

TEAMS – IMPORTANT DETAILS

WHAT IS A TEAM?

When a real estate broker or agent works with his maximum capacity, the best opportunity to develop his business is to create a team around him or her.

SHOULD I ALLOW TEAMS WITHIN MY BROKERAGE?

The answer to this question should come from within. Most brokerages today allow team structures within the brokerage. In fact, many brokerages encourage them. Having teams within your brokerage provides you with additional market share and recruiting opportunities. When a team or mega agent joins your brokerage, they often bring other agents along with them. Also, by virtue of that agent joining your brokerage, other agents who look up to that agent will also consider a move to your brokerage.

LEGAL ISSUES AROUND TEAMS

The National Association of Realtors® [published an article](#) pertaining to legal issues with teams in a brokerage and what to look out for.

TEAMS AND BROKERAGE PERSONAL SERVICES CONTRACTS

Personal Services Contracts are those Agency Agreements that Sellers and Buyers have with the Brokerage. You should address this in your Independent Contractor Agreement under the section regarding teams. For example, will your brokerage allow dual agency to occur? While it is not legal to practice dual agency in Kansas, it is allowed in Missouri. Identifying what you will and will not allow up front is crucial if you want to prevent future potential litigation against your brokerage and agents.

Let's break this down further. What if the team leader not only requires the agent who secured the buyer or seller to be designated as the agent to work with that client, but the team leader also requires other members of the team to be designated as agents working with that client? This way, any licensed member of the team may jump in and help the client. Sounds like a good plan, right? What if one of the agents on this team has a property listed, and another agent on the team has a buyer who wants to purchase the property? Now you are practicing dual agency because all those agents were on one or both of the personal services agreements as agents designated to work with both of those clients. While this would be technically legal in Missouri, it's not legal in Kansas.

What's the big deal about dual agency? Why do many brokerages in our area not recommend or allow practicing dual agency in their brokerages? Dual Agency creates what's called an "inherent conflict of interest." You cannot perform your fiduciary duty to both clients. How could you possibly know what the lowest amount a seller is willing to accept and the highest amount a buyer is willing to pay, and not tell each of the clients? Your fiduciary duty to both clients requires that you do just that. Yet if you do advise each client, you have also breached your fiduciary duty to both clients. See the "inherent conflict of interest?"

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TEAM AGREEMENT

You should have two forms of Team Agreements. First, you need to address teams and team structures in your Independent Contractor Agreement. Second, you will need to have a sample team agreement for agents who wish to begin to grow a team within your brokerage.

A sample Team Agreement should contain at a minimum:

- Team member expectations
 - Attendance
 - Production
 - Expenses (who pays for various expenses such as leads, postage, stationary, copying, fuel, signs, business cards, Websites, etc... – team vs agent).
- Team member compensation
 - Compensation rate if the team provides the lead.
 - Compensation rate if the team member brings their own lead.
- Separation from the team

Separation from the team is often the most disputed area within the team environment. If specific items are not addressed and agreed to up front, and then reiterated at separation, the team leader may be hard-pressed to enforce them.

- Compensation for transactions in process.
- Which leads and contacts stay with the team, and which leads and contacts remain with the agent.
- Non-competition clauses if the team has a specific niche in which they operate and/or prohibit the agent from using a specific method or process used by the team for a specific period of time.
- Non-disclosure clauses if the team has specific methods or processes that they do not want disclosed.

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TEAM ADVERTISING

Teams must advertise following both state, local, and broker requirements. Check the advertising requirements for your local state and area, then define requirements for your brokerage. These brokerage requirements may address things such as:

- Brokerage Branding (Logo & Color Usage)
- Brokerage Costs (who pays for this advertising)
- Brokerage Review & Approval (who reviews and approves each advertisement)

Both Kansas and Missouri have different advertising laws for real estate brokerages and agents. Both states require that the broker approve all advertising, whether by the brokerage or the agents. There are very specific requirements for both brokerages and agents. You must review these statutes and ask questions of either MREC, KREC, or your attorney if you are unclear or need an interpretation of these statutes. These are state laws and you will be required to abide by them. Any validated complaints filed with MREC or KREC may accompany a fine for both the broker and the agent. If there are further incidents MREC or KREC may increase the consequences for violating these state statutes.

- [MREC Statutes](#) 20 CSR 2250-8.070 Advertising
 - 6. "Advertising" shall mean any communication, whether oral or written, between a licensee or other entity acting on behalf of one or more licensees and the public, and shall include, but not be limited to, **business cards**, **signs**, insignias, letterheads, radio, television, newspaper and magazine ads, **Internet advertising**, **websites**, display or group ads in telephone directories, and billboards.
 - (2) No real estate advertisement by a licensee shall show only a post office box number, telephone number or street address. Every advertisement of real estate by a licensee shall contain the broker's regular business name or the name under which the broker or the broker's firm is licensed and shall indicate that the party advertising is a real estate broker and not a private party
- KREC Statutes
 - [KREC Guide to Advertising Changes](#)