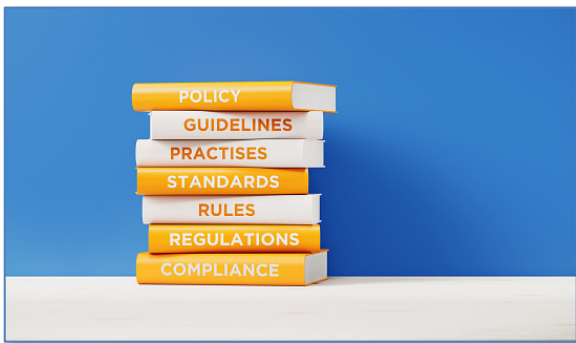


# Introduction

Whatever one's role may be in the real estate industry, advertising most likely plays a key part in their activities and ultimate success. Advertising identifies the licensee and their activities, and it spotlights the message that one wishes to convey to potential clients. The effectiveness of one's advertising may determine why only a single client visits the office or why people are lined up outside the door. Effective advertising may bring the rewards that one seeks, but a real estate licensee's advertising must also be lawful.



Each real estate licensee, depending upon the type of license held—and nature of licensed activities conducted—must comply with all real estate laws. It behooves the licensee, then, to become familiar with, understand, and take steps to meet all advertising requirements set forth by code or regulation. Failure to know the standards of the occupation may impact the good standing of one's license. Licensees should know the requirements, stay in compliance, and avoid the pitfalls that may adversely affect one's license.

This guide will identify and highlight the many advertising requirements a licensee should know. Let's start by identifying a few basic definitions.

## Basic Definitions

When considering licensed real estate activities, become familiar with these basic definitions.

**Licensee:** a person, whether broker or salesperson, licensed by the DRE. (Bus. & Prof. Code section 10011)

**Real Estate Broker:** a person licensed as a broker. (Bus. & Prof. Code section 10012)

**Real Estate Salesperson:** a natural person licensed as a salesperson and who, for a compensation or in expectation of compensation, is retained by a real estate broker to conduct licensed real estate activities. (Bus. & Prof. Code sections 10013 and 10016)

**Designated Officer:** the corporate officer designated by a licensed corporation to engage in the business of real estate broker on behalf of the corporation.

**Responsible Broker:** the real estate broker responsible for supervising and overseeing the licensed acts of real estate salespersons and broker-associates affiliated with and working under the broker's supervision, regardless of independent contractor or an employment relationship. (Bus. & Prof. Code sections 10010.5(b)(1) and 10015.1)

**Manager:** a real estate licensee authorized to perform supervisory services for a responsible broker. (Bus. & Prof. Code section 10015.2)

**Broker-Associate:** a broker retained by a responsible broker to provide services requiring a real estate license on behalf of the responsible broker, often working in the capacity of a salesperson. (Bus. & Prof. Code section 10015.3)

**Responsible Broker's Identity:** the name under which the responsible broker is currently licensed by DRE and conducts business in general or is a substantial division of the real estate firm, or both the name and associated license identification number. (Bus. & Prof. Code section 10015.4)

**Professional Identity:** includes "responsible broker's identity" and the identity under which the licensee is authorized to do business. (Bus. & Prof. Code section 10015.5)

## Supervision Responsibility

Whatever the type of license held, real estate licensees must know and comply with all aspects of Real Estate Law that govern licensed real estate conduct in California. More importantly, responsible brokers (i.e., brokers and designated officers of corporations) should know that they are responsible for the actions or negligence of salespersons or broker-associates retained by the responsible broker. The failure to properly supervise may result in disciplinary action. (Bus. & Prof. Code sections 10010.5(b)(2) and 10015.1)

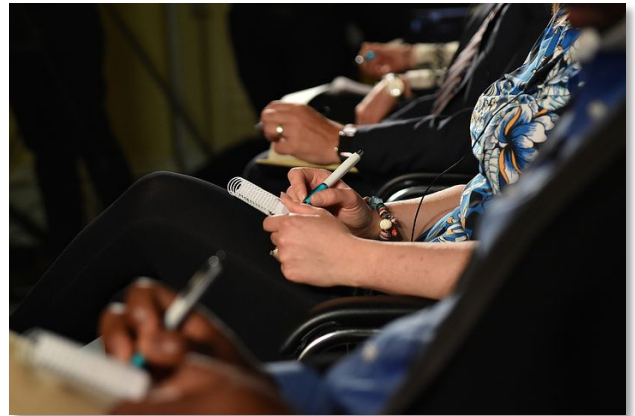
The Real Estate Law requires responsible brokers and corporations to exercise reasonable supervision over the activities of their salespersons and broker associates. Reasonable supervision includes the establishment of policies, rules, procedures, and systems necessary to review, oversee, inspect, and manage all aspects of the business, including the following:

- Transactions requiring a real estate license;
- Documents that may have a material effect upon the rights or obligations of a party to the transaction;
- Filing, storage, and maintenance of such documents;
- The handling of trust funds;
- Advertising of any service for which a license is required;
- Familiarizing salespersons and broker associates with the requirements of federal and state laws relating to the prohibition of discrimination; and
- Regular and consistent reports of licensed activities of salespersons and broker associates.

Responsible brokers must establish and have in place a system for monitoring compliance with policies, rules, procedures, and systems. This means that they, along with those persons they designate to manage or supervise on their behalf, must actively supervise the

conduct of licensees.

Generally, this means that responsible brokers—and the managers, branch managers, and supervisors they retain—should review the licensed real estate activities and advertising conducted by their affiliates, businesses, and offices with methods sufficient to ensure compliance with the Real Estate Law.



The responsible broker is accountable for proper supervision. While the DRE does not set forth specific requirements of what each real estate office must do to ensure compliance, the form and extent of a responsible broker's policies, rules, procedures, and systems must be sufficient to ensure compliance. Whatever the size or nature of the business, the responsible broker's procedures and policies should also take into consideration the number of salespersons and broker-associates retained and the number and location of branch offices.

An active involvement with and supervision of those persons working under the responsible broker's license will go a long way towards being and staying in compliance.

## Compliance Expectation

Real estate licensees are expected to comply with all applicable laws and regulations, including those pertaining to advertising. The failure to comply could result in the issuance of a citation and assessment of a fine or, where more serious violations are involved, more formal disciplinary action. Depending upon the