

SECTION V: ASSOCIATION MEMBERSHIP

NAR Membership Qualification Criteria

SDAR Membership Classifications

SDAR REALTOR® Membership Application

MEMBERSHIP QUALIFICATION CRITERIA OF THE NATIONAL ASSOCIATION OF REALTORS®

MEMBERSHIP QUALIFICATION CRITERIA FOR APPLICANTS FOR REALTOR® MEMBERSHIP WHO ARE PRINCIPALS IN A REAL ESTATE FIRM - (SOLE PROPRIETORS, PARTNERS, CORPORATE OFFICERS, OR BRANCH OFFICE MANAGERS IN A REAL ESTATE FIRM).

The following Membership Qualification Criteria are the most rigorous qualifications which may be required by a Board of REALTORS® in the consideration of an applicant for REALTOR® Membership who is a sole proprietor, partner, corporate officer or branch office manager in a real estate firm. They were developed by the Membership Committee, National Association, to provide "reasonable and nondiscriminatory written requirements for membership." Boards may elect to adopt all, some, or none of the criteria, but those which are adopted must be included in the Boards Bylaws. The Criteria and explanatory notes have the approval of legal counsel, National Association, and were approved by the Board of Directors of the NATIONAL ASSOCIATION OF REALTORS® February 5, 1974, and amended in 1982, 1985, 1987, 1990, 1991, 1996, 2001, 2006, and 2007.

Applicants for REALTOR® Membership who are sole proprietors, partners, corporate officers, or branch office managers in a real estate firm may be required to supply satisfactory evidence that they have:

1. A VALID REAL ESTATE LICENSE (AND ARE ACTIVELY ENGAGED IN THE REAL ESTATE BUSINESS AND ITS RECOGNIZED BRANCHES).

Explanation: "A valid real estate license" is intended to mean that applicants for REALTOR® Membership who are sole proprietors, partners, corporate officers, or branch office managers in a firm engaged in the real estate business must maintain a current, valid real estate broker's or salesperson's license or must be licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property.

The term "actively engaged" in business contemplates that the licensed or certified applicants will have an office for the conduct of real estate business and shall hold themselves out to the public as being actively engaged in the real estate business, and shall actively seek and service real estate business. It does not contemplate that applicants must devote all or even a majority of their time to the real estate business or derive any particular percentage of their income from such business. It does not contemplate that applicants shall have no other job or occupation.

Where question arises as to whether or not applicants are "actively engaged" in the real estate business, they shall be given the opportunity to present evidence concerning the actual and intended scope of their business activities. In the event any applicant for membership is rejected on the basis of failure to be "actively engaged," the Board should promptly seek a declaratory judgment from a court of competent jurisdiction affirming the propriety of such rejection.

2. A PLACE OF BUSINESS WITHIN THE STATE OR A STATE CONTIGUOUS THERETO.

3. NO RECORD OF OFFICIAL SANCTIONS INVOLVING UNPROFESSIONAL CONDUCT.

Qualification: "No record of official sanctions involving unprofessional conduct" is intended to mean that the Board may consider:

A. judgments against the applicant within the past three (3) years of violations of

- (1) civil rights laws;
- (2) real estate license laws;

- (3) or other laws prohibiting unprofessional conduct rendered by the courts or other lawful authorities

B. criminal convictions if

1. the crime was punishable by death or imprisonment in excess of one year under the law under which the applicant was convicted; and
2. no more than ten years have elapsed since the date of the conviction or the release of the applicant from the confinement imposed for that conviction, whichever is the later date.

4. MEMBERSHIP FILE.

Qualification: Associations may, at their discretion, also consider the following in determining an applicant's qualifications for membership:

1. All final findings of Code of Ethics violations and violations of other membership duties in any other association within the past three (3) years
2. Pending ethics complaints (or hearings)
3. Unsatisfied discipline pending
4. Pending arbitration requests (or hearings)
5. Unpaid arbitration awards or unpaid financial obligations to any other association or association MLS
6. Any misuse of the term REALTOR® or REALTORS® in the name of the applicant's firm

"Provisional" membership may be granted in instances where ethics complaints or arbitration requests (or hearings) are pending in other associations or where the applicant for membership has unsatisfied discipline pending in another association (except for violations of the Code of Ethics, see NOTE below) provided all other qualifications for membership have been satisfied. Associations may reconsider the membership status of such individuals when all pending ethics and arbitration matters (and related discipline) have been resolved or within six months from the date that provisional membership is approved if such matters have not been resolved. Provisional members shall be considered REALTORS® and shall be subject to all of the same privileges and obligations of REALTOR® membership.

If a member resigns from another association with an ethics complaint or arbitration request pending, the association may condition membership on the applicant's certification that he/she will submit to the pending ethics or arbitration proceeding (in accordance with the established procedures of the association to which the applicant has made application) and will abide by the decision of the hearing panel.

NOTE: Article IV, Section 2, of the NAR Bylaws prohibits Member Boards from knowingly granting REALTOR® or REALTOR-ASSOCIATE® membership to any applicant who has an unfulfilled sanction pending which was imposed by another Board of Association of REALTORS® for violation of the Code of Ethics.

5. NO RECENT OR PENDING BANKRUPTCY.

Qualification: No recent or pending bankruptcy is intended to mean that the applicant or any real estate firm in which the applicant is a sole proprietor, general partner, corporate officer or branch office manager is not involved in any pending bankruptcy or insolvency proceedings or has not been adjudged bankrupt in the past three (3) years. If a bankruptcy proceeding as described above exists, membership may not be rejected unless the Board establishes that its interests and those of its members and the public could not be adequately protected by requiring that the bankrupt

applicant pay cash in advance for Board and MLS fees for up to one (1) year from the date that membership is approved or from the date that the applicant is discharged from bankruptcy (whichever is later). In the event that an existing member initiates bankruptcy proceedings, the member may be placed on a "cash basis" from the date that bankruptcy is initiated until one (1) year from the date that the member has been discharged from bankruptcy.

6. COMPLETED THE BOARD INDOCTRINATION COURSE.

Qualification: It is presumed that the Indoctrination Course to be completed as a prerequisite for membership is confined to the subjects of the Constitution, Bylaws, policies, rules and regulations of the local Board, State Association, and the National Association as well as the Code of Ethics of the National Association. It is not contemplated that completion of the Indoctrination Course covering topics included in the licensing examination will be required for qualification.

7. SIGNIFIED THEIR INTENTION TO ABIDE BY THE NATIONAL ASSOCIATION OF REALTORS® CODE OF ETHICS.

8. SIGNIFIED THEIR INTENTION TO ABIDE BY THE CONSTITUTION, BYLAWS, POLICY, AND RULES AND REGULATIONS OF THE LOCAL BOARD, STATE ASSOCIATION, AND THE NATIONAL ASSOCIATION OF REALTORS®.

Explanation: By such agreement in the application, applicants assume a continuing membership obligation.

IMPORTANT NOTE TO MEMBER BOARDS.

1. When a Board declines to accept an applicant on the basis of failure to satisfy Point 1. (actively engaged), Point 3. (no record of official sanctions involving unprofessional conduct), and/or Point 5. (no recent or pending bankruptcy), it is recommended that the Board seek a declaratory judgment in the civil courts, affirming its decision. Board Legal Counsel will advise as to the proper form and procedures in seeking a declaratory judgment. A sample form which may be used for this purpose is included in the Code of Ethics and Arbitration Manual. No petition should be prepared except by Board legal counsel.

MEMBERSHIP QUALIFICATION CRITERIA FOR APPLICANTS FOR REALTOR® MEMBERSHIP WHO ARE NON-PRINCIPALS - (OTHER THAN SOLE PROPRIETORS, PARTNERS, CORPORATE OFFICERS, OR BRANCH OFFICE MANAGERS IN A REAL ESTATE FIRM).

The following criteria of membership are identical in purpose with the Membership Criteria for REALTORS® who are principals in a real estate firm. They are the most rigorous qualifications which may be required by a Board of REALTORS® in the consideration of applicants for REALTOR® Membership who are other than sole proprietors, partners, corporate officers or branch office managers of real estate firms and applicants for REALTOR® Membership. These were developed by the Membership Committee of the National Association to provide "reasonable and nondiscriminatory written requirements for membership." The Board may elect to adopt all, some, or none of the Criteria, but those which are adopted must be included in the Board's Bylaws. The following Criteria and explanatory notes have the approval of legal counsel, National Association, and were approved by the Board of Directors of the NATIONAL ASSOCIATION OF REALTORS® in November, 1974, and amended in 1983, 1990, 1996, 2001, 2006, and 2007.

Applicants for REALTOR® Membership who are other than sole proprietors, partners, corporate officers or branch office managers of a real estate firm or applicants for REALTOR-ASSOCIATE® Membership may be required to supply satisfactory evidence that they have:

1. A VALID REAL ESTATE LICENSE (AND ARE ACTIVELY ENGAGED IN THE REAL ESTATE BUSINESS AND ITS RECOGNIZED BRANCHES).

Explanation: "A valid real estate license" is intended to mean that applicants for REALTOR® Membership who are other than sole proprietors, partners, corporate officers or branch office managers in a firm engaged in the real estate business must maintain a current, valid real estate broker's or salesperson's license or must be licensed or certified by an appropriate state regulatory agency to engage in the appraisal of real property.

The term "actively engaged" in business contemplates that the licensed or certified applicants will have an office for the conduct of real estate business and shall hold themselves out to the public as being actively engaged in the real estate business, and shall actively seek and service real estate business. It does not contemplate that applicants must devote all or even a majority of their time to the real estate business or derive any particular percentage of their income from such business. It does not contemplate that applicants shall have no other job or occupation.

Where question arises as to whether or not applicants are "actively engaged" in the real estate business, they shall be given the opportunity to present evidence concerning the actual and intended scope of their business activities. In the event any applicant for membership is rejected on the basis of failure to be "actively engaged," the Board should promptly seek a declaratory judgment from a court of competent jurisdiction affirming the propriety of such rejection.

2. EMPLOYED BY OR AFFILIATED WITH A REALTOR® AS AN INDEPENDENT CONTRACTOR.

Explanation: The basic qualification is employment or affiliation with a REALTOR®. The qualification is met by individuals regardless of whether they operate out of the principal office of the REALTOR® or a branch office.

3. NO RECORD OF OFFICIAL SANCTIONS INVOLVING UNPROFESSIONAL CONDUCT.

Qualification: "No record of official sanctions involving unprofessional conduct" is intended to mean that the Board may consider:

A. judgments against the applicant within the past three (3) years of violations

- (1) civil rights laws;
- (2) real estate license laws;
- (3) or other laws prohibiting unprofessional conduct rendered by the courts or other lawful authorities

B. criminal convictions if

(1) the crime was punishable by death or imprisonment in excess of one year under the law under which the applicant was convicted; and

(2) no more than ten years have elapsed since the date of the conviction or the release of the applicant from the confinement imposed for that conviction, whichever is the later date.

4. MUST MAKE WRITTEN APPLICATION FOR REALTOR® OR REALTOR-ASSOCIATE® MEMBERSHIP IN THE BOARD.

(Such application must be a voluntary act by applicants, and cannot be a requirement of the Board.)

Explanation: The Board may not require that salespersons affiliated with a REALTOR® be Members of the Board. Neither can the Board require that the REALTOR® have such a requirement.

5. MEMBERSHIP FILE.

Qualification: Associations may, at their discretion, consider the following in determining an applicant's qualifications for membership:

1. All final findings of Code of Ethics violations and violations of other membership duties in any other association within the past three (3) years
2. Pending ethics complaints (or hearings)
3. Unsatisfied discipline pending
4. Pending arbitration requests (or hearings)
5. Unpaid arbitration awards or unpaid financial obligations to any other association or association MLS
6. Any misuse of the term REALTOR® or REALTORS® in the name of the applicant's firm

"Provisional" membership may be granted in instances where ethics complaints or arbitration requests (or hearings) are pending in other associations or where the applicant for membership has unsatisfied discipline pending in another association (except for violations of the Code of Ethics, see note below) provided all other qualifications for membership have been satisfied. Associations may reconsider the membership status of such individuals when all pending ethics and arbitration matters (and related discipline) have been resolved or within six months from the date that provisional membership is approved if such matters have not been resolved. Provisional members shall be considered REALTORS® (or REALTOR-ASSOCIATES®, if applicable) and shall be subject to all of the same privileges and obligations of REALTOR® or REALTOR-ASSOCIATE® membership.

If a member resigns from another association with an ethics complaint or arbitration request pending, the association may condition membership on the applicant's certification that he/she will submit to the pending ethics or arbitration proceeding (in accordance with the established procedures of the association to which applicant has made application) and will abide by the decision of the hearing panel.

NOTE: Article IV, Section 2, of the NAR Bylaws prohibits Member Boards from knowingly granting REALTOR® or REALTOR-ASSOCIATE® membership to any applicant who has an unfulfilled sanction

pending which was imposed by another Board or Association of REALTORS® for violation of the Code of Ethics.

- 6. SIGNIFIED THEIR INTENTION TO ABIDE BY THE NATIONAL ASSOCIATION OF REALTORS® CODE OF ETHICS.**
- 7. SIGNIFIED THEIR INTENTION TO ABIDE BY THE CONSTITUTION, BYLAWS, POLICY AND RULES AND REGULATIONS OF THE LOCAL BOARD, THE STATE ASSOCIATION, AND THE NATIONAL ASSOCIATION OF REALTORS®.**

Explanation: By such agreement in the application, applicants assume a continuing membership obligation.

8. COMPLETED THE BOARD INDOCTRINATION COURSE.

Explanation: It is presumed that the Indoctrination Course to be completed as a prerequisite for membership is confined to the subjects of the Constitution, Bylaws, policies, rules and regulations of the local Board, State Association, and the National Association as well as the Code of Ethics of the National Association. It is not contemplated that completion of the Indoctrination Course covering topics included in the licensing examination will be required for qualification.

9. Associations may require that applications for membership submitted by non-principal brokers, sales licensees, and licensed or certified appraisers be "acknowledged" by a REALTOR® who is a sole proprietor, partner, corporate officer, or branch office manager of the firm.

IMPORTANT NOTE TO MEMBER BOARDS:

When a Board declines to accept an applicant on the basis of failure to satisfy Point 1 (actively engaged) and/or Point 3. (no record of official sanctions involving unprofessional conduct), it is recommended that the Board seek a declaratory judgment in the civil courts, affirming its decision.

Board legal counsel will advise as to the proper form and procedures in seeking a declaratory judgment. A sample form which may be used for this purpose is included in the Code of Ethics and Arbitration Manual. No petition should be prepared except by Board legal counsel.

MEMBERSHIP CLASSIFICATIONS - SDAR

Article II of the Bylaws of the South Dakota Association of REALTORS® outlines the following membership classifications:

Section 1. The members of this Association shall consist of seven classes: (1) Member Boards, (2) Board Members, (3) REALTOR® Members, (4) Institute Affiliate Members, (5) Affiliate Members, (6) Emeritus Members, and (7) Honorary Members.

1. **A Member Board** shall be any Board within the State of South Dakota, all the primary REALTOR® Members of which hold membership in this Association and in the National Association of REALTORS®.
2. **A Board Member** shall be any REALTOR® Member of a Member Board as previously defined.
3. **A REALTOR®/Individual Member** shall be any individual engaged in the real estate profession as a principal, partner, or officer of a corporation or a branch office manager acting on behalf of the firm's principal(s), and licensed or certified individuals affiliated with said REALTOR® Member whose place of business is located in an area outside the jurisdiction of any Member Board and who holds REALTOR® Membership in this Association. The Board of Directors may establish procedures and standards whereby broker associates and licensed or certified appraisers affiliated with a REALTOR® Member may become REALTOR® Members of the Association. Secondary REALTOR® membership shall also be available to individuals who hold primary membership in a board/association in another state and who desire to obtain direct membership in the State Association without holding membership in a local board/association in the State.
4. **Institute Affiliate** shall be individuals who hold a professional designation awarded by an Institute, Society or Council affiliated with the NATIONAL ASSOCIATION OF REALTORS® that addresses a specialty area other than residential brokerage or individuals who otherwise hold a class of membership in such Institute, Society or Council that confers the right to hold office. Any such individual, if otherwise eligible, may elect to hold REALTOR® membership, subject to payment of applicable dues for such membership.
5. **Affiliate Members** shall be real estate owners and other individuals or firms who are Affiliate Members of Member Boards.
6. **REALTOR® Emeritus Members** shall be a REALTOR® member who has held membership in the National Association as a REALTOR®, REALTOR® Associate or both, for a cumulative period of forty (40) years, upon certification by the Board of Directors of the NATIONAL ASSOCIATION OF REALTORS® shall be designated REALTOR® Emeritus. An individual who has been affiliated with a firm comprised of REALTOR® members for forty (40) years or more, but who was ineligible for REALTOR® or REALTOR® Associate membership for any portion of that time on the basis of sex, national origin, marital status or other basis now prohibited by the Bylaws of the National Association shall be eligible for REALTOR® Emeritus status.
7. **Honorary Members** shall be individuals other than those engaged in the real estate business who have contributed notably to this Association.



APPLICATION FOR REALTOR® MEMBERSHIP

To the [Name] Board of REALTORS®, I hereby apply for REALTOR® Membership in the above named Board and am enclosing my payment in the amount of \$ [application fee] **for a one time application fee and \$ [yearly dues amount] * for my [year] Dues payable to [Board Name].** My [YEAR] dues will be returned to me in the event of non-election. Application fee is nonrefundable. I will attend orientation within [] days of Association's confirmation of provisional membership. Failure to meet this requirement may result in having my membership terminated. In the event of my election, I agree to abide by the Code of Ethics of the National Association of REALTORS®, which includes the duty to arbitrate, and the Constitution, Bylaws and Rules and Regulations of the above named Board, the State Association and the National Association, and if required, I further agree to satisfactorily complete a reasonable and non-discriminatory written examination on such Code, Constitutions, Bylaws and Rules and Regulations. I understand membership brings certain privileges and obligations that require compliance. Membership is final only upon approval by the Board of Directors and may be revoked should completion of requirements, such as orientation, not be completed within timeframe established in the association's bylaws. I understand that I will be required to complete periodic Code of Ethics training as specified in the association's bylaws as a continued condition of membership.

NOTE: *Applicant acknowledges that if accepted as a member and he/she subsequently resigns from the Board or otherwise causes membership to terminate with an ethics complaint pending, the Board of Directors may condition renewal of membership upon applicant's certification that he/she will submit to the pending ethics proceeding and will abide by the decision of the hearing panel. If applicant resigns or otherwise causes membership to terminate, the duty to submit to arbitration continues in effect even after membership lapses or is terminated, provided the dispute arose while applicant was a REALTOR®.*

- Amount shown is prorated according to month joining. I hereby submit the following information for your consideration:

First Name _____ Middle Name _____

Last Name _____ Suffix (Jr, III, Sr, etc) _____

Nickname (DBA) _____

Email Address: _____

Real Estate License #: _____

Licensed/certified appraiser: [☐] Yes [☐] No Appraisal License #: _____

Office Name: _____

Office Address: _____

Office Phone: _____ Fax: _____

Home Address Street _____

City _____ State _____ Zip _____

Home Phone: _____ Personal Fax: _____

Cell Phone: _____

Preferred Mailing: ☐ Home ☐ Office Street ☐ Office Mail Alternate ☐ Member Mail Alternate

Preferred Publication: ☐ Home ☐ Office Street ☐ Office Mail Alternate ☐ Member Mail

Alternate

Preferred Phone: ☐ Home ☐ Office ☐ Cell Initial Password for Association Site:

Preferred Email: ☐ Primary Email ☐ Secondary Email

Are you presently a member of any other Association of REALTORS®? ☐ Yes ☐ No
If yes, name of Association and type of membership held:

Have you previously held membership in any other Association of REALTORS®? ☐ Yes ☐ No

If yes, name of Association and type of membership held:

Have you been found in violation of the Code of Ethics or other membership duties in any Association of REALTORS® in the past three (3) years or are there any such complaints pending? ☐ Yes ☐ No (If yes, provide details as an attachment.)

If you are now or have ever been a REALTOR®, indicate your NAR membership (NRDS) #: _____ and last date (year) of completion of NAR's Code of Ethics training requirement: _____.

Company information: ☐ Sole Proprietor ☐ Partnership ☐ Corporation ☐ LLC(Limited Liability Company) ☐ Other, specify _____

Your position: ☐ Principal ☐ Partner ☐ Corporate Officer ☐ Majority Shareholder
☐ Branch Office Manager ☐ Nonprincipal Licensee

Names of other Partners/Officers/ of your firm:

Have you ever been refused membership in any other Association of REALTORS®?

☐ Yes ☐ No

If yes, state the basis for each such refusal and detail the circumstances related thereto:

Is the Office Address, as stated, your principal place of business? [☐] Yes [☐] No
If not, or if you have any branch offices, please indicate and give address:

Do you hold, or have you ever held, a real estate license in any other state? [☐] Yes [☐] No
If so, where:

Have you or your firm been found in violation of state real estate licensing regulations or other laws prohibiting unprofessional conduct rendered by the courts or other lawful authorities within the last three years? If yes, provide details:

Have you or you firm been convicted of a felony or other crime. If yes, provide details:

I hereby certify that the foregoing information furnished by me is true and correct, and I agree that failure to provide complete and accurate information as requested, or any misstatement of fact, shall be grounds for revocation of my membership if granted. I further agree that, if accepted for membership in the Board, I shall pay the fees and dues as from time to time established. **NOTE:** Payments to the [Name] Board of REALTORS® are not deductible as charitable contributions. Such payments may, however, be deductible as an ordinary and necessary business expense. No refunds.

By signing below I consent that the REALTOR® Associations (local, state, national) and their subsidiaries, if any (e.g., MLS, Foundation) may contact me at the specified address, telephone numbers, fax numbers, email address or other means of communication available. This consent applies to changes in contact information that may be provided by me to the Association(s) in the future. This consent recognizes that certain state and federal laws may place limits on communications that I am waiving to receive all communications as part of my membership.

Dated: _____

Signature: _____

Optional Information:

Date of Birth: _____

How long with current real estate firm? _____

Previous real estate firm (if applicable): _____

Number of years engaged in the real estate business: _____

Field of Business (Specialties): please click the link to view all specialties to select

Languages Spoken: please click the link to view all Languages to select

Information to be supplied by Local Association:

Join Date _____

Status: Active, Provisional

Primary Local Association NRDS ID _____

Primary State Association NRDS ID _____

Office ID _____

(if broker)

Office Contact DR _____

Office Contact Manager _____

Number of Non-Member Licensees _____

Model #1 -- Agreement for REALTORS® of the local association

MLS Participation Agreement

----- Board/Association of REALTORS®

Name of Participant: -----

Office Address: -----

Primary Board
or Association: -----

I agree as a condition of participation in the MLS to abide by all relevant bylaws, rules and other obligations of participation including payment of fees. I confirm that I currently, and will on a continual and ongoing basis in the operation of my real estate business activities, actively endeavor to list real property of the type filed with the MLS and/or accept offers of cooperation and compensation made by other Participants through the MLS. I agree that I must continue to engage in such activities during my participation in the MLS. I acknowledge that failure to abide by these conditions of participation on an ongoing basis may result in potential suspension or termination of MLS participatory rights after a hearing in accordance with the MLS's established procedures.

Signature -----

Date -----

MLS Participation Agreement

(For MLS access by REALTOR® (principals) or a firm comprised of REALTOR® (principals) who are not members of the board/association.)

_____ Board/Association of REALTORS®

Name: _____

Office Address: _____

Primary Board
or Association: _____

I agree as a condition of participation in the MLS to abide by all relevant Bylaws, Rules and other obligations of participation including payment of fees. I confirm that I currently, and will on a continual and ongoing basis in the operation of my real estate business activities, actively endeavor to list real property of the type filed with the MLS and/or accept offers of cooperation and compensation made by other Participants through the MLS. I agree that I must continue to engage in such activities during my participation in the MLS. I further agree to be bound by the Code of Ethics on the same terms and conditions as board/association members including the obligation to submit to ethics hearings and the duty to arbitrate contractual disputes with other REALTORS® in accordance with the established procedures of the board/association. I understand that a violation of the Code of Ethics may result in termination of my MLS privileges and that I may be assessed an administrative processing fee which may be in addition to any discipline, including fines, that may be imposed .

Signature _____

Date _____

NOTE: If the Board intends to discipline MLS Users and/or Subscribers directly, each User and/or Subscriber must sign this form in the space provided. Please refer to the section of the Handbook on Multiple Listing Policy (Residential) entitled *Applicability of Rules to Users and/or Subscribers* for information on establishing authority to impose discipline on non-principal "users" or "subscribers" affiliated with MLS "Members" or "Participants."