

FAQ: MLS Clear Cooperation Policy

(Also known as NAR's mandated Policy 8)

On Mar. 23, 2020, the Columbus & Central Ohio MLS Board of Directors voted to add NAR's mandated MLS Clear Cooperation Policy to Columbus REALTORS® MLS Rules & Regulations, effective May 1, 2020.

Section 1.01 Clear Cooperation

“Within one (1) business day of marketing a property to the public, the listing broker must submit the listing to the MLS for cooperation with other MLS participants. Public marketing includes, but is not limited to, flyers displayed in windows, yard signs, digital marketing on public facing websites, brokerage website displays (including IDX and VOW), digital communications marketing (email blasts), multi-brokerage listing sharing networks, and applications available to the general public.” (Adopted by NAR 11/19)

Do ALL REALTOR® Association MLSs have to adopt the MLS Clear Cooperation Policy?

Yes. The National Association of REALTORS® has made it mandatory that all REALTOR® Association MLSs adopt the policy and have the same consistent standard.

Can a seller or the listing broker “opt out” of the policy’s obligations?

No. The new policy does not include an “opt out.” Any listing that is “publicly marketed” must be filed with the service and provided to other MLS Participants for cooperation within (1) one business day.

What is the meaning of “business day?”

Business days exclude Saturdays, Sundays and holidays. The NAR MLS Advisory Board specifically revised the policy’s timeframe due to concerns with enforcement to provide greater flexibility for days when submitting the listing to the service could be a challenge. For consistency among all REALTOR® Association MLSs, the approved timeframe is 1 business day. “Holidays” include all recognized federal and state holidays.

How does the new deadline of “1 business day from marketing a property to the public” correspond with the existing MLS rules?

According to Section 1 Listing Procedures of the MLS Rules & Regulations requires listings to be entered in the MLS within 48 hours after all necessary signatures of seller(s) have been obtained with a signed contract. That is still in effect. However, if the listing is “publicly marketed” in any way, then the 1 business day NAR deadline would supersede the MLS rule.

This includes:

- Single-family homes and Condominium Unit(s)
- Vacant lots and acreage zoned residential
- Two-family, three-family, and four-family residential buildings (Multi-Family units)
- All Farm/Agricultural property

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Under the new policy can a broker withhold sales information from the service, even when requested by the seller?

No. Status changes, including final closing of sales (closings) shall be reported to the Multiple Listing Service by the listing broker within 96 hours after they have occurred. (Section 2.5 Reporting Sales to the Service, MLS Rules & Regulations)

Is the new policy consistent with Article 3 of the NAR Code of Ethics?

Yes. By joining the MLS, Participants agree to be bound by the MLS Rules and Regulations. Per the policy's rationale, the public marketing of a listing indicates that the MLS participant has concluded that cooperation with other MLS participants is in their client's best interests.

If the MLS has established a pre-marketing solution that shares listing data with all MLSs participants and subscribers, does that comply with the cooperation requirements of the policy?

Yes. Showings may be "delayed" up to 30 days from list date with the submission of the Delayed Showing Authorization Form and the MLS field "Showing Start Date".

Does the new policy require changes to the local MLS rules?

Yes. NAR's mandated Policy 8 has been added to the MLS Rules and Regulations as Section 1.01 Clear Cooperation.

Are any listings exempted from this rule?

If the seller refuses to permit the listing to be disseminated by the service, the participant may then take the listing (office exclusive) and such listing shall be filed with the service but not disseminated to the participants. Filing of the listing should be accompanied by certification signed by the seller that he or she does not desire the listing to be disseminated by the service. (Section 1.5 Exempted Listings, MLS Rules & Regulations)

Why was this policy Approved?

The MLS creates an efficient marketplace and reinforces the pro-competitive, pro-consumer benefits that REALTORS® have long sought to support. After months of discussion and consideration within NAR's MLS Technology and Emerging Issues Advisory Board, this proposal was brought forth for the industry to discuss and consider, then approved by NAR's Board of Directors.

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Who made the decision that this policy was needed?

NAR's MLS Technology and Emerging Issues Advisory Board is made up of brokers and MLS executives from across the country. The policy was strongly supported by the NAR MLS Committee and the NAR Board of Directors.

Does the Clear Cooperation policy require listings to be included in an MLS's IDX displays?

No. While listings that are displayed on the Internet must be submitted to the MLS and distributed to other MLS participants for cooperation, submitting a listing for cooperation within the MLS does not necessarily require that listing to be included in an MLS's IDX display, if the seller has opted out of all Internet display. Per MLS rules, participants can work with their listing clients to determine an appropriate marketing plan, taking into account the client's needs and full disclosure of the benefits to market exposure.

Does the Clear Cooperation policy prohibit office exclusives?

No. "Office exclusive" listings are an important option for sellers concerned about privacy and wide exposure of their property being for sale. In an office exclusive listing, direct promotion of the listing between the brokers and licensees affiliated with the listing brokerage, and one-to-one promotion between these licensees and their clients, is not considered public advertising.

Common examples include divorce situations and celebrity clients. It allows the listing broker to market a property among the brokers and licensees affiliated with the listing brokerage. If office exclusive listings are displayed or advertised to the general public, however, those listings must also be submitted to the MLS for cooperation.

Does the Clear Cooperation policy require listings to be submitted to the MLS if they are advertised to a select group of brokers outside the listing broker's office?

Yes. If the listing is shared with any brokerage in any way, then it must be shared with all brokerages. "Private listing networks" that include more brokers or licensees than those affiliated with the listing brokerage constitute public advertising or display pursuant to the Clear Cooperation policy. Listings shared in multi-brokerage networks by participants must be submitted to the MLS for cooperation.

Does the Clear Cooperation policy apply to non-active listings?

Yes. Showings may be "delayed" up to 30 days from list date with the submission of the Delayed Showing Authorization Form and the MLS field "Showing Start Date".

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What if the listing isn't ready to be shown? Are "Delayed showing" listings allowed under the Clear Cooperation policy?

Yes. Showings may be "delayed" up to 30 days from list date with the submission of the Delayed Showing Authorization Form and the MLS field "Showing Start Date".

How will the new policy affect listings not yet available for showing and the calculations of "days on market?"

Listings with delayed showings are entered on the MLS as Active. DOM is calculated from "List Date" regardless of Showing Start Date. Showings may be "delayed" up to 30 days from list date with the submission of the Delayed Showing Authorization Form and the MLS field "Showing Start Date".

What is the timeline for this Policy?

The new Clear Cooperation policy is effective May 1, 2020 for Columbus' MLS.

Is there a penalty if I violate the new Clear Cooperation Policy?

Yes. First offense will result in a \$1,000 fine. If the listing is not entered into the MLS within the next 48 hours (two business days), and additional \$1,000 fine. Second offense will result in \$2500 fine. Third offense will result in \$5,000 fine. Repeat offenders of the Clear Cooperation policy will be review by MLS leadership and may results in service suspensions or additional fine assessments. (adopted Mar. 23, 2020 Columbus MLS Board of Directors)

Is there a grace period before these penalties will be enforced?

We will enforce the Clear Cooperation policy May 1, 2020. As we adopt this new policy, there will be a 30-day grace period where penalties will not be enforced. Penalties will be enforced beginning June 1, 2020.