



Understanding Agency Relationships

- **Seller's representative (also known as a listing or seller's agent)**
 - A seller's agent is hired by and represents the seller. All fiduciary duties are owed to the seller. The agency relationship usually is created by a listing contract.
- **Buyer's representative (also known as a buyer's agent)**
 - A buyer's agent is hired by prospective buyers to represent them in a real estate transaction. The buyer's rep works in the buyer's best interest throughout the transaction and owes fiduciary duties to the buyer. The buyer can pay the licensee directly through a negotiated fee, or the buyer's rep may be paid by the seller or through a commission split with the seller's agent.
- **Disclosed dual agent**
 - Dual agency is a relationship in which the brokerage firm represents both the buyer and the seller in the same real estate transaction. Dual agency relationships do not carry with them all of the traditional fiduciary duties to clients. Instead, dual agents owe limited fiduciary duties. Because of the potential for conflicts of interest in a dual-agency relationship, it's vital that all parties give their informed consent. In many states, this consent must be in writing. Disclosed dual agency, in which both the buyer and the seller are told that the agent is representing both of them, is legal in most states.
- **Non-agency relationship (called, among other things, a transaction broker or facilitator)**

Some states permit a real estate licensee to have a type of non-agency relationship with a consumer. These relationships vary considerably from state to state, both as to the duties owed to the consumer and the name used to describe them. Very generally, the duties owed to the consumer in a non-agency relationship are less than the complete, traditional fiduciary duties of an agency relationship. Not available in Nebraska.
- **Fiduciary (definition)**

One that holds a fiduciary relation or acts in a fiduciary capacity; In law, a person in a position of authority whom the law obligates to act solely on behalf of the person he or she represents and in good faith. Examples of fiduciaries are agents, executors, trustees, guardians, and officers of corporations. Unlike people in ordinary business relationships, fiduciaries may not seek personal benefit from their transactions with those they represent. (Merriam-Webster; Concise Encyclopedia)