

Types of Agency Brokerage Relationships with Consumers

Understanding Representation

It's important to understand what legal responsibilities your real estate salesperson has to you and to other parties in the transaction. Ask your salesperson to explain what type of relationship you have with him or her and with the brokerage company. Laws and relationships vary by state, but generally fall into these categories:

- 1. Seller's representative** (also known as a listing agent or seller's agent). A seller's representative is hired by and represents the best interests of the seller. The relationship usually is created by a listing contract.
- 2. Buyer's representative** (also known as a buyer's agent). This type of licensee is hired by prospective buyers to represent them in a real estate transaction. The buyer's rep works in the buyers' best interest throughout the transaction. The buyers can pay the licensee directly through a negotiated fee, or the buyers' rep may be paid by the seller or by a commission split with the listing broker.
- 3. Disclosed dual agent.** Dual agency is a relationship in which the brokerage represents both the buyer and the seller in the same real estate transaction. Dual agents typically owe limited duties to each of the parties. Because of the potential for conflicts of interest in a dual-agency relationship, it's vital that all parties give their informed consent. In many states, this consent must be in writing. Disclosed dual agency, in which both the buyer and the seller consent to the agent representing both of them is legal in most states.
- 4. Designated agent.** This is a brokerage practice that allows the managing broker to designate which licensees in the brokerage will act as representatives of the seller and which will act as representatives of the buyer. Designated agency avoids the problem of dual agency. The designated agents give their respective clients full representation. The broker has the responsibility of supervising both groups of licensees.
- 5. Nonagency relationship.** These relationships vary considerably from state to state, both as to the duties owed to the consumer and the name used to describe those practicing it (i.e., transaction broker or facilitator).

Source: NAR Legal Affairs

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