

# Appraisal Institute

## Summary of Regulation No. 6

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## Summary of Regulation No. 6

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This summary is intended only to provide an overview of the primary procedures of Regulation No. 6 effective May 10, 2018 and does not cover every detail, nuance, alternative, right, or responsibility under the Regulation.

### 1. Screening

All information the Appraisal Institute, its Regions and its chapters (or agents thereof) receive that suggests that an Appraisal Institute Member, Candidate, Practicing Affiliate or Affiliate may have failed to comply with the [Appraisal Institute Code of Professional Ethics](#) or [Standards of Professional Practice](#) will be screened. Anyone can [submit a referral](#), including but not limited to, clients, lenders, Appraisal Institute Members, Candidates, Practicing Affiliates, Affiliates, regulators and anonymous individuals.

- a. If the Screener determines, in his or her sole judgment, that there is no legitimate basis for further action, the Screener shall close the file with no further action.
- b. If the Screener determines, in his or her sole judgment, that the subject would benefit from educational interaction with the Screener, the Screener may contact the subject for such purposes. The Screener shall then close file.
- c. If the Screener determines, in his or her sole judgment, that a subject would benefit from completing a specified Educational Alternative in lieu of further investigation, the subject shall have thirty (30) days to accept the Educational Alternative, file a request for reconsideration, or request that the file be referred for further investigation.
- d. If the Screener determines, in his or her sole judgment, that further investigation is warranted, the Screener shall refer the matter for further investigation.

If the Appraisal Institute determines that a Member, Candidate, Practicing Affiliate or Affiliate may have used or referred to the Appraisal Institute or its membership designations in a manner that is misleading or used or displayed the registered designations, logos or emblems of the Appraisal Institute in a manner contrary to [Regulation No 5](#), the individual may be provided with notice of the possible violation and given an opportunity to submit proof that the possible violation has been corrected.

If the Appraisal Institute receives information indicating that a Member, Candidate, Practicing Affiliate or Affiliate has entered a guilty plea or been convicted of a crime of the type referred to in Ethical Rule 1-2, special procedures apply and the individual will be suspended (if all rights to appeal the conviction have not yet expired) or expelled (if all rights to appeal the conviction have expired). The individual has a right to appeal these automatic disciplinary actions.

### 2. Investigations

When a Screener refers a matter for further investigation, the Professional Practice Department appoints an Investigator. If a determination is made that the Investigator may need assistance, one (1) or more

Assistant Investigators may be appointed to assist the Investigator. The Subject may file an unlimited number of challenges for cause requesting the dismissal of an Investigator or Assistant Investigator due to a Conflict of Interest. Such challenges must include supporting facts and reasoning. The Professional Practice Department determines whether to grant such challenges.

The Investigator is responsible for conducting a thorough investigation of the matter assigned. As part of the investigation, an Investigator must interview the Subject.

If the investigator comes across a violation that is not connected with the subject matter of the investigation, the investigator should notify the Professional Practice Department, but should not take any further action relating to the possible violation unless and/or until the matter is formally assigned to the investigator.

When the Investigator has completed his or her investigation, the Investigator must prepare a written Investigation Report. Except in cases where an automatic Suspension or Expulsion is required, the Investigator must recommend one of the following actions in the Investigation Report:

- a. that the file be closed with no further action; or
- b. that the Subject be contacted about possible violations of the [Standards of Professional Practice](#) for educational purposes; or
- c. that the Subject be given the right to accept one of the following disciplinary actions:

Admonishment - Admonishment is a warning calling the attention of a Member, Candidate, Practicing Affiliate or Affiliate to one or more violations of the [Appraisal Institute Code of Professional Ethics](#). An Admonishment is entered into the individual's record for a period of five (5) years but is not published or made known to the Members, Candidates, Practicing Affiliates, Affiliates or the general public. The Investigator may recommend an educational alternative in lieu of Admonishment. If an educational alternative is offered, accepted and successfully completed, the Admonishment will not be effective and the fact that the educational alternative was successfully completed will be entered into the individual's record for a period of one (1) year.

Reprimand - Reprimand is a serious warning calling the attention of a Member, Candidate, Practicing Affiliate or Affiliate to one or more violations of the [Appraisal Institute Code of Professional Ethics](#). A Reprimand is entered into the individual's record for a period of ten (10) years but is not published or made known to the Members, Candidates, Practicing Affiliates, Affiliates or the general public. The Investigator may recommend an educational alternative in lieu of Reprimand. If an educational alternative is offered, accepted, and successfully completed, the Reprimand will not be effective and the fact that the educational alternative was successfully completed will be entered into the individual's record for a period of one (1) year.

Censure - Censure is a formal expression of severe criticism and disapproval for one or more violations of the [Appraisal Institute Code of Professional Ethics](#). A Censure is entered into the individual's record for a period of thirty years and notice of a Censure is published in both print and electronic media, posted on the Appraisal Institute website, and the chapter of the individual is

notified. The Investigator may recommend an educational alternative in lieu of Censure. If an educational alternative is accepted and completed, the Censure will be reduced to Admonishment and placed on the individual's record for a period of five (5) years.

Suspension - Suspension is a temporary revocation of the privileges (but not the obligations) of Appraisal Institute membership, candidacy or affiliation for one or more violations of the [Appraisal Institute Code of Professional Ethics](#). The period of a Suspension may be up to two (2) years. A Suspension is entered into the individual's record for a period of thirty (30) years and notice of a Suspension is published in both print and electronic media, posted on the Appraisal Institute website, and the chapter of the individual is notified.

Expulsion - Expulsion is a complete termination of Appraisal Institute membership, candidacy or affiliation for one or more violations of the [Appraisal Institute Code of Professional Ethics](#). An Expulsion is entered into the individual's record for a period of thirty (30) years and notice of an Expulsion is published in both print and electronic media, posted on the Appraisal Institute website, and the chapter of the individual is notified.

If the Investigator concludes that the Subject violated Ethical Rule 2-3(b), (c), or (d) which generally relate to an individual's obligation to cooperate with the Appraisal Institute, Investigators, Appraisal Institute committees or members thereof, or one of their duly authorized agents, special procedures apply. Violation of E.R. 2-3(b), (c), or (d) will result in automatic Expulsion from Appraisal Institute membership, candidacy or affiliation subject to the right of appeal.

### **3. Review of Investigation Report**

Upon receipt of an Investigation Report, the Professional Practice Department will review the file and Report to determine whether the investigation was adequate and whether the report is in conformance with [Regulation No. 6](#). The Professional Practice Department will also send a copy of the report to a member of the Professional Practice Compliance and Enforcement Committee for review. If the report is approved and the Investigator recommended a disciplinary action, the Professional Practice Department will notify the Investigator of the Subject's prior disciplinary record, if any. The Investigator may then change the recommendation as to disciplinary action and any educational alternative.

### **4. Options if a Disciplinary Action is Offered**

If a disciplinary action is offered, the Subject may:

- a. accept the disciplinary action, in which case the file will be closed and the disciplinary action will be entered on the record;
- b. accept the educational alternative in lieu of the disciplinary action (if this option is given) and the file will be placed in suspense until the Professional Practice Department determines that the Subject successfully completed the educational alternative within the specified period of time. If the educational alternative is complete, the file will be closed.
- c. file a written request that the Investigator reconsider the findings and/or recommendation. A request for reconsideration must provide good cause for such reconsideration. The Investigator may then

reconsider and revise his or her findings and/or recommendation. If the Investigator still recommends a disciplinary action, the Subject has the right to request a formal Hearing; or

- d. request a formal Hearing.

If the Subject fails to respond to the offer of a disciplinary action in a timely manner the disciplinary action will become effective and the file will be closed.

If an individual resigns or is terminated for failure to pay dues or fees while subject to a pending case in which a disciplinary action has been offered, the Appraisal Institute will publish, in both print and electronic media, that such resignation or termination occurred while the individual was the subject of a peer review proceeding. Such publication will also occur if an individual resigns or is terminated for failure to pay dues or fees while a case is pending in which the individual was notified that a disciplinary action was being imposed for a violation of Ethical Rule 1-2, 2-3(b), 2-3(c), or 2-3(d).

## 5. Hearings

### *Preparation of Formal Complaint and Appointment of Hearing Committee*

If the Subject chooses not to accept an offer of disciplinary action, or an educational alternative if offered, the Subject can request: a formal Hearing. The Investigator will prepare a formal Complaint that will set forth in detail each alleged act (or failure to act) that the Investigator believes violates the [Code of Professional Ethics](#). The Professional Practice Department will then appoint a Hearing Committee consisting of a Chair and not less than two (2) other members. The Subject may file two types of challenges to the Hearing Committee appointees:

- The Subject may file one (1) peremptory challenge requesting the dismissal of one Hearing Committee appointee. The Subject need not state any facts or reasoning in support of such a challenge, and the Professional Practice Department must permit the challenge if the Subject has followed the proper procedures;
- The Subject may file an unlimited number of challenges for cause requesting the dismissal of Hearing Committee members on the grounds that they have a Conflict of Interest. Such challenges must include supporting facts and reasoning. The Professional Practice Department determines whether to grant these challenges.

### *PreHearing Filings*

The Subject must file with the Chair of the Hearing Committee an Answer to the Complaint that addresses the allegations of the Complaint and raises affirmative defenses. Failure to file an Answer to the Complaint constitutes a relinquishment of the right to a Hearing.

If the Subject believes that the Complaint lacks specificity, the Subject may file a Request for a Bill of Particulars to compel the Investigator to supply additional information that will enable the Subject to understand fully the nature of the charges and prepare a defense. The Hearing Committee rules on the validity of such requests.

Both the Subject and the Investigator may a written request for the issuance of summons for an Appraisal Institute Member, Candidate, Practicing Affiliate or Affiliate to appear as a witness and/or to produce evidence. If the Subject exercises his or her right to request the issuance of a summons, and the Chair of the Hearing Committee does issue such summons, the Subject must pay the travel expenses of the summoned witness.

#### *The Hearing*

At the Hearing, both parties have the right to be heard; to offer relevant testimony of witnesses; to cross-examine the other party and its witnesses; and to present relevant documentary evidence. The Investigator has the burden of proof to establish, by the greater weight of the evidence, that the Subject violated the [Code of Professional Ethics](#).

The Subject has the right to be represented by legal counsel provided that the Subject filed a timely notice of his or her intentions to do so. The Investigator and the Hearing Committee may also have counsel present at the Hearing if so approved by the Appraisal Institute General Counsel.

#### *Post Hearing*

After the Hearing a written decision will be prepared. If the Hearing Committee determines that the Subject did not violate the [Code of Professional Ethics](#), the file will be closed.

If the Hearing Committee determines that the Subject violated the [Code of Professional Ethics](#), the Committee may consider all prior disciplinary actions against the Subject and may recommend the disciplinary action of Admonishment, Reprimand, Censure, Suspension, or Expulsion. The Hearing Committee may further recommend an Educational Alternative in lieu of any disciplinary action except Suspension and Expulsion.

## **6. Appeals**

A Subject has the right to appeal any Hearing Committee Decision that recommends that a disciplinary action be taken against such individual. A Subject who files an Appeal must file an Appeal Brief within 30 days which states in a concise manner the points relied upon the Subject as the basis of the appeal. Failure to file an Appeal Brief constitutes an abandonment of the appeal.

The Chair of the Professional Practice Appeals Panel will appoint an Appeal Board consisting of a Chair and not less than two (2) additional members. The Subject has the right to file one peremptory challenge and unlimited challenges for cause to the Appeal Board appointees.

Both the Subject and the Investigator have the right to be present at a Hearing on Appeal and to present oral arguments. Upon completion of a Hearing on Appeal an Appeal Board may consider the matters raised by the parties' briefs and oral arguments in choosing one of four possible courses of action.

1. Affirm the determination of the Hearing Committee that the Subject violated the [Code of Professional Ethics](#) and approve the disciplinary action recommended by the Hearing Committee. If the disciplinary action is not Suspension or Expulsion, an Appeal Board may offer the Subject the opportunity to accept an Educational Alternative in lieu of the specified disciplinary action.

2. Affirm the determination of the Hearing Committee that the Subject violated the [Code of Professional Ethics](#) but reduce the penalty recommended by the Hearing Committee. If the disciplinary action is not Suspension or Expulsion, an Appeal Board may offer the Subject the opportunity to accept an Educational Alternative in lieu of the specified disciplinary action.
3. Reverse the Hearing Committee decision and close the case.
4. Remand the matter to the Hearing Committee for a new Hearing with any instructions that the Appeal Board considers appropriate.

## Procedural System for Professional Practice Enforcement

	Professional Practice Department
	Screener
	Investigator
	Hearing Committee
	Professional Practice Appeal Board

