



## **Agency and Non-Agency Disclosure Form FAQ's**

1. Who must use the NH Real Estate Commission's new Agency and Non-Agency Disclosure Form?

*All licensees – whether residential or commercial. It is a mandatory form replacing the commission's prior version as well as other versions prepared by many companies.*

2. Who must receive the agency disclosure?

*All buyer prospects and seller prospects as well as prospective tenants and landlords.*

3. When must the agency disclosure be presented?

*At first business meeting, prior to any discussion of confidential information. The business meeting does not have to be a face-to-face meeting. If you are engaging in substantive discussions about buying or selling real estate over the phone or via email, especially if you begin to discuss any specific properties, these actions would qualify as the first business meeting. We recommend that if the first business meeting is not face-to-face that you advise the client of the agency disclosure form, advise them who you currently represent, if anyone, and then complete the form and either fax or email them the form either during or immediately after your electronic meeting.*

4. Is a showing a business meeting?

Yes.

5. What should be entered in the blank at the bottom of the form: "Currently, the licensee represents \_\_\_\_\_"?

*The commission wanted to leave a place on the form so that a listing agent could disclose their status to a buyer consumer or a buyer agent could disclose their status to a FSBO. If you are having merely general introductory discussions and do not represent anyone yet, you fill in "no party", "no one", "nobody" or words to that effect in that space.*



6. Can you provide examples illustrating the use of the form in various scenarios?

*(a) Listing agent meeting a buyer prospect at her listing:*

*Present disclosure to buyer prior to showing – on form enter: “Currently, the licensee represents seller.”*

*(b) Agent meeting a seller at their home for the purpose of gathering information for a CMA:*

*Present disclosure to seller – on form enter: “Currently, the licensee represents no one.”*

*(c) Agent meeting a buyer at their office for the first time to discuss homebuying:*

*Present disclosure to buyer – on form enter: “Currently, the licensee represents no one.”*

*(d) Agent meeting a buyer at their office to show them three homes – one listing is their company’s (ex. ABC Realty), two others are other company’s listings:*

*Present disclosure to buyer – on form enter: “Currently, the licensee represents sellers of ABC Realty’s listings and no party when showing other companys’ listings.”*

*(e) Buyer agent showing a FSBO listing to their buyer client:*

*Present disclosure to FSBO seller – on form enter: “Currently, the licensee represents buyer.”*

7. Once I’ve provided this disclosure to a consumer do I need to provide them another one when they decide to hire me?

*No. The listing agreement or the buyer agency agreement explains the change in the relationship. The intent of the new form is to eliminate the need for repeated execution of the same disclosure form when circumstances change.*



8. Does the listing agent need to present the agency disclosure form to a buyer working with another agent on accompanied showings?

*No. In that case, it is the buyer's agent's obligation to provide the disclosure form.*

9. Do I have to provide the agency disclosure form to buyers who attend my open houses?

*It is not required as long as you disclose your relationship with the seller by sign, poster, pamphlet or other conspicuous means. You may want to provide copies of the disclosure form at the open house for informational purposes.*

10. What if the consumer will not sign the disclosure form?

*Note that fact on a copy of the disclosure form and retain the copy for three years.*