Teams

Office Policy & Procedures

Manual

A Guide for Realtors®

2020 Edition

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This edition of the Teams Office Policy and Procedures Manual (“Manual”) has been published and distributed to the membership of Virginia REALTORS®, Inc. with the hope that the Manual will encourage understanding among Agents and Brokers. The good of the entire membership has been the basis for this template.

This Manual contains **Suggested Procedures**, not obligations. It is primarily intended for residential real estate teams and follows Virginia state laws and regulations and Virginia REALTORS® standard forms. This Manual is intended to be a supplement to the Residential Office Policy & Procedures Manual and includes policies and procedures that are specific to real estate teams. Any definitions or reference to Virginia laws or regulations for the purposes of the Manual are not complete. They have been abbreviated to express the general meaning of the terms and not the exceptions. This manual is not meant to serve as a substitute for reviewing the actual language in the laws and regulations.

Brokers will need to modify some of the suggestions to suit their individual business practices. Some provisions which require brokers to make selections or fill in information have boxes around them and an icon in the margin (🖎). A table of these provisions can be found in APPENDIX B
 Table of Provisions that Must Be Reviewed.

The suggestions in this Manual should not be regarded as opinion or advice for any individual case. This Manual is not intended to render legal, accounting, or other professional services or advice. This is one of many efforts of Virginia REALTORS® to provide educational material to its members so they can reach a higher level of professionalism.

Many thanks to all the volunteers who have contributed to this suggested Policy and Procedures Manual and to you, the membership, who use the manual every day.

**Policy Statement Regarding Compensation**

Under policy established by your local association of REALTORS®, Virginia REALTORS®, and the NATIONAL ASSOCIATION OF REALTORS® regarding compensation:

1. The Broker’s compensation for services rendered is solely a matter of negotiation between the Broker and his or her client, and is not fixed, controlled, recommended, or maintained by any persons not a party to the compensation agreement.
2. Compensation paid by a Listing Broker to a Cooperating Broker in respect to any listing is established by the Listing Broker in the offer of compensation, and is not fixed, controlled, or maintained by any person other than the Listing Broker.

**Policy Statement Regarding Discrimination and Fair Housing**

It is the policy of Virginia REALTORS® and its members to comply with local, state, and federal fair housing laws and provide for fair housing throughout the Commonwealth of Virginia, to all its citizens, regardless of race, color, religion, national origin, sex, elderliness, familial status, disability, sexual orientation, gender identity, or any other protected class.

**Antitrust Statement**

This Company maintains a strong policy against any antitrust involvement by the Company, its agents or employees. Few obligations can be taken more seriously than this area. The Company requires each person associated with it to be knowledgeable about antitrust concerns. By signing this manual, you acknowledge your understanding of antitrust principles. You should visit and read the National Association of REALTORS®’ (NAR) antitrust resources at <https://www.nar.realtor/field-guides/field-guide-to-antitrust> .

Two areas are primary antitrust concerns:

Price Fixing: Price fixing means any agreement, setting, consent to, suggestion or implication with a competitor regarding a fee to charge. This includes fees charged to the public, fees split among brokers and fees paid to agents. "Agreement" can be overt, covert, express or implied. It is very broad based and can even be suggested or implied by casual conversation with any competitor.

Accordingly, the Company, its agents and staff are prohibited from discussing with competitors any aspect of the fees the Company charges or how total fees are split. The Company determines its charges based on the Company's own independent internal analysis of its expenses, its revenue, its desired profit level and its choice of the type and level of service it desires to provide.

In any discussion with a member of the public about our charges (such as at a listing appointment), the only acceptable answer about why the Company charges what it does is the foregoing explanation. Do not be drawn into a discussion about company fees as "the standard rate," "the Board rate," "the typical rate" or the like. If questions arise about other company's fees, suggest that the potential client call several competitors and ask about their rates.

Boycotting Competition: It is also a violation of federal law to make any agreement, express or implied, with a competitor to boycott or otherwise not deal with a third party. Even if it were implicit and not overt, it could be construed as an illegal boycott.

The Company prohibits any agent or staff member from making any agreement or suggestion with a competitor, including an individual agent, that he/she or the Company will not deal with a third broker or agent, vendor, or other third-party service whether it be a listing company, buyer's brokerage, or any other broker or agent. This includes comments made in social settings and/or on social media.

# OFFICE POLICIES

Specific Company wide policies on the following topics can be found in the Company Office Policy Manual:

1. Office Hours

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1. Observed Holidays
2. Firm Affiliation
3. Technology
4. Internet Use/Social Media
5. Office Security
6. Workplace Security
7. Office Appearance
8. Dress Code
9. Eating in the Work Area
10. Parking
11. Document Retention
12. Absences
13. Alcohol and Illegal Drug Use
14. Insurance
15. Agent Safety
16. Confidentiality

# TEAM POLICIES

## Team Licensing

*All real estate teams must have a business entity salesperson license from the Virginia Real Estate Board at DPOR. To get a business entity salesperson license, every owner or officer who actively participates in the brokerage business of the entity must first hold a license as an individual salesperson or broker from VREB.*

*No group of individuals consisting of one or more real estate brokers or real estate salespersons, or a combination thereof, shall act as a real estate team without first obtaining a business entity salesperson's license from the Board.*

*No business entity may act or advertise as a real estate firm without a real estate firm license. It is prohibited for any individual to act as a broker without a broker’s license from VREB. A business entity may act as a real estate salesperson with a separate business entity salesperson license.*

[*§ 54.1-2106.1. Licenses required*](https://law.lis.virginia.gov/vacode/title54.1/chapter21/section54.1-2106.1/)*.*

[*18 VAC 135-20-260. Prohibited Acts*](https://law.lis.virginia.gov/admincode/title18/agency135/chapter20/section260/)*.*

*Prior to applying for a business entity salesperson license from the Real Estate Board, a team must form a business entity authorized to do business in Virginia by the State Corporation Commission.*

[*18 VAC 135-20-45. Additional Qualifications for Salesperson’s or Broker’s License as a Business Entity*](https://law.lis.virginia.gov/admincode/title18/agency135/chapter20/section45/)*.*

## Team Names

Teams function as one entity using a fictitious name. However, *no person, partnership, or business entity may conduct or transact business in Virginia under an assumed or fictitious name unless they have signed and acknowledged a d/b/a certificate identifying the name of the business and filed it with the State Corporation Commission and DPOR. A violation of this law is a misdemeanor and is punishable by a fine up to $2500 or jail time up to one year, or both.*

[*§ 59.1-69. Certificate required of person, partnership, limited liability company or corporation transacting business under assumed name.*](https://law.lis.virginia.gov/vacode/title59.1/chapter5/section59.1-69/)

[*§ 59.1-70. Limited partnership, limited liability company or corporation to file copy of certificate with State Corporation Commission; fee; release certificate.*](https://law.lis.virginia.gov/vacode/title59.1/chapter5/section59.1-70/)

[*§ 59-75. Penalty for violation.*](https://law.lis.virginia.gov/vacode/title59.1/chapter5/section59.1-75/)

This brokerage firm [ ]  does OR [ ]  does not have additional rules regarding Team names.

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[Brokers add your policy here regarding team names. Items to consider in developing this policy include whether Teams are allowed to use terms such as “realty” or “real estate” in their name, whether words tying it to the Firm name are required (i.e. “with ABC Brokerage” or “of ABC Brokerage”), and anything that might mislead the public as to whether the Team is a separate and independent brokerage. Additionally, while Virginia does not have restrictions or requirements, other jurisdictions may and teams practicing across state lines should be aware of any requirements for each jurisdiction in which they practice.]

## Team Advertising

All advertising regulations and firm policies apply to teams as well as individual licensees. All team advertising must be approved by the supervising broker. All team advertising must include the Firm’s licensed name clearly and legibly displayed.

No team can advertise without a business entity salesperson license from DPOR. All Team advertising must be done in the Team’s licensed name; the name that is on file with DPOR and/or in the d/b/a certificate. Where it says “Licensee name” in the advertising regulations, it is referring to the team’s licensed name.

This brokerage firm [ ]  does OR [ ]  does not have additional rules regarding Team advertising.

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[Broker: Insert any Company-specific advertising policies here. Things to consider related to Team Advertising include: whether there are any restrictions on use of specific words; whether the team is required to or prohibited from using specific colors in team specific branding; etc.]

## Team Compensation

This brokerage firm [ ]  pays commissions to team business entities directly OR [ ]  will only pay team members directly.

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*For a real estate team or any business entity to be paid commissions, the entity or team must first have a business entity salesperson license with DPOR*. Once the team is paid, compensation can be distributed among team members as set forth in the entity governing documents.

[*18 VAC 135-20-280. Improper Brokerage Commission*](https://law.lis.virginia.gov/admincode/title18/agency135/chapter20/section280/).

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[Brokers add any additional Firm policies regarding team compensation, fees, splits, etc. here.]

## Teams and Agency

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[Brokers add any Firm policies regarding teams and agency here.]

## Broker Supervision

*The supervising broker must exercise reasonable and adequate supervision of the provision of real estate services by all salespersons affiliated with the Firm, including all Team members, licensed or unlicensed. The Broker must review and approve all documents, including but not limited to contracts, brokerage agreements, and all team advertising.*

[*§ 54.1-2110.1. Duties of supervising broker.*](https://law.lis.virginia.gov/vacode/title54.1/chapter21/section54.1-2110.1/)

[*18 VAC 135-20-165. Duties of a Supervising Broker*](https://law.lis.virginia.gov/admincode/title18/agency135/chapter20/section165/)*.*

All team documents, employment agreements, business documents, etc. must be reviewed and approved by the Supervising Broker.

A team may not operate out of an office or location other than the Broker’s office or the branch office where their licenses are displayed. *Each place of business or branch office must be supervised by the supervising broker. Any exterior signage at such a location must include the Firm’s licensed name.*

[*18 VAC 135-20-190. Advertising by Licensees*](https://law.lis.virginia.gov/admincode/title18/agency135/chapter20/section190/)*.*

[*18 VAC 135-20-165. Duties of Supervising Broker*](https://law.lis.virginia.gov/admincode/title18/agency135/chapter20/section165/)*.*

# APPENDIX A - DEFINITIONS

"Client" means a person who has entered into a brokerage relationship with a licensee.

"Customer" means a person who has not entered into a brokerage relationship with a Licensee but for whom a Licensee performs ministerial acts in a real estate transaction.

"Ministerial acts" means those routine acts which a licensee can perform for a person which do not involve discretion or the exercise of the licensee's own judgment.

"Principal to a transaction" means a party to a real estate transaction including a Seller or Buyer. For the purposes of this chapter, the listing or selling Broker, or both, are not by virtue of their brokerage relationship, principals to the transaction.

"Residential real estate" means real property containing from one to four residential dwelling units and the sale of lots containing one to four residential dwelling units.

"Real estate team" means two or more individuals, one or more of whom is a real estate salesperson or broker, who (i) work together as a unit within the same brokerage firm, (ii) represent themselves to the public as working together as one unit, and (iii) designate themselves by a fictitious name.

[*§ 54.1-2100. Definitions.*](https://law.lis.virginia.gov/vacode/title54.1/chapter21/section54.1-2100/)

[*18 VAC 135-20-10. Definitions*](https://law.lis.virginia.gov/admincode/title18/agency135/chapter20/section10/)

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# APPENDIX B Table of Provisions that Must Be Reviewed

The following provisions contain either blanks that must be filled in, options to select by the Broker, or policy that should be developed:

|  |  |
| --- | --- |
| Option/Blank | Page |
| [OFFICE POLICIES](#_OFFICE_POLICIES) | 5 |
| [Team Names](#_Team_Names) |  |
| [Team Advertising](#_Team_Advertising) |  |
| [Team Compensation](#_Team_Compensation) |  |
| [Teams and Agency](#_Teams_and_Agency) |  |
| [APPENDIX C List of Resources](#_APPENDIX_C_) |  |
|  |  |

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# APPENDIX C List of Resources

All Associates affiliated with the Company shall familiarize themselves and are required to keep themselves updated on all changes in the law insofar as they affect real estate licensees. Salespeople and Associate brokers of the Company shall comply with all Code of Ethics, Standards of Practice, and other rules and regulations imposed upon them by virtue of membership at NAR, Virginia REALTORS®, their local association, MLS and lockbox system. Associates will adhere to the rules and regulations imposed upon them by all federal and state laws and shall act in accordance with these laws and any other laws, rules, and regulations imposed upon them by being a real estate Licensee. Below is a list of resources for Associates to review so that they may comply with all rules, regulations, and standards of conducts imposed upon them by being part of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Insert Company Name).

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1. STATE LAWS AND REGULATIONS
2. [DPOR](http://www.dpor.virginia.gov)
3. Code of Virginia
	1. [Title 36 – Housing; Chapter 5.1 – Virginia Fair Housing Law](http://law.lis.virginia.gov/vacode/title36)
	2. [Title 54.1 – Professions and Occupations; Chapter 21 – Real Estate Brokers, Sales Persons and Rental Location Agents](https://law.lis.virginia.gov/vacode/title54.1/chapter21/)
	3. [Title 55.1 – Property and Conveyances](https://law.lis.virginia.gov/vacode/title55.1/)
	4. [Title 55.1 – Property and Conveyances; Chapter 12 - Virginia Residential Landlord and Tenant Act](https://law.lis.virginia.gov/vacode/title55.1/chapter12/)
	5. [Title 55.1 – Property and Conveyances; Chapter 18 – Property Owners’ Association Act](https://law.lis.virginia.gov/vacode/title55.1/chapter18/)
	6. [Title 55.1 – Property and Conveyances; Chapter 19 – Condominium Act](https://law.lis.virginia.gov/vacode/title55.1/chapter19/)
4. Virginia Administrative Code
	1. [Real Estate Board](https://law.lis.virginia.gov/admincode/title18/agency135/chapter20/)
5. [Virginia Employment Commission](http://www.vec.virginia.gov/)
6. ASSOCIATION RESOURCES
7. [NAR – Code of Ethics](https://www.nar.realtor/about-nar/governing-documents/code-of-ethics)
8. [Virginia REALTORS® Legal Resources](https://www.virginiarealtors.org)
	1. Legal Resources
	2. Standard Forms
9. Local Association
	1. Rules & Bylaws
		* 🖎BROKER TO FILL IN
	2. Lockbox Rules & Regulations
		* 🖎BROKER TO FILL IN
10. MLS – Rules & Regulations
* 🖎BROKER TO FILL IN
1. FEDERAL REGULATIONS
2. [HUD – Federal Fair Housing & Equal Opportunity](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp)
3. [ADA Guide for Small Businesses](http://www.ada.gov/smbusgd.pdf)
4. [IRS](http://www.irs.gov/)
5. [Lead Based Paint Hazards](https://www.epa.gov/lead/real-estate-disclosures-about-potential-lead-hazards)

# Appendix DTeam Formation, Registration & Licensure

Prior to operating as a real estate team in Virginia, as defined above, a team must be properly created and licensed.

1. **Choose business type**

Individuals wishing to form a team should consult with a tax professional and attorney to discuss what type of business type will best suit the needs of the individuals. There are different advantages and requirements for each type of business structure.

1. **Choose distinguishable business name**

Once a business type has been selected, select a team name based on the requirements in the Team Names section above, and check for name distinguishability on the State Corporation Commission Website.

<https://sccefile.scc.virginia.gov/NameAvailability>

A proposed business entity name must be distinguishable from the names of all active business entities, except general partnerships, and from names that have been designated, registered, or reserved for use by other persons with the State Corporation Commission.

1. **Register with the State Corporation Commission**

If the business entity has already been formed in another jurisdiction, the team must file the appropriate Foreign Registration Documents with the State Corporation Commission.

<https://www.scc.virginia.gov/clk/formsum.aspx>

If the business entity has not been formed, the team must file the appropriate Virginia Formation Documents with the State Corporation Commission.

<https://www.scc.virginia.gov/clk/formsum.aspx>

1. **File Certificate of Fictitious Name**

A fictitious name is a name that a person (individual or business entity) uses instead of that person’s true name, usually in the course of transacting or offering to transact business. It is sometimes referred to as an “assumed name” or “trade name,” and is often identified after a person’s true name with the abbreviation “t/a” (“trading as”), “dba” (“doing business as”), or “aka” (“also known as”).

You must file a certificate of assumed or fictitious name with the clerk of the State Corporation Commission. The State Corporation Commission has a $10.00 filing fee for this form.

1. **Obtain Federal EIN**

Teams must obtain a federal Employer Identification Number (EIN) from the Internal Revenue Service (IRS) here: <https://www.irs.gov/businesses/small-businesses-self-employed/apply-for-an-employer-identification-number-ein-online>

1. **Obtain State Tax ID**

After obtaining the EIN and registering with the SCC, teams must register with Virginia Tax. If the team will hire employees, it will also need to register with the Virginia Employment Commission (VEC), which can be done at the same time as registering with Virginia Tax.

<https://tax.virginia.gov/register-business-virginia>

1. **Obtain Business Entity Salesperson License**

Teams must obtain a Business Entity Salesperson License from the Virginia Real Estate Board prior to conducting any licensed activities, including advertising. A new team must apply using the “Business Entity – License/Reinstatement Application” available from DPOR.

<http://www.dpor.virginia.gov/Boards/Real-Estate/Forms/Firms/>

SIGNATURE PAGE