

Commission Position 13 - Office Policy Manuals

(Recodification adoption June 7, 2022: CP-21 Commission Position on Office Policy Manuals and CP-22 Commission Position Statement on Handling of Confidential Information in Real Estate Brokerage recodified to CP 13 - Office Policy Manuals)

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.

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 the 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 the identification and notification of a security breach of PII. (*see* C.R.S. § 6-1-716).

c. A Broker who fails to protect or properly destroy PII may be found to be unworthy or incompetent. If a Broker has been found to have violated any provision of the Colorado Consumer Protection Act, the Commission may also discipline the Broker pursuant to section 12-10-217(1)(d), C.R.S.

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 agent) 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.).

All defined terms referenced in the Commission Position statements are codified in 4 CCR 725-1, Chapter 1 of the Rules regarding Real Estate Brokers.

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. Example 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 relating to relocation, divorce, pending foreclosure, and other sensitive documents left unsecure on a computer or desk,
 - viii. conversations with affiliated business providers,
 - ix. production boards, and
 - x. social functions.
 - b. An Associate Broker is permitted to share confidential information with an Employing Broker or Supervisory Broker without changing or extending the Brokerage Relationship beyond the Designated Broker.
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

All defined terms referenced in the Commission Position statements are codified in 4 CCR 725-1, Chapter 1 of the Rules regarding Real Estate Brokers.

- 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
- 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.

6. **Other Office Policies.** While Brokerage Firms are permitted to add other office policies, such as office policies on commission disputes and independent contractor agreements, the Commission may not have jurisdiction over the enforcement or interpretation of such office policies.
7. **Requirements for Brokerage Firms.** For Brokerage Firms with an Employing Broker and at least one Associate Broker, the Brokerage Firm's policies must:
 - a. apply to all Associate Brokers in the Brokerage Firm, and
 - b. be given to, and each Associate Broker must sign that they received, the Office Policy Manual.