



COLORADO

Department of
Regulatory Agencies

COLORADO DIVISION OF REAL ESTATE & PROPERTY
MANAGEMENT CHECKLIST

Brokerage Name:

Broker Name:

Broker License No.:

POLICY MANUAL

CP-13 Commission Position on Office Policy Manuals
(Recodification adopted June 07, 2022)

Rule 6.4. specifies certain requirements for an Office Policy Manual. Additionally, Rule 6.3. sets forth Employing Broker's responsibilities regarding supervision. This Commission Position Statement sets forth what policies are required and what policies should be considered by brokerage firms.

Please indicate the page number of your manual where each item is addressed.

1. Personal Identifying Information ("PII"). Pursuant to Colorado law, all Brokerage Firms, Independent Brokers, and any Brokers utilizing documents that contain PII must exercise care with maintenance and destruction of these documents.

a. Section 6-1-713(2)(b), C.R.S. defines PII as the following:

- i. a social security number,
- ii. a personal identification number,
- iii. a password,
- iv. a pass code,
- v. an official state or government-issued driver's license or identification card,
- vi. a government passport number,
- vii. biometric data as defined in section 6-1-716(1)(a), C.R.S.,
- viii. an employer, student, or military identification number, or
- ix. financial transaction device as defined in section 18-5-701, C.R.S.

b. Must have the following policies and procedures:

- i. procedures and practices for the reasonably secure maintenance and protection of PII. (see C.R.S. § 6-1-713.5).
- ii. procedures for the destruction or proper disposal of paper or electronic records by shredding, erasing, or otherwise modifying the following information to make it unreadable or indecipherable through any means.
- iii. procedures and practices for for the identification and notification of a security breach of PII. (see C.R.S. § 6-1-716).

2. Brokerage Relationships. All Employing and Independent Brokers must adopt a written policy identifying and describing the working relationships
(i.e. Transaction-Broker, seller agent, buyer agent, landlord agent, and/or tenant a





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offered by the Brokerage Firm or Independent Broker in any transactions conducted by the Brokerage Firm or the Independent Broker. (see Rule 6.4.A.).

☐ **3. Confidentiality.** Brokerage Firms with an Employing Broker and at least one Associate Broker must have a written office policy that identifies and provides adequate means and procedures for the maintenance and protection of confidential information as defined in Rule 6.4.B.4. Examples of procedures for the maintenance and protection of confidential information may include locked transaction files or no confidential information in transaction files.

- a. Brokers should exercise care to prevent inadvertent disclosure of confidential information. Situations where inadvertent disclosure may occur, include, but are not limited to:
 - i. sales meetings or marketing sessions,
 - ii. shared fax or copy machines,
 - iii. shared computer networks, printers, and file directories,
 - iv. in-office mailboxes,
 - v. handwritten telephone messages,
 - vi. phone conversations or meetings with clients,
 - vii. documents related to relocation, divorce, pending foreclosure, and other sensitive documents left unsecure on a computer desk,
 - viii. conversations with affiliated business providers,
 - ix. production boards, and
 - x. social functions

4. Additional Required Office Policies: For Brokerage Firms with an Employing Broker and at least one Associate Broker, the Brokerage Firm's written office policies must include:

- ☐ a. how the Employing Broker and/or Associate Broker(s) are designated, in writing, as a Designated Broker for each Consumer consistent with the Brokerage Firm's Brokerage Relationship Policy in #2 above.
- ☐ b. permit the Employing Broker to supervise transactions in which the Employing Broker is also a Designated Broker in the same transaction.
- ☐ c. Brokerage Firms with Trust and Escrow Account(s) must have a written policy regarding accounting controls to ensure adequate checks and balances over the accounts as set forth in Rule 5.1.

5. Recommended Office Policies: While office policies on the following topics are not required under Colorado law, they are highly recommended for Brokerage Firms with Associate Brokers:

- ☐ a. property listing procedures, including release of listings
- ☐ b. review of contracts
- ☐ c. handling of earnest money deposits, including release of earnest money
- ☐ d. back-up contracts
- ☐ e. closings
- ☐ f. owner financing and non-qualifying assumptions
- ☐ g. guaranteed buyouts
- ☐ h. investor purchases
- ☐ i. Associate Brokers' personal purchase and sale of property
- ☐ j. monitoring of license renewals and transfers
- ☐ k. delegation of authority for additional supervisors





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- ☐ l. property management
- ☐ m. training
 - ☐ i. dissemination of information
 - ☐ ii. sales meetings
- ☐ n. use of real estate administrative professionals
- ☐ o. fair housing
- ☐ p. listing syndication
 - ☐ i. brokerage participation
 - ☐ ii. entry and maintenance of information
- ☐ q. performance of and compensation for non-Real Estate Brokerage Services (i.e., broker price opinions, short-term rentals, broker-owned rentals, etc.)
- ☐ r. Trust and Escrow Account requirements for activities not involving Real Estate Brokerage Services as set forth in Rule 5.11.

Brokerage Firms are encouraged to add other office policies as appropriate to their area of practice. If one or several of these suggested topics (e.g., guaranteed buyouts) are not applicable in a particular Brokerage Firm, it is recommended that the policy should still be addressed by stating that the Brokerage Firm does not participate in that activity.

MANAGEMENT AGREEMENTS

Please indicate the page number of your management agreement where each item is addressed.

- ☐ 1. Disclosure of the type of agency relationship that the Brokerage Firm or Broker will use to represent the property owner.
- ☐ 2. Disclosure of the commission/fee, rate, and frequency paid to the Brokerage Firm or Broker.
- ☐ 3. The services that the manager will provide to the property owner in exchange for the commission/fee charged.
- ☐ 4. Disclosure of any leasing fee charged as part of the agreement.
- ☐ 5. Disclosure of any known conflicts of interest, and/or affiliate or subsidiary companies of the Brokerage Firm or Broker that may be used in connection with the agreement.
- ☐ 6. Disclosure of any mark-ups charged by the Brokerage Firm or Broker in connection with any services listed in the agreement.
- ☐ 7. Disclosure of a fee schedule for all charges, fees, commissions, hourly rates, etc. that the Brokerage Firm or Broker may charge, to any party to the transaction, as part of the agreement.
- ☐ 8. Disclosure of the type of accounts the Brokerage Firm or Broker will use to hold money belonging to others as part of the agreement.
- ☐ 9. Disclosure of the type of accounting that will be used for holding money belonging to others and the frequency of accounting reports that will be to be provided as part of this agreement.
- ☐ 10. Disclosure of who is responsible for holding any security deposit as part of the agreement. If the owner is responsible for holding any security deposit, the following





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items need to be addressed in the management agreement:

- ☐ i. The full financial responsibility for return of the deposit is transferred to the property owner.
- ☐ ii. The broker is appointed as the owner's agent for service of legal notices affecting the property.
- ☐ iii. The broker is authorized to return any deposit due the tenant from the owner's cash balance on hand or the owner funds advanced for such purpose.
- ☐ iv. Upon notice of dispute from the tenant, the Brokerage Firm or Broker shall not wrongfully withhold disclosure of the owner's true name and current mailing address.
- ☐ 11. The need to execute a Lead-Based Paint Disclosure by the property owner and Brokerage Firm or Broker for residential properties built before 1978. The signed disclosure must be given to any potential tenant prior to the tenant and owner signing a lease.

LEASES

Please indicate the page number of your lease where each item is addressed.

- ☐ 1. The amount of any security deposit to be collected as part of the agreement and who is responsible for holding the security deposit.
- ☐ 2. The brokerage disclosure to tenant.
- ☐ 3. The term of the lease and the amount charged for rent during the term of the lease.
- ☐ 4. If the owner is responsible for holding the deposit, the following items need to be addressed in the lease:
 - ☐ i. Notice must be given to the tenant that the owner will receive the deposit and is solely responsible for its return.
 - ☐ ii. Instructions for use by the tenant in requesting return of such money.
 - ☐ iii. Upon notice of dispute from the tenant, the broker shall not wrongfully withhold the disclosure of the owner's true name and current mailing address.
 - ☐ iv. Instructions authorizing the broker to transfer any security deposit placed in an owner's trust account to a succeeding property manager or owner, with timely notice by mail to the tenant pursuant to C.R.S. 38-12-103(4)(a) and (b). The lease may not contain a waiver of the tenants rights pursuant to C.R.S. 38-12-103(7).
- ☐ 5. The amount of any pet deposit, or any other type of deposit, and who is responsible for holding the deposit(s). If refundable and held by the owner, items (i) through (iv) cited above apply.
- ☐ 6. The amount of prepaid rent (last month's rent) and who is responsible for holding the prepaid rent. If the Brokerage Firm or Broker is responsible for holding the deposit, it should be maintained the Brokerage Firm or Broker's trust/escrow account.
- ☐ 7. The terms for returning any security deposit, pet deposit, or any other type of refundable deposit to the tenant(s) within 60 days after vacating the property.
- ☐ 8. The need to execute a Lead-Based Paint Disclosure for any residential property built before 1978.) The owner and applicant should sign the disclosure before the lease is signed.

SALES FILES





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The following is a *checklist for common records* to retain in both the listing and selling broker's property transaction file.

- Lead-based paint disclosures for residential property built before 1978;
- Exclusive right-to-buy/sell, or agency or open listing agreement and amendments (listing broker only);
- Disclosure of brokerage relationships;
- Disclosure of compensation for services and income from affiliated entities;
- Disclosure of the source of residential property square footage;
- Contact to buy/sell/exchange real estate, counterproposals, amendments, and attachments;
- Current marketing/MLS information used in the transaction;
- Inspection notice;
- Seller's property disclosure statement;
- Actual closing instructions, negotiated before the actual date of closing;
- Copy of any power of attorney (show recording data if closed in-house);
- Copy of earnest money check, validated escrow bank deposit slip (or receipt below);
- Signed and dated receipt for earnest money held by third-party closing entity;
- Copy of earnest money note;
- Buyer's financial information, if "owner-carry" financing;
- Rental/occupancy agreement before closing date (have separate security deposit);
- Estimated closing costs/estimate monthly expenses prepared by licensee;
- Settlement statement (or equivalent computer form) for the party represented or assisted
- Side agreement/amendment to revise a settlement statement;
- Promissory note (unsigned, marked "COPY");**
- Closing entity commission check remittance less earnest money amount if applicable;
- Tax reports required by government agencies (Colorado withholding tax);**
- Escrow receipts or collection agreements continuing after closing;
- Six-column worksheet for settlement (or equivalent computer form);**
- Deed (copy showing recording data if closed in-house);**
- Deed of trust (copy showing recording data if closed in-house);**
- Other legal documents prepared by the broker.**

**Required only when the broker personally prepares the document, conducts the closing in-house without use of a title company, and/or is responsible for recording of any documents.

MANAGEMENT FILES

This will offer guidance in what the auditor will be looking for.

- Current/past management and/or short-term reservation management agreements;
- Current/past lease or rental occupancy agreements with tenants and guests;
- Lead-based paint disclosures for residential property built before 1978;
- Disclosure of brokerage relationships and/or listing contracts to lease;
- Disclosure of compensation, service income from affiliated entities;
- Brokerage accounting records, bank reconciliation, tax and owner reports;





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- Ongoing contracts, bids, invoices, service provider billings, and correspondence with client;
- Legal notices, actions, and accounting reports affecting owner/occupant/tenant funds;
- Documentation for commissions earned versus taken or charged to others;
- Prompt assessment, timely (45-90 days) collection, restitution of all money due escrow; and
- Documentation verifying reported receipts, income, and all expenses paid for another.

NOTE: Commission Rule 6.24 states that all records required to be maintained by Brokers or Brokerage Firms may be maintained as Electronic Records. Electronic Records or printed records must be produced upon request by the Commission or any principal party to a transaction and must be in a format that has the continued capability to be retrieved and legibly printed.

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