscape

However, brokers continue to pay close attention to competitors who could cut into their market share, ranging from traditional FSBO properties, to new home builders to institutional buyers with in-house real estate teams. Another concern is the growth of third-party online portals, such as Zillow, that repackage listing data and provide agents with leads. Those services can compete with a broker’s own offerings and impact their relationships with agents.

Brokers are also dealing with the iBuyer concept, where a company will purchase a seller’s house and present a binding offer in 24 hours, an attractive “on-demand” service for sellers who can’t wait weeks or months for a traditional sale. A variation on this theme is the iBroker model, where a financial institution provides a short-term loan that allows sellers to buy a new home before closing on the sale of their current residence.

Along with the competitive aspects of these trends, brokers (and their agents) have seen business opportunities as well. For instance, institutional buyers may turn to companies with local market knowledge to buy or sell their investments. Brokers can also partner with iBuyer and iBroker firms to offer these options to sellers in return for a financial incentive. In summary, brokers continue to adjust to real estate’s evolving competitive landscape.

Other brokerage trends to watch:

- **Independent contractor litigation.** Several legal actions involving independent contractors in various industries are now moving through the court system. A ruling that agents are employees rather than independent contractors would be a disruptive change for most brokers, adding significantly to their operating costs.
- **Data security and privacy.** Buyers and sellers want to know how brokers and their agents will protect personal data, including financial information, from hackers and identity thieves.
- **Property management.** To serve owners and investors in the residential market, many brokers are expanding their property management divisions, especially in states with strong second-home markets like Florida, Hawaii and Colorado.
- **Younger leadership.** Family-owned firms led by owners in their 60s are selecting their “heirs apparent” for the future or are moving toward retirement.

For more information about brokerage business models, see the General Real Estate Practices chapter of *The Answer Book*.

AGENT TRENDS

Market knowledge, responsiveness and personal service are critically important for agents serving today’s consumers. Building trusted relationships with buyers and sellers—using their preferred communication channels—is still the foundation for success in the real estate market.

NAR surveys consistently show that most consumers would prefer to have an agent represent their interests rather than deal directly with the other party. Other buyers and sellers are too busy—or just not interested—in learning the nuances of a real estate transaction and have no desire for a do-it-yourself approach.

Agent teams are playing a greater role in the real estate industry, developing their own brands, offering coordinated services and blurring the lines with traditional brokers. In many cases, an agent team adopts a “specialized service delivery model” where salaried specialists are hired for certain activities, such as marketing or transaction management. One indication of the power that agent teams now have in the market are signing bonuses in the six- and seven-figure range to lure successful agent teams from one brokerage to another.

The growth of agent teams has changed the value proposition offered by brokerage companies. Instead of technology tools and training services, which can be obtained from a number of sources, many teams look to brokers to deal with the “paperwork,” including legal issues, insurance coverage and regulatory issues. However, state licensing rules typically put brokers in the position of managing agents on a team that they don’t really control.

Here are other agent trends to watch:

- **Online ratings.** Consumers are using online reviews and rating services to choose agents for their transactions. The self-promotional approach (“I’m the best agent to sell your home”) is steadily changing to a lower-key strategy. Praise from trusted friends, especially online is more valuable for many agents than advertising.
- **Direct mail.** Along with online marketing, many agents continue to rely on direct mail, sending out “just sold” or “just listed” postcards to local neighborhoods. As the volume of postal mail declines, agent promotional material, including personalized letters, gets more attention from homeowners.
- **Storytelling.** Successful agents know how to tell a story that interests and engages consumers. Talking about an agent’s personal experiences, the local market, a neighborhood or a particular home can strengthen relationships with buyers and sellers without falling into the danger of self-promotion.
- **Analytic tools.** Many agents use databases and analytic tools to gain an in-depth understanding of local markets. These productivity-enhancing applications can also help identify patterns of consumer behaviors, such as homeowners most likely to sell in the next year.
- **Nurturing long-term relationships.** Agents are using their calendars, databases, analytic tools and marketing applications to maintain relationships with their clients long after the transaction has closed. This provides a potential source of referrals as well as an opportunity to assist the client on a future move.
- **More specialists.** To distinguish themselves in the marketplace, many agents in larger markets are becoming specialists. They might focus on a particular product type, such as vacation homes, or a particular demographic segment in order to better serve their clients.

A PROFILE OF NAR MEMBERS

The NAR annual member profile provides AEs with insights into the demographic and business trends that affect local and state associations throughout the nation. In 2022, NAR membership grew to 1.58 million from 1.56 million at the end of 2021, according to the “NAR Member Profile 2023.” The typical member was an independent contractor affiliated with an independent company catering to local markets.

Due to the strong demand for housing in the first half of 2022, the typical member had 12 transaction sides. This is the same number as in 2021. The typical sales volume increased from \$2.6 million to \$3.4 million in 2022 as home prices increased throughout 2022. Looking forward, 76 percent of REALTORS® are very certain they will remain in the market for two more years.

Other highlights of the report:

- The typical REALTOR® was a 60-year-old White female who attended college and was a homeowner.
- Sixty-two percent were female, down from 66 percent the previous year.
- Sixty-four percent of REALTORS® were licensed sales agents, 20 percent held broker licenses, and 18 percent held broker associate licenses.
- The typical REALTOR® had 11 years of experience, up from eight the previous year.
- Seventeen percent of members had at least one personal assistant.
- Seventy percent reported their primary specialty as residential brokerage.
- In 2022, the typical agent had 12 transactions, the same as in 2021.
- The median sales volume for brokerage specialists increased to \$3.4 million in 2022 from \$2.6 million in 2021.
- The typical property manager managed 40 properties in 2022, down slightly from 2021.
- The typical REALTOR® worked 30 hours per week in 2022, down slightly from last year.
- The typical REALTOR® earned 27 percent of business from repeat clients and customers and 24 percent through referrals from past clients and customers.
- The median gross income of REALTORS® — income earned from real estate activities — was \$56,400 in 2022, an increase from \$54,300 in 2021.
- Median business expenses were \$8,210 in 2022, an increase from \$6,250 in 2021.

- Eighty-nine percent own their primary residence, and 43 percent own a secondary property.
- Ninety-five percent reported using a smart phone daily or nearly every day. Among smart phone features, email was used daily or nearly every day by 93 percent, and 46 percent use social media apps or GPS daily.
- REALTORS® most often communicate with current clients via text messaging (94 percent), telephone (92 percent) and email (90 percent).
- Sixty-six percent reported having a website for business use.

REALTOR® SAFETY: AN IMPORTANT CONCERN

NAR has developed a REALTOR® Safety Program. Through knowledge, awareness and empowerment, it helps members understand the risks they face. Associations can provide an important service by educating members about the precautionary actions they can take to reduce the risk of becoming a victim, such as having an appropriate mobile app installed on their mobile devices. Brokerages can adopt standard procedures for agent safety and incorporate those steps into their orientation and training programs, as well as ongoing communications to maintain awareness of taking safety precautions.

Most importantly, all real estate professionals need to be wary about putting themselves in potentially dangerous situations and use appropriate tools such as smart phone apps to protect themselves.

NAR's REALTOR® Safety Program

NAR has developed a REALTOR® Safety Program to help members understand the risks they face through knowledge, awareness and empowerment. For the latest information on this important NAR offering, visit www.realtor.org/topics/realtor-safety.

NAR also surveyed members about their safety concerns, and the responses of the 2,227 respondents are highlighted in the 2022 Member Safety Report, available online at <https://www.nar.realtor/research-and-statistics/research-reports/member-safety-report>

Here are several of the highlights of the report:

- Respondents meet new prospective clients either at their office or in a neutral location (66 percent).
- Seventy-three percent have personal safety protocols in place that they follow with every client.
- Forty percent said that they have participated in a self-defense class.
- Fourth-three percent of men and 54 percent of women carry a self-defense weapon or tool.
- Seventy-five percent of those who participated in a REALTOR® safety course said they felt more prepared for unknown situations.

Rental Scams and Other Criminal Activities

Real estate professionals are also a target for other types of criminal activity, including property theft (often from open houses or showings), rental scams, identity theft and phishing for confidential personal and financial information. Therefore, safety-related education and training is one of the valuable services an association can provide to its members.

In recent years, one common scheme is for a criminal to pose as the owner or landlord of a property and ask for a down payment or first month's rent. Once the money arrives, the scam artist disappears. A variation on this theme is for the criminal to pose as an "agent" or "lawyer" representing foreign property owners. The scammer prepares a lease or contract and takes off after getting the money.

Sometimes criminals will change the email or contact information on a legitimate rental so a payment goes to them instead of the actual owner. Other times, the "rental" is a fictitious property address. By the time the renter arrives, the con man is long gone.

Real estate professionals need to be particularly diligent on behalf of their clients, asking for identification, checking property records and making sure that individuals are legitimate and that the property itself is for rent or for sale. The Federal Trade Commission has other tips. Go to www.ftc.gov.

MLS TRENDS

Traditionally, the MLS has been the most accurate and up-to-date source of information about properties for sale in a local or regional market. In addition, the MLS "offer of cooperation and compensation" provides clear rules of engagement for real estate brokers and agents and contributes to a very efficient marketplace for consumers.

The primacy of MLS data is challenged by third-party portals, which attract consumers by offering a variety of housing-related services, as well as "recasting" property listing information provided by brokers. Consumers can easily go to one site to compare homes in varied neighborhoods, cities or states.

One of the ways MLS organizations can compete is to incorporate dynamic listing data. Right now, a broker owns the listing data for a snapshot in time. Because that picture can change, an MLS can update the information rather than simply freezing the listing at the moment it was posted.

Clear Cooperation Policy

Concerns over “off MLS” listing data prompted the NAR to adopt the Clear Cooperation Policy, which required local adoption by May 1, 2020. This policy ensures that sellers will receive proper exposure of their listing to the marketplace, including all other MLS benefits, and that buyers will have access to available properties “for sale.”

Prior to this change, an increasing number of “for sale” properties were exempt from MLS and only shared with a minority group of brokers and clientele, which raised concerns about potential discrimination risks and proper informed consent from the seller. This trend to withhold “publicly marketed” listing data, was fractionalizing markets and working against consumer interests.

The Clear Cooperation Policy provides:

Within one business day of marketing a property to the public, the listing broker must submit the listing to the MLS for cooperation with other MLS participants. Public marketing includes, but is not limited to, flyers displayed in windows, yard signs, digital marketing on public facing websites, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the public. (Adopted 11/19)

For more information go to, <https://www.nar.realtor/about-nar/policies/mls-clear-cooperation-policy>

TRACKING INDUSTRY TRENDS

AEs need to follow changing industry trends, because they affect the needs of the members. Following these changes may seem like a daunting task to the individual AE; however, NAR and others provide some extremely useful trend-assessment tools.

One of the key resources available for staying in tune with the consumer trends, demands and demographics is NAR's *Profile of Home Buyers and Sellers*, which focuses on specific areas of the home buying and selling processes. The Profile is prepared by the Economic Research Group of NAR for publication every year.

Some other resources to consult about consumer trends are:

- NAR's *AEXperience* Magazine
- Local newspapers
- Nationally distributed newspapers, such as the *New York Times*, *Wall Street Journal*, and *USA Today*
- Online publications such as *Realty Times*
- Survey results from state associations
- Local homes magazines

SOURCES

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- “A 2020 Census Preview of Population and Congressional Reapportionment” by the Brookings Institute, January 2020. <https://www.brookings.edu/articles/population-change-and-the-projected-change-in-congressional-representation/>
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