
Policy Matters

*A REAL ESTATE CE COURSE BY
MELANIE MCLANE*



Do you ever feel like this is your job?

- **Why do we need a policy manual?**
- **It helps to herd the cats!**

What are the biggest challenges you face?

- **Finding reliable employees and agents**
- **Recruiting and retaining agents**
- **Training**
- **Legal and ethical compliance**
- **Creating a positive culture**
- **Agents who want a different brand of their own within a company (can cause confusion)**
- **Knowing when to help an agent and when to let them go**

Whys of a Policy Manual

- **Legal compliance**
- **Standardization of operations**
- **Risk management**
- **Agent and staff accountability**
- **Efficient onboarding and training**
- **Professionalism and reputation**
- **Operational continuity**
- **Dispute resolution**

Policy Manual

- Who has one?
- When did you last look at it?
- When was it last revised?
- Do the agents and staff know what is in it?



Mission Statement



- Core purpose
- Core values
- Identify who you serve
- Highlight how you serve
- Inspire and motivate

Take A Minute...

- **Write a mission statement**
- **Explain what points were most important to your group to get across**



Samples

- "To provide every client with exceptional service, honest guidance, and a seamless real estate experience—building relationships that last long after the closing table."
- "To cultivate a collaborative environment where agents thrive, clients succeed, and every transaction is handled with professionalism, innovation, and respect."

What Else?

- Organizational structure
- Licensing and affiliation requirements
- Ethical and legal standards
- Supervision and oversight
- Office operations
- Advertising and marketing guidelines
- Transaction management

What Else?

- Compensation and commission policies
- Risk management training
- Professional development
- Personnel policies
- Technology and software use
- Termination and offboarding
- Signatures of broker, agents, employees

Who Does What?



- Broker?
- Manager?
- Team Leader?
- All three?

Licensing and Affiliation Requirements



-
- REALTOR® membership
 - MLS membership
 - Franchise

Supervision & Oversight—Links to Risk Reduction



- What has to be done
- What has to be in the file
- Records and a trail of what you did and when

Risk Reduction: Agent is Gone

Transaction is still YOUR office

- Agent retired
- Moved away
- Went to another company
- Died
- You want files!



Office Operations



- Business hours
- After hours
- Use of equipment
- Use of space—private or shared?
- Supplies
- Authority

Advertising and Marketing



- Fair Housing
- Anti-trust
- Types of advertising
- Who pays?
- Online—who has authority?
- Should agents get approval?
- What does state law require for ads?

Transaction Management



- **Is there a transaction coordinator?**
- **Are the agents responsible?**
- **Are files reviewed before closing?**
- **Are commissions paid immediately?**

Compensation and Commission Policies

- Splits
- Referral fees
- If someone leaves the company before a closing
- If someone plans to retire



Risk Management Training

- Fair housing
- Agency issues
- Consumer protection
- Fraud
- Misrepresentation
- Etc.



E & O

- Read your policy
- Know what is in it
- Can you get a better rate with specific training?



Professional Development

- Designations
- Courses
- Involvement in real estate community



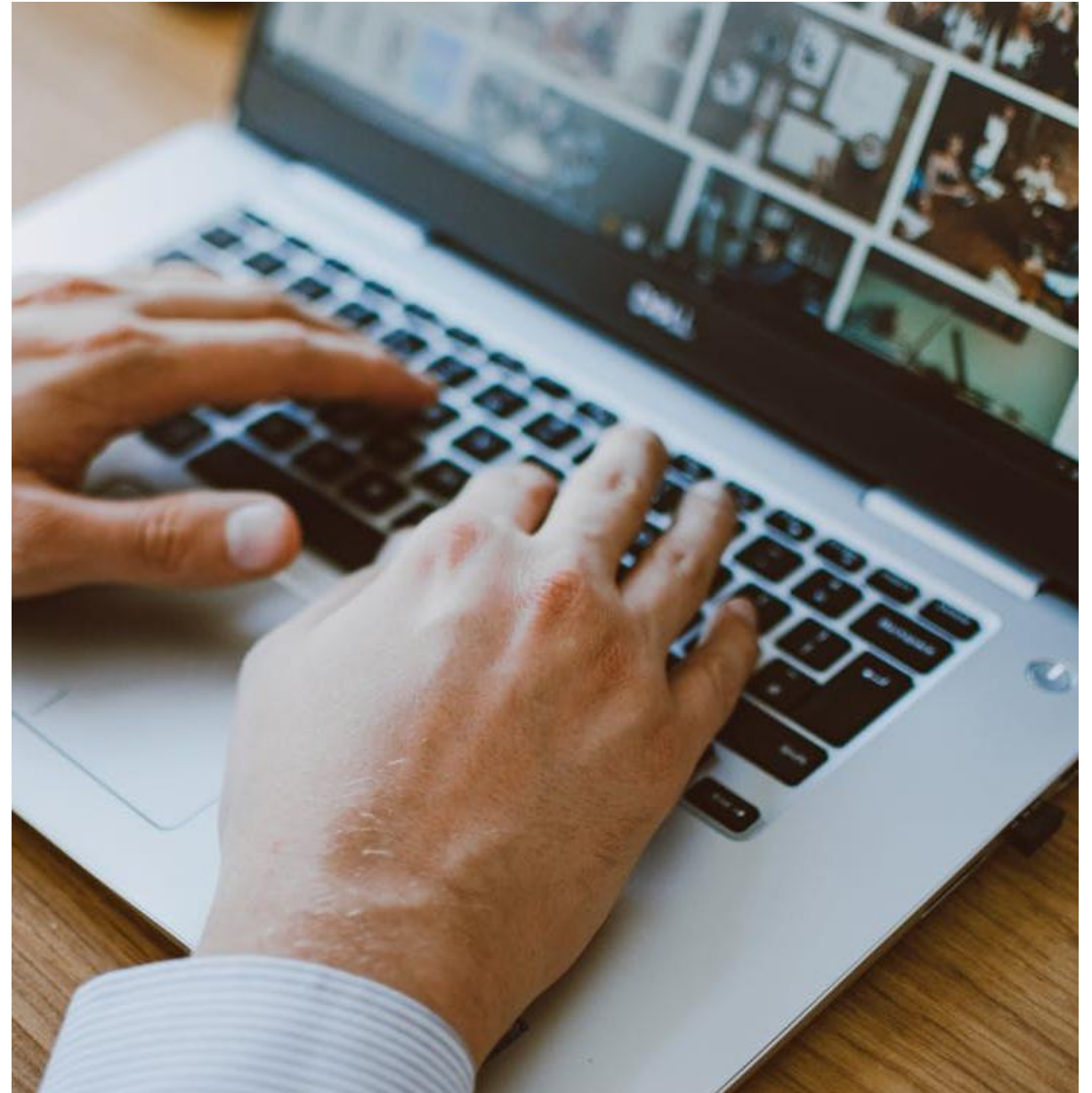
Personnel

- **Usually paid employees**
- **Not independent contractors**
- **Administrative assistants**
- **Bookkeepers**
- **Accountants**
- **Etc.**



Technology and Software Use

- Licenses
- Things the office computer **CAN** be used for
- Things the office computer **CANNOT** be used for



Termination and Offboarding

- Sometimes amicable
- Often not
- Usually has to happen quickly
- Change passwords, get keys, etc
- Review what policy manual states about commissions for unclosed sales



Signed and All Get Copies

- Binding agreement
- Keep signed agreement





Scenario #1: What do you do? How quickly? What should your policy manual say?

- Agent plans to leave
- Has been telling you that his clients want to cancel listings and buyer agency agreements
- Hasn't admitted he is leaving, but other agents say he is—and is trying to get them to come along with him

Scenario #2: What should you do? What should your manual say?

- **Two agents:**
- **One is accusing the other one of ‘stealing my client!’**
- **The accuser has worked with the client in the past**
- **Currently has no written agreement with the client**





Scenario #3: What should you do *immediately*? What should your manual say?

- **You discover that one of your agents has been enjoying adult beverages in the office, while using company computers**
- **On top of that, you realize this employee has visited numerous porn sites on this computer**

Scenario #4: What should the manual say?

- Agent is on vacation
- Has not lined up coverage
- Buyers miss the opportunity to rescind the sale based on issues with the home inspection
- Agent says “everyone needs some time off”





Scenario #5: What should the manual say?

- **Male agent is ‘friendly’**
- **Only to young attractive women in the office**
- **You are getting complaints**

INVOICE

[INVOICE NUMBER]

LOGO
HERE

Bill to:
Adam G Thomas
Gentle Rain Drive, no.11
Marana, Arizona

Company name
Company Address and
Information

No/Code	Product Description	Qty	Price	Total
1	Product descriptions	1	100	100
2	Product descriptions	1	100	100
3	Product descriptions	1	100	100
4	Product descriptions	1	100	100
5	Product descriptions	1	100	100
6	Product descriptions	1	100	100
7	Product descriptions	1	100	100
8	Product descriptions	1	100	100

Sub Total

800

Tax / VAT

80

Discount

100

Grand Total

780

Payment Method
Visa, Mastercard, Venmo, Paypal

Terms & Condition
Terms & Condition Information here

Thank You

Scenario #6: What should the policy be? What should the manual say?

- When reviewing invoices, you realize that your office supplies have really gone up
- Upon investigation, you realize an admin has been ordering many supplies
- Most of which are not found in the office

Scenario #7: What should the manual say? How do you curtail this?

- **Large multi-office company**
- **Clear organizational chart & line of command**
- **Agent who knows brokers personally keeps going directly to them with any and all complaints about office, etc.**



Wordsmithing

- Take this phrase and re-write it to be clearer
- “Agents shall present a professional appearance at all times”



Wordsmithing:

- **Avoid vague statements**
‘from time to time the management may revisit the commission schedule’
- **Avoid subjective conditions**
‘best interests of the company’ –exactly what is that?
- **Avoid any appearance of treating agents or employees differently based on any protected classes or**
- **Because they have been with you a long time**
- **Because they are a personal friend**
- **Because you are afraid of them**



Employee or Independent Contractor?

- **Control**
- **Benefits and legal protections**
- **Taxes**
- **Duration and relationship**

Employee or Independent Contractor: Control

Employee

- **Employer controls what work is done, how, and when**

Independent Contractor

- **Hired for results**
- **Independent contractor controls how and when work is done**

Employee or Independent Contractor: Benefits and Legal Protection

Employee

- **Eligible for benefits**
(retirement, health insurance, paid time off)
- **Protected by labor laws:**
minimum wage, overtime, anti-discrimination
- **More so if unionized**

Independent Contractors

- **No benefits**
- **No labor law protection**
- **Based on their contract**

Employee or Independent Contractor: Taxes

Employee

- **Employer withholds income tax, social security, contributes to unemployment insurance**
- **Gets a W-2**

Independent Contractor

- **Pays taxes (often quarterly)**
- **Receives a 1099-NEC**

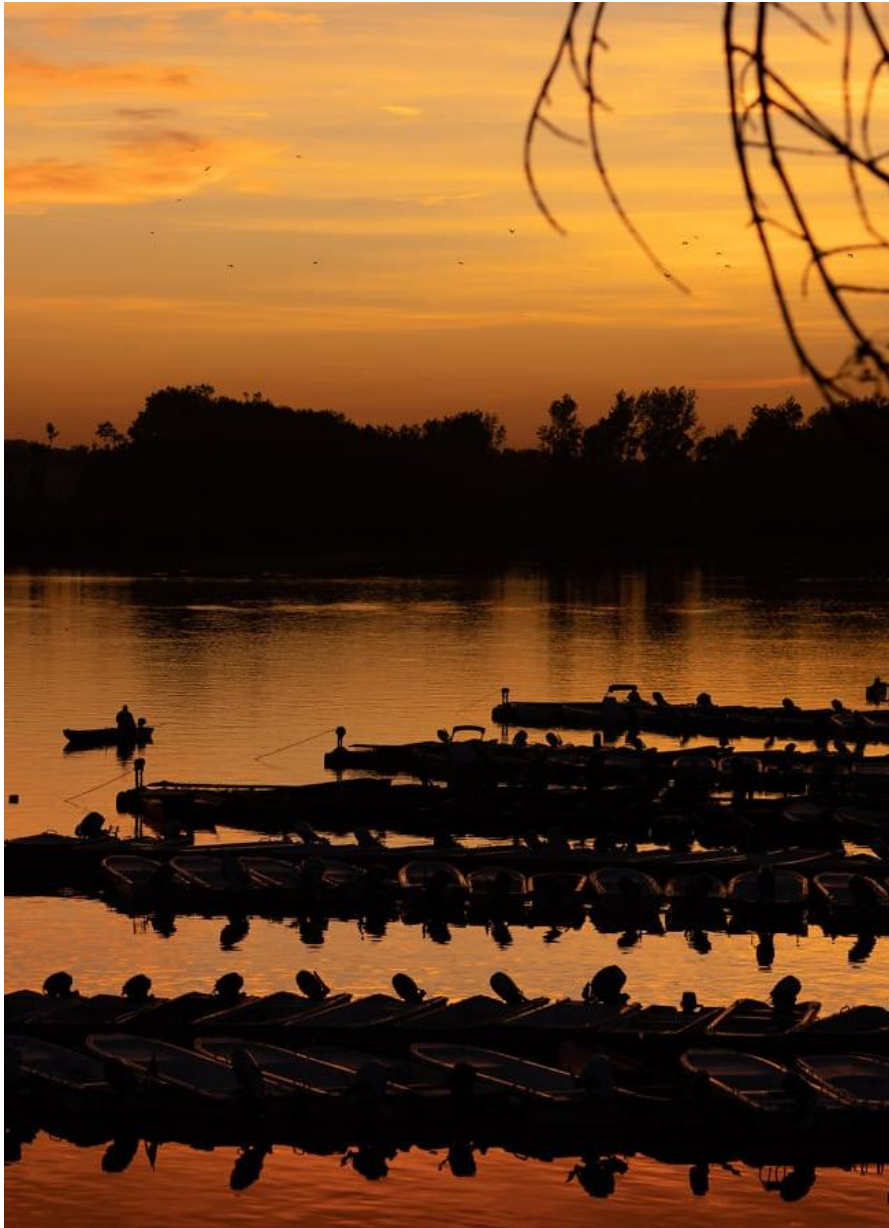
Duration and Relationship

Employee

- **Ongoing relationship**
- **Integrated into the business**
- **Position is generally filled if the person quits or is fired**

Independent Contractor

- **Temporary or project based**
- **Operates as second business entity (think teams and LLCs)**



Safe Harbor Section 530 Basics

- **Business has a legitimate reason for treating the worker as an independent contractor**
 - **Judicial precedent**
 - **Past IRS audit**
 - **Industry practice**
 - **Other reasonable grounds**

Safe Harbor Basics

- **Substantive Consistency –**
- **Have you treated this worker and all workers in the same category as independent contractors?**
- **Have you never treated a similar worker as an employee in the same role?**



Also Recommended:

- ☐ Do you have a **written independent contractor agreement** signed by both parties?
- ☐ Does the worker **control their own schedule, tools, and methods** of work?
- ☐ Is the worker **paid per project or per deliverable**, not hourly like an employee?
- ☐ Does the worker offer services to **multiple clients** or advertise their business?
- ☐ Does the worker have a **risk of profit or loss** from their work?

Company Culture

**Every company has a
culture**

**Some are better than
others**

**What would you want *your*
company culture to be?**

Company Culture

Do people LIKE working there?



Do people HATE working there?



Hallmarks of a Positive Corporate Culture



Relaxed but business like



People help each other



Broker/manager/team leader is accessible

- **Positive reinforcement**
- **Training available**
- **Pleasant atmosphere**

Hallmarks of a Negative Corporate Culture

Little interaction

**No one volunteers to help;
suspicious**

**Broker/manager/team
leader inaccessible**

- **Negative reinforcement**
- **Training is ‘figure it out on your own’**
- **Toxic environment**

Scenario 1:

Broker

Requirements

- You must be in the office every day from 9 to 5
- You must get permission to take personal time or a vacation
- If you can't be in, you must find a replacement



Scenario #2: Termination

- Written contract
- Specific goals
- Quarterly meetings
- Agent did not meet production goals



Scenario #3: Lawsuit

- Agent is found guilty of fraud committed when acting as an agent for the company
- Aggrieved parties are now filing a civil lawsuit





Scenario #4: Professional Appearance

- Broker defines ‘professional appearance’ as a business suit at all times
- Will ‘dock’ commissions for failure to comply

“Professional Appearance”



- **Wordsmith this for your market**
- **Different properties, etc.**



Scenario #5: Social Media

- Agent has posted pictures in social media taken from listings she/he has shown
- NOT company listings
- With derogatory remarks like “the 70’s called and want their house back”
- Identity as an agent is clear



Scenario #6: But I Got Advice!

- **Agent encountered a problem dealing with a state-specific topic (such as agency, seller property disclosure, etc.)**
- **Posted about it in a real estate group on social media**
- **Followed advice given by other agents....in other states**

Scenario #7: Check the File



- **Broker policy: specific signed documents must be in file (paper or electronic) in order for agent to get paid**
- **Files are generally complete at closing**
- **Random check reveals documents are NOT in on-going files!**

Scenario #8: Agent pays another agent for a showing

- **Agent pays other agents to show properties for them**
- **Puts it on social media**
- **State law requires all compensation come through the broker**
- **What should the manual say?**



Scenario #9: Commission Splits



- **Commission schedule is sliding scale based on production**
- **Also more commission added if agents obtain and keep professional designations**
- **Agent throws a tantrum “It’s not fair! I worked harder than she did!”**



Scenario #10: Broker to Broker

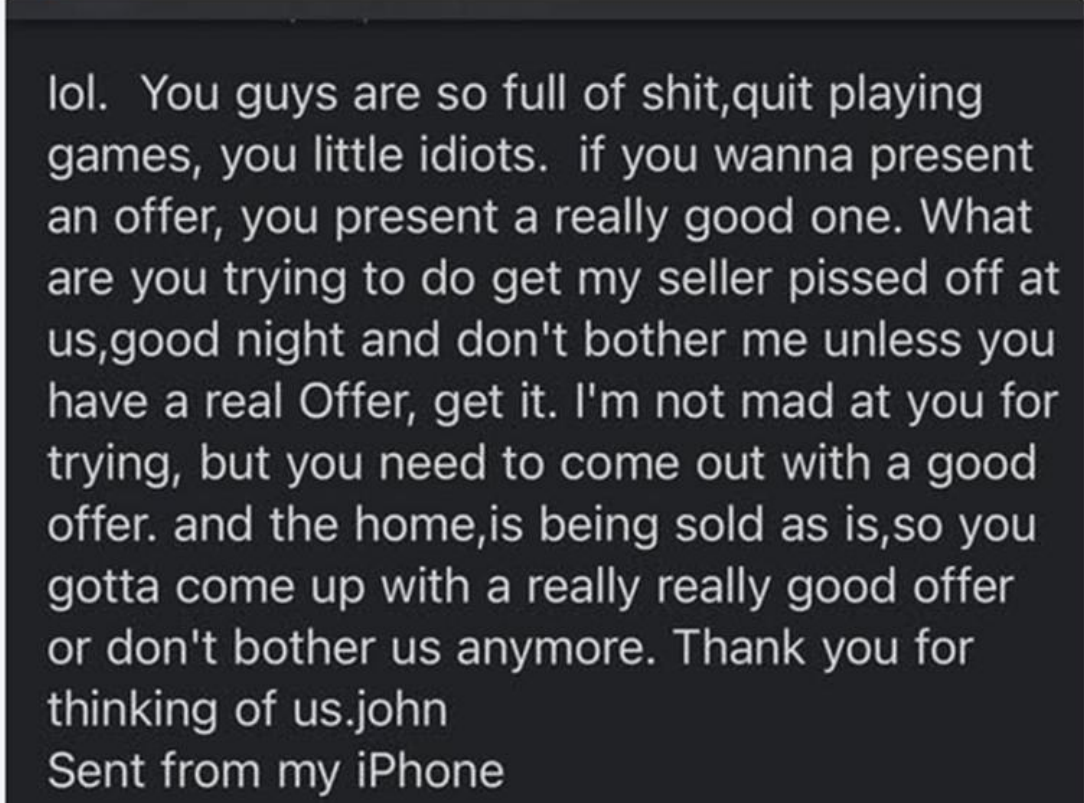
- **You are the broker**
- **Call from another broker**
- **Opening statement: “I’m a broker also, and if this were going on in my company, I would want to know....”**

One Possibility:



- One of my agents delivered an offer to your agent today (Friday)
- Agent stated he 'doesn't work weekends'—he'll present it Monday
- COE
- State Law
- What should the manual say?
- What should you do?

Another possibility:



lol. You guys are so full of shit,quit playing games, you little idiots. if you wanna present an offer, you present a really good one. What are you trying to do get my seller pissed off at us,good night and don't bother me unless you have a real Offer, get it. I'm not mad at you for trying, but you need to come out with a good offer. and the home,is being sold as is,so you gotta come up with a really really good offer or don't bother us anymore. Thank you for thinking of us.john
Sent from my iPhone

- **Text received by agent in another office**
- **Sent by your agent**
- **What do you think?**
- **What would you do?**

Another Possibility:



- **“Our agent presented an offer to your agent, and was told that it was not accepted. The buyer contacted the seller directly, and was told they never got the offer.”**
- **Your agent’s story: “I know they’d never take that! Besides, I have a buyer!”**

Firings, 'Career Adjustments' and Ending the Relationship

- First of all—
employee or
independent
contractor?
- Why does this
matter?



Performance Reviews: Employees

- **Job description**
- **Are they meeting the metrics?**
- **Were goals attained?**
- **Are they adhering to job description, hours, vacation policy etc.**
- **Have you told them if they are not?**

Performance Reviews: Independent Contractors

- **Job description**
- **Measurable goals**
 - **Company dollar generated**
 - **Number of sides closed**
 - **Listings taken, sales made**
- **Quarterly review (at a minimum)**
- **You *suggest* things to do, they decide**
 - **Farming**
 - **Lead generators**
 - **Open houses**
 - **Whatever works in your market**

REVIEWS: BE SPECIFIC

- Measurable goals are easier
- Attitude is harder
- Company culture—what's yours?

Boss: We've had complaints you've been making sarcastic comments at work...

Me: You're gonna have to be A LOT more specific than that 🤣

Problem People: 800 lb Gorilla



- **Diva, superstar, bully**
- **Often puts down others**
- **Is convinced he/she is the only reason the company stays in business**
- **If this person leaves, what actually happens?**



Problem People: Social Director

- **Wants to be friends with everyone**
- **Organizes office parties: birthdays, showers, retirements, holidays**
- **Doesn't get much work done**
- **Doesn't meet goals**
- **But 'she's so nice!'**

Problem Person: Know-it-All

- **Knows everything**
- **Is sure 'that won't work'**
- **Dominates meetings**
- **Dismissive of others and rude**
- **How do you handle this person?**





Problem Person: “No-Fault”

- **NOTHING** is this person’s fault
- It’s the lender, the other agent, the seller, the buyer, you, the other broker...but never this person
- Not learning from mistakes
- What do you do?

**What
“problem
children” have
you met?**



Policy Manual

- Could fill volumes
- Would still not cover everything that might come up!



What Goes With the Manual

Company culture

**Interpretation of core
company values**

**Broker/manager being
objective**

Thank you!

- Melanie McLane
- Melanie@TheMelanieGroup.com
- FB: Melanie J McLane, Real Estate Educator

What Did You Learn?

- **Three things you will start doing:**
- **Three things you will *stop* doing:**

