

ADMINISTRATIVE ACTION PROCEDURES
FOR S.A.F.E. TESTING AND EDUCATION REQUIREMENTS

Approved February 4, 2010¹

by the

Mortgage Testing and Education Board
Acting on behalf of

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

I. Introduction

The Mortgage Testing and Education Board (MTEB) was created in September, 2009 by the State Regulatory Registry LLC (SRR) Board of Managers (BOM). The MTEB's responsibilities include the oversight of testing and education requirements described in the S.A.F.E. Act.² The MTEB has developed a Candidate Agreement, Rules of Conduct for Test Takers, and Rules of Conduct for Education Students.

II. Covered Persons

(a) Persons who are seeking to become state-licensed mortgage loan originators (MLOs) must meet certain testing and education requirements. The requirements include passing a qualified written test developed by the NMLS and administered by an NMLS-approved test provider. The MLO seeking licensure must pass the NMLS-developed test with a score of 75% or better. The applicant must also complete at least 20 hours of pre-licensure education (PE) which has been approved by NMLS. Licensees who intend to renew their licenses must complete annually at least eight hours of continuing education (CE). Applicants for state MLO licensure, existing licensees, federal registrants, persons enrolled through the NMLS to take a component of the NMLS- developed test, persons who take the tests, and persons who take PE and CE are covered by these Administrative Action Procedures.

(b) SRR and the MTEB may determine from time to time that other persons are covered by these Administrative Action Procedures.

¹ Administrative Action Procedures – Amended and effective 09/13/2019, 6/04/2016, 3/01/2015, 4/1/2013, 12/13/2012, 12/15/2011, 4/13/2011, 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, codified at 12 U.S.C. 5101 et seq.

III. Candidate Test Security and Confidentiality Agreement, Rules of Conduct and Administrative Actions

Persons who enroll to take or who take the SAFE MLO Test agree to the terms and conditions of the NMLS User Agreement, the Candidate Test Security and Confidentiality Agreement (CA), the Rules of Conduct for Test Takers (ROCTT), test center policies of the test center vendor, copyright laws and other federal, state and local laws and regulations. The CA and ROCTT may be found [here](#). Persons who take an NMLS approved PE or CE course agree to the terms of the Rules of Conduct for Education Students (ROCS). Those rules may be found [here](#). In the event of a complaint or report of a violation of these agreements or rules, SRR and/or the Conference of State Bank Supervisors (CSBS) may investigate the report of the violation by a covered person. They may take action against the person's test results or education status including, but not limited to the invalidation of test results and the retraction of PE or CE compliance. Furthermore, they may refer their findings to appropriate state mortgage regulatory agencies. Neither the MTEB nor SRR/CSBS have authority to deny or revoke the license of an applicant or licensee. That authority is granted solely to the states and jurisdictions which license MLOs.

IV. Mortgage Testing and Education Board (MTEB)

(a) The Mortgage Testing and Education Board is responsible for the oversight of SAFE Act required testing and education activities including the approval of these Administrative Action Procedures. The MTEB comprises nine individuals representing state mortgage regulatory agencies appointed by the 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 Candidate Agreement and Rules of Conduct

(a) SRR may consider any and all sources in order to make a determination that an investigation into the conduct of a covered person may be warranted. It may consider written complaints from covered persons or other parties. SRR at its discretion, may respond to and act upon inquiries or submissions other than complaints. In its sole discretion it may follow up on 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 CA and the ROCTT/ROCS should do so in writing by completing a complaint form and sending it via fax or email to:

Fax to: 202-296-1928

Or email to: mtebinvestigations@csbs.org. Complaint forms submitted via email should be sent as .pdf files.

Access the complaint form here:

<http://mortgage.nationwidelicencingsystem.org/profreq/Documents/SOC%20ROC%20Complaint%20Form.pdf>

(c) Upon receipt and preliminary review of an incident or submission of a complaint involving the CA or the ROCTT/ROCS previously described, the Vice President Mortgage Testing and Education Programs may determine that the incident or submission does not constitute a valid and actionable complaint that would justify initiating an investigation. If so, the Vice President may at his or her discretion dispose of the incident, complaint or submission. He or she will notify the complainant, if identified, that actions are or are not being taken. The Vice President shall also submit on a regular basis a report to SRR's President and General Counsel describing the status of incidents and complaints and their dispositions.

VI. Management of Incidents, Complaints and Initiation of Investigation

(a) For each incident or submission of a complaint involving an alleged violation of the Candidate Agreement or the Rules of Conduct, SRR may initiate an investigation into the specific facts or circumstances to whatever extent is necessary in order to clarify, expand, or corroborate the information provided by the complainant or the incident reporter. The Vice President of Mortgage Testing and Education Programs shall serve as the primary investigator or assign one or more SRR or MTEB members to serve in that capacity. The primary investigator may be assisted in the investigation by other CSBS or SRR staff, members of the MTEB, legal counsel or other resources as SRR may find necessary

(b) SRR will notify in writing, the covered person about whom the incident or complaint has been made, that an incident regarding a violation of the CA or ROCTT/ROCS is being investigated. The covered person whose conduct is at issue shall be given the opportunity to respond to the complaint or incident and provide information about the complaint or incident in a manner defined by SRR.

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

(d) All investigations and deliberations of SRR 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 or incident which is relevant or potentially relevant.

(e) SRR at its discretion may hold informal hearings.

(f) SRR at its discretion may notify any relevant state mortgage regulator regarding the nature of the investigation it is conducting.

VII. Determination of Violation

(a) In conducting its investigations, SRR shall attempt to determine what if any violation occurred and the impact the violation may have had on the integrity of the candidate's testing session(s) or the NMLS testing program or the student's education course or the NMLS education program.

(i) In those cases where SRR determines that there was no violation it will notify the covered person of this outcome.

(ii) In those cases where SRR determines that there was a violation but there was no impact or likely impact on the integrity of the candidate's testing session or the NMLS testing program or the student's education course or the NMLS education program, SRR at its sole discretion, may issue the covered person a determination of violation but take no further action to invalidate the candidate's test score, retract the student's education compliance or report the violation to the relevant state mortgage regulator.

(iii) In those cases where SRR determines that there was a violation and there may have been or was an impact on the integrity of the test session, the education course, the NMLS testing program or the NMLS education program, SRR may issue the covered person a determination of violation. In addition, at its sole discretion, SRR may invalidate the candidate's test result or retract the student's education compliance. In cases where the candidate's or student's conduct is believed to have impacted the integrity of the test session, the testing program or the education program and/or where the candidate's or student's conduct would be contrary to good character or reputation or the conduct is dishonest or fraudulent, or may cause the public to believe the candidate or student would not operate in the mortgage business lawfully, honestly or fairly, SRR may notify the State regulators when it makes the determination.

(b) If SRR makes a determination that a violation has occurred, this determination is promulgated by written notice to the covered person.

(c) SRR shall report on a regular basis to the MTEB the status of investigations and findings and SRR shall report to the SRR BOM all findings where violations have occurred.

(d) At its discretion, SRR may publicize the determination and the sanction of any investigation on the NMLS Resource Center or through other reasonable means of communications.

VIII. Appeal

(a) In those cases described in section VII.(a)(ii) above, candidates or students may not appeal these determinations of violations.

(b) In those cases described in section VII.(a)(iii) above, within thirty days from receipt of notice of a determination by the SRR that a covered person has violated the CA or ROCTT/ROCS and his/her test result has been invalidated or education compliance retracted, the covered person may submit to the Chair of the MTEB in writing a request for an appeal. The candidate or student may appeal the invalidation of a test result or the retraction of education compliance or the finding of a violation.

(c) Persons wishing to request an appeal must use the form provided by SRR and complete all the information. Requests with incomplete information will not be considered. Access the Appeal Request form here:

<http://mortgage.nationwidelicensingsystem.org/profreq/Documents/Appeal%20Request%20Form.pdf>

(d) Upon receipt of a request for appeal, the Chair of the MTEB establishes an Appeal Committee consisting of at least three members. The Chair of the MTEB will name a member to chair the Appeal Committee. An Appeal Committee may review one or more appeals, upon request of the Chair.

(e) Persons should send their request for an appeal via fax or email to:

Fax to: 202-296-1928

Or email to: mtebinvestigations@csbs.org. Appeal requests submitted via email should be sent as .pdf files.

(e) The Appeal Committee may determine that a finding by the SRR investigator(s) of a violation of the CA or ROCTT/ROCS was inappropriate only because of: (1) material errors of fact, or (2) failure of the investigator(s) to conform to published criteria, policies, or procedures. At its discretion, the Appeal Committee may consider new facts and conditions which the subject of the investigation may include in her or her appeal request or responses to the Appeal Committee. The decision by the majority of the Appeal Committee is limited to either affirming or overruling the determination of the SRR investigator. In addition, the Appeal Committee may recommend that the SRR investigator reconsider the case. The Appeal Committee may affirm or overrule a test result invalidation, an education compliance retraction or a determination of a violation. If the candidate is appealing both a test result invalidation and a determination of a violation, the Appeal Committee may at its discretion affirm or overrule either one, both or neither. If the student is appealing both an education compliance retraction and a determination of a violation the Appeal Committee may at its discretion affirm or overrule either one, both or neither. The MTEB and Appeal Committee may consult SRR and CSBS legal counsel or external legal counsel.

(f) The Appeal Committee must conduct and complete the appeal within sixty days of receipt of the request for an appeal which has been satisfactorily submitted. Written appellate submissions and any reply submissions may be made by authorized representatives of the covered person, the investigator or SRR. Submissions are made according to the schedule established by the Appeal 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 from time to time make a report to the SRR BOM.

(g) All reports where the Appeals Committee either overruled the determinations made by the IRC or modifies the sanctions will be reviewed by CSBS' General Counsel (GC). The GC would determine if the determinations overruled or sanctions modified met a "material"

threshold. If the materiality threshold is met, the case will be forwarded to the SRR Board for review. SRR Board may, in its discretion, review these cases and accept, overrule, modify or otherwise revise the Appeal Committees' reports. The SRR Board's actions will be final. SRR Board will notify the GC of its actions and the GC will notify the MTEB and IRC, who will send the final determination to the subject of the investigation.

(h) If no appeal is made within thirty [30] days of the suspension or sanction, the action will stand.