

Approved February 4, 2010 with amendments¹

by the

Mortgage Testing and Education Board
Acting on behalf of

State Regulatory Registry LLC (SRR)
and the
Nationwide Mortgage Licensing System & Registry (NMLS)

ADMINISTRATIVE ACTION PROCEDURES

I. Introduction

(a) The Mortgage Testing and Education Board (MTEB) was created in September, 2009 by the State Regulatory Registry LLC Board of Managers (SRR BOM). The MTEB's responsibilities include the oversight of testing and education requirements described in the S.A.F.E. Act.² These responsibilities include but are not limited to the administration of disciplinary actions against NMLS³ Approved Course Providers and Applicants, MLO⁴ SAFE Test Candidates and Test Takers, MLO SAFE Education Registrants and Participants and other persons and parties which may be covered under standards of conduct established by the MTEB. Throughout this document and related documents, Standards or Rules of Conduct may be used. They are interchangeable.

II. Covered Persons

(a) The SAFE Act obligates NMLS to review and approve pre-licensing education courses (Sec. 1505(c)(1)) and review and approve continuing education courses (Sec. 1506(b)(2)) using reasonable standards. NMLS employs a two-part approval process by which persons or organizations receive (or are denied) status as NMLS Approved Course Providers (ACP). Once they receive this designation, ACPs may submit their pre-licensure (PE) or continuing education (CE) courses to receive (or be denied) NMLS approval for each course. Approved Course Providers and applicants are covered by these Administrative Action Procedures.

(b) Persons who are seeking to become state-licensed MLOs must meet certain testing and education requirements including completing 20 hours of NMLS approved pre-licensure education

¹ Administrative Action Procedures - Amended and effective 4/13/2011. Amended and effective 5/27/2010. Adopted and effective 02/04/2010.

² The S.A.F.E. Act is the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, Title V of Public Law 110-289

³ NMLS is the Nationwide Mortgage Licensing System & Registry.

⁴ MLO is a Mortgage Loan Originator as defined in the SAFE Act.

and passing a qualified written test (the SAFE MLO Test: National and Unique State Components) developed by NMLS and administered by an NMLS approved test provider. Applicants for state MLO licensure, existing licensees, and federal registrants who take the tests are covered by these Administrative Action Procedures.

(c) Persons who hold one or more state MLO licenses must meet minimum annual education requirements to renew their licenses including completing at least 8 hours of NMLS approved education. MLOs who are participating in NMLS required continuing education and federal registrants who elect to take this education are covered by these Administrative Action Procedures.

(d) The MTEB may determine from time to time that other persons or organizations are covered by these Administrative Action Procedures.

III. Standards of Conduct and Administrative Actions

(a) Course Providers

(1) Applicants and Approved Course Providers agree to meet certain minimum standards of conduct. The Criteria for becoming an ACP, Standards of Conduct and related policies and procedures are described in detail in the application material. In the event of a violation of these standards and rules or of other substantive requirements issued by NMLS or MTEB, the MTEB may bring administrative actions against the ACP or applicant including the denial of approval to become an ACP, the withdrawal of an ACPs approval status, the suspension of the approval status, reprimands or other actions that may limit or restrict the ways in which the applicant or ACP may operate with regard to the development and delivery of NMLS Approved Courses.

(2) Applicants and ACPs may be subject to the terms and conditions of other agreements including but not limited to the NMLS Applicant Agreement, Test Administration Rules of Conduct, copyright laws and other federal, state and local laws and regulations.

(b) MLO Test Candidates

(1) Persons who enroll to take the MLO SAFE Test and who take the test agree to the terms and conditions of the NMLS Applicant Agreement, Test Administration Rules of Conduct, copyright laws and other federal, state and local laws and regulations. In the event of a violation of these agreements, rules, the MTEB may investigate the violation and refer the reports of violations or investigations to appropriate state mortgage regulatory agencies. Any behavior in violation of the NMLS Rules of Conduct or other substantive requirements affecting any of the covered persons may be investigated by the MTEB. The authority to deny or revoke the license of an applicant or licensee is granted solely to the states and jurisdictions which license MLOs. The MTEB has no authority to deny or revoke the license of an applicant or licensee.

(c) Education Participants

(1) Persons who enroll to take pre-licensure or continuing education courses through NMLS Approved Course Providers may be subject to rules of conduct covered by these Administrative Action Procedures.

IV. Mortgage Testing and Education Board (MTEB)

(a) The Mortgage Testing and Education Board is responsible for the oversight of SAFE required testing and course approvals and related activities including the development and implementation of these Administrative Action Procedures. The MTEB is composed of nine individuals appointed by the State Regulatory Registry LLC Board of Managers (SRR BOM).

(b) The SRR BOM approves the appointment of one member to serve as Chair of the MTEB and another member to serve as the Vice Chair. The Chair presides at all meetings of the MTEB.

V. Complaints Regarding Violations of Standards of Conduct

(a) The MTEB may consider any and all sources in order to make a determination that an investigation into the conduct of a covered person or organization may be warranted. It may consider written complaints from ACPs, test candidates, MLOs, or other parties. The MTEB may, at its discretion, respond to and act upon inquiries or submissions other than complaints. It may in its sole discretion follow up the complaints, inquiries or submissions and initiate investigations, refer them to other parties, or determine that they do not warrant further action.

(b) Persons or organizations wishing to submit a complaint regarding a possible violation of the standards of conduct should do so in writing by completing a complaint form [link to complaint form] and mailing or faxing it to:

Vice President, National Mortgage Testing and Education Programs
Conference of State Bank Supervisors
1129 20th Street NW 9th Floor
Washington DC 20036

Or fax 202-296-1928

PLEASE NOTE WELL: Complaints should address alleged violations of the rules or standards of conduct which apply to approved course providers and applicants, test candidates and registrants, or course participants and registrants. Persons wishing to make any other type of complaint regarding SAFE mortgage testing and education should consult the NMLS Resource Center (Professional Requirements page) for more information about those processes.

(c) The MTEB shall direct the Vice President, National Mortgage Testing and Education Programs to report to it on a timely basis any complaint or similar submission which involves an alleged or possible violation of the Standards of Conduct. Upon receipt and preliminary review of a submission involving any of the Standards of Conduct previously described, the majority of the members may will determine that the submission does not constitute a valid and actionable complaint that would justify bringing it before the MTEB for investigation and a determination of whether there has been a violation of the Standards of Conduct or other substantive requirements affecting any of the covered persons. If so, the MTEB may at its discretion dispose of the submission by notice from the Chair or its designee, to its submitter, if the submitter is identified.

VI. Review of Complaint and Initiation of Investigation

(a) For each submission involving an alleged violation of the Standards of Conduct that the MTEB determines is a valid and actionable submission, the MTEB authorizes an investigation into its specific facts or circumstances to whatever extent is necessary in order to clarify, expand, or corroborate the information provided by the submitter. The Chair appoints an ad hoc Review Committee of three or more members of the MTEB, to investigate and make an appropriate recommendation with respect to each such valid and actionable complaint. The Chair will designate one of the committee members to serve as the Review Committee Chair. The timeline for responses and for providing any additional information shall be established by each Review Committee with the approval of the Chair, MTEB. The Review Committee may be assisted in the conduct of its investigation by other members of the MTEB, the CSBS or SRR staff or by legal counsel.

(b) Upon the appointment of the Review Committee, the Chair shall direct the Vice President, National Mortgage Testing and Education Programs, to notify in writing, the covered person or organization about whom the submission or complaint has been made, that a complaint regarding a violation of the rules of conduct has been received and that an investigation has been initiated. Notifications regarding the initiation of an investigation into the complaint or alleged violation may be sent to the state(s) in which the candidate is seeking licensure or any other state. The covered person or organization whose conduct is at issue shall also be given the opportunity to respond to the complaint. The Chair also shall ensure that the individual submitting the complaint receives notice that the complaint is being reviewed by the MTEB.

(c) Both the individual submitting the complaint, if applicable, and the covered person or organization which are the subject of the investigation may be contacted for additional information with respect to the complaint. The Review Committee may at its discretion contact such other individuals who may have knowledge of the facts and circumstances surrounding the submission or complaint.

(d) All investigations and deliberations of each Review Committee and the MTEB are conducted in confidence, and they are conducted objectively, without any indication of prejudice. An investigation may be directed toward any aspect of a complaint which is relevant or potentially relevant.

(e) Informal hearings may be held at the discretion of the Review Committee.

VII. Determination of Violation

(a) Upon completion of an investigation, a majority of the Review Committee makes a determination that there has or has not been a violation of the Standards of Conduct or of other substantive requirements of the NMLS testing or education requirements. If the Committee makes a determination that there has been a violation of the Standards of Conduct, it may also include a sanction to apply to the person or organization which was found to have violated the Standards of Conduct. The Chair of the Review Committee shall report its findings to the Chair of the MTEB along with the record of the Committee's investigation.

(1.) Course Providers - If the Review Committee makes a determination that a violation has occurred, this determination and the imposition of a sanction are promulgated by written notice to the covered person or organization.

(2.) Test Candidates, Test Takers, Education Course Registrants and Education Course Participants – If the Review Committee makes a determination that a violation has occurred, this determination is promulgated by written notice to the covered person and the Chair of the MTEB shall direct that the determination be referred to any and all state mortgage regulators for their consideration.

(3.) Report to SRR BOM - The Chair of the MTEB shall report all findings where violations have occurred to the SRR BOM.

VIII. Sanctions

(a) If a majority of the Review Committee, determines that a violation of the Standards of Conduct has taken place, it will also determine the sanction to be applied to the Approved Course Provider or applicant. In cases involving test candidates and takers or education registrants and participants, the Review Committee's authority to apply sanctions is limited to notifying any and all state mortgage regulators of its determination. Any of the following sanctions may be imposed upon an Approved Course Provider or applicant. The Review Committee should take into consideration the nature and severity of the violation, in imposing its sanctions.

(1) Written reprimand that includes appropriate remedial action the ACP must follow,
or

(2) Suspension of the ACP's right to offer NMLS approved courses, including but not limited to select types of courses or course formats, or

(3) Withdrawal of the provider's NMLS Approved Course Provider status, either temporarily, indefinitely or permanently or denial of an organization's application to become an NMLS Approved course provider temporarily, indefinitely, or permanently or

(4) Other actions the Review Committee may find appropriate.

At its discretion, the MTEB may publicize the determination and the sanction of the Review Committee. In cases where a course approval is suspended or withdrawn or a course provider's NMLS approval is suspended or withdrawn, summary information regarding the course or ACP's status is posted to the NMLS Resource Center.

IX. Appeal

(a) Within thirty days from receipt of notice of a determination by the Review Committee that a covered person or organization has violated the Standards of Conduct, the affected person or organization may submit to the Chair of the MTEB in writing a request for an appeal. Upon receipt of a request for appeal, the Chair of the MTEB establishes an appellate body consisting of at least three members, each of whom did not serve on the initial Review Committee. The Chair of the MTEB will name a member to chair each Appeal Committee. An Appeal Committee may review one or more appeals, upon request of the Chair.

Persons or organizations should send their request for an appeal via mail or fax to:

Chair, Mortgage Testing and Education Board
Conference of State Bank Supervisors
1129 20th Street NW, 9th Fl
Washington DC 20036

Or fax 202-296-1928

(b) The Appeal Committee may review only whether the determination by the Review Committee of a violation of the Standards of Conduct was inappropriate because of: (1) material errors of fact, or (2) failure of the Review Committee to conform to published criteria, policies, or procedures. Only facts and conditions up to and including the time of the Review Committee's determination as represented by facts known to the Review Committee are considered during an appeal. The MTEB and Appeal Committee may consult SRR and CSBS legal counsel or external legal counsel.

(c) The Appeal Committee conducts and completes the appeal within sixty days after receipt of the request for an appeal. Written appellate submissions and any reply submissions may be made by authorized representatives of the covered person or organization and of the Appeal Committee or MTEB. Submissions are made according to whatever schedule is reasonably established by the Appeal Committee. The decision by the majority of the Appeal Committee either affirms or overrules the determination of the Review Committee. The decision of the Appeal Committee, including a statement of the reasons for the decision, is reported to the Chair of the MTEB who shall make a report to the SRR BOM. The Appeal Committee's decision is binding upon the MTEB, the covered person or organization who is subject to the determination, and all other persons.