



## POLICY & PROCEDURE MANUAL

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## Section 1 – Membership

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### A. Types of Membership

1. Primary - The Association that collects NAR and VAR dues in addition to local dues.
2. Secondary - REALTORS® who hold Primary membership in another association and pay only ESAR dues, possible VAR dues (if they are not already VAR members), and MLS fees (if they choose to add MLS service to their membership).
3. MLS Only - REALTORS® who hold Primary membership in another association and pay MLS fees only.
4. MLS Only Unlicensed Assistants – those working in brokerages who do not have a real estate licensee and pay MLS fees only.
5. Affiliates - Non real estate members, working in field related to real estate, including but not limited to licensed or certified appraisers.

### B. Membership and Application Policies:

1. REALTOR Membership
  - a. All REALTOR® applicants must have their license number prior to making application.
  - b. For Primary membership, the broker must join an Association in order for agents in their office to join ESAR as Primary. Once the broker has joined, agents in that office can join.
  - c. An agent can join ESAR as Secondary without the broker joining (but a broker must join and pay MLS fees if the agent wants MLS access). The broker may be any principal, partner, corporate officer, or branch office manager acting on behalf of a principal.
  - d. Those requesting Secondary Membership must provide a letter of good standing from their primary local Association of REALTORS® to join.
2. MLS access, including MLS Only
  - a. MLS access is available to individuals who are sole proprietors, partners, corporate officers, or branch office managers, and are engaged actively in the real estate profession, including buying, selling, exchanging, renting or leasing, managing, appraising for others for compensation, counseling, building, developing or subdividing real estate, and who maintain or are associated with an established real estate office. Also known as Participant.
  - b. MLS access is also available to non-principal brokers, and sales licensees affiliated with an MLS participant. Also known as Subscriber or User.
  - c. The broker must join the MLS in order for agents in their office to join. The broker may be any principal, partner, corporate officer, or branch office manager acting on behalf of a principal.
  - d. Those requesting MLS Only Membership must be a member of another Association of REALTORS® and must provide a letter of good standing from their primary local Association of REALTORS® to join.
3. MLS Only, Unlicensed Assistants

- a. MLS access is available to a participant's affiliated unlicensed administrative and clerical staff, personal assistants, provided that any such individual is under the direct supervision of an MLS participant or the participant's licensed designee.
  - b. The broker or agent they represent may choose the MLS access level for the unlicensed assistant that best fits their daily tasks, provided appropriate options are offered by the MLS system.
4. Affiliates
  - a. Each individual within the firm who wants to be listed, receive benefits, or be otherwise associated with the Association must pay affiliate dues.
  - b. Affiliates who are licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property can have access to the MLS if they are an appraiser.

### **C. Orientation Policy**

1. Orientation is required for all Primary REALTOR® members.
2. A new Primary REALTOR® member applicant must attend an orientation class within one hundred eighty days (180) of the date of acceptance of their application for membership. If no orientation course is scheduled due to lack of four (4) or more applicants, then applicant must attend the next scheduled orientation.
3. Failure to attend the orientation course will result in suspension from the Association and MLS Services.
4. Following suspension for failure to attend the required orientation course, an applicant may be reinstated by: (a) re-applying for ESAR membership, (b) paying any applicable fees; and, (c) registering for the next orientation course. Special circumstances shall be addressed and considered by the staff.
5. Orientation class will be held when four (4) or more applicants are signed to attend.
6. Attendance of orientation classes shall be kept as a permanent record.

## **Section 2 – Dues, Fees and Billing Policies**

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### **A. Dues**

1. Dues and fees are to be determined by the Board of Directors.
2. Dues and fees will be sent to the agents as well as Principal Broker and payment is ultimately the responsibility of the Principal Broker.
3. Association dues and MLS Fees are billed when the member joins. Recurring dues are prorated to the month or quarter the member joins.
4. All dues and fees must be paid and application fully completed to receive benefits and system access.
5. For complete list of dues and fees, see [Appendix I – Schedule of Fees & Fines](#)

### **B. Payments, Refunds and Transfers**

1. Payment may be paid by credit card or check.
2. Partial payment of dues or fees will not be accepted, unless pre-arranged.

3. Two-party checks will not be accepted.
4. Postdated checks will not be accepted.
5. All fees are non-refundable.
6. A refund of dues shall not be made to any member in the event of membership loss regardless of cause.
7. Dues and Fees are not transferrable to any other member, firm, or office.
8. Any non-sufficient funds (NSF) check shall be promptly returned to the issuer with the notice that the amount of the check plus a NSF fine, as established by the Board of Directors, must be provided to the Association within seven (7) business days. Funds must be remitted by cashier's check, money order, certified check or credit card.
9. Any account paid by a check with an account having non-sufficient funds will be assessed an NSF Fee, per incident.
10. Whenever Association bills are paid with a financial instrument that has been refused in two instances for lack of funds, the company or individual will be placed on a "cashier's check, money order, or cash basis only" for the remainder of the year.

**C. Late Fees, Interest, Suspensions, Terminations**

1. All Association dues and MLS fees (including fines and IDX/RETS/VOW data feeds) unpaid 30 days past the due date will be charged 3% interest (APR 24% per annum) on the unpaid balance, as well as a \$30/mo late fee.
2. All Association dues and MLS fees (including fines and IDX/RETS/VOW data feeds) unpaid 60 days past the due date will subject the member to suspension of their MLS access. This includes any dues, fees, fines, or other assessments duly levied in accordance with the provisions of the Bylaws or other Rules and Regulations of the Association or any of its services, departments, divisions, or subsidiaries.
3. If an MLS user is suspended, they may apply for reinstatement after making payment in full of all accounts due effective on date of termination. An "MLS Reconnect Fee" will accompany applications for reinstatement.
4. If a terminated member who has left the association for more than 12 months returns, they must pay the "New Member Fee" as well as all current dues and fees to be reinstated.
5. If a terminated member who has left the association for less than 12 months returns, they must pay all previous outstanding Association dues and current MLS Fees to be reinstated.
6. Former members who apply to other Associations for membership will not receive a "Letter of Good Standing" from the Association until financial obligations are fully satisfied.

**D. Transfers**

1. Members, who transfer from one firm to another, are required to notify ESAR within 10 (ten) days of the effective date of transfer, in writing.
2. Paper work must be received within 30 days.

**E. Collections:** In the event that monies are owed to the Association by the member, then any and all efforts to collect such funds, including but not limited to court action, will be borne by the member.

## Section 3 – Finances

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- A. A percentage or amount of funds remaining from the previous year's operating fund will be placed in a savings account as directed by the Board of Directors.
- B. The President and Treasurer are authorized to sign Association checks and make transfers from one account to another.
- C. Any capital expenditure (other than NAR, VAR, and RPAC dues) exceeding \$10,000 (ten thousand) will require membership approval at the annual meeting or any properly called special meeting at which a quorum of members eligible to vote are present. Approval of requested expenditure(s) will be by a simple majority.
- D. Only members in good standing, whose dues and fees are paid in full, are eligible to review the budget or a financial statement of the Association. They must submit their request in writing to the Association Executive and make an appointment to review them in the presence of an Association representative in the ESAR office in Onley. No copies of these documents will be made available.
- E. **Debit Card Details and Procedures** – A separate bank account from the main operating account has been established with a debit card attached to it and is granted to/may be used by the Association Executive.
  - 1. The account will be kept at a minimal balance to limit the risk of the Association of fraud from the card holder, while still providing enough funds as would be needed in any two-month period. The total amount in the account is determined by the Board of Directors.
  - 2. It is intended for the day to day and point of sale needs of the Association, within the discretionary limits set forth in Section 4. D. 3, which usually include but are not limited to: office supplies, food needed for Association events, and registration or travel expenses for the AE for conferences. These expenses must already be approved by the Board or within the approved Association budget for the year. This debit card should be used first, over the OMG provided credit card, in accordance with AMS Accreditation Standards.
  - 3. The card does not allow ATM withdrawals nor transfers from the main operating account.
  - 4. Charges on this account will be documented within the monthly financials similarly to all other expenses, into the proper GLs, and figured into the Association yearly budget.
  - 5. Every month when the statement for this account comes, it must be sent to the Treasurer and OMG Accounting Director with receipts that accompany the month's expenses. The GL and a description of the expense should be included.
  - 6. For Treasurer approved expenses, the OMG Accounting Director will be directed to transfer from the main operating account into the bank account connected to the card, an amount that is equal to the total amount approved, thereby replenishing the account.
  - 7. If the Treasurer does not approve an expense, the Association Executive will be charged with that amount and must pay the Association back within 30 days. That payment will be added back into the debit card account. If the AE challenges the validity of the expense, the issue can be brought to the Board of Directors for a final decision.
  - 8. When an AE resigns or is terminated, they must surrender the card immediately, and the card will be canceled. When a new Association Executive is hired, and at the discretion of

the Board, a new card may be issued to the new AE. The initial amount in the account may be lowered for an intermediate period.

## Section 4 – Board of Directors

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**A. Composition**, see Bylaws.

**B. Function:** To serve as the governing body for the general membership in conducting and directing the ongoing operations of the Board and establishing and maintaining the policies of the Board.

**C. Attendance**, see Bylaws.

**D. Duties and Responsibilities**

1. The Board of Directors shall have the duty to conduct the general business and operations of the Association, delegate and adopt such rules and regulations as deemed proper and not in conflict with the Association's Bylaws, Association's Strategic Plan, nor in conflict with VAR and NAR Bylaws and policies and procedures as applicable to local Associations; also not in conflict with any regulatory agency policy and/or law as related to the industry.
2. Be empowered to fill vacancies that may occur on the Board of Directors.
3. Directors, Officers or the Association Executive can neither obligate the Association for any expenditure or contract exceeding 1 (one) month, nor authorize an expenditure in excess of \$500.00 (five hundred) or the amount established in the budget without the approval of the majority of the Board of Directors.
4. The Board of Directors will approve the dues and fees to be paid by the membership.
5. The Board of Directors may authorize an audit of the books and accounts of the Association at their discretion.
6. The Board of Directors will approve or disapprove Committee members presented by the President.
7. The Board of Directors shall oversee the Committees to confirm that they are functioning effectively and within their guidelines.
8. The Board of Directors receives Committee reports and approves or disapproves Committee Motions.
9. The Board of Directors will approve or disapprove changes in this policy manual.
10. It is the duty of the Board of Directors to ensure that the Association has a minimum of one (1) years worth of operating funds/savings at all times

**E. Meetings**

1. The Board of Directors shall hold regularly, scheduled meetings with the prerogative to cancel a meeting when conditions permit. Whenever possible, the meeting should be held on the same day each month as decided by the current Board.
2. All Board members are expected to attend the Installation ceremony and attend the Board of Directors Orientation as well as Board functions throughout the year.
3. A quorum for the Board of Directors shall consist of 1 or more than the elected majority.
4. Voting by proxy shall not be allowed.
5. Email voting shall be allowed by a simple majority of the Board.

6. Information on the Board's meeting shall be sent to the Directors prior to the meeting.
- F.** The minutes of any meeting of the Board of Directors will be available to any member in good standing of the Association, or in accordance with the Bylaws.**Policies**
  1. The Association Executive will prepare preliminary annual updates to the Association Bylaws, MLS Rules and Regulations and the Policy and Procedures Manual, for presentation to the appropriate committees.
  2. Any changes, except those mandated by the NAR, to the Bylaws, MLS Rules and Regulations or Policy Manual must be reviewed and approved by the appropriate committees before being submitted to the Board of Directors for final approval.
  3. The Association Executive shall review all documents annually to ensure compliance with NAR policy along with the best interest of the Association. The Association Executive will report any discrepancies to the Board.

## **Section 5 – Officers and Staff Job Descriptions**

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### **A. Association Executive**

The Association Executive (AE) is responsible for basic administration of the Eastern Shore Association of REALTORS® (ESAR). ESAR is member-focused so the AE should have basic knowledge of its REALTOR® members and where to find information important to members' daily business. The AE will work closely with volunteers and elected leadership on the management of the organization.

1. Governance of Association Structures and Organizational Operations:
  - a. The AE will administer basic functions of ESAR as determined by the Board of Directors. He/She implements and maintains policies and procedures that are in place for operations, financial management, budgeting and record-keeping as drafted and recommended by NAR (National Association of REALTORS), VAR (Virginia Association of REALTORS) and ASAE. (American Society of Association Executives)
  - b. Assist with committee administration on an as-needed basis.
  - c. Ensures that governing documents and policies are based on industry models to execute effective administration of ESAR.
2. Physical and Financial Resources:
  - a. Maintains an office location with basic office equipment.
  - b. Ensures sufficient source of revenue is generated to administer ESAR at a basic level of service.
  - c. Works with volunteer leadership to develop a detailed budget.
3. Competencies:
  - a. Is competent in basic office management skills. Understands and supports efforts that impact legal and regulatory issues affecting ESAR.
  - b. Understands political fundraising reporting requirements.
  - c. Ensures staff compensation is locally competitive.



- d. Ensures that administrative-oriented professional development opportunities are funded by ESAR.
- 4. Member Services:
  - a. Maintains internal communications systems and delivery vehicles focused on current industry information.
  - b. Provides support to Brokers in their new-member recruitment and retention programs and provides new member orientation programs based on programs from VAR and NAR.
  - c. Provides basic skills in processing professional standards complaints according to established policies and procedures.
  - d. Is reasonably knowledgeable of business and marketing tool services and provides basic/limited access to such tools.
  - e. Implements industry ideas and member services decisions made by Association leadership.
  - f. Administers networking and social opportunities that are planned, organized and implemented predominantly through committee volunteers.
- 5. Internal and External Relations:
  - a. Administers day-to-day operations with clerical support and outside resources, if necessary.
  - b. Supports Association in identifying and recruiting future leaders.
  - c. Works with members to forge strong relationships.
  - d. Develops positive relationships with local, state and national associations; attends local, regional and state meetings.
  - e. Works with an accounting firm and an attorney to support ESAR operations, as directed by the Board of Directors.
  - f. Supports volunteer leadership as they foster effective relationships with local government leaders and legislators, service providers/vendors, media etc.
  - g. Supports efforts to impact legal and regulatory issues.
  - h. Provides administrative support for fundraising efforts and member mobilization efforts.
  - i. Implements political awareness and fundraising plans developed by leadership.
  - j. Supports VAR and NAR advocacy efforts and works with members on advocacy issues at ESAR level.

**B. President:**

- 1. One-year term.
- 2. Responsible to the Board of Directors.
- 3. Presides at all meetings of Board/Association/Executive Committee.
- 4. Determines the substance of the agenda for the meetings over which he/she presides.
- 5. Keeps the members and Board of Directors informed on conditions/operations of the Board/Association and real estate industry.
- 6. Serves as spokesperson for ESAR.
- 7. Directs the Board in formulating policies and programs.

8. Conducts an annual review of the organizational performance and effectiveness of the Association, including a review of the Association Executive's performance.
9. Has check signatory authority.
10. Recommends committee members to Board of Directors for approval.
11. Ex-officio member of all committees.
12. Work with AE to assure that basic policies and programs that will further the goals and objectives of ESAR are planned, formulated and presented to the Directors.
13. Should attend the VAR leadership conference.

**C. Vice President**

1. One-year term.
2. A member of the Executive Committee.
3. Responsible to President.
4. Perform the duties of the President in his/her absence.
5. Counsel with other officers in seeking to reach objectives.
6. Serve as ex-officio member of committees as assigned.
7. Represent Association at community functions in absence of President.
8. Should attend the VAR Leadership Conference.

**D. Treasurer**

1. One-year term.
2. A member of the Executive Committee.
3. Responsible to President.
4. Responsible for financial stability of the Association, liquidity, demands and maintaining available funds.
5. Has check signatory authority.
6. Function is to:
  - a. Present the financial statements at the Board of Director's meeting
  - b. Help prepare the Association's annual budget.
  - c. Authorized signatory on checking account(s)
  - d. Monitor association expenditures
  - e. Serves as Chairperson of the Budget and Finance Committee
  - f. Carry out responsibilities as defined by President or Directors.
  - g. Make available a year end financial statement, which can be viewed by members in good standing.
7. Should attend the VAR Leadership Conference

**E. Secretary**

1. One-year term.
2. A member of the Executive Committee.
3. Responsible to President.
4. Function is to:

- a. Prepare and present to the Board, the minutes of the Board, Executive Committee, Annual Meeting of the Membership, the Installation of Officers and Directors, and any special meetings called by the Board and/or the membership.
  - b. Carry out responsibilities as defined by President or Directors.
- 5. Should attend the VAR Leadership conference.

**F. Immediate Past-President**

- 1. One-year term.
- 2. Member of the Executive Committee.
- 3. Responsible for recruiting potential Board of Director members.

**G. Director**

- 1. Serve a three (3) year term or the remainder of the unexpired term of a director who has resigned or been terminated.
- 2. Responsible to the President.
- 3. Function is to formulate and implement all plans, operations and financial policies so as to operate the Association to best serve the membership.
- 4. Should attend the VAR Leadership conference.

## Section 6 – Committee Descriptions

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**A. Appointments, See Bylaws also...**

- 1. Committees shall elect their own chairpersons.
- 2. All committee requests for funds or funds exceeding their respective budget must be brought before the Board of Directors for approval.
- 3. Notice must be sent prior to any committee meetings. All meetings should be scheduled on the Association calendar and held at the Association office unless prior arrangements have been made through the Association Executive.
  - a. A quorum shall be a simple majority of those entitled to vote. Voting may be in person or virtual, as per the venue of the meeting, and each person is entitled to only one vote. In the event of a tie, the Chairperson or presiding person shall cast the deciding vote.

**B. Executive Committee**

- 1. The Executive Committee may consist of:
  - a. President
  - b. Vice President (President Elect)
  - c. Immediate Past President
  - d. Secretary
  - e. Treasurer
  - f. Association Executive will be an ex-officio member
- 2. Duties and Responsibilities
  - a. The Executive Committee will serve as the “Personnel Committee” as it relates to performance evaluations of the AE as well as recruiting and hiring for the AE

position. It shall conduct the performance evaluation of the Association Executive prior to each year's Budget Committee meeting for the next fiscal year. The Committee shall report the findings of the review to the Board of Directors.

- b. The President shall serve as the official spokesperson for ESAR. In the absence of the President, the President-Elect or Association Executive shall serve as the spokesperson.

#### **C. Budget Committee**

1. The fiscal year of the Association shall be the calendar year.
2. Association Executive shall prepare the association financial documents to present to the committee for use in creating a preliminary budget prior to forwarding to the Board of Directors.
3. Budget shall be presented to the Board of Directors for approval by September or October of each year.
4. The Committee shall be comprised of 6-8 members.
5. The Treasurer shall serve as the Chairperson of the committee.
6. The immediate past Treasurer shall be one member of this committee.
7. The remainder of the Committee shall consist of the President, Vice President, the Budget Committee Board liaison and at least 1 member at large.

#### **D. Education Committee**

1. The Education Committee works to plan continuing education and professional development for members. These opportunities may be free or for a cost, as needed or required by the presenter and the ESAR Budget.
2. The Committee reviews the DPOR licensing requirements and plans education events that qualify for the continuing education, post licensing and broker management credits.
3. The Committee also develops opportunities for members to improve their professional development by offering education opportunities focused on the business of real estate
4. Any educational meeting/seminar can be cancelled up to four (4) days prior by the Association Executive.

#### **E. Government Affairs/RPAC Committee**

1. Promote the interest of real property, and create political awareness to the membership through recommendations to the Board of Directors by monitoring legislative activity on all levels.
2. Keep members and the public informed on legislative matters affecting the industry.
3. Monitor VAR's "bill review" process to assess which issues need membership attention and input.
4. Redistribute VAR or NAR "Calls to Action".
5. Lead the RPAC contribution efforts.
6. Give recognition to members who serve on local government boards, committees, councils, chamber, partnership, etc.
7. Send or bring report to BOD monthly or when available.

#### **F. Technology Committee**

1. Includes ESAR website, social media, MLS System (Navica and Navica Mobile Plus), RPR, SentiLock lockboxes, integration with other software products, and others.
2. Committee recommends changes to the Board on matters dealing with our technology presence in the world. Looks at and recommends new technology as it becomes available.
3. Sends or brings report to BOD monthly or when available.

**G. Community Outreach/Events Committee**

1. Promotes who we are and what we do.
2. Is the voice of Real Estate on the Eastern Shore, promoting market stats, trends, and issues for our area.
3. Looks to opportunities to give back to our community, such as charitable events.
4. Organizes our social functions including Board Installation, General Membership Meeting and events with our Affiliates.
5. Meets as necessary to plan functions.
6. Sends or brings report to BOD monthly or when available.

**H. Affiliate Committee**

1. Builds relationships between ESAR REALTOR members and real estate industry affiliate partners.
2. Work to connect members and affiliates through events, content and promotions
3. Identify free/paid sponsorships.

**I. MLS Committee - See Bylaws and MLS Rules & Regulations**

**J. Nominating Committee – See Bylaws**

**K. Professional Standards and Grievances, See Bylaws, also:**

1. ESAR participates in a Multi-Board/Regional Grievance or Professional Standards Cooperative for code enforcement with VAR and therefore has no standing Professional Standards or Grievances Committee.
2. ESAR agrees to abide by VAR's Professional Standards Policies and Procedures, as well as any additional policies and procedures as may be necessary for the administration of the statewide cooperative program.
3. Those wishing to submit a formal complaint should be directed to send email to VAR at [prostandards@virginiarealtors.org](mailto:prostandards@virginiarealtors.org).
4. ESAR must provide two (3) members who may be called on to sit on a hearing panel. These members are required to attend the VAR Professional Standards Training Seminar each year.

## **Section 7 – MLS Policies and Processes**

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- A.** NAR recommends that MLSs publish the following notice to their general membership at least annually.
1. A broker's compensation and fees for services are not set by law and are fully negotiable.
  2. A broker's compensation for services rendered to a seller or for services rendered to a buyer is solely a matter of negotiation between the broker and their client, and is not fixed,

controlled, recommended, or maintained by any persons not a party to the brokerage service agreement.

3. The compensation paid by a listing broker to a cooperating broker in respect to any listing is established by the listing broker and is not fixed, controlled, recommended, or maintained by any persons not a party to the brokerage service agreement.
- B. Per NAR requirements, the MLS will not create, facilitate, or support any non-MLS mechanism (including by providing listing information to an internet aggregator's website for such purpose) for Participants, Subscribers, or sellers to make offers of compensation to buyer brokers or other buyer representatives.**
- C. Staff Updating Listings Process:** Staff must receive documentation signed by the seller and Broker (unless otherwise specified by broker), to make any change to a listing. Certain exceptions are allowed and include, but are not limited to:
1. Duplicate listing scenarios – Where two listings for the same property have been entered (See MLS Rules Section 1,17 Duplicate Listings of Properties), the sale has occurred, one listing has been closed, and the duplicate listing must be deleted.
  2. Obvious incorrect prices - whether original list price, price changes, or closing prices – may be changed upon receipt of a copy of the listing agreement or selling statement. (Ex: a price of \$10,000 that should be \$100,000.)
  3. Cancellation, Withdrawal or Expiration of listings, upon the request of the broker or through the Reported Listing tool, that are more than 3 years old and obviously no longer on market. Reasonable efforts must be made to determine the proper status for the listing, and to change it only accordingly.
- D. Violations/Fine Process:** While every listing and situation is unique, listings and agents within this process are addressed each in a similar manner and timeframe, and without prejudice or favoritism towards any agent or brokerage.
1. Violations that come in are usually reviewed within 4-7 days.
  2. It is investigated by staff to determine if a rule has been violated and which rule. Staff also checks to see if the listing agent has been reported previously, when and for what violation.
  3. If it is a violation, the listing agent and broker are emailed using a standard form letter with the details of the rule violated, how to correct (if possible), and if or when they will/may be fined. If the listing agent is to be fined at this time, the fine is included.
  4. Most violations are handled by the staff following the below process. (Other options for penalties are outlined in the MLS Rules & Regulations.)
    - a. Each listing agent + particular violation, on the first instance, is considered a warning. The agent is informed of the warning and instructed to correct the issue within the noted timeframe.
    - b. Additional instances of listing agent + particular violation are automatically fined, or if an automatic fine is called for by the MLS Rules.
    - c. Fine amounts for various violations are set forth in the MLS Rules & Regulations.
    - d. If the agent does not correct the issue within the stated timeframe, they are assessed the fine. If they were initially fined and the data is not corrected within the stated timeframe, they are fined again at the same amount.

- e. Fines follow the billing collections policies stated elsewhere in this manual and may result in suspension from the MLS if not paid.
  - 5. The listing agent is asked to reply to staff when the issue is corrected. The reporting agent is not contacted upon resolution of the issue.
  - 6. If staff is unsure if the report is a violation, if it is a repeat offender, or if there are other extenuating circumstances, the issue is brought to the MLS Committee for review and determination. While the MLS Committee reserves the right to customize the fine or penalty based on specific circumstances, generally the process as outlined above is followed. (Other options for penalties are outlined in the MLS Rules & Regulations.)
  - 7. Reporting Agents and Listing Agents are kept anonymous unless absolutely necessary for determining penalties or if a hearing is scheduled.
  - 8. All information and status of reported violations is tracked by staff.
    - a. Aggregate information on the reports, rule violations, and fines are available to the MLS Committee and Board, and generally do not include identifiable information.
    - b. A particular member is entitled to a summary of their past violations, outcomes and fines. No other historical information or information about the reporting agent on their specific violations will be provided.
    - c. Only a list of the top or most common rules that are violated, as determined by the AE or MLS Committee, may be provided to members. No other information on violations, outcomes, fines, or agents involved, whether aggregate or specific, will be provided to members.
- E. Appeal/Hearing Process:** In accordance with the ESAR MLS Rules & Regulations, a subscriber given a violation notice or fine under such Rules, and requesting an appeal/hearing of that sanction, shall be subject to the below process.
- 1. If the violation or fine was administratively handled, the appeal shall be heard by the MLS Committee.
  - 2. If the violation or fine was heard and ruled on by the MLS Committee, the appeal shall be heard by a Sanction Review Panel comprised of the President and 2 volunteer members from the Executive Committee of the Board of Directors. The Sanction Review Panel, when needed, shall meet immediately preceding the Board of Directors meeting.
  - 3. The subscriber given the violation or fine may choose whether to be present during the appeal, thereby waiving confidentiality.
  - 4. If the subscriber appears in person and their identity known, any member of the MLS Committee or Sanction Review Panel can recuse themselves for a conflict of interest. Conflicts may include but are not limited to:
    - a. is related by blood or marriage to the subscriber.
    - b. is an employer, partner, employee, or in any way associated in business with the subscriber, including an in progress real estate transaction.
    - c. is a party or witness to the appeal.
  - 5. The subscriber may choose to have legal counsel present during the appeal. If the subscriber so chooses, they must notify the Association no later than 14 days prior to the scheduled appeal, so the Association may arrange to have legal counsel present also.

6. The MLS Committee chair (acting as complainant) and the subscriber (acting as respondent) shall compile and send their written/documented appeal to the Association Executive no later than 7 days prior to the scheduled hearing. This may include but is not limited to any arguments or exhibits, and a list of witnesses. Such information shall be presented to all parties to the appeal 3 days prior to the scheduled hearing.
7. In coordination with the subscriber and the body hearing the appeal, the hearing shall take place at the next one to two scheduled meetings of the body hearing the appeal, not to exceed 90 days from the date the appeal was requested.
8. The suggested appeal/hearing procedures shall be:
  - a. Chairperson cites authority to hear case and explains reason for hearing.
  - b. The complaint will be read into the record.
  - c. The testimony of all parties and witnesses will be sworn or affirmed. All witnesses will be excused from the hearing except while testifying.
  - d. Each side may make an optional opening statement, first by complainant, then by respondent.
  - e. The parties will be given an opportunity to present evidence and testimony on their behalf and they may call witnesses.
  - f. The parties and their counsel will be afforded an opportunity to examine and cross-examine all witnesses and parties.
  - g. The panel members may ask questions at any time during the proceedings.
  - h. The Chairperson may exclude any question ruled to be irrelevant or argumentative.
  - i. Each side may make an optional closing statement.
  - j. Adjournment of hearing.
  - k. The body hearing the appeal will vote by secret ballot or go into executive session to decide the case.
9. The standard of proof that must be met is "clear, strong and convincing," defined as, "... that measure or degree of proof which will produce a firm belief or conviction as to the allegations sought to be established." Consistent with American jurisprudence, respondents are considered innocent unless proven to have violated the rule/s in question.
10. An appeal can be an adversarial process that is, to some degree, unavoidably confrontational. It is imperative for all parties, witnesses, and panel members to maintain appropriate decorum, and refrain from harassing behavior, which may include but is not limited to communications or actions which are threatening, abusive, obscene, coercive or intimidating, and which disrupt the proceedings.
11. All matters discussed as part of an appeal are strictly confidential.
12. The findings and recommendation for discipline, if any, shall be reduced to writing by the body and submitted to the Board of Directors.
13. The decision is final and non-appealable unless the subscriber can demonstrate that body hearing this matter failed to follow this policy or if the sanction was misapplied to the facts.



## Section 8 – VAR/NAR

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- A.** The Board shall elect the Association’s Delegate to NAR.

## Section 9 – Privacy Policy

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We recognize the importance of protecting the personal information you provide. ESAR maintains the following privacy policy:

- A.** We do or may gather the following types of information needed to process your transactions, fulfill your requests, and maintain our membership records:
1. Contact information you provide (for example, your home and business addresses, phone and fax numbers, firm affiliations and titles).
  2. Tracking information which our Web server automatically recognizes each time you visit one of our sites or communicate with us by e-mail (for example, your domain name, your e-mail address, and what pages you visit); and
  3. Information you volunteer, via applications or surveys (for example, education, designations, specialties, affiliations with other real estate organizations and general demographic data).
- B.** We use this information to:
1. Provide you with benefits and services that are part of your ESAR membership, including ancillary services offered through other vendors such as REALTOR.com, SentiLock, etc.
  2. Improve and customize the content and layout of our sites and other communications tools.
  3. Notify you of any updates.
  4. Notify you of relevant products and services.
  5. Notify you of upcoming events and programs.
  6. Compile specialty directories about which you will be made aware.
- C.** ESAR does not share, sell or trade e-mail addresses, but may provide you with on-line informational or marketing messages that have been approved by NAR, VAR or ESAR for other purposes described in this policy.
- D.** We will not share, sell or otherwise provide other information about you to third parties, except for:
1. Partners in our Affiliate Program for the limited purpose of notifying you of approved promotions.
  2. Exhibitors at any ESAR trade shows for the limited purpose of contacting you one time.
  3. Other vendors for the limited purpose of contacting targeted groups of members, through marketing vehicles approved by ESAR.
  4. When required by law or valid legal process, or to protect the personal safety of our members or the public.
- E.** Credit information that you and credit authorizers provide when you make payments by credit card or electronic check for products, dues or other services via Member Services Portal will only be used to process the transactions you request. This information will be provided to and maintained by

reputable credit reporting databases, but will never be sold, shared or provided to other third parties.

## Section 10 – Harassment Policy

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See ESAR Bylaws, Article VI Privileges and Obligations, Section 13 Harassment

## Section 11 – Antitrust Policy

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The Association strongly supports competition and an open marketplace in which fees, commissions, and compensation are fully negotiable between the parties to each such agreement. As an Association, we consider adherence to the federal anti-trust laws as one of the most important duties of members and officers, and we are vigilant in reminding our members of those tenets. A goal of ESAR is to improve the level of products and services offered by its members to the public and to encourage vigorous competition among its members in providing such products and services. I

### A. Company Policies

Members shall not discuss with any competitor individual company policies relating to competitive policies, pricing or related types of sensitive information, including:

1. commission levels, fees, business expenses or other business information or policies that would allow or encourage price fixing or maintenance;
2. bidding strategies either in general or for specific properties or any other information that would allow or encourage bid rigging;
3. a firm's competitive business decisions, including its policies regarding dealing with those firms offering different business models;
4. policies regarding the duration or types of listing agreements the firm will enter into or the form of compensation the firm will accept or negotiate;
5. the compensation offered or paid to a firm's agents or employees;
6. plans concerning any proposed or existing customers, clients or territories;
7. any other actions that might be construed as concerted attempts to restrain competition, including joint attempts to control or affect prices, market conditions, marketing practices, customer choice, or the like.

### B. REALTOR® Association Membership

Membership in ESAR is open to any individual or entity meeting the membership qualifications set forth in this document or the Bylaws, without regard to the type of business models employed by its company. No member shall urge on the leadership, membership, or on any competitor that membership in any REALTOR® association be limited to companies practicing particular business models, or that membership be denied to companies or members practicing business models with which the member is in competition or with which the member is unfamiliar or uncomfortable. Members shall take no action to influence the business conduct of customers or other members towards such competitors.

### **C. Availability of Information**

As a service to members and to the public, ESAR accumulates data and issues statistical reports relating to general market trends and comparisons of past transactions of general interest. In conducting any market research, ESAR will take care to avoid anticompetitive effects. General historical statistical data collected by ESAR is for use and analysis by individual members and companies and should not be discussed among competitors at organized functions or otherwise.

### **D. Conduct of Meetings**

All Association meetings will be conducted in full compliance with antitrust laws. Discussion of any topic suggestive of an intent or agreement to restrict competition or fix prices shall be improper.

Among such topics and discussions are:

1. Discussions of individual company policies and practices;
2. Criticism of another company's policies and practices or of any particular business model; and
3. Suggestions that a local association or multiple listing services exclude from membership or participation those who practice any particular business model or engage in any unfamiliar or innovative activity or practice.
4. If discussion of any inappropriate topics occurs at any meeting, all members present should openly disassociate themselves from such discussions, and if the discussions do not end immediately, the meeting should be brought to a prompt adjournment by the person in charge of the conduct of the meeting.
5. All Board and Committee meetings will open with a statement reminding participants of the antitrust policy, and participants will be required to sign a reminder, or verbally/visually acknowledge the reminder.

**E. Informal Settings:** Members should also be aware that informal or social settings are inappropriate for discussion of the topics described in this policy, and that casual comments – even those made in jest – might have serious antitrust implications.

### **F. Enforcement of Policy**

1. This policy statement has been prepared to assure that ESAR members, volunteers and participants in association meetings, are aware of their obligations under antitrust law.
2. Volunteers and participants shall be required, as a condition of participation on the Board, committees, work groups, task forces, leadership groups, governing bodies or other groups affiliated with ESAR to physically, verbally or visually acknowledge this policy at each meeting, to affirm their acceptance of its principles and agreement to comply with its terms.

Members with questions about antitrust issues should contact Virginia REALTORS® counsel in all cases involving specific situations as they arise or when in need of guidance.

## **Section 12 – Do Not Call / Do Not Spam / Do Not Fax**

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In order to comply with the Do not call/Do not fax/Do not spam legislation, ESAR may be considered as a “telemarketer.” The legislation defines telemarketing as: a plan or program or campaign which is conducted to induce the purchase of goods or services

#### **A. Do Not Call**

1. Telemarketers should “scrub” their calling lists against the Registry at least once every 31 days.
2. Marketers and sellers are prohibited from calling a phone number listed on the Registry.
3. Exceptions are:
  - a. A business relationship based upon a transaction between the company and the consumer within the last 18 months or
  - b. within 3 months of an inquiry, application or request by the consumer.
  - c. Prior written permission to call.
  - d. Note: Unsolicited autodialed or prerecorded calls are prohibited to any cell phone even if there is an established business relationship.
4. The regulations only apply to residential phone numbers.
  - a. The FTC requires ESAR (telemarketer) to transmit its telephone number and, if possible, its name to consumers’ Caller ID services for all interstate calls.
  - b. A telemarketer’s use of calling equipment that can’t transmit Caller ID information is no excuse for failure to transmit the required information. The FCC rules prohibit blocking of ESAR’s company information through a caller identification service. The Rules further require that ESAR (a business) must provide a number in the caller ID where consumers can call the business during normal business hours and make a business-specific do-not-call request.
  - c. Note: ESAR calls to a home-based business should be related to the actual business being conducted in the home if the number is in the DNC Registry.

#### **B. Do Not Spam:** Commercial electronic mail message or social media, texting:

1. Exemptions: “transactional or relationship e-mails” whose primary purpose is to:
  - a. Facilitate, complete or confirm a commercial transaction that the recipient has previously agreed to enter into with the sender.
  - b. Provide warranty information, product recall information or safety or security information for a product or service purchased or used by the recipient.
  - c. Provide information of a change in the terms, features, status... membership, ongoing purchase or use of products or services offered by the sender and used by the recipient.
  - d. Provide information directly related to an employment relationship or benefit plan in which the recipient is enrolled.
  - e. Deliver goods or services that the recipient is entitled to receive under the terms of a transaction that the recipient has previously entered into with the sender.
2. How to determine primary purpose:
  - a. E-mail content solely advertises or promotes a product or service it is commercial.
  - b. E-mail contains both commercial and “transactional or relationship content” it is commercial if either:
    - i) recipient deems from the subject line that the e-mail advertises or promotes a product or service

- ii) Transactional or relationship content is not located at or near the beginning of the e-mail.
- c. E-mail contains both commercial and non-commercial content it is commercial if:
  - i) Recipient concludes from the subject line that the e-mail is commercial.
  - ii) Recipient concludes from the text that the main purpose of the e-mail is to advertise or promote a product or service.
- 3. All commercial emails must include:
  - a. A “clear and conspicuous notice” that the message is an advertisement or solicitation.
  - b. A “legitimate” return e-mail address.
  - c. A valid postal address.
  - d. An Internet-based mechanism by which the recipient may “opt-out” of future commercial e-mail messages. The opt-out address must remain active for 30 days after the transmission of the e-mail and opt-outs must be honored within 10 days.

**C. Do Not Fax:**

- 1. Unsolicited commercial faxes may be sent without prior permission as long as: An “established business relationship” predates the enactment of the Junk Fax Prevention Act, or
- 2. In the case of a new “established business relationship”, the fax number was provided voluntarily by the recipient or is publicly available published directory, advertisement or website to which the recipient gave the fax number for publication.
- 3. ESAR may not purchase fax list from third parties
- 4. All unsolicited commercial faxes will include an opt-out provision on the first page of the fax and will be available 24hours/7 days and at no cost to the consumer, (e.g., (cost-free op-out mechanism) include an email address to which to reply, a local phone number with message option, and an 800 number with message option.
- 5. Notes:
  - a. A phone number that is a long-distance or toll call is not acceptable.
  - b. A verbal permission to fax is an allowed means of granting express permission to fax.

## Section 13 – Miscellaneous Policies

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**A. Fiscal Policies:**

- 1. Charge Account - The Association Executive is to have credit card for Association business only.
- 2. Donations to Charities - Committees may raise funds if approved by Board.
- 3. Financial Records - Retained according to the I.R.S. guidelines.
- 4. Reserves and Investments - Administrated by the Board of Directors.

**B. Communication Policies**

- 1. Call to Action - Association Executive faxes/emails all Call to Action material to Legislative Committee members and all brokers upon receipt of the material.

2. Broadcast Email - Membership and Committees can submit to the association office items to be distributed to the membership. An item must be reviewed and deemed appropriate material by 2 Board members before dissemination to the membership via the MLS mass email system. Board member order of review will be: President and Vice President, followed by Treasurer, Secretary, and Directors in order of years in service ranking. (3rd, 2nd, 1st)
3. Memos and Communiqués - Faxes/emails are sent to all offices as necessary.
4. Notification of Meetings - Shall be disseminated according to the Bylaws for “called” meetings. Calendar, email or fax for all other meetings.
5. Newsletter - The Association Executive may emit by fax or email to Association member regular news/information report as deemed necessary to keep members informed.

**C. General Operating Policies**

1. Professional Liability Insurance - Policy provided by NAR for directors/officers/staff/committees as long as governing documents are in compliance with NAR policy
2. Confidential materials - Membership files are kept in office of the Association. PS&A information and confidential files are to be shredded when no longer needed.
3. Use of Board Facilities/Equipment/Materials - Must be approved by Association Executive. Only members and affiliates may use the facility/equipment/materials. A modest “wear and tear” fee may be applied to office equipment that is loaned.
4. Association Office Hours - Generally 8:30 a.m. - 5:00 p.m. on Tuesday, Wednesday, and Thursday. Closed on standard posted holidays. With modern conveniences there will be a reasonable amount of flex time permitted for office personnel.
5. Smoking Policy - No smoking will be allowed in the office building.
6. During the nominating process, all Board members may be asked to sign a Confidentiality Agreement as stated.

## Appendix I – Schedule of Fees & Fines

Dues and fees established by the Board of Directors are as follows. *(Adopted 08/06, Updated 02/21, 10/22, 04/24, 05/24, 10/24)*

### A. Association of REALTORS® Dues

Recurring yearly dues are billed in May of each year, due in June.

| Fee Name  | Cost   | Recurrence | Applies to Primary, Secondary, or Both |
|---|--------|------------|--|
| Association New Firm Fee                                | \$1350 | Once       | Both                                   |
| Association New Branch Fee                              | \$500  | Once       | Both                                   |
| Association New Member Fee                              | \$450  | Once       | Both                                   |
| Association Dues – 2024-2025                            | \$264  | Yearly     | Both                                   |
| Association Dues – 2025-2026                            | \$272  | Yearly     | Both                                   |
| VAR New Member Fee – 2025                               | \$197  | Once       | Primary (possibly both)                |
| VAR Dues – 2025   | \$197  | Yearly     | Primary (possibly both)                |
| NAR Dues – 2025   | \$156  | Yearly     | Primary                                |
| NAR Special Assessment - 2025                           | \$45   | Once       | Primary                                |
| VAR New Member Fee – 2024                               | \$191  | Once       | Primary (possibly both)                |
| VAR Dues – 2024   | \$191  | Yearly     | Primary (possibly both)                |
| NAR Dues - 2024   | \$156  | Yearly     | Primary                                |
| NAR Special Assessment - 2024                           | \$45   | Once       | Primary                                |
| SentriLock Maintenance Fee                              | \$50   | Yearly     | Both                                   |
| SentriLock Maintenance Fee 2025-2026                    | \$52   | Yearly     | Both                                   |
| ESAR Affiliate Association Dues, first member 2024-2025 | \$170  | Yearly     | n/a                                    |
| ESAR Affiliate Association                              | \$175  | Yearly     | n/a                                    |

|   |       |        |      |
|---|-------|--------|------|
| Dues, first member 2025-2026  |       |        |      |
| ESAR Affiliate Association Dues, subsequent members, same company or branch (2024-2025) | \$125 | Yearly | n/a  |
| ESAR Affiliate Association Dues, subsequent members, same company or branch (2025-2026) | \$130 | Yearly | n/a  |
| Lost or Damaged Lockbox Fee   | \$150 | Once   | Both |
| NSF (Non-sufficient funds)  | \$45  |        |      |

#### B. Eastern Shore MLS Fees

Recurring MLS fees are billed in February due in March, and billed in August, due in September.

| Fee Name                          | Cost     | Recurrence  | Applies to Primary, Secondary, MLS Only or all |
|-----------------------------------|----------|-------------|--|
| MLS Only New Firm Fee             | \$1350   | Once        | MLS Only                                       |
| MLS Only New Branch Fee           | \$500    | Once        | MLS Only                                       |
| MLS Only New Member Fee           | \$450    | Once        | MLS Only                                       |
| REALTOR® MLS User Fee 2024        | \$252.50 | Semi-annual | Primary, Secondary                             |
| REALTOR® MLS User Fee 2025        | \$260    | Semi-annual | Primary, Secondary                             |
| MLS Only User Fee 2024            | \$358    | Semi-annual | MLS Only                                       |
| MLS Only User Fee 2025            | \$369    | Semi-annual | MLS Only                                       |
| Unlicensed Assistant MLS Fee 2024 | \$30     | Semi-Annual | MLS Only                                       |
| Unlicensed Assistant MLS Fee 2025 | \$31     | Semi-Annual | MLS Only                                       |
| SentriLock Maintenance Fee 2024   | \$50     | Semi-Annual | MLS Only                                       |
| SentriLock Maintenance Fee 2025   | \$52     | Semi-Annual | MLS Only                                       |
| Lockbox Security Deposit          | \$150    | Once        | MLS Only                                       |



|                             |       |             |     |
|-----------------------------|-------|-------------|-----|
| Affiliate MLS User Fee 2024 | \$200 | Semi-Annual | n/a |
| Affiliate MLS User Fee 2025 | \$206 | Semi-Annual | n/a |
| MLS Reconnect Fee           | \$500 | Once        | All |
| NSF (Non-sufficient funds)  | \$45  |             |     |

**C. Fines: See MLS Rules & Regulations.**

## **Appendix II – Dates of Policy Updates**

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Drafted/Adopted 2006

Edited January 2015

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Edited October 2022

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