

Commercial Association of REALTORS® - New Mexico
Commercial Information Exchange
Rules and Regulations

(Approved November, 2001; Amended March 2002, February 2003, November 2005,
September 2006, January 2007, September 2009)

1. Introduction and Definitions

These Rules and Regulations (Rules) govern participation in and operation of the Commercial Information Exchange (CIE) of the Commercial Association of REALTORS® - New Mexico (CARNM). The following additional definitions apply to these Rules:

Broker:	A licensed real estate agent (as defined by the New Mexico Real Estate Commission (NMREC)).
CIE Committee:	A Committee appointed by the CARNM Board of Directors to oversee the functions of the CIE.
Compilation:	Any format in which property information is collected from and disseminated to the Participants and Subscribers, including, but not limited to, bound book, loose-leaf binder, computer database, card file or any other format whatever.
Customer:	Party working with a Broker to acquire real property through a purchase or lease.
Foreign Broker:	A real estate broker licensed by a jurisdiction other than New Mexico engaged in real estate-related activities in New Mexico.
Participant:	REALTOR® Qualifying Broker (as defined by the New Mexico Real Estate Commission) who under these Rules has qualified and joined the CIE.
Posted Property:	A property with respect to which property information has been submitted to the CIE.
Principal:	Client of a Broker who lists real property for sale or lease.
Property Information:	Information regarding a posted property in the CIE, including required and optional data in the fields in the CIE computer information input screen.
Subscriber:	REALTOR® non-Qualifying Broker affiliated with a Participant or an appraiser who under these Rules has qualified and joined the CIE.

2. Participation Provisions

2.1 Nature of the CIE. The CIE is a commercial property information exchange operated for the benefit of its Participants and Subscribers. It is not a multiple listing service. Offers of cooperation or offers for compensation shall not be made or accepted through the CIE.

2.2 Membership in the CIE. Any REALTOR® Qualifying Broker of CARNM or any other Board is eligible to participate in the CIE upon agreeing in writing to conform to these Rules and to pay the subscription fees as specified in Section 6 of these Rules. However, no individual regardless of board membership status, is eligible for CIE participation or membership status unless they hold a current, valid real estate broker's license and are capable of accepting and offering compensation to and from other Participants or to those individuals who are licensed or certified by a state regulatory agency to engage in the appraisal of real property. Subscribers are not "members" or "participants" of the CIE but have access to and use of the CIE through the Participant with whom they are affiliated.

2.3 CIE Participation. Only Participants and Subscribers whose subscription fees are paid and current may use the CIE. Submission of property information to the CIE is voluntary. Licensed or certified appraisers shall have full CIE search capabilities, but are not entitled to input or edit CIE property information. Brokers in a Participant's office may elect not to participate in the CIE by submitting a CIE Waiver Request form to the CARNM Board of Directors for approval or denial. If the CARNM Board denies the application for waiver, Broker must subscribe to the CIE within fourteen (14) days of notice or Participant and other Subscribers through the Participant will lose access to and use of the CIE.

2.4 Broker Relationship Change. In the event that the relationship between a Participant and a Subscriber terminates, and the Subscriber desires to transfer property information submitted by the Subscriber to another Participant with whom the broker will be affiliated, the transfer may be made only by written notice delivered to the CARNM Administrator on the CIE prescribed form (CIE Listing Transfer Form), signed by the Participant with whom the Subscriber was affiliated when the property information was submitted to the CIE. The CIE Transfer Form must be submitted to CARNM within thirty (30) days of termination of the relationship.

2.5 Orientation. Each Participant and Subscriber must complete the CIE orientation program, devoted to the Rules and computer training related to property information entry and retrieval. Each Participant and Subscriber must complete the orientation program by attending and completing one of the next two CIE orientation sessions immediately following the date of the Participant's or Subscriber's submission of his or her application to the CIE.

2.6 Responsibility for Conformance with Rules. The Participant is responsible to the CIE for compliance with the Rules by all of their affiliated Subscribers.

2.7 Access to Current Property Information. Only Participants and their affiliated Subscribers may have full use of the current property information generated by the CIE. The CIE may be designed to allow public access of current property information with limitations.

2.8 Access for Administrative Assistants. Participants may apply for restricted access for administrative assistants. Administrative assistants are not Subscribers and are not charged a fee. They may not represent themselves as co-listing agents, contacts, etc. for any property listing, or on the flyers and documents related to a listing in the CIE.

2.9 Suspended, Expelled, or Resigned Participants or Subscribers. A Participant or Subscriber who ceases to be a REALTOR® shall promptly notify the CIE and all property postings submitted by the Participant or Subscriber shall be removed from the CIE. If a Participant ceases to be a REALTOR®, those affiliated Subscribers will lose access to and use of the CIE unless transferred to another Participant.

3. Posted Property Provisions

3.1 Participant and Subscriber Requirements Regarding Posted Property. In order to submit property information to the CIE, a Participant or Subscriber (a) must have an exclusive written agreement to sell or lease a posted property, and (b) must have written authorization from the party responsible for the posted property to submit property information to the CIE. A Participant or Subscriber, acting on behalf of a Customer, may submit information describing the type of property sought by the Customer. Information regarding properties taken on a net listing basis or on an open listing basis shall not be submitted to the CIE.

3.2 Types of Property. Information on property for sale, lease, or exchange of the following types may be submitted by Participants or Subscribers to the CIE:

- a. Office sale or lease
- b. Retail sale or lease
- c. Farm / Ranch
- d. Industrial sale or lease
- e. Vacant Land (not to include individual, non-contiguous, single family lots)
- f. Hospitality
- g. Shopping Center
- h. Multi Family
- i. Special Purpose
- j. Business Opportunity

(Additional categories of commercial, industrial, investment property may be added or deleted by the CIE.)

Properties that do not comply with approved property types may be removed by the CIE.

3.3 Postings Subject to Rules. Any property information posted to the CIE is subject to the Rules upon posting.

3.4 Mandatory Reporting. Participants or Subscribers shall submit to the CIE any of the following related to a property posted on the CIE by the Participant or Subscriber not later than five (5) business days after the effective date of same: (a) notice of a completed sale, lease, or exchange, or cancellation of a pending sale, lease, or exchange concerning a posted property, or (b) any change in the offered price or rate, other change in the terms of the required property information, concerning a posted property, or (c) termination of the listing for a posted property.

3.5 Standardized Property Information. Property information submitted to the CIE shall include a description of the type of property, the price (unless it is an auction property) and all other required information as determined by the CIE.

3.6 Duration of CIE Posting. Property information will be posted to the CIE for the period specified by the posting Participant or Subscriber and updated as required by the CIE. The information may be removed from the CIE if current information is not maintained.

3.7 Co-Listed Property Restriction. Property information regarding a property which is co-listed with more than one broker may be submitted to the CIE only if all listing brokers are Participants or Subscribers. If a CIE Participant or Subscriber co-lists a property with a Foreign Broker, this requirement does not apply. Marketing materials, including signs, for a Posted Property may not include the name of any non-Participants or non-Subscribers.

3.8 Non New Mexico Property Postings. Participants or Subscribers posting listings for properties outside of New Mexico must be licensed in those respective states.

3.9 Voluntary Reporting of Sale and Lease Information. Participants and Subscribers are encouraged to submit price and rate information regarding sale, lease and exchange transactions to the CIE. The written agreement authorizing CIE publication of information on the property for sale, lease, or exchange should expressly grant the Participant or Subscriber authority to submit selling price or rental rate information to the CIE upon sale or leasing of the property.

Note: The written agreement authorizing publication of information on properties for sale, lease, or exchange in the CIE should expressly grant the posting Participant or Subscriber authority to advertise, post the information to the CIE, and provide timely notice of status changes to the CIE. If the CIE intends to publish contract information including selling or rental price, the agreement should expressly grant the posting Participant or Subscriber the right to authorize dissemination of this information through the CIE to other Participants and Subscribers and to others who have access, by virtue of their CIE membership, to comparables, statistical reports, and other historical data developed or maintained by the CIE.

4. Negotiations

4.1 Independent Negotiations Required. The submission of property information to the CIE by a Participant or Subscriber acting on behalf of a Principal does not constitute an offer of cooperation. Any Participant or Subscriber attempting to locate a property on behalf of a Customer must contact the Participant or Subscriber who submitted the property information to the CIE, to independently determine whether cooperation and/or compensation is or will be offered to Participants and Subscribers procuring a Customer, and if so, to negotiate the nature of the cooperation and compensation offered, and to arrange showings of the posted property.

4.2 Presentation of Offers and Counter-offers. A posting Participant or Subscriber acting as the agent of a Principal shall present all offers to the Principal until closing unless precluded by law, government rule, regulation, or unless otherwise agreed in writing between the Principal(s) and posting Participant or Subscriber. Unless a subsequent offer is contingent upon the termination of an existing contract, the posting Participant or Subscriber shall recommend that the Principal(s) obtain the advice of legal counsel prior to accepting a subsequent offer.

Participants or Subscribers representing Customers shall submit to the Customer all offers and counter-offers until acceptance or withdrawal, and shall recommend that Customers obtain legal advice where there is a question about whether a pre-existing contract has been terminated.

4.3 Right of Participant or Subscriber Producing Offer in Presentation of Offer. The Participant or Subscriber producing the offer or his representative has the right to participate in the presentation of the Principal of any offer he secures to purchase, lease, or exchange. He does not have the right to be present at any discussion or evaluation of that offer by the Principal and the posting Participant or Subscriber. However, if the Principal gives written instructions to the posting Participant or Subscriber that the Participant or Subscriber producing the offer not be present when an offer the broker secured is presented, the Participant or Subscriber producing the offer has the right to a copy of the

Principal's written instructions. None of the foregoing diminishes the posting Participant's or Subscriber's right to control the establishment of appointments for such presentations.

4.4 Right of Principal Representative in Presentation of Counter-Offer. The Participant or Subscriber representing the Principal, or his representative, has the right to participate in the presentation of any counter-offer made by the Principal. He does not have the right to be present at any discussion or evaluation of a counter-offer by the Customer (except where the cooperating broker is a subagent). However, if the Customer gives written instructions to the cooperating broker that the Participant or Subscriber representing the Principal not be present when a counter-offer is presented, that broker has the right to a copy of the Customer's written instructions.

4.5 Reporting Cancelled Pending Sales. The Participant or Subscriber making the original posting shall report any cancelled sale, lease, or exchange to the CIE within seventy-two (72) hours and the property information posting shall be reinstated in the compilation of current information.

5. Prohibitions

5.1 Information for Participants Only. Property information published through the CIE may not be made available to any broker or firm not participating in the CIE without the prior express consent of the posting Participant.

5.2 "For Sale" Signs. Only the "For Sale" signs of the posting Participant or Subscriber may be placed on the property.

5.3 "Sold" Signs. Prior to closing, only the "Sold" signs of the Participant or Subscriber posting information on a property for sale may be placed on the property, unless the listing broker authorizes the cooperating (selling) broker to post a sign.

6. Fees and Charges

6.1 Fees and Charges. Fees and charges for participation in the CIE shall be determined by the CARNM Board of Directors, and are subject to change.

7. Compliance with Rules

7.1 Responsibility for Compliance with the Rules. All property information submitted to the CIE is subject to these Rules. Each Participant and Subscriber is responsible for his or her own violation of these Rules, and is subject to the enforcement provisions hereof. Each Participant is also responsible for compliance with these Rules by all of the Subscribers affiliated with Participant, and is subject to the enforcement provisions hereof.

7.2 Compliance with Rules—Authority to Impose Discipline. By becoming and remaining a Participant or Subscriber in the CIE, each Participant and Subscriber agrees to be subject to the Rules and any other CIE governance provision. The CIE may, through the administrative and hearing procedures established in these Rules, impose discipline for violations of the Rules and other CIE governance provisions. Discipline that may be imposed may only consist of one or more of the following:

- a. letter of warning
- b. letter of reprimand
- c. attendance at CIE orientation or other appropriate courses or seminars which the Participant or Subscriber can reasonably attend taking into consideration cost, location, and duration
- d. appropriate, reasonable fine not to exceed fifteen thousand dollars (\$15,000)
- e. probation for a stated period of time not less than thirty (30) days nor more than one (1) year
- f. suspension of CIE rights, privileges, and services for not less than thirty (30) days nor more than one (1) year
- g. Termination of CIE rights, privileges, and services with no right to reapply for a specified period not to exceed three (3) years.

7.3 Violation of Rules. Violation of these Rules may result in the following:

- a. For failure to pay any service fee or charge within ten (10) days after the date due, access to and use of the CIE may be suspended until fees or charges are paid in full, provided that at least ten (10) days notice has been given.
- b. For failure to timely attend an orientation session, as required under Section 2.5 above, access to and use of the CIE service may be suspended until the orientation requirement has been completed.
- c. For failure to comply with any other Rule, the provisions of Sections 7.1 and 7.2 shall apply.
- d. For failure to update postings beyond expiration, the posting may be deactivated.

8. Meetings

8.1 Meetings. The CARNM Board of Directors may call meetings of the Participants and Subscribers on reasonable advance notice, as determined by the Board of Directors. The President or President-Elect of CARNM shall preside at all meetings, or in the absence of both, a delegate from the CARNM Board of Directors shall preside.

9. Enforcement of Rules and Disputes

9.1 Complaints of Rules Violations. The CIE Committee shall accept all written complaints alleging violations of these Rules. In the event that the CIE Committee determines that a violation of these Rules has occurred, the CIE Committee may refer this matter to the CARNM Executive Committee to impose discipline against the responsible party.

A party against whom discipline has been imposed may, within twenty (20) days following receipt of the notice of discipline, request a hearing before the CARNM Board of Directors in accordance with the Bylaws of CARNM and these Rules, in which event the discipline shall be suspended pending such hearing.

9.2 Monitoring Compliance. The CIE Committee may, but shall not be required to, engage a party to monitor compliance with these Rules, provided that such party must be approved by the CARNM Board of Directors.

10. Confidentiality of CIE Information

10.1 Confidentiality of CIE Information. All information provided by the CIE to Participants and Subscribers shall be considered confidential and is provided exclusively for the use of

Participants and Subscribers authorized and qualified to act on behalf of the Qualifying Broker in the sale, lease, exchange, appraisal, or purchase of property posted to the CIE, except for public access described in Section 2.7.

10.2 CIE Not Responsible for Information Submitted by Participants and Subscribers. The information published by the CIE is communicated without change as posted by the Participants and Subscribers. The CIE does not verify the information provided and disclaims any liability or responsibility for its accuracy. Each Participant and Subscriber agrees to hold the CIE harmless against any liability arising from any inaccuracy or inadequacy of the information such Participant or Subscriber provides.

11. Ownership of CIE Compilation and Copyright

11.1 Authority. By submitting property information to the CIE, the Participant or Subscriber represents that he has been authorized to grant and also thereby does grant authority for CARNM to include the property information in its copyrighted CIE compilation and also in any comparable report, transaction report, or other historical or statistical report at the time the information is posted to the CIE.

11.2 Compilation Copyright. The copyright in each copy of every CIE compilation shall at all times be and remain vested in CARNM.

12. Use of Copyrighted CIE Compilation

12.1 Display. Participants and Subscribers shall be permitted to display the CIE compilation to prospective Principals or Customers only in conjunction with their ordinary business activities of attempting to market properties or to identify suitable properties for Customers.

13. Broadcast Email

13.1 Broadcast Email Rules. The following rules shall apply to the use of the CIE for broadcast email messages:

- a. Broadcast email messages shall be used only for the promotion of commercial property and business opportunities. Promotion of individual, non-contiguous, single family residential property is prohibited.
- b. Classified-type advertising shall not be the subject of a broadcast email message.
- c. Broadcast email messages may not include the name of a person who is not a Participant or Subscriber, or a firm which is not represented by a Participant in the CIE.
- d. Broadcast email messages must be sent from the CIE account of a Participant or Subscriber, and must include the name(s) of the Participant or Subscriber(s), company identification and telephone number, and address of the property.
- e. Broadcast email messages may not include profanity or unprofessional language or extraneous information unrelated to the professional purpose of the message.
- f. Open houses for commercial property are permitted.
- g. Participant or Subscriber notices of changes in business office information are permitted.

14. Additional Provisions

14.1 CARNM Disclaimer. By using the CIE, each Participant and Subscriber agrees and acknowledges the following:

- a. the property information submitted to the CIE is provided for use by Participants and Subscribers on the express understanding that information submitted to or accessed on the CIE is for authorized use only, as provided in these Rules,
- b. the CIE and property information shall not be used in any manner prohibited under applicable state or federal statutes or regulations,
- c. CARNM disclaims any warranty or representation regarding the performance or nonperformance of the CIE,
- d. CARNM shall have no liability in damages or otherwise arising out of the use, availability, lack of availability, accuracy or inaccuracy of property information or access thereto through the CIE, or for any act or omission of parties accessing or submitting property information to the CIE,
- e. property information is made available through the CIE for convenience and informational purposes only, without any express or implied representation or warranty by CARNM regarding the accuracy, completeness or currency of the property information,
- f. Participants and Subscribers must verify property information posted to the CIE as accurate and current prior to relying on the property information, and
- g. CARNM does not verify property information submitted to the CIE.

14.2 Indemnification of CARNM. By using, or permitting the use by any Subscriber of the CIE, the Participant agrees to indemnify, defend (with legal representation by attorneys acceptable to CARNM) and hold harmless CARNM, and its officers, directors, employees, agents and representatives, from and against any claim, demand, liability, loss, penalty, fine, cost or expense (including but not limited to reasonable attorneys fees and expenses incurred) to the extent resulting from (a) the failure or refusal of the Participant or Subscriber, or any employee, officer, agent or representative of the Participant or Subscriber, to comply with these Rules (as same may be amended from time-to-time), and (b) any violation of applicable state or federal laws or regulations by the Participant or any Subscriber.

15. Changes in Rules

15.1 Amendments to these Rules. Amendments to these Rules may be submitted to the CARNM Governance Committee. The CARNM Governance Committee may recommend changes to the CARNM Board of Directors for approval. Changes approved by the CARNM Board of Directors shall be effective fourteen (14) days following notification to Participants.