CENTRAL TEXAS COLLEGE
SYLLABUS FOR RELE 2301
LAW OF AGENCY
Semester Hours Credit: 3

INSTRUCTOR:

OFFICE HOURS:

I. COURSE DESCRIPTION
A study of law of agency including principal-agent and master-servant relationships, the authority of an agent, the termination of an agent’s authority, the fiduciary and other duties of an agent, employment law, deceptive trade practices, listing or buying procedures, and the disclosure of an agency. This course meets the Texas Real Estate Licensing Act (TRELA) requirement for a core course on Real Estate Agency Law.

II. LEARNING OUTCOMES
Upon successful completion of this course, RELE 2301, the student will be able to:

A. Identify reasons for suspension or revocation of a real estate license.
B. Illustrate ways in which agency relationships can be created and terminated.
C. Describe the judiciary relationship that exists between an agent and his principal.
D. Discuss the Deceptive Trade Practices act as it affects the real estate agent and the duties and obligations of the client, customer, and agent.
E. Distinguish between dual agency and intermediary relationships.
F. Explain the mandatory Sellers Disclosure of Property Condition form.
G. Discuss the history of real estate agency and the new emphasis on the law of agency.
H. Describe the various ways an agency relationship is created. (FB6)
I. Explain the fiduciary responsibilities of general and special agents and the duty of care to principals. (FC5)
J. Explain an agent's obligations to third parties. (FB6, FC5)
K. Describe the requirements of the Deceptive Trade Practice Act and how it relates to real estate brokers and agents. (FB6)
L. Explain the methods for terminating the agency relationship.
M. Describe the relationship between practicing law and real estate brokerage. (FB3)
N. Describe and give examples of buyer agency, single agency, and dual agency. (FB3, FB6)
O. Recognize situations where dual agency occurs unexpectedly. (FB6)
P. Discuss federal legislation affecting real estate brokers.
Q. Explain employment relationships of real estate agents, brokers, and clients.
R. Discuss agency risk control as it relates to real estate brokers and agents.
S. Discuss provisions of the Texas Real Estate License Act.
T. Recognize violations of The Code of Ethics and Standards of Practice of the National Association of Realtors.
U. The following SCANS competencies and foundation skills will be covered in this course:

1. Foundation Skills
   a. Basic Skills
      (1) Reading (FA1)
      (2) Writing (FA2)
      (3) Listening (FA4)
      (4) Speaking (FA5)
   b. Thinking Skills
      (1) Problem Solving (FB3)
      (2) Reasoning (FB6)
   c. Personal Qualities
      (1) Responsibility (FC1)
      (2) Self-esteem (FC2)
      (3) Sociability (FC3)
      (4) Self-management (FC4)
      (5) Integrity/honesty (FC5)

2. Competencies
   a. Resources
      (1) Time (CA1)
   b. Information
      (1) Acquires/uses (CC1)
      (2) Organizes/maintains (CC2)
      (3) Interprets/communicates (CC3)

III. INSTRUCTIONAL MATERIALS
The instructional materials identified for this course are viewable through www.ctcd.edu/books.

IV. COURSE REQUIREMENTS

A. Reading Assignments: Read text assignments prior to class and be prepared to discuss the text material, answering instructor questions orally with well-organized thoughts and ideas. (FA1 &5, CA1, CC2, CC3)
B. **Case Study and Oral Presentation**: Each student will prepare a written discussion of a text case assigned by the instructor. The write up will consist of a one to three page synopsis of the case. The case study must be typed double spaced in format prescribed by the instructor. The written case synopsis counts 40 points and the oral presentation counts 10 points on the final course grade. (FA2, FA5)

C. **Class Attendance**: (Refer to CTC Catalog, Page 44 for detailed policy). You are expected to attend each class period, be on time and stay the full class period or be counted absent. You are responsible for all course material missed due to absence. The instructor does not provide class notes for classes missed. (FC1 & 4)

V. **EXAMINATIONS**

A. **Scheduled Examinations** (CC1, CC2, FC2)
   1. There will be three major scheduled examinations, each worth 100 points.
   2. Each major scheduled examination will cover material assigned in a specific unit of instruction.
   3. Students who miss a major scheduled examination do not have an automatic right to a make-up examination.
   4. The type of examination questions to be given will be specified by the instructor during unit reviews.

B. **Unscheduled Examinations**:
   1. The instructor may administer unscheduled exams and quizzes as he/she feels are appropriate.
   2. The point value in the determination of final grade scores will be announced to the class at the beginning of the semester.
   3. Students who miss an unscheduled examination do not have an automatic right to take a make-up exam.

VI. **SEMESTER GRADE COMPUTATIONS**

A. Major examinations (scheduled) 300 Points

   Case Synopsis 40 Points

   Oral Case Report 10 Points

   Total 350 Points
B. Letter grades will be assigned as follows:

<table>
<thead>
<tr>
<th>Total Points</th>
<th>Grades</th>
<th>Quality Points</th>
</tr>
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<tbody>
<tr>
<td>315-350</td>
<td>A – Superior</td>
<td>4</td>
</tr>
<tr>
<td>280-314</td>
<td>B - Above Average</td>
<td>3</td>
</tr>
<tr>
<td>245-279</td>
<td>C – Average</td>
<td>2</td>
</tr>
<tr>
<td>210-244</td>
<td>D - Passing, but unsatisfactory</td>
<td>1</td>
</tr>
<tr>
<td>0-209</td>
<td>F – Failure</td>
<td>0</td>
</tr>
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<td></td>
<td>I – Incomplete</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>W – Withdrawal</td>
<td>0</td>
</tr>
</tbody>
</table>

VII. NOTES AND ADDITIONAL INSTRUCTIONS FROM INSTRUCTOR

A. Course Withdrawal: It is the student's responsibility to officially withdraw from a course if circumstances prevent attendance. Any student who desires to, or must, officially withdraw from a course after the first scheduled class meeting must file an Application for Withdrawal (CTC Form 59). The withdrawal form must be signed by the student.

CTC Form 59 will be accepted at any time prior to Friday of the 12th week of classes during the 16-week fall and spring semesters. The deadline for sessions of other lengths is as follows.

- 10-week session  Friday of the 8th week
- 8-week session  Friday of the 6th week
- 5-week session  Friday of the 4th week

A student who officially withdraws will be awarded the grade of "W," provided the student's attendance and academic performance are satisfactory at the time of official withdrawal. Students must file a withdrawal application with the College before they may be considered for withdrawal.

A student may not withdraw from a class for which the instructor has previously issued the student a grade of "F" or "FN" for nonattendance.

B. Administrative Withdrawal: An administrative withdrawal may be initiated when the student fails to meet College attendance requirements. The instructor will assign the appropriate grade on CTC Form 59 for submission to the registrar.
C. **Incomplete Grade:** The College catalog states, An incomplete grade may be given in those cases where the student has completed the majority of the course work but, because of personal illness, death in the immediate family, or military orders, the student is unable to complete the requirements for a course... Prior approval from the instructor is required before the grade of “I” for Incomplete is recorded. A student who merely fails to show for the final examination will receive a zero for the final and an “F” for the course.

D. **Cellular Phones and Portable Devices:** Cellular phones and portable devices will be turned off while the student is in the classroom or laboratory.

E. **Americans with Disabilities Act (ADA):** Disability Support Services provides services to students who have appropriate documentation of a disability. Students requiring accommodations for class are responsible for contacting the Office of Disability Support Services (DSS) located on the central campus. This service is available to all students, regardless of location. Review the website at [www.ctcd.edu/disability-support](http://www.ctcd.edu/disability-support) for further information. Reasonable accommodations will be given in accordance with the federal and state laws through the DSS office.

F. **Instructor Discretion:** Any Variation from this master syllabus must be approved by the Department Chair.

G. **Civility: (FC3)** Individuals are expected to be cognizant of what a constructive educational experience is and respectful of those participating in a learning environment. Failure to do so can result in disciplinary action up to and including expulsion.

H. **Honesty and Integrity: (FC5)** All students are required and expected to maintain the highest standards of scholastic honesty in the preparation of all course work and during examinations. The following will be considered examples of scholastic dishonesty:
   1. Plagiarism: The taking of passages from writing of others without giving proper credit to the sources.
   2. Collusion: Using another’s work as one’s own; or working together with another person in the preparation of work, unless joint preparation is specifically approved in advance by the instructor.
   3. Cheating: Giving or receiving information on examinations.
Students guilty of scholastic dishonesty will be administratively dropped from the course with a grade of “F” and will be subject to disciplinary action.

VIII. FEEDBACK
A. FEEDBACK: Feedback is the return of data/information about the result of a process and is an important part of the learning process. Feedback in the course will be provided via test scores, graded assignments, and/or instructor evaluation of the students’ progress. You are encouraged to take advantage of the many avenues for feedback available to you. For example, office hours are established primarily to provide the student access to the instructor to discuss academic guidance. I am also generally available before and after class to meet with you. E-mail is another easily available medium to obtain feedback. Additional feedback may be provided at the discretion of the instructor or on your request.

B. RESPONSIBILITY FOR LEARNING:
1. INSTRUCTOR: As your instructor I will organize and present the course material in a manner designed to facilitate the learning process. I will evaluate your progress periodically via writing assignments, oral presentations, and exams and provide feedback on your performance via exam scores, exam critiques, and critique of your writing assignments, etc. I am also available before and after each class period and during office hours to discuss your performance and answer questions.

2. STUDENT:
As the student you are ultimately responsible for your success in this course. It is your responsibility to attend class regularly, prepare for class by reading assigned text material, participate in class discussions, ask questions when required to improve your understanding, prepare for and complete exams, and complete all other assignments.

IX. COURSE OUTLINE

A. Unit One: Agency Concepts, Basic Agency Relationships and Duties of the Agent, Creation and Termination of Agency, Disclosures and Duties to Third Parties, and Seller Agency. (Chapters 1-5)

1. Learning Outcomes: Upon successful completion of this unit, the student will be able to:
   a. Define the basic concept of an agency relationship.
   b. Identify a party in a transaction by the term associated with them.
   c. Distinguish between a client and a customer.
   d. Begin preliminary discussions on which the agent represents.
e. Identify several reasons for the high level of interest in agency.
f. Define the three basic agency classifications of universal, general, and special.
g. Identify several methods to avoid misrepresentation in a real estate transaction.
h. Describe the fiduciary duties an agent owes to a client.
i. Distinguish between actual liability and vicarious liability.
j. Distinguish the different methods to create agency relationships.
k. Understand the ways in which an agency may be created by implied conduct.
l. Describe four reasons why it is important to recognize when an agency relationship is created.
m. Recognize an agency created by ratification and one by estoppel.
n. Understand that actual conduct may create an agency with one party despite contract language creating an agency with the other party.
o. Recognize the third party in a real estate transaction and know the legal obligation due to the other party.
p. Describe property disclosure requirements in the state of Texas.
q. Understand the Seller’s Disclosure of Property Condition document.
r. Discuss the disclosure requirements for stigmatized properties.
s. Identify a seller agency, whether express or implied.
t. Understand how the relationship between broker and salesperson affects the representation owed to the seller.
u. Understand a number of situations in which in-house sales can give rise to agency problems.
v. Describe the common “turnaround sale” situation and how best to handle it.
w. Recognize the importance of early and clear disclosure to buyers of the seller agency.
x. Explain how to accommodate the buyer’s needs while remaining an agent of the seller exclusively.
y. Recognize that as a seller’s agent in a cooperative sale the subagent owes equal fiduciary duties to the seller as do the listing agent.

2. Learning Activities:
   a. Classroom discussion and group participation (FA4, FC3)
   b. Individual study and classroom preparation (FC1, FC4)
3. Lesson Outline:
   a. Agency Concepts
      (1) Agency defined
      (2) Client versus customer
      (3) Importance of Agency Laws
   b. Basic Agency Relationships
      (1) Classification of agency
      (2) Fiduciary duties/responsibilities
   c. Disclosures/Duties to Third Parties
      (1) Duties to the third party
      (2) Disclosure and misrepresentation
      (3) Material Facts
      (4) Stigmatized Properties
      (5) Seller Disclosure Notice
   d. Creation and Termination of Agency
      (1) Creation of agency
      (2) Termination of agency
      (3) Duties that continue after termination
   e. Seller Agency
      (1) Express and implied agreement
      (2) Listing agreements
      (3) Exclusive/Nonexclusive Seller Agency
      (4) Disclosure Issues

B. Unit Two: Buyer Agency, Subagency, Representing More Than One Party in a Transaction: Dual Agency and Intermediary Brokerage, and Single Agency. (Chapters 6-9)

   1. Lesson Outcomes: Upon successful completion of this unit, the student will be able to:
      a. List some benefits of buyer agency to the broker and to the buyer.
      b. Evaluate the circumstances in which treating the buyer as a client would be preferred over treating the buyer as a customer.
      c. Explain that it is not necessary to represent a buyer in order to help the buyer locate a property.
      d. Disclose early to the buyer what role the salesperson will take in working with the buyer, i.e., buyer’s agent, agent, or subagent of the seller.
e. Recognize that buyer agency is one aspect of single agency. It is permissible, but not necessary, to run a brokerage which represents buyers exclusively.

f. Describe the essential features of a buyer agency agreement.

g. Recognize conflicts of interest situations which arise in buyer agency practice.

h. Describe several alternative methods of handling broker compensation as a buyer’s agent.

i. List favorable provisions to insert in a purchase contract for a buyer’s benefit.

j. Explain how a subagency is created.

k. Explain to sellers the way in which subagency is commonly offered, as well as the practical and legal effects on the seller of authorizing the listing broker to offer subagency.

l. Define the former principle of a “blanket unilateral offer of subagency” found in most multiple listing services regulations, and compare it to the new principle of “subagency optional”.

m. Explain how an offer of subagency can be rejected through express action.

n. Recognize common situations in which liability and ethical problems are involved in a subagency.

o. Recognize situations in which unintended dual representation can arise.

p. Discuss the duties, disclosures, and obligations of intermediary brokerage.

q. List the important features to include in a consent letter.

r. Describe the problems created by a broker or associated licensee making an offer on one of the firm’s own listings.

s. Understand that a listing firm can sell its own listings without having to create an agency relationship with the buyer.

t. Avoid multiple representation problems that sometimes occur with two salespeople in an in-house sale.

u. Describe several approaches to handling dual representation.

v. Describe the benefits of single agency practice.

w. Discuss the importance of proper counseling as a prerequisite to determining client or customer status.

x. Distinguish between working with a prospect and working for a client.

y. Discuss the advantages and disadvantages of single agency.

2. Learning Activities:
a. Classroom discussion and group participation (FAR, FC3)
b. Individual study and classroom preparation (FC1, FC4)
c. Homework and other assignments designated by the instructor. (CC1, FC1)

3. Lesson Outline:
   a. Buyer Agency
      (1) Duties/obligations of representing the buyer
      (2) Benefits of buyer agency
      (3) Fees and compensation
      (4) Procuring Cause
      (5) Buyer/Tenant Representation Agreement
      (6) Disclosure issues
   b. Subagency
      (1) Creation of subagency
      (2) Liabilities and ethics
      (3) Subagency and vicarious liability
   c. Intermediary
      (1) Dual Agency to intermediary (SB489)
      (2) Intermediary concerns and issues
      (3) Intentional versus unintentional dual agency
   d. Single Agency
      (1) Broker policies
      (2) Advantages and disadvantages
      (3) Duties that continue after termination

C. Unit Three: Clarifying Agency Relationships, Employment Issues, Consumer Protection Act, and Putting It All Together. (Chapters 10-13)

1. Learning Outcomes: Upon successful completion of this unit, the student will be able to:
   a. Discuss the importance of developing a personal plan of clear and competent agency disclosure.
   b. List the four steps in any effective agency disclosure policy.
   c. Distinguish the types of disclosures to the seller and to the buyer, as well as recognize the importance of timing the disclosure properly.
   d. Act consistently with the type of relationship chosen.
   e. List the duties and responsibilities of each party in a broker-salesperson relationship.
   f. Discuss the distinctions between an employee and an independent contractor.
g. Describe rights and obligations of an employee and an independent contractor concerning working hours; office routine; Social Security withholding; income taxes, unemployment compensation; health insurance and profit-sharing; and worker’s compensation.

h. Explain how a broker receives compensation and how a salesperson receives compensation in a real estate transaction.

i. Understand and discuss the various written agency agreements that establish an agency relationship between a seller and a broker.

j. Summarize the key points of DTPA as they relate to real estate and be aware of the type of actions that can be considered violations of the act.

k. Explain how an innocent misrepresentation can be as much of a violation of the DPTA as a fraudulent misrepresentation.

l. Describe some actual cases brought under the DPTA and understand the key issues in those cases.

m. Explain unconscionable conduct as defined under the DPTA.

n. Enumerate the damages that can be awarded in DPTA cases.

o. Discuss possible defenses to a DPTA action.

p. Develop a personal preventive brokerage plan to help lessen the exposure to professional liability lawsuits and consumer complaints.

q. Summarize the basic steps to be taken when acting as a listing agent, a subagent, a buyer’s agent, intermediary or a common law dual agent.

r. Describe the different ways to handle compensation in a variety of situations.

s. List the many types of services a listing agent can offer a buyer without necessarily creating an agency relationship with the buyer.

t. Practice sample dialogue in preparation for discussions on agency relationships.

2. Learning Activities:
   a. Classroom discussion and group participation (FA4, FC3)
   b. Individual study and classroom preparation (FC1, FC4)
   c. Homework and other assignments designated by the instructor. (CC1, FC1)

3. Lesson Outline:
   a. Clarifying Agency Relationships
      (1) Information about brokerage services (SB489)
      (2) Disclosure law and broker policy
b. Employment Issues
   (1) Broker/principle employment issues
   (2) Broker associate employment issues
   (3) Compensation issues
   (4) Broker/subagent employment relation

c. Deceptive Trade Practice and Consumer Protection Act
   (1) Fraud versus misrepresentation
   (2) DTPA
   (3) Damages
   (4) Defenses

d. Putting It All Together
   (1) Preventative brokerage
   (2) Listing presentation topics
   (3) Rehearsed dialogue

D. Unit Four: Texas Real Estate License Act (Sections 1-20), Code of Ethics and Standards of Practice of the National Association of Realtors.
   1. Unit Objectives: Upon completion of this lesson the student will be able to:
      a. Discuss the Texas Real Estate License Act
      b. Explain the Code of Ethics and Standards of Practice
   2. Learning Activities:
      a. Classroom discussion and group presentation (FA4, FC3)
      b. Individual study and classroom preparation (FC1, FC4)
      c. Homework and other assignments designated by the instructor. (CC1, FC1)
   3. Lesson Outline: Follow the sequence of the unit objectives.