

## Summary of 2021 MLS Changes

This Summary highlights changes in NAR MLS policy adopted in 2020, including changes to the Model MLS Rules and Regulations (all types), and changes to the MLS Policy Statements, both found in the 2021 *Handbook on Multiple Listing Policy*, available at <https://www.nar.realtor/handbook-on-multiple-listing-policy>. Shaded portions of the Handbook highlight all areas that have changed. All changes become effective January 1, 2021, unless indicated otherwise.

For comprehensive background information and additional detail, the Multiple Listing Issues and Policy Committee agenda and minutes can be found at <http://nar.realtor/natmeet.nsf>.

Throughout the Summary, underscoring indicates additions and strikeouts indicates deletions. At the end of each policy change, the compliance classification category is noted by the letters:

<b>M</b>	Mandatory*
<b>R</b>	Recommended
<b>O</b>	Optional
<b>I</b>	Informational

*\*Adoption is necessary to ensure compliance with mandatory policies and ensure coverage under the NAR's insurance policy for associations and MLSs. Local adoption is required by March 1, 2021.*

### Changes to Model MLS Rules and Regulations (all types)

- **(New) Section 1.2.0, Accuracy of Listing Data**

Participants and subscribers are required to submit accurate listing data and required to correct any known errors.

**M**

- **Section 7, Compliance with Rules — Authority to Impose Discipline**

By becoming and remaining a participant or subscriber in this MLS, each participant and subscriber agrees to be subject to the rules and regulations and any other MLS governance provision. The MLS may, through the administrative and hearing procedures established in these rules, impose discipline for violations of the rules and other MLS governance provisions. Discipline that may be imposed may only consist of one or more of the following:

- a. letter of warning
- b. letter of reprimand
- c. attendance at MLS orientation or other appropriate courses or seminars which the participant or subscriber can reasonably attend taking into consideration cost, location, and duration

***(Section 7, Compliance with Rules — Authority to Impose Discipline continued)***

- d. appropriate, reasonable fine not to exceed \$15,000
- e. suspension of MLS rights, privileges, and services for not less than thirty (30) days nor more than one (1) year
- f. termination of MLS rights, privileges, and services with no right to reapply for a specified period not to exceed three (3) years. *(Revised 11/14)* **M**

**Note 1:** A participant (or user/subscriber, where appropriate) can be placed on probation. Probation is not a form of discipline. When a participant (or user/subscriber, where appropriate) is placed on probation the discipline is held in abeyance for a stipulated period of time not longer than one (1) year. Any subsequent finding of a violation of the MLS rules during the probationary period may, at the discretion of the Board of Directors, result in the imposition of the suspended discipline. Absent any subsequent findings of a violation during the probationary period, both the probationary status and the suspended discipline are considered fulfilled, and the individual's record will reflect the fulfillment. The fact that one or more forms of discipline are held in abeyance during the probationary period does not bar imposition of other forms of discipline which will not be held in abeyance. *(Revised 05/14)* **M**

**Note 2:** MLS participants and subscribers can receive no more than three (3) administrative sanctions in a calendar year before they are required to attend a hearing for their actions and potential violations of MLS rules, except that the MLS may allow more administrative sanctions for violations of listing information provided by participants and subscribers before requiring a hearing. The MLS must send a copy of all administrative sanctions against a subscriber to the subscriber's participant and the participant is required to attend the hearing of a subscriber who has received more than three (3) administrative sanctions within a calendar year. *(Adopted 11/20)* **M**

- **Section 9, Consideration of Alleged Violations**

The committee shall give consideration to all written complaints having to do with violations of the rules and regulations. By becoming and remaining a participant, each participant agrees to be subject to these rules and regulations, the enforcement of which are at the sole discretion of the Committee (Board of Directors).

When requested by a complainant, the MLS will process a complaint without revealing the complainant's identity. If a complaint is subsequently forwarded to a hearing, and the original complainant does not consent to participating in the process, the MLS will appoint a representative to serve as the complainant. *(Amended 11/20)* **M**

## Changes to Multiple Listing Policy Statements

- **MLS Policy Statement 7.90, Real Estate Transaction Standards (RETS) and RESO Standards**

The integrity of data is a foundation to the orderly real estate market. The Real Estate Transaction Standards (RETS) provide a vendor neutral, secure approach to exchanging listing information between the broker and the MLS. In order to ensure that the goal of maintaining an orderly marketplace is maintained, and to further establish Realtor® information as the trusted data source, MLS organizations owned and operated by associations of Realtors® will implement the RESO Standards including: the RESO Data Dictionary by January 1, 2016; the RESO Web API by June 30, 2016 and will keep current by implementing new releases of RESO Standards within one (1) year from ratification. Compliance with this requirement can be demonstrated using the Real Estate Standards Organization (RESO) compliance Certification Process. Web API data access provided to participants and subscribers must have no less than the same data available via data access methods such as RETS or FTP systems, and MLS fields that exist in the RESO Data Dictionary must be delivered in conformance with the standard. (Amended 11/1420) **M**

- **(New) MLS Policy Statement 8.2, Customer Service and Tech Support**

The MLS must display customer service and technical support contact information on the MLS website. **M**

- **(New) MLS Policy Statement 8.1, Fair Housing**

Multiple Listing Services are important tools for furthering fair housing because they facilitate the widespread distribution of accurate property information to all consumers. To that end, MLSs must implement a process for identifying potential violations of fair housing laws, advising participants and subscribers to remove or correct potential violations. **M**

### **Registered-Standard Multiple Listing Service Mark-Logo of the NATIONAL ASSOCIATION OF REALTORS®**

- **Section 3, Nature of the Standard Multiple Listing Service Mark and Necessity to Effect License Agreement to Use**

The NATIONAL ASSOCIATION OF REALTORS® has approved a standard multiple listing service logo (the “Logo”) for use by authorized chartered associations of REALTORS®, members of such associations, and multiple listing services solely owned by such association(s) pursuant to the terms set forth herein, and as further described in the Membership Marks Manual, and their members, a standard multiple listing service mark. However, the standard service mark may not be used without a license from the NATIONAL ASSOCIATION OF REALTORS®. Such license will be granted only to those associations of REALTORS® that own and/or control the multiple listing activity and only to such associations the governing documents of which have been approved as being in compliance with multiple listing policy of the National Association. Further, the design must not be used as a lapel pin or any type of jewelry.

(Deletion of old logo image)

Downloadable files and additional information about the Logo may be found on [nar.realtor](http://nar.realtor). (Amended 11/20) **M**

● **Section 4, ~~How to Secure Authorization to Use a~~ the Standard Multiple Listing Service Logo-Mark**

Authorization to use the Logo is limited to the following authorized licensees (“Authorized Licensees”):

- a. Associations of REALTORS<sup>®</sup> that own or control multiple listing service, wholly owned by REALTOR<sup>®</sup> Associations, and that have certified that their governing documents comply with multiple listing policy of the National Association.
- b. Multiple listing services owned and/or controlled solely by an association(s) of REALTORS<sup>®</sup>, and when the governing documents of the owning or controlling association(s) of REALTORS<sup>®</sup> and/or the MLS, if a separate legal entity with separate governing documents, have certified that their governing documents comply with multiple listing policy of the National Association.
- c. Members of an association of REALTORS<sup>®</sup> that owns and/or controls a multiple listing service and that has certified that their governing documents comply with multiple listing policy of the National Association.

Authorized Licensees use of the Logo is subject to the following limitations:

- The Logo may not be modified.
- The Logo may not be used as a lapel pin or jewelry.
- The Logo may be used only on stationery, printed forms, websites and within promotional materials regarding multiple listing services.
- Authorized Licensees acknowledge that the National Association is the exclusive owner of the Logo.
- The multiple listing service must cease all use of the Logo in the event it is no longer solely owned and/or controlled by an association(s) of REALTORS<sup>®</sup>.
- The association(s) of REALTORS<sup>®</sup> and multiple listing service must cease all use of the Logo in the event any governing documents of the association(s) of REALTORS<sup>®</sup> or the multiple listing service, if applicable, do not comply with multiple listing policy of the National Association.
- The National Association reserves the right to require Authorized Licensees to adhere to additional limitations on use of the Logo and to cease use of the Logo for any reason within its sole discretion.

~~To secure a license to use the multiple listing service mark, please obtain two (2) copies of the license agreement for use of the MLS service mark by an association from Board Policy and Programs, National Association (See Appendix 4). Complete in duplicate and mail both copies to the NATIONAL ASSOCIATION OF REALTORS<sup>®</sup>. A copy of the association’s bylaws providing for a multiple listing service owned and/or controlled by the applicant association, and a copy of the multiple listing service rules and regulations must be submitted for review by the National Association.~~

Upon approval, the NATIONAL ASSOCIATION OF REALTORS® will complete the agreement, with appropriate signatures affixed thereto, and will return one copy to the association of REALTORS® authorizing the use of the service mark. **I**

- **Section 5, Special Notes Concerning MLS—the Standard Multiple Listing Service Logo and the National Association’s REALTOR® Trademarks Mark**

The NATIONAL ASSOCIATION OF REALTORS® ~~grants no~~ **does not permit any** variation of the Logo design of the standard MLS service mark. Further, the National Association will not review and **does not** authorize any multiple listing service insignia to be used with the Logo other than it’s the multiple listing service’s own logo service mark. Further, the National Association’s term REALTOR® trademarks may not, in any instance, be used in connection with any multiple listing service not owned and/or controlled solely by an association(s) of REALTORS®. *(Amended 11/20)* **M**

- **Section 6, Use of MLS—the Standard Multiple Listing Service Logo by Nonmember Participants (Policy Statement 7.13)**

The Logo may not be used by non-association members of an MLS, including in any state where law requires that brokers (principals) who are not REALTORS® be admitted to the multiple listing service of an association of REALTORS®, or in any association which has voluntarily opened its MLS to nonmember brokers and/or appraisers, the official registered multiple listing service logo of the National Association should not be used by such a non-association member. Such use would be a misrepresentation and would violate the registration rights in the REALTOR® trademarks of the NATIONAL ASSOCIATION OF REALTORS®, the lawful owner of said collective service marks. Where such non-association member advertises that they are he is a member of the multiple listing service of an association of REALTORS®, the multiple listing service may properly require that such participant of the service additionally indicate in his include in such advertisement that he is they are not a member of the association of REALTORS®. *(Amended 11/2096)* **M**

- **MLS Policy Statement 7.60, Standards Forms Listings**

Maintaining accurate listing data is a critical necessity for achieving the defined purpose of the MLS. Participants and subscribers are required to submit accurate listing data and be required to correct any known errors.

Multiple listing services ~~may shall~~ not require participants to enter into listing agreements using a form other than the form a participant individually chooses to use. Multiple listing services ~~may shall~~ refuse to accept any listing which fails to adequately protect the interests of the public and other participants, and will shall not accept any listing which establishes a contractual relationship between the MLS and a participant’s client. (Adopted 11/04) **M**

- **(New) MLS Policy Statement 8.3, Right of Participant to MLS Data Feed of Listing Content**

A Multiple Listing Service must, upon request, promptly provide an MLS Participant (or the Participant's designee) a data feed containing, at minimum, all active MLS listing content input into the MLS by or on behalf of the Participant and all of the Participant's off-market listing content available in the MLS system. The delivery charges for the Participant's listing content shall be reasonably related to the actual costs incurred by the MLS. The data feed must be in compliance with the RESO Standards as provided for in MLS Policy Statement 7.90.

Note: MLSs will not limit the use of the Participant's listing content by the Participant or the Participant's designee.  
(Adopted 5/20)

- **MLS Policy Statement 7.21, Appropriate Procedures for Rules Enforcement**

**Filing Complaints**

When requested by a complainant, MLSs must provide a process for processing complaints without revealing the complainant's identity. If the complaint is forwarded to hearing, then the MLS Committee, Grievance Committee, MLS staff or other representative must serve as the complainant when the original complainant does not consent to participating in the process or the disclosure of his or her name.

**Administrative Sanctions**

In any instance where a participant in an association multiple listing service is charged with a violation of the MLS bylaws or rules and regulations of the service, and such charge does not include alleged violations of the Code of Ethics or the Standards of Conduct for MLS participants, or a request for arbitration, ~~it may be administratively considered and determined by the MLS governing committee or MLS board of directors~~ the MLS may impose administrative sanctions. If a violation is determined, the committee or MLS board of directors may direct the imposition of sanction, provided that the recipients of such an administrative sanction may request a hearing before the professional standards committee of the association.

MLS participants and subscribers can receive no more than three (3) administrative sanctions in a calendar year before they are required to attend a hearing for their actions and potential violations of MLS rules, except that the MLS may allow more administrative sanctions for

violations of listing information provided by participants and subscribers before requiring a hearing. The MLS must send a copy of all administrative sanctions against a subscriber to the subscriber's participant and the participant is required to attend the hearing of a subscriber who has received more than three (3) administrative sanctions within a calendar year.

### **Appeals and Hearing Options**

If the participant refuses to accept any sanction or discipline proposed, the circumstances and the discipline proposed shall be appealed to the board of directors of the association of REALTORS® which shall, if it deems the finding of violation proper and the sanction appropriate to the offense, delay the effective date of sanction until final entry by a court of competent jurisdiction in a suit filed by the association for declaratory relief, except in those states where declaratory relief is not available, declaring that the disciplinary action and proposed sanction violates no rights of the multiple listing service participant. If the MLS committee has a procedure established to conduct hearings, the decision of the MLS committee may be appealed to the board of directors of the association of REALTORS®. If a separately incorporated MLS has an established procedure for the conduct of hearings, the decisions of the hearing tribunal shall be appealable to the board of directors of the MLS.

Alleged violations of the Code of Ethics or the Standards of Conduct for MLS participants shall be referred to the association's grievance committee for processing in accordance with the professional standards procedures of the association. If the charge alleges a refusal to arbitrate, such charge shall be referred directly to the board of directors of the association of REALTORS®. (*Amended 11/202/98*) **M**

- **Part Two, F. Enforcement of Rules, Section 5 – MLS Disciplinary Guidelines**

Associations of REALTORS® and their multiple listing services have the responsibility of fostering awareness, understanding, and appreciation for the duties and responsibilities of MLS participants and subscribers, and of receiving and resolving complaints alleging violations of the rules and regulations. The REALTOR® organization is firmly committed to vigorous, fair, and uniform enforcement. Enforcement achieves a number of goals. Where participants or subscribers are wrongly or mistakenly charged with violations, the hearing process provides personal and professional vindication. Where violations are determined, enforcement process educates participants and subscribers about their duties and obligations, and serves as a meaningful deterrent of future violations.

Allegations of conduct inconsistent with the rules are often viewed by respondents as threats to their professional and personal reputations. This can result not only in their mounting vigorous defenses but also, at times, to threats of legal challenge should a violation be determined and discipline imposed. Given that MLS participation can have significant economic value, associations and their MLSs need to strictly adhere to their established procedures when considering potential violations. This caution ensures that the rights of the parties will be observed, and legal exposure of associations and their MLSs will be minimized.



At the same time, well-founded caution should not be confused with reservation, reluctance, or hesitancy. Rules become aspirations at best, and potentially meaningless, if not enforced with vigor and determination.

Fundamental to fair and consistent enforcement is reasonable and judicious use of discipline, as both an educational device and as punishment. Associations and their MLSs have a wide variety of sanctions available to them that may be imposed for violations. These range from simple letters of warning to termination of MLS rights and privileges. Between these extremes are mandatory attendance at remedial education sessions, financial penalties, probation, and suspension.

The National Association does not recommend specific penalties for certain offenses or for violations of particular rules. This is in deference to the wisdom and autonomy of the hearing panel privy to the details of complaints coming before them; in recognition of the fact that no two complaints are identical; and in view of the facts that the details of each hearing, including the experience of respondents, their history of prior violations, and mitigating or extenuating circumstances, may all come into play in determining an appropriate penalty. At the same time, there are key points to be considered with respect to imposition of discipline:

- Discipline that can be imposed is strictly limited to those forms authorized in the NATIONAL ASSOCIATION OF REALTORS® Code of Ethics and Arbitration Manual and to any additional form authorized by the National Association's board of directors.
- Discipline should be commensurate with the offense. Unintentional or inadvertent violations should result in penalties designed to educate respondents about the conduct expected of them. Only authorized forms of discipline may be utilized.
- Discipline should be progressive. The disciplinary emphasis on violations by new members or by long-standing members with no history of prior violations should be primarily educational. Repeated or subsequent violations should be addressed with more serious forms of discipline, including substantial fines, suspension, and termination of MLS rights and privileges.
- A gray area can exist with respect to "first time violations" that are clearly not the result of ignorance or mistake but rather demonstrate flagrant disregard for the rules. While the educational aspect of enforcement cannot be disregarded, the fact that the rules exist to protect clients and customers, the public, and to ensure effective, efficient functioning of the MLS, must also be considered in determining commensurate discipline.
- Mitigating or extenuating circumstances should be considered in determining appropriate discipline. The fact that a respondent recognizes or acknowledges inappropriate conduct or took steps to remediate or minimize harm or injury, should be considered in determining appropriate discipline.
- Respondent's records of earlier violations or, conversely, the fact that they have not violated the rules in the past, can be considered in determining appropriate discipline. Hearing panels cannot consider past violations in deciding whether the conduct currently complained of violates the rules.



Crafting appropriate, meaningful discipline can challenge panels that have concluded the rules have been violated. This discussion is offered as guidance, rather than as a hard and fast template, to assist panels in meeting their responsibility in ensuring the rules' viability and vitality through vigorous and evenhanded enforcement.

### **Progressive Discipline**

Discipline imposed for violation of the rules should be progressive. The severity of discipline should increase incrementally for subsequent violations. The disciplinary emphasis where first time violations occur should be primarily educational. Repeated or subsequent violations should result in more serious forms of discipline being utilized, including substantial fines, suspension, and termination of MLS rights and privileges. At the same time, a gray area can exist where a first-time violation is not attributable to ignorance or oversight, but rather to blatant disregard for the rules. While the educational emphasis of enforcement cannot be disregarded, the fact the rules exist to protect clients and customers, the public, and to ensure the effective, efficient functioning of the MLS must be carefully considered in determining appropriate discipline.

Factors hearing panels should consider in determining appropriate discipline include, but are not necessarily limited to:

- The nature of the violation
- Harm caused by the violation. Was the violation a minor mistake causing little or no harm or, alternatively, was a client, customer, member of the public, or another participant harmed?
- Was the violation inadvertent or unintentional or, conversely, was it the result of knowing disregard for the obligations of MLS participants and subscribers?
- How much real estate experience did the violator have? Did he, or should he, have known better?
- Has the violator been found in violation of the rules previously? How often? How recently? Is the current violation related or similar to earlier violations?
- Are there mitigating or extenuating circumstances that should be considered in determining appropriate discipline?
- Did the violator acknowledge the violation? Did the violator express remorse or contrition?
- Are there other factors that ought to be considered?

### **Administrative Sanctions**

The following is guidance for issuing administrative sanctions for MLS rule violations:

- Category 1 violation means a rule violation relating to listing information provided by a participant or subscriber.
- Category 2 violation means a rule violation relating to IDX and VOW displays.
- Category 3 violation means a rule violation relating to cooperation with a fellow participant or subscriber, and mandatory submission of listings to the service

**First Category 1 violation** (or first violation within three [3] years):

Possible discipline:

- Letter of warning
- Fine of \$500 or less
- Attendance at relevant education session

Any combination of the above

**Repeat Category 1 violation** (within three [3] years):

Possible discipline:

- Attendance at relevant education session(s) or course
- Fine of \$2,000 or less

Any combination of the above

**First Category 2 violation** (or first violation within three [3] years):

Possible discipline

- Letter of reprimand
- Fine of \$2,000 or less
- Attendance at relevant education session(s)

Any combination of the above

**Repeat Category 2 violation** (within three [3] years):

Possible discipline:

- Attendance at relevant education session(s) or course
- Fine of \$10,000 or less
- Suspension from the MLS or from the MLS' lockbox key access for three (3) months or less

Any combination of the above

**First Category 3 violation** (or first violation within three [3] years):

Possible discipline:

- Letter of reprimand
- Fine of \$10,000 or less
- Attendance at relevant education session(s)
- Suspension from MLS or from use of the MLS' lockbox key access for ninety (90) days or less

Any combination of the above

**Repeat Category 3 violation (within three [3] years):**

Possible discipline:

- Attendance at relevant education session(s) or course
- Fine of \$15,000 or less
- Suspension from MLS or from use of the MLS' lockbox key access for six (6) months or less
- Termination from MLS or from use of the MLS' lockbox key access for 1 to 3 years

Any combination of the above

MLSs are encouraged to use the MLS Schedule of Fines Table provided on NAR.realtor to establish standardized administrative sanctions for violations of the MLS rules.

**Scope of MLS Handbook for addressing MLS Rule Violations**

Potential violations of the MLS rules will be processed in accordance with MLS Policy Statement 7.21, and under the process provided for in Section 9 of the NAR model MLS Rules and Regulations. Potential violations of a data license agreement are not governed by NAR policy and will thus follow the terms for resolution in the agreement itself.

~~(Adopted-Amended 11/2007)~~ |