



ETHICS COMMITTEE HANDBOOK

A Guide for States to Set Up
And Run Their Ethics Committee

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Foreword

The purpose of this manual is to provide the NAMB State Affiliates with guide posts in setting up and running their own Ethics Committees.

These standards are meant to be the minimum that a state should strive for when setting up and running their own Ethics Committee.

If you have any questions, comments, or concerns please e-mail ethics@namb.org for help.

Powers Vested in the Association's Ethics & Professional Standards Committee

Members of the Association, in addition to agreeing to abide by the Code of Ethics and Professional Standards/Best Lending Practices, shall also acknowledge and agree that they will participate in the enforcement policies and procedures of these documents and that they will abide by the decision of the Association's Ethics & Professional Standards Committee on matters brought before that body involving their membership and their business practices.

The Ethics & Professional Standards Committee will utilize the Association's adopted enforcement policies and procedures in the enforcement of:

- Violation of the By-Laws, Code of Ethics, and Professional Standards/Best Lending Practices
- A Member's conviction of a felony or crime of moral turpitude
- A Member's Violation and final conviction of State laws concerning mortgage lending and brokering activities as rendered by either the regulatory body of the state or state and/or federal courts
- Broker to Broker activities which violate the codes of honesty, integrity and professional conduct in activities such as:
 - Using Association events for the purpose of unlawfully recruiting Loan Officers employed by a fellow Broker.
 - Accepting loans from a new Loan Officer which were in process based on confidential information obtained from the Loan Officer's former employer.
- Association complaints against Members

Note: These model policies and procedures contain no required provision for State Affiliates to accept complaints from consumers or third party providers. Complaints of this nature are to be directed to the appropriate regulatory body. Should they choose to do so, State Affiliates may add such provisions to their state policies.

Also these policies contain no provisions for State Affiliates to request or require monetary remuneration by a respondent; nor are State Affiliates expected to serve as a collection agency for such monies.

Composition & Appointment of Ethics & Professional Standards Committee Members

The Ethics & Professional Standards Committee shall be comprised of a minimum of five persons, duly qualified to serve in the capacity. Each member must possess the following qualifications:

1. Have been in the mortgage business for a minimum of five (5) years
2. Have been a member of the Association for a minimum of three (3) years, with the exception of State Affiliates who have not been chartered for three years
3. Have demonstrated their commitment to serving the mortgage industry through service to the Association such as participation on committees, as a member of the Board of Directors, or as an officer of the State or Local Association
4. Have record of no actions for misconduct taken against them by local, state, or federal regulatory bodies
5. Have a record of no conviction for any type of financial malfeasance

In addition to the above qualifications, each prospective committee person shall provide letters from three sources recommending and endorsing their participation in this committee's function. These sources shall be active members of the association and be individuals who are familiar with the prospective committee person's reputation and work habits, and be able to express an informed opinion on their moral and ethical conduct in their business practices. Sources may be other brokers, appraisers, title company owners, lenders to whom they sell their loans, etc. The chair of the NAMB Ethics & Professional Standards Committee must have an endorsement from their State Association.

To maintain continuity of protocol and process, members of the committee shall serve rotating terms of two (2) years. Initially, some members will serve either shorter or longer terms to establish the rotation system. Committee members may be reappointed for up two (2) additional terms.

The President of the Association shall appoint the Chair of Ethics & Professional Standards Committee and together, the President and Chair shall then appoint the committee members. However, the full Board of Directors must confirm each appointment, including the Chair and all members of the Committee, after review of each nominee's credentials and references. This action is critical as the Board and the Association must resolve to stand behind the actions of the Committee; therefore, each member must be well-vetted before serving.

Procedure for Processing Complaints

1. Complaint must be filed in writing with the association's executive director, the president, or a Board member
2. Complaints will be accepted from:
 - a. Broker and Associate Broker members of the local association
 - b. The association's Board of Directors
3. When a complaint is received by the local association (as in #1 above), it shall be forwarded to the Chair of the Ethics & Professional Standards Committee within five (5) business days.
4. The Chair of the Ethics & Professional Standards Committee shall:
 - a. Verify that the complaint meets the qualifications for being heard, as stated in #1 and 2 above
 - b. If the complaint does not meet the qualifications, the Chair will so notify the complainant
 - c. If the complaint does meet the qualifications, the Chair, or a member of the committee appointed by the Chairs, will serve as the "Initial Investigator"
5. The Initial Investigator will:
 - a. Check the association files to see if there are any previous proven offenses recorded against the Member. (Note: The association shall maintain a file of all complaints registered and the manner of resolution for a period of ten (10) years.)
 - b. Send a copy of the complaint to the Member respondent, and request a reply to the complaint within 15 business days.
 - c. Contact the Complainant for more details, or to request documentation regarding the allegations, as appropriate – to be returned within 15 business days.

(During this initial period, and if the complaint so warrants, the Initial Investigator should exert his best efforts to facilitate a resolution of the matter between the two parties at this level and before proceeding to other remedies by the full Committee).

If at this juncture the parties have resolved the complaint, the Initial Investigator will memorialize the results in a letter which will be sent to

both parties and also put on file at the association's office. In this instance, the Committee will be advised of the matter at its next scheduled meeting as no action by the Committee will be required.

d. When the requested material has been received, the committee will meet to review and determine if the complaint warrants further investigation, a hearing, or if the complaint should be dismissed. Based on the Committee's decision, action will be taken as follows:

1. If the Committee determines that the case does not warrant further action, a letter will be sent to both the complainant and the Member indicating the Committee's decision, along with supporting reasoning.
2. If the Committee determines that the case should be further investigated, they may consider if "Mediation" could be helpful and appropriate to resolve the complaint. If so, the Committee will ascertain if both parties are willing to participate in a mediation process. If the parties agree, the Committee will arrange for mediation between the complainant and the Member. If mediation is selected as the remedy, both parties must agree to share the expenses involved with the mediation process.

If Mediation is successful, a letter will be sent to both parties memorializing the decisions and also recorded in the associations files.

If Mediation is not successful, or if Mediation is not offered as an option, or if Mediation is offered but not selected by the parties, then the Committee shall proceed as follows:

3. The Committee will schedule a hearing to be held within 30 days between the complainant, the respondent (member) and any witnesses each party may wish to include. The respondent (member) may be represented by counsel. The complainant shall not be entitled to be represented by counsel. The Committee may have counsel present to represent the Committee and the Association in appropriate circumstances to ensure a fair hearing.

The committee shall serve as the "Hearing Panel" unless a member of the Committee is deemed to have a conflict of interest, in which case the Chair shall appoint a person from the general membership who is qualified to serve.

4. During the hearing, both parties will present their case to the Hearing Panel, including their testimony as well as the

testimony of any witnesses. In addition to the testimonies, the Hearing Panel may question any of the persons present on matters pertaining to the case.

5. Within five (5) days of the hearing, the Committee will conclude their deliberations and issue their decision. All actions of the Committee will be provided in writing to the appropriate parties, including the complainant, the Member, the Board of Directors, the association's executive director, and, as appropriate, other entities such as the regulatory bodies of the State, third party providers, etc.

Entities such as website listings of Members, Industry Publications, etc., will only be notified if the membership of the Member is suspended or revoked.

Broker members of the association may inquire of the association's executive director as to whether offenses are on file for a person he is considering for hire as a loan officer, and such information may be shared with the inquiring Broker.

Consumers may make inquiries to the Association regarding a member's record of complaints. The Association will disclose to the consumer: 1) any offenses currently on the Association's record; 2) if there are "multiple" charges pending against the member; and 3) if the association has knowledge of regulatory action taken against the member.

In cases where an Association does not accept complaints from either consumers or third party providers, the Association shall refer any complaints to the appropriate regulatory body.

6. Enforcement: If the Committee's decision requires action, such as loss of member benefits, this must be coordinated with the association's executive director. If the Committee's actions requires interaction between the complainant and the member (such as return of funds, or other specific actions), the Committee must place a date certain on such compliance, and require proof of actions completed. The Committee must also keep a forward calendar to monitor any date certain events it has imposed and follow up on those actions.

Hearing Panel

The members of the Ethics Committee shall Also serve as the Hearing Panel for cases brought to the Association for adjudication.

The hearing panel shall be comprised of no less than three members of the Committee.

Before each Hearing, each member of the panel must sign a statement stating that he has no interest, financial or otherwise, in the case, and that his service on the Hearing Panel will in no way be a conflict of interest.

If either party to the Hearing expresses an objection to a particular panel member, they must provide a written statement as to the reason they object to an individual's service. In this event, the full Committee must carefully review the objection and, if warranted, replace the member with another on the Committee.

Sanctions/Forms of Discipline for Violations of Ethics & Professional Standards/Best Lending Practices

The following sanctions are designed to cover a broad range of disciplinary actions which should be rendered commensurate with the offense. They are designed to give the Committee and the Board of Directors a wide latitude in the type and severity of sanctions to be applied. It may often be appropriate to issue a combination of these sanctions for the same offense. There is no requirement to issue them in a “graduated” fashion (a first offense may call for the most severe sanction).

1. Letter of Warning placed in member’s file for a specified period of time. This letter from the Association President shall serve as a ‘warning’ that future similar conduct could result in more severe disciplinary action.
2. Letter of Reprimand placed in member’s file for a specified period of time. This letter from the Association President advises the member that the letter is to be construed as an ‘official reprimand’.
3. Imposition of a Training Requirement. A letter from the Association President advising the member of a lack of professional conduct or a violation of the Code, and which directs the member to attend a specific course or courses offered by the Association, and to provide proof of completion of such courses within a specified period of time.
4. Membership on Probation for a specified period of time (usually not less than 30 days nor longer than one year). This sanction would include verification that the member does not commit the same offense during the probation period. Any subsequent finding based on a violation of a similar nature which occurs during the probationary period may result in a suspension of membership.
5. Suspension of Membership for a stated period of time (usually not less than 30 days nor longer than one year). This action is a suspension of membership rights, including but not limited to, denial of association services on terms and conditions stated, including the use of the association’s NAMB Brand Mark and logo, for the period of time determined by the Hearing Panel. This sanction will specify that the member will be reinstated as a member in good standing at the end of the suspension period – at the discretion of the Committee and /or Board if the member has complied with the terms of the suspension (taken corrective measures to avoid a repeat of the offense, as well as the avoidance of additional offenses).*
6. Expulsion of Membership from the Association with no reinstatement privilege. Reinstatement may only be approved after member has re-applied and has met all requirements for new members at that time. *

7. Mediation – agreement by both parties to enter into a mediation process and to openly embrace the process so as to resolve the issue without additional sanctions.

*When a member receives a sanction of suspension or expulsion of membership, the association will also:

1. Notify its state regulators;
2. Publish the notification of sanction in its newsletter;
3. If appropriate, notify HUD and other agencies;
4. Notify NAMB of the sanction.

After receipt of this information, NAMB will:

1. Send notice to all other states where licensee is a member
2. Add notice of sanction to a special section of its website created for the reporting of Ethics violations

Disciplinary Guidelines

Factors to be considered in determining appropriate discipline include, but are not limited to:

1. Nature of the violation
2. Harm caused by the violation
3. Was the violation inadvertent or unintentional, or was it the result of knowing disregard for the Code?
4. Level of experience of the member
5. Previous violations on record for member
6. Mitigating or extenuating circumstances
7. Response of the member in acknowledgement of violation and expression of remorse or contrition

Processing Fees

1. Personal and Professional Vindication – when a member is mistakenly charged and/or found to be not guilty of a violation
2. Education of members about their professional obligations, which will raise their consciousness to the meaning and significance of the Code (many ethics violations occur inadvertently or through ignorance)
3. Meaningful deterrent to future violations
4. Meaningful statement to the public that the Association takes the Code seriously, and is working diligently to police its own industry from within

Gray Areas

In dispensing sanctions, Committees must recognize that “gray areas” may exist. The offense may have resulted from ignorance or from a mistake, in which case the sanction would reflect those findings. When the offense is determined to be flagrant disregard for the Code, the Committee must be cognizant that the Code exists for the protection of the public and this fact considered heavily when determining discipline.

Mitigating Circumstances

Mitigating or extenuating circumstances should be considered in determining appropriate discipline. The fact that a respondent recognizes and acknowledges inappropriate or unethical conduct and took steps to remedy the offense and minimize harm should be considered in determining appropriate discipline.

Prior Violations

Members' records concerning prior violations – or conversely having no record of violations – may be considered by the Hearing Panel when determining appropriate discipline.

Appeals Process

A respondent who is found in violation of the Code of Ethics and/or Best Lending Practices Guidelines by the Hearing Panel may appeal the decision. Appeals will be presented to the full Board of Directors of the Association, whose decision shall be final.

Confidentiality

All matters brought before the Ethics Committee of the Association, as well as the Hearing Panel, shall be conducted in confidence throughout the hearing process. Once a decision has been reached, any sanction imposed will state the parameters of distribution of the decision (to association members, newsletters, websites, HUD, regulatory bodies, NAMB, etc.)



National Association Of Mortgage Brokers Code Of Ethics

The members of the National Association of Mortgage Brokers, believing that the interests of the public and private sector are best served through the voluntary observance of ethical standards of practice, hereby subscribe to the following Code of Ethics.

HONESTY & INTEGRITY

NAMB members shall conduct business in a manner reflecting honesty, honor, and integrity.

PROFESSIONAL CONDUCT

NAMB members shall conduct their business activities in a professional manner. Members shall not pressure any provider of services, goods or facilities to circumvent industry professional standards. Equally, Members shall not respond to any such pressure placed upon them.

HONESTY IN ADVERTISING

NAMB members shall provide accurate information in all advertisements and solicitations.

CONFIDENTIALITY

NAMB members shall not disclose unauthorized confidential information.

COMPLIANCE WITH LAW

NAMB members shall conduct their business in compliance with all applicable laws and regulations.

DISCLOSURE OF FINANCIAL INTERESTS

NAMB members shall disclose any equity or financial interest they may have in the collateral being offered to secure a loan.

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