



Understanding Agency Relationships

An agency relationship is the fiduciary relationship resulting when a person, the agent, represents the interests of another person, the principal, in dealings with others.

- In a real estate sales transaction, the relationship formed between the brokerage and a consumer often is an agency relationship, with the consumer being the principal (the client) and the brokerage, the agent.
- In general, an agency relationship is formed when the principal delegates authority to the agent to perform acts on behalf of the principal and the agent consents to the delegation.
- In an agency relationship, the real estate licensee owes certain fiduciary duties to the principal. The traditional fiduciary duties include: loyalty, obedience, disclosure, confidentiality, reasonable care and diligence, and accounting.
- The agent is obligated to act at all times solely in the best interests of the principal, excluding all other interests, including those of the agent.
- The agent is obligated to promptly and efficiently obey all lawful instructions of the principal that conform to the purpose of the agency relationship.
- The agent is also obligated to act only as the principal authorizes.
- The agent must disclose to the principal all known relevant and material information pertaining to the scope of the agency relationship. (This should not be confused with a licensee's duty to disclose known material facts to non-principals, such as customers).
- The agent is obligated to safeguard the principal's lawful confidences and secrets. Most state statutes specify what a licensee's duty is as far as keeping confidential information confidential following termination of an agency relationship.
- The agent is obligated to account for all money and property belonging to the principal that are entrusted to the agent.
- The standard of care expected of a buyer's or seller's real estate broker is that of a competent real estate broker. By reason of his or her real estate license, a real estate licensee is considered to have skill and expertise in real estate matters superior to the average person. If a principal raises a concern that is outside 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.
- On the seller side of the transaction, the agency agreement often is part of the listing agreement. Every listing presentation should include a description of the agency relationship as defined by your state's law.

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