



Regulation No. 6 Peer Review

Effective May 10, 2018

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REGULATION NO. 6

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1 **ARTICLE I**

2

3 **Purpose**

4

5 The primary purpose of this Regulation is to establish uniform rules governing peer review
6 proceedings.

7

9

10 Definitions

11

12 As used in this Regulation, the following terms shall have the following meanings unless the context
13 clearly indicates that another meaning is intended:

14

15 **Admonishment**

16 “Admonishment” is a disciplinary action that is a warning, calling the attention of a Member,
17 Candidate, Practicing Affiliate or Affiliate to one or more violations of the Appraisal Institute Code of
18 Professional Ethics. An Admonishment is entered into an individual’s record for a period of five (5)
19 years but is not published or made known to Members, Candidates, Practicing Affiliates, Affiliates or
20 the general public.

21

22 **Board of Directors**

23 “Board of Directors” means the Board of Directors of the Appraisal Institute.

24

25 **Censure**

26 “Censure” is a disciplinary action that is a formal expression of severe criticism and disapproval for
27 one or more violations of the Appraisal Institute Code of Professional Ethics.

28

29 A Censure is entered into an individual’s record for a period of thirty (30) years and is published in
30 both print and electronic media. In addition, the individual’s chapter is notified of the Censure.

31

32 An individual who receives a Censure shall be ineligible to hold any national, regional, or chapter
33 position or serve as an instructor for the Appraisal Institute for five (5) years from the effective date of
34 the Censure.

35

36 If an individual is holding one or more national, regional or chapter positions or is serving as an
37 approved instructor for the Appraisal Institute as of the effective date of the Censure, the individual
38 shall be automatically removed from any and all such positions.

39

40 **Code of Professional Ethics**

41 “Code of Professional Ethics” means the Appraisal Institute Code of Professional Ethics or a similar
42 document of one of its predecessors.

43

44 **Conflict of Interest**

45 “Conflict of Interest” means a situation in which an individual’s judgment in matters regarding another
46 person’s interests or rights would be materially affected by the individual’s own financial, business,
47 property, or personal interests or by the individual’s own Personal Bias or experience. “Personal
48 Bias” means an individual’s predisposition, either favorable or prejudicial, to the interests or rights of
49 another individual; having Personal Bias is the opposite of being impartial.

50

51 **Designated Member in good standing**

52 “Designated Member in good standing” means any Designated Member of the Appraisal Institute who
53 is not suspended from membership.

54

55 **Disciplinary Action**

56 “Disciplinary Action” means a penalty imposed upon a Member, Candidate, Practicing Affiliate or
57 Affiliate for violation of the Appraisal Institute Code of Professional Ethics. Disciplinary actions include
58 Admonishment, Reprimand, Censure, Suspension, and Expulsion.

59

60 **Disciplinary Proceedings**

61 “Disciplinary Proceedings” applies to the actions commencing with the filing of: a Notice of Hearing
62 Committee Appointment; a notice of a finding of a violation of Ethical Rule 1-2, 2-3(b), 2-3(c), or 2-
63 3(d); or a notice of a finding of a violation of the terms of a Suspension.

64

65 **Educational Alternative**

66 “Educational Alternative” is an opportunity that may be offered to a Member, Candidate, Practicing
67 Affiliate or Affiliate to complete an educational experience in lieu of further investigation or in lieu of
68 the disciplinary action of Admonishment, Reprimand, or Censure. If an individual successfully
69 completes an Educational Alternative in lieu of further investigation, Admonishment or Reprimand,
70 this fact is entered into the individual’s record for a period of one (1) year after the Educational
71 Alternative is successfully completed. If an individual successfully completes an Educational
72 Alternative in lieu of Censure, the disciplinary action is reduced to Admonishment.

73

74 **Expulsion**

75 “Expulsion” is a disciplinary action that is a complete termination of Appraisal Institute membership,
76 candidacy or affiliation for one or more violations of the Appraisal Institute Code of Professional
77 Ethics.

78

79 No later than the effective date of the Expulsion, the individual who receives the Expulsion shall
80 return to the Appraisal Institute any indicia of membership, candidacy or affiliation.

81

82 Upon the effective date of an Expulsion, the individual who received the Expulsion shall completely
83 cease any use of the Appraisal Institute designations or reference to Appraisal Institute membership,
84 candidacy or affiliation.

85

86 An Expulsion is entered into the individual’s records for a period of thirty (30) years and is published
87 in both print and electronic media. In addition, the individual’s chapter is notified of the Expulsion.

88

89 An individual who receives an Expulsion is ineligible to apply for readmission to membership,
90 candidacy or affiliation, to hold any national, regional, or chapter position, and to serve as an
91 instructor for the Appraisal Institute for five (5) years from the effective date of the Expulsion.

92

93 If an individual is holding one or more national, regional, or chapter positions or is serving as an
94 approved instructor for the Appraisal Institute as of the effective date of the Expulsion, the individual
95 shall be automatically removed from any and all such positions.

96

97 **Investigator**

98 "Investigator" means the individual appointed to perform the functions assigned to an Investigator as
99 described in this Regulation. "Assistant Investigator" means any individual appointed to assist an
100 Investigator in performing his or her duties. "Investigators" means the Investigator and any Assistant
101 Investigators appointed to perform the functions assigned to an Investigator pursuant to this
102 Regulation. Any Grievance Committee in place as of the effective date of this Regulation shall
103 henceforth be known as "Investigators" and the Chair of any such Grievance Committee shall
104 henceforth be known as "Investigator."

105

106 **Peer Review Proceedings**

107 "Peer Review Proceedings" applies to all actions taken pursuant to this Regulation to determine
108 whether a Member, Candidate, Practicing Affiliate or Affiliate may have violated or did violate the
109 requirements of the Appraisal Institute Standards of Professional Practice or Code of Professional
110 Ethics and to take appropriate remedial or disciplinary measures. Peer review proceedings also
111 applies to all actions taken pursuant to this Regulation to determine whether a Member, Candidate,
112 Practicing Affiliate or Affiliate; has failed to comply with the terms of Suspension; has been convicted
113 of a serious crime committed prior to being admitted as a Member, Candidate, Practicing Affiliate or
114 Affiliate; or has knowingly made false statements, submitted false information, or failed to fully
115 disclose information requested in an application for admission to membership, candidacy, or affiliation
116 and to take appropriate disciplinary action.

117

118 **Reprimand**

119 "Reprimand" is a disciplinary action that is a serious warning, calling the attention of a Member,
120 Candidate, Practicing Affiliate or Affiliate to one or more violations of the Appraisal Institute Code of
121 Professional Ethics. A Reprimand is entered into an individual's record for a period of ten (10) years
122 but is not published or made known to Members, Candidates, Practicing Affiliates, Affiliates or the
123 general public.

124

125 **Screener**

126 "Screener" shall mean the Director of Screening, a contract screener or other staff screener who
127 performs any of the screening functions as described in this Regulation.

128

129 **Subject**

130 "Subject" means a Designated Member, Candidate, Practicing Affiliate or Affiliate of the Appraisal
131 Institute who is the subject of a peer review proceeding.

132

133 **Standards of Professional Practice**

134 "Standards of Professional Practice" means the Appraisal Institute Standards of Professional Practice
135 or a similar document of one of its predecessors.

136 **Suspension**

137 “Suspension” is a disciplinary action that is a temporary revocation of the privileges (but not the
138 obligations) of Appraisal Institute membership, candidacy or affiliation for one or more violations of
139 the Code of Professional Ethics.

140
141 The period of Suspension shall not be more than two (2) years. A Suspension is entered into the
142 individual’s record for a period of thirty (30) years and is published in both print and electronic media.
143 In addition, the individual’s chapter is notified of the Suspension.

144
145 An individual who receives a Suspension must transmit any indicia of membership, candidacy or
146 affiliation to the Professional Practice Department no later than the date the Suspension commences
147 to be held for the period of Suspension.

148
149 At the expiration of the period of Suspension, the suspended individual, if eligible, is automatically
150 restored to the full privileges of Appraisal Institute membership, candidacy or affiliation and any
151 indicia of membership, candidacy or affiliation are returned.

152
153 A suspended individual is not entitled to the benefits or privileges of Appraisal Institute membership,
154 candidacy or affiliation. For example, a suspended Member may not:

- 155
- 156 • use or refer to any Appraisal Institute designation, or membership, candidacy or affiliation in
157 correspondence, business cards, statements of qualifications, web presence, written or oral
158 reports or testimony;
 - 159
 - 160 • hold any national, regional, or chapter positions or serve as an instructor for the Appraisal
161 Institute for five (5) years from the date the Suspension commences. If an individual is holding
162 one or more national, regional, or chapter positions or is serving as an approved instructor for the
163 Appraisal Institute when the Suspension commences, the individual shall be automatically
164 removed from any and all such positions; or
 - 165
 - 166 • receive discounts on Appraisal Institute products and services.
- 167

168 Although a suspended Member, Candidate, Practicing Affiliate or Affiliate is not entitled to the benefits
169 and privileges of membership, candidacy or affiliation, a suspended Member, Candidate, Practicing
170 Affiliate or Affiliate remains a Member, Candidate, Practicing Affiliate or Affiliate of the Appraisal
171 Institute for all other purposes and is required to comply with the Appraisal Institute Code of
172 Professional Ethics and Standards of Professional Practice during the Suspension. Any failure to
173 observe the requirements of the Appraisal Institute Code of Professional Ethics or Standards of
174 Professional Practice during the Suspension may result in further disciplinary proceedings under this
175 Regulation.

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177
178

179 **Traceable Carrier**

180 “Traceable Carrier” means a service that will deliver a document and that will provide proof of delivery
181 or attempted delivery. Examples of Traceable Carriers may include, but are not limited to, the United
182 States Postal Service when certified or registered mail is used, an overnight delivery service that can
183 provide proof of the date and recipient of delivery, a messenger service that can provide proof of the
184 date and recipient of delivery, or e-mail that can provide proof of date of delivery and e-mail address
185 to which the document was sent. The sender is responsible for obtaining and maintaining proof of
186 delivery.
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ARTICLE III

General Rules Governing Peer Review Proceedings

Part A: Address for Notices

The Appraisal Institute Bylaws require that each Member, Candidate, Practicing Affiliate and Affiliate keep the Appraisal Institute advised as to the current address of his or her principal place of business and home, current facsimile number, and current email address. Any notice to a Member, Candidate, Practicing Affiliate and Affiliate that is addressed to the principal place of business or home, facsimile number or email address of such individual as it appears in the official records of the Appraisal Institute and that is transmitted within the time limits set forth in this Regulation shall be deemed good and sufficient notice for all purposes.

Part B: Confidentiality

Section 1. Files to be Confidential

Except where otherwise required or permitted, matters processed pursuant to this Regulation shall be confidential. No documents or information that pertain to or identify a specific Member, Candidate, Practicing Affiliate or Affiliate shall be made public or discussed with anyone except as authorized under the Bylaws and Regulations of the Appraisal Institute.

Section 2. Advice to Admissions Department

The Professional Practice Department shall notify the Admissions Department:

- a) when a disciplinary proceeding against a Candidate is commenced and when such proceeding is concluded;
- b) when a Candidate is the subject of a pending peer review proceeding in which the individual has been sent an offer of a publishable disciplinary action and when such proceeding is concluded; and
- c) when a peer review proceeding results in the Censure, Suspension or Expulsion of a Candidate. In the case of a Suspension, the Professional Practice Department also shall notify the Admissions Department of the dates the Suspension commences and ends.

Section 3. Confidential Treatment of Communications

All communications transmitted in connection with any peer review proceeding under this Regulation shall be marked "CONFIDENTIAL."

230 **Section 4. Breach of Confidential Nature of Peer Review Proceedings**

231 A Member, Candidate, Practicing Affiliate or Affiliate who fails to observe the rules relating to the
232 confidential nature of peer review proceedings under this Regulation may be subject to:

- 233
- 234 a) peer review proceedings under the Bylaws and Regulations of the Appraisal Institute, which may
235 result in a disciplinary action; and
- 236
- 237 b) legal proceedings against such Member, Candidate, Practicing Affiliate or Affiliate for damages
238 suffered by the Appraisal Institute as the result of the failure of such individual to observe the
239 rules relating to the confidential nature of peer review proceedings under this Regulation.

240

241

242 **Part C: Procedural Matters**

243 To the extent that a procedural question arises that is not specifically covered by this Regulation, the
244 individual, committee, board or panel charged with responsibility may consider the procedural rules
245 that are applicable in a court of law. However, such individual, committee, board or panel shall not be
246 bound by such procedural rules and may take such action as fairness and justice require.

247

248 If a required or permitted notice is transmitted to one or more parties to a peer review proceeding in a
249 manner that does not comply with the requirements of this Regulation, such failure to comply shall not
250 be deemed substantive unless one or more of the parties to whom such notice was directed was, in
251 fact, adversely and materially affected by such failure to comply.

252

253

254 **Part D: Cessation of Peer Review Proceedings During Pendency of**
255 **Litigation**

256 Any individual who knows or learns that a matter is subject to both a peer review proceeding under
257 this Regulation and a pending judicial or quasi-judicial proceeding shall immediately advise the
258 Professional Practice Department of such fact.

259

260 If the Professional Practice Department determines that continuing the peer review proceeding under
261 this Regulation could interfere with or affect a pending judicial or quasi-judicial proceeding, the
262 Professional Practice Department may direct that the peer review proceedings be postponed. The
263 Professional Practice Department may further direct that the Subject of the peer review proceeding
264 periodically update the Department as to the status of the pending judicial or quasi-judicial
265 proceedings and provide additional information and documentation concerning the pending judicial or
266 quasi-judicial proceedings.

267

268 The Subject of a postponed peer review proceeding under this section must promptly notify the
269 Professional Practice Department when such pending judicial or quasi-judicial proceeding has
270 concluded.

273 **Part E: Deferral of Peer Review Proceedings for Medical Reasons**

274 If the Subject of a peer review proceeding believes that he or she has a serious illness or disability
275 that substantially impairs his or her ability to participate in a peer review proceeding, such individual
276 may advise the Professional Practice Department of this fact and request a deferral of such
277 proceeding.

278
279 Upon receipt of any such request, the Professional Practice Department shall conduct an
280 investigation to determine whether, in its opinion, the Subject has an illness or disability that
281 substantially impairs the individual's ability to participate in a peer review proceeding. The Subject
282 has a duty to cooperate in any investigation the Professional Practice Department deems appropriate
283 under this Part, both before and after any deferral of the matter. If the Professional Practice
284 Department deems it appropriate, it may request the Subject to:

- 285
286 a) submit to a medical examination by a medical examiner selected by the Professional Practice
287 Department; and
288
289 b) pay for such examination.
290

291 If a Subject performs one or more Service(s) as defined by the Code of Professional Ethics during the
292 period of this investigation, such action shall conclusively be deemed to demonstrate the ability of
293 such individual to participate in a peer review proceeding.
294

295 If, upon completion of its investigation, the Professional Practice Department determines that the
296 Subject has a illness or disability that substantially impairs such individual's ability to participate in a
297 peer review proceeding, the Professional Practice Department shall direct that all or any part of the
298 peer review proceeding be deferred until either:

- 299
300 a) the Professional Practice Department determines, after further investigation, that the Subject no
301 longer has an illness or disability that substantially impairs the individual's ability to participate in a
302 peer review proceeding; or
303
304 b) until such time as the Professional Practice Department directs.
305

306 A Subject who has requested or received a deferral under this section shall notify the Professional
307 Practice Department when the illness or disability no longer substantially impairs the individual's
308 ability to participate in a peer review proceeding. If a Subject performs one or more Service(s) as
309 defined by the Code of Professional Ethics during the period of a deferral, such action shall
310 conclusively be deemed to demonstrate the ability of such individual to participate in a peer review
311 proceeding.
312
313
314
315

316 **Part F: Deferral of Peer Review Proceedings Due to Military Duty**

317 If the Subject of a peer review proceeding is called to active military duty, such individual may advise
318 the Professional Practice Department of this fact and request that the peer review proceeding be
319 deferred while the individual is on active military duty. The Professional Practice Department may
320 defer the peer review proceeding until the Subject is no longer on active military duty or until such
321 time as the Professional Practice Department directs.

322

323

324 **Part G: Events Beyond an Individual's Control**

325 If a Member, Candidate, Practicing Affiliate or Affiliate violates a Standards or Ethical Rule due to an
326 event beyond the individual's control, such as an act of God, the duly authorized party reviewing the
327 matter should consider such event and all the relevant facts to avoid an inequitable result.

328

329

330 **Part H: Ethics Rule of USPAP and Code of Conduct of IVS**

331 The Ethics Rule of the Uniform Standards of Professional Appraisal Practice promulgated by the
332 Appraisal Standards Board of The Appraisal Foundation shall be enforced solely through the
333 Appraisal Institute Code of Professional Ethics.

334

335 The Code of Conduct of the International Valuation Standards promulgated by the International
336 Valuation Standards Committee shall be enforced solely through the Appraisal Institute Code of
337 Professional Ethics.

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Composition, Powers and Duties: Professional Practice Compliance and Enforcement Committee and Professional Practice Appeal Panel

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Effective May 10, 2018

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377

Professional Practice Compliance and Enforcement Committee

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380

Part A: Composition

381

The composition of the Professional Practice Compliance and Enforcement Committee shall be as set forth in Regulation No. 7 of the Appraisal Institute.

382

383

384

385

Part B: Powers and Duties Relating to Peer Review Files

386

Section 1. Supervision of Peer Review Proceedings

387

The Professional Practice Compliance and Enforcement Committee shall exercise general supervision and control over the administration of all peer review proceedings of the Appraisal Institute.

388

389

390

391

Section 2. Discontinuation of Pending Matters

392

The Professional Practice Compliance and Enforcement Committee shall have the power to discontinue any pending peer review proceeding when, in the opinion of the Committee:

393

394

395

a) further proceedings under this Regulation would be inappropriate or would serve no useful purpose due to the serious illness or disability of the Subject involved;

396

397

398

b) the continuation of the peer review proceeding would violate the civil or criminal law of the jurisdiction in which such matter is pending;

399

400

401

c) procedural errors or omissions would make any disciplinary or remedial action unenforceable; or

402

403

d) a careful consideration of known facts and circumstances indicates that prosecutorial or investigative discretion should be exercised.

404

405

406

Further, if a Member, Candidate or Practicing Affiliate no longer provides any Service(s) as defined by the Code of Professional Ethics, the Professional Practice Compliance and Enforcement Committee shall have the power to discontinue any peer review proceeding concerning such Member, Candidate or Practicing Affiliate provided that the individual:

407

408

409

410

411

a) attests in writing that he or she has not provided any Service(s) in the past six (6) months and has no plans to provide any Service(s) in the future; and

412

413

414

b) agrees in writing to notify the Appraisal Institute prior to providing any Service(s).

415

416 If the Member, Candidate or Practicing Affiliate does provide Service(s) as defined by the Code of
417 Professional Ethics after a peer review proceeding was discontinued under this Part, such proceeding
418 shall resume in accordance with this Regulation.
419

419

420 **Part C: Other Powers and Duties**

421 **Section 1. Peer Review Regulations, Policies and Procedures**

422 The Professional Practice Compliance and Enforcement Committee shall have powers and duties
423 relating to evaluating and recommending peer review Regulations, policies and procedures as set
424 forth in the Bylaws and Regulations of the Appraisal Institute.
425

425

426 **Section 2. Evaluation of Application of Screening Policies**

427 The Professional Practice Compliance and Enforcement Committee may periodically review
428 screening actions to determine whether such actions are consistent with the screening policies
429 established by the Professional Practice Compliance and Enforcement Committee.
430

430

431 **Section 3. General**

432 The Professional Practice Compliance and Enforcement Committee shall have such other powers
433 and duties as the Bylaws and Regulations of the Appraisal Institute provide. The Professional
434 Practice Compliance and Enforcement Committee shall also perform such other duties as may be
435 assigned to it by the Board of Directors of the Appraisal Institute.
436

436

438

439 Professional Practice Appeals Panel

440

441 **Part A: Composition**

442 **Section 1. Membership of Panel**

443 There shall be a Professional Practice Appeals Panel composed of a Chair and Designated Members
444 as set forth in Regulation No. 7 of the Appraisal Institute.

445

446

447 **Part B: Powers and Duties**

448 **Section 1. Conducting Appeal Proceedings in Peer Review Matters**

449 When a Hearing on Appeal is required by this Regulation, the Chair of the Professional Practice
450 Appeals Panel shall appoint a Professional Practice Appeal Board consisting of a Chair and not less
451 than two (2) additional members from the Professional Practice Appeals Panel. The Chair of the
452 Professional Practice Appeals Panel may serve as Chair or member of a Professional Practice
453 Appeal Board.

454

455 If the Chair of the Professional Practice Appeals Panel is unable to complete any of his or her duties
456 under this Regulation, the Professional Practice Department shall select another member of the
457 Professional Practice Appeals Panel to complete such duties.

458

459 A Professional Practice Appeal Board shall have the power and duty to conduct Hearings on Appeal
460 relating to such peer review matters as required or permitted by this Regulation.

461

462 **Section 2. Other Duties**

463 The Professional Practice Appeals Panel, its Chair, and its members shall perform such other duties
464 as may be assigned by the Professional Practice Compliance and Enforcement Committee and the
465 Board of Directors of the Appraisal Institute.

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Screening

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Effective May 10, 2018

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516 **Screeners**

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518 **Part A: Director of Screening**

519 **Section 1. Director of Screening**

520 The Director of Screening shall be a Designated Member of the Appraisal Institute in good standing
521 and shall have such qualifications as set forth in the job description for such position.

522

523 **Section 2. Powers and Duties**

524 The Director of Screening shall:

525

526 a) serve as a member of the Professional Practice Compliance and Enforcement Committee;

527

528 b) exercise general supervision over all files in screening;

529

530 c) act upon screening files as authorized by this Regulation;

531

532 d) oversee any contract or staff Screeners, as directed by the General Counsel of the Appraisal
533 Institute; and

534

535 e) have the authority to delegate to another Screener the power to take actions and make decisions
536 on screening file(s).

537

538

539 **Part B: Other Screeners**

540 The Appraisal Institute may retain contract Screener(s) and additional staff Screener(s) to assist the
541 Director of Screening in performing the Director's duties; to act upon files in screening; to act upon
542 file(s) in screening should the position of the Director of Screening be vacant; to act upon files in
543 screening where the Director of Screening has a Conflict of Interest; and, for other reasons it deems
544 appropriate.

545

547

548 Screening Procedures

549

550 Part A: Screening of Information

551 Section 1. General

552 Except as otherwise provided, a Screener shall, in accordance with this Regulation, screen all
553 information the Appraisal Institute, its Regions and its Chapters (or agents thereof) receive that
554 suggests that an Appraisal Institute Member, Candidate, Practicing Affiliate or Affiliate may have:

555

556 a) failed to comply with the requirements of the Appraisal Institute Code of Professional Ethics or
557 Standards of Professional Practice;

558

559 b) been convicted of a serious crime committed prior to becoming a Member, Candidate, Practicing
560 Affiliate or Affiliate; or

561

562 c) knowingly made false statements, submitted false information, or failed to fully disclose
563 information requested in an application for admission to membership, candidacy or affiliation.

564

565 A Screener may conduct such investigation as the Screener deems appropriate for purposes of
566 fulfilling the Screener's responsibilities under this Regulation. A Screener may request that any
567 Designated Member in good standing who holds the status "continuing education program
568 completed" procure additional information that may be relevant to the screening of a matter and
569 forward it to the Screener.

570

571 Section 2. Possible Violations of Ethical Rules Under Canon 5

572 The Professional Practice Department will screen information suggesting that a Member, Candidate,
573 Practicing Affiliate or Affiliate may have violated an Ethical Rule under Canon 5. The Professional
574 Practice Department may conduct such investigation as the Department deems appropriate for
575 purposes of fulfilling its responsibilities under this Regulation. If the Professional Practice Department
576 determines that a Member, Candidate, Practicing Affiliate or Affiliate may have violated an Ethical
577 Rule under Canon 5, the Professional Practice Department may take one or more of the following
578 actions:

579

580 a) refer the matter to a Screener.

581

582 b) request that the Subject provide written assurances that the possible violation will cease.

583

584 c) request that the Subject provide proof that the possible violation has been corrected.

585

586 If the Subject complies with each and every request of the Professional Practice Department relating
587 to possible violation of Ethical Rule(s) under Canon 5, the Professional Practice Department will close
588 the file.

589 If the Subject does not comply with each and every request of the Professional Practice Department
590 relating to possible violation of Ethical Rule(s) under Canon 5, the Professional Practice Department
591 will send the file to a Screener.

592

593

594 **Part B. Permitted Actions by the Screener**

595 **Section 1. Close With No Further Action**

596 If the Screener determines, in his or her sole judgment, that there is no legitimate basis for further
597 action, the Screener shall close the file with no further action.

598

599 **Section 2. Educational Interaction with Screener**

600 If the Screener determines, in his or her sole judgment, that the Subject would benefit from
601 educational interaction with the Screener, the Screener may contact the Subject for such purposes.
602 The Screener shall then close file.

603

604 **Section 3. Educational Alternative in Lieu of Further Investigation**

605 If the Screener determines, in his or her sole judgment, that a Member, Candidate, Practicing Affiliate
606 or Affiliate would benefit from completing a specified Educational Alternative in lieu of further
607 investigation and processing under this Regulation, the Screener shall so notify the Professional
608 Practice Department.

609

610 The Professional Practice Department then shall send a notice of Educational Alternative in lieu of
611 further investigation to the Subject. This notice shall advise the Subject that he or she shall have a
612 period of thirty (30) days from the date of such notice to advise the Professional Practice Department
613 in writing by Traceable Carrier as to whether the he or she elects to:

614

615 a) accept the offer of an Educational Alternative;

616

617 b) file a request for reconsideration that provides good cause for such reconsideration; or

618

619 c) request that the file be referred for further investigation.

620

621 If the Subject fails to respond to the notice of Educational Alternative in lieu of further investigation in
622 accordance with the requirements of this Regulation the file will be referred for further investigation.

623

624 Upon receipt of a written request from the Subject setting forth facts and circumstances justifying an
625 extension, the Professional Practice Department may extend the time for making such election or
626 filing a request to a date that the Department deems reasonable under the circumstances.

627

628 If the Subject affirmatively accepts an Educational Alternative in accordance with the requirements of
629 this Regulation the Professional Practice Department shall place the file in suspense until the
630 Department can determine whether the Subject successfully completed the Educational Alternative.

631

632 If the Professional Practice Department determines that the Subject successfully completed the
633 Educational Alternative within the specified time period, this fact shall be entered into the individual's
634 record for a period of one (1) year after the Educational Alternative is completed and the peer review
635 file shall be closed.

636

637 If the Professional Practice Department determines that the Subject failed to successfully complete
638 the Educational Alternative within the specified time period, the disciplinary action of admonishment
639 will be entered into the individual's record for a period of five years and the peer review file shall be
640 closed.

641

642 If the Subject files a request for reconsideration in accordance with the requirements of this
643 Regulation, the Screener may reconsider and revise his or her determination. If the Screener decides
644 not to revise his or her determination the Professional Practice Department shall notify the Subject of
645 the Screener's decision and the individual will have a right to either:

646

647 a) accept the Educational Alternative; or

648

649 b) request that the matter be referred for further investigation.

650

651 If the Subject affirmatively elects in accordance with the requirements of this Regulation not to accept
652 the offer of an Educational Alternative, the matter will be referred for further processing in accordance
653 with this Regulation.

654

655 **Section 4. Referral for Further Investigation**

656 If the Screener determines, in his or her sole judgment, that further investigation is warranted, the
657 Screener shall refer the matter for further investigation in accordance with this Regulation.

658

659

660 **Part C: Additional Rules**

661 **Section 1. Conflict of Interest**

662 If a Screener determines that he or she has a Conflict of Interest with respect to any screening file,
663 the Professional Practice Department shall refer such matter to another Screener.

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Investigations

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Effective May 10, 2018

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713 Investigations

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715 **Part A: Composition**

716 **Section 1. Appointment of an Investigator**

717 When a matter is referred for further investigation, the Professional Practice Department shall appoint
718 an Investigator. If the Professional Practice Department determines that the Investigator may need
719 assistance, the Professional Practice Department may also appoint one (1) or more Assistant
720 Investigators to assist the Investigator. An Investigator may assign all or any portion of the functions
721 assigned to the Investigator to any Assistant Investigator(s). The Professional Practice Department
722 may appoint a replacement Investigator or Assistant Investigator at any time during the investigation.
723

724 An Investigator or Assistant Investigator shall be a Designated Member in good standing and shall
725 hold the status of “continuing education program completed” as of the date of appointment. An
726 Investigator or Assistant Investigator shall not have a Conflict of Interest as to the subject matter or
727 the subject Member, Candidate, Practicing Affiliate or Affiliate of the file. Members of the Professional
728 Practice Compliance and Enforcement Committee are not eligible for appointment as an Investigator
729 or Assistant Investigator.
730

731 **Section 2. Notice of Appointment**

732 The Professional Practice Department shall advise the Subject of the appointment of an Investigator
733 and any Assistant Investigator(s) and advise the Subject that within fifteen (15) days from the date of
734 the notice of appointment, the Subject may file with the Professional Practice Department a challenge
735 for cause requesting that an Investigator or Assistant Investigator be excused because of a Conflict of
736 Interest. Any challenge must set forth the facts and reasoning in support of the challenge.
737

738 Upon a timely request by the Subject, and for good cause shown, the Professional Practice
739 Department may extend the period allowed for the filing of any challenges for cause.
740

741 **Section 3. Ruling Upon a Challenge for Cause and Appointment of Replacement**

742 Upon receipt of a challenge for cause, the Professional Practice Department shall determine whether
743 the challenge should be granted. If a challenge for cause is granted, the Professional Practice
744 Department may appoint a replacement for the individual who has been excused. The Subject shall
745 have the right to file a challenge for cause to any replacement.
746

747 **Section 4. Subsequent Discovery of a Conflict of Interest**

748 If, after accepting appointment, an Investigator or Assistant Investigator discovers that he or she has
749 a Conflict of Interest, such individual shall immediately notify the Professional Practice Department.
750

753 **Section 5. Removal**

754 If the Professional Practice Department determines that an Investigator or Assistant Investigator may
755 have a Conflict of Interest or may have failed to perform his or her assigned duties, the Department
756 may remove such individual from the investigation.

757

758

759 **Part B: Investigation**

760 **Section 1. Procedure for Investigation**

761 An Investigator shall conduct a thorough investigation of the matter assigned.

762 As part of the investigation, the Investigator should interview the Subject. When requested to do so by
763 a duly authorized Investigator, a Subject must appear for a personal interview, participate in an
764 interview conducted by telephone or other electronic medium, and answer all questions concerning
765 the matter under investigation. If the Subject declines to be interviewed, the Investigator shall
766 document this fact in writing and shall complete any additional investigation he or she deems
767 appropriate.

768

769 When requested to do so, a Subject must, at his or her own expense, submit to an Investigator
770 information that is or should be in the Subject's possession or control and that the Investigator
771 believes may be relevant to the investigation. In addition, the Subject may submit, at his or her own
772 expense, any additional information that he or she believes may be relevant to the investigation.

773

774 When the Investigator has completed his or her investigation, the Investigator shall evaluate the
775 relevant facts and decide on a preliminary recommendation.

776

777 **Section 2. Other Violations**

778 If, as a result of an investigation of the subject matter of a file, the Investigator finds or receives
779 information indicating that a Subject may have violated the Appraisal Institute Code of Professional
780 Ethics or Standards of Professional Practice other than in connection with the subject matter of the
781 file assigned for investigation, the Investigator shall report such information to the Professional
782 Practice Department. The Investigator shall take no further action relating to any such other possible
783 violation(s) unless and until such matter is formally assigned to the Investigator.

784

785

786 **Part C: Investigation Report**

787 **Section 1. Duty to Report**

788 After the Investigator has completed an investigation and made a decision as to a preliminary
789 recommendation, the Investigator shall prepare a preliminary written Investigation Report and file
790 such Report with the Professional Practice Department.

791

792

793

794

795 **Section 2. Contents of Investigation Report**

796 The Investigation Report shall contain the following:

797

798 a) a statement identifying the subject matter of the file;

799

800 b) a summary of the procedures followed by the Investigator in conducting the investigation;

801

802 c) the Investigator's findings of fact, together with a summary of the evidence that led to the
803 conclusion that such facts could be established by the greater weight of the evidence;

804

805 d) a conclusion as to whether the Subject violated the Code of Professional Ethics and/or Standards
806 of Professional Practice; and

807

808 e) a preliminary recommendation made in accordance with the requirements of Section 3 below.

809

810 If the Investigator concludes that a Subject did violate the Code of Professional Ethics and/or the
811 Standards of Professional Practice, the Investigation Report shall contain a clear, precise statement
812 as to the particular provision or provisions of the Code of Professional Ethics and/or Standards of
813 Professional Practice violated, as well as the specific details of the action (or failure to act) which
814 constituted such violation(s).

815

816 **Section 3. Permitted Recommendations**

817 Except in the case of a violation of Ethical Rule 2-3(b), 2-3(c), or 2-3(d) of the Code of Professional
818 Ethics, each Investigation Report shall make one of the following recommendations:

819

820 a) that the file be closed with no further action;

821

822 b) that the Subject be contacted about the possible violation of the Standards of Professional
823 Practice for educational purposes; or

824

825 c) that the Subject be given the right to accept a specified disciplinary action for violation(s) of the
826 Code of Professional Ethics.

827

828 If the Investigator determines that a violation of Ethical Rule 2-3(b), 2-3(c), or 2-3(d) of the Code of
829 Professional Ethics has occurred, the Investigator shall prepare a report and recommend that the file
830 be further processed in accordance with the automatic Suspension/Expulsion provisions of this
831 Regulation.

832

833

834

835

836

837 **Part D: Review of Report and Implementation of Recommendation**

838 **Section 1. Review of Report**

839 Upon receipt of an Investigation Report, the Professional Practice Department shall review the file
840 and the Investigation Report to determine whether the investigation was adequate and whether the
841 Investigation Report complies with the requirements of this Regulation. As part of the review process,
842 the Professional Practice Department shall submit a copy of the Report to a member of the
843 Professional Practice Compliance and Enforcement Committee who may provide advice concerning
844 the adequacy of the investigation, the compliance of the report with the requirements of this
845 Regulation, and any technical appraisal issues.

846
847 **Section 2. Permitted Actions by the Professional Practice Department**

848 If the Professional Practice Department determines that the investigation was not adequate or that
849 the Investigation Report is not in compliance with this Regulation, the Department shall remand the
850 file to the Investigator with instructions to take such further steps as the Department may specify.

851
852 If the Professional Practice Department determines that the Investigator's investigation was adequate
853 and that the Investigation Report is in compliance with this Regulation, the Department shall proceed
854 as follows:

- 855
- 856 a) if the Investigator recommended that the file be closed with no further action, the Department
857 shall close the file and advise the Subject that the file has been closed;
 - 858
 - 859 b) if the Investigator recommended that the Subject be contacted about possible violation of the
860 Standards of Professional Practice for educational purposes, the Department shall send the
861 Subject a copy of the Investigation Report for such purposes and close the file; or
 - 862
 - 863 c) if the Investigator recommended giving the Subject the right to accept disciplinary action for
864 possible violations of the Code of Professional Ethics, the Professional Practice Department shall
865 proceed in accordance with Part E of this Article.
- 866

867
868 **Part E: Procedure if an Investigator Recommends that the Subject be**
869 **Given the Right to Accept Disciplinary Action**

870 **Section 1. Review of Prior Disciplinary Record**

871 If the Professional Practice Department determines that the investigation was adequate and that the
872 Investigator's recommendation that the Subject be given the right to accept a specified disciplinary
873 action complies with this Regulation, the Department shall review the Appraisal Institute records to
874 determine whether such individual has previously received any disciplinary actions. The Department
875 shall then notify the Investigator of the Subject's prior disciplinary record, if any. The Investigator may
876 then consider such record and change the recommendation as to disciplinary action and any
877 Educational Alternative.

879 **Section 2. Procedure if Subject is Offered Disciplinary Action Without an Educational**
880 **Alternative Offered**

881 If the Investigator recommended disciplinary action without an Educational Alternative, the
882 Professional Practice Department shall send the Subject a copy of the Investigation Report and a
883 notice that the Investigator has recommended that such individual be given the right to accept a
884 specified disciplinary action. This notice shall also advise the Subject that he or she shall have thirty
885 (30) days from the date the notice and Report to advise the Professional Practice Department in
886 writing by Traceable Carrier as to whether the Subject accepts such disciplinary action or requests
887 reconsideration of the Investigator's findings and/or recommendation. A request for reconsideration
888 must provide good cause for such reconsideration.

889
890 Upon receipt of a written request from the Subject setting forth facts and circumstances justifying an
891 extension, the Professional Practice Department may extend the time for making such election or
892 filing a request for reconsideration to a date the Professional Practice Department deems reasonable
893 under the circumstances.

894
895 If the Subject affirmatively accepts a disciplinary action in accordance with the requirements of this
896 Regulation, or fails to respond to the offer of disciplinary action within the thirty (30) day period (or any
897 extension thereof), the disciplinary action shall become effective and the file shall be closed.

898
899 If the Subject files a request for reconsideration in accordance with the requirements of this
900 Regulation, the Investigator may reconsider and revise the findings and recommendation in
901 accordance with Section 4 below.

902
903 If the Subject affirmatively and properly elects not to accept such disciplinary action, a formal
904 Complaint shall be prepared in accordance with Section 5 below and the file shall be processed
905 further as set forth in this Regulation.

906
907 **Section 3. Procedure if Subject is Offered Disciplinary Action with an Educational Alternative**

908 If the Investigator recommended offering the Subject a disciplinary action and the opportunity to
909 complete a specified Educational Alternative, the Professional Practice Department shall send the
910 Subject a copy of the Investigation Report and a notice that the Investigator has recommended that
911 such individual be given the right to accept a disciplinary action, or in lieu thereof, the right to
912 successfully complete a specified Educational Alternative within a fixed period of time. This notice
913 shall also advise the Subject that he or she shall have thirty (30) days from the date the notice and
914 Report was sent to advise the Professional Practice Department, in writing by Traceable Carrier, as to
915 whether he or she elects to accept the offer of an Educational Alternative, to accept the offer of
916 disciplinary action, to accept neither the disciplinary action nor the Educational Alternative, or to file a
917 request for reconsideration that shows good cause for such reconsideration.

918
919 Upon receipt of a written request from the Subject setting forth facts and circumstances justifying an
920 extension, the Professional Practice Department may extend the time for making such election or

921 filing a request for reconsideration to a date which the Professional Practice Department deems
922 reasonable under the circumstances.

923

924 If the Subject affirmatively accepts the recommended disciplinary action in accordance with the
925 requirements of this Regulation, or if the Subject fails to respond to the offer of disciplinary action and
926 an Educational Alternative within the thirty (30) day period (or any extension thereof), the disciplinary
927 action shall become effective and the file shall be closed.

928

929 If the Subject files a written request for reconsideration in accordance with the requirements of this
930 Regulation, the Investigator may reconsider and revise the findings and recommendation in
931 accordance with Section 4 below.

932

933 If the Subject affirmatively elects not to accept the offer of an Educational Alternative or the
934 recommended disciplinary action in accordance with the requirements of this Regulation, a formal
935 Complaint shall be prepared in accordance with Section 5 below and the file shall be processed
936 further as set forth in this Regulation.

937

938 If the Subject elects to accept such Educational Alternative in accordance with the requirements of
939 this Regulation, the file shall be placed in suspense until the Professional Practice Department can
940 determine whether the Subject successfully completed the Educational Alternative within the
941 specified time period.

942

943 If the Professional Practice Department determines that the Subject successfully completed the
944 Educational Alternative within the specified time period, this fact shall be recorded in the file of the
945 Subject and the file shall be closed. If the Educational Alternative was in lieu of Reprimand or
946 Admonishment, the disciplinary action shall not become effective. If the Educational Alternative was
947 in lieu of Censure, the disciplinary action shall be reduced to Admonishment which shall be recorded
948 in the Subject's disciplinary record.

949

950 If the Professional Practice Department determines that the Subject failed to successfully complete
951 the Educational Alternative within the specified time period, the disciplinary action shall become
952 effective, shall be posted to the record of the Subject, and the file shall be closed.

953

954 **Section 4. Request for Reconsideration**

955 Upon receipt of a request for reconsideration filed in accordance with the requirements of this
956 Regulation, the Investigator may reconsider the findings and recommendation.

957

958 If the Investigator decides not to revise the findings or recommendation, the Investigator shall so
959 notify the Professional Practice Department.

960

961 If the Investigator decides to revise the findings and/or recommendation, the Investigator shall submit
962 a revised Investigation Report and/or recommendation to the Professional Practice Department.

963 The Professional Practice Department will review the revised report and/or recommendation to
964 determine whether the revised Investigation Report (if any) and/or recommendation comply with
965 Regulation No. 6. If the revised Investigation Report and/or recommendation are not in compliance
966 with Regulation No. 6, the Professional Practice Department shall remand the matter to the
967 Investigator with instructions to take such further steps as the Professional Practice Department may
968 specify.

969

970 If the Professional Practice Department determines that the revised Investigation Report and/or
971 recommendation comply with Regulation No. 6, the Professional Practice Department shall notify the
972 Subject of the findings and recommendation. However, if the Investigator still recommends
973 disciplinary action (and possibly an Educational Alternative in lieu thereof), the Subject shall have a
974 right to request a Hearing (in which case a formal Complaint will be prepared and filed), rather than
975 the right to file another request for reconsideration.

976

977 **Section 5. Preparation of a Formal Complaint**

978 If a Subject affirmatively elects not to accept an offer of disciplinary action (and any offer of an
979 Educational Alternative) in accordance with the requirements of this Regulation, the Investigator shall
980 prepare a formal Complaint. The Complaint shall include the following information:

981

982 a) Allegations of Fact

983 The Investigator shall set forth in detail each alleged act (or failure to act) that the Investigator
984 believes violates the Appraisal Institute Code of Professional Ethics so as to fully inform the Subject
985 of the basis for the Complaint; and

986

987 b) Relation to Code of Professional Ethics

988 The Investigator shall set forth each provision of the Appraisal Institute Code of Professional Ethics
989 that the Investigator alleges the Subject violated. The Complaint shall also clearly and specifically
990 state the Subject's act or acts (or failure to act) that violated each such provision.

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Rules Governing Disciplinary Proceedings



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1001 **Effective May 10, 2018**

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1034

1035 Hearings

1036

1037 Part A: Appointment of Hearing Committee and Filing of Complaint

1038 Section 1. Appointment of Hearing Committee

1039 After the Professional Practice Department receives a signed formal Complaint, the Department shall
1040 appoint a Hearing Committee. The Chair and other members of a Hearing Committee shall be
1041 Designated Members in good standing and shall hold the status of “continuing education program
1042 completed” as of the date of appointment.

1043

1044 Each Hearing Committee shall consist of a Chair and not less than two (2) other members. No
1045 member of the Hearing Committee shall have a Conflict of Interest with the subject matter of the
1046 case, the Subject or the Investigator(s).

1047

1048 Section 2. Filing of Complaint

1049 The Professional Practice Department shall file the formal Complaint by sending a Notice of Hearing
1050 Committee Appointment and a copy of the Complaint to the Subject. The Notice of Hearing
1051 Committee Appointment shall contain the following information:

1052

1053 a) the name of the Chair and each member of the Hearing Committee;

1054

1055 b) advice to the Subject that within twenty (20) days from the date of transmittal of the Notice of
1056 Hearing Committee Appointment he or she may file a challenge for cause requesting that the
1057 Chair or any member of the Hearing Committee be excused from serving on the Hearing
1058 Committee because of a Conflict of Interest;

1059

1060 c) advice to the Subject that within twenty (20) days from the date of transmittal of the Notice of
1061 Hearing Committee Appointment he or she may file one preemptory challenge requesting that the
1062 Chair or one other member of the Hearing Committee be excused from serving on the Hearing
1063 Committee;

1064

1065 d) advice to the Subject that he or she has the right to be represented at the Hearing by legal
1066 counsel provided that he or she gives proper notice;

1067

1068 e) notice to the Subject that he or she must file a written Answer to the Complaint and the date by
1069 which such Answer must be filed; and

1070

1071 f) advice to the Subject that he or she has the right to file a written Request for a Bill of Particulars,
1072 and/or a written request that the Hearing Committee Chair issue summons for witnesses or the
1073 production of documents, and the dates by which such rights must be exercised.

1074

1075

1076 **Section 3. Filing Date**

1077 The filing date of any challenges or pre-hearing filings shall be the date that such item is transmitted
1078 to the Professional Practice Department.

1079

1080 **Section 4. Extensions of Time for Filing Challenges and/or Pre-Hearing Motions**

1081 Upon a timely written request and for good cause shown, the Professional Practice Department shall
1082 have the power to extend the period allowed for the filing of any challenges or pre-hearing filings.

1083 However, once the Hearing Committee Chair is determined, the Hearing Committee Chair shall have
1084 the power to extend the period allowed for pre-hearing filings upon timely written request and good
1085 cause shown.

1086

1087 **Section 5. Challenges for Cause**

1088 A Subject may file with the Professional Practice Department a challenge for cause requesting that
1089 any member of the Hearing Committee be excused from serving on the Hearing Committee because
1090 such member has a Conflict of Interest. There is no specific limit upon the number of challenges for
1091 cause that may be filed provided that each such challenge for cause is timely filed. Each such
1092 challenge for cause must specifically set forth the facts and reasoning which support the request.

1093

1094 **Section 6. Procedure for Ruling Upon a Challenge for Cause**

1095 Upon receipt of a challenge for cause, the Professional Practice Department shall determine whether
1096 such request should be granted.

1097

1098 **Section 7. Preemptory Challenge**

1099 A Subject may file with the Professional Practice Department one (and only one) preemptory
1100 challenge requesting that one member of the Hearing Committee be excused from serving on the
1101 Hearing Committee. No facts or reasoning need be stated to support a preemptory challenge and
1102 such request shall automatically be allowed if it was timely filed.

1103

1104 **Section 8. Appointment of Replacements**

1105 If a timely preemptory challenge is received, if a timely challenge for cause is granted, or if for any
1106 reason a replacement Hearing Committee member (or Chair) is needed, the Professional Practice
1107 Department may appoint a replacement member (or Chair). The Professional Practice Department
1108 shall notify the Subject of any replacement appointment and of his or her right to file a challenge for
1109 cause in writing within twenty (20) days from the date of transmittal of the Notice of Replacement
1110 Hearing Committee Appointment to any newly appointed member of the Hearing Committee.

1111

1112 **Section 9. Removal From Hearing Committee**

1113 If the Professional Practice Department determines that a member of a Hearing Committee may have
1114 a Conflict of Interest or may have failed to perform his or her assigned duties, the Department may
1115 remove such member from the Hearing Committee or discharge the entire Committee.

1116

1117

1118

1119 **Part B: Pre-Hearing Notices and Filings**

1120 **Section 1. Answer to Complaint**

1121 A Subject must file a written Answer to Complaint with the Professional Practice Department within
1122 sixty (60) days from the date that the Complaint was filed.

1123
1124 The Answer to the Complaint should address each allegation of the Complaint and may also raise
1125 affirmative defenses which, in the opinion of the Subject, serve as further answer to the allegations of
1126 the Complaint.

1127
1128 Failure to file a timely written Answer to the Complaint shall constitute a relinquishment of the right to
1129 a Hearing and the peer review matter shall be processed further under this Regulation as if the
1130 Subject had failed to exercise his or her right to request a Hearing.

1131
1132 **Section 2. Request for a Bill of Particulars**

1133 If, in the opinion of the Subject, the Complaint does not sufficiently set forth the details of each action
1134 (or failure to act) which is alleged to be in violation of the Appraisal Institute Code of Professional
1135 Ethics, the Subject may file a written Request for a Bill of Particulars to compel the Investigator to
1136 supply such additional information as will enable the Subject to be fully aware of the nature of the
1137 allegations and permit such individual to prepare his or her defense.

1138
1139 A written Request for a Bill of Particulars must be filed with the Professional Practice Department
1140 within sixty (60) days from the date that the Complaint was filed.

1141
1142 If the Hearing Committee determines that all or any part of a Request for a Bill of Particulars should
1143 be granted, the Investigator shall be required to file a Bill of Particulars setting forth such additional
1144 factual details as the Hearing Committee may direct.

1145
1146 If the Hearing Committee concludes that all or any part of a Request for a Bill of Particulars should be
1147 denied, the Subject shall be advised of this decision and the basis for such denial.

1148
1149 If an Investigator is directed to prepare a Bill of Particulars, the Investigator shall prepare and file a
1150 Bill of Particulars with the Professional Practice Department

1151
1152 **Section 3. Notice of Legal Representation**

1153 If the Subject intends to be represented by legal counsel at the Hearing, the Subject must file a
1154 written Notice of Legal Representation with the Professional Practice Department by Traceable
1155 Carrier within sixty (60) days from the date that the Complaint was filed. This notice shall specify the
1156 name and contact information for the legal counsel who will represent the Subject at the Hearing.

1157
1158 **Section 4. Retention of Legal Counsel for the Investigators**

1159 The Appraisal Institute General Counsel may authorize the retention of legal counsel for the
1160 Investigators at the Hearing. Legal counsel retained to assist Investigators at a Hearing may advise
1161 and counsel the Investigators; ask questions of the Chair and other members of the Hearing

1162 Committee; conduct a direct examination or a cross examination of the Subject or any other witness
1163 at the Hearing; ask questions of legal counsel for the Subject; and make oral arguments with respect
1164 to the position of the Investigators.

1165

1166 **Section 5. Retention of Legal Counsel for the Hearing Committee**

1167 The Appraisal Institute General Counsel may authorize the retention of legal counsel for the Hearing
1168 Committee at the Hearing. Legal counsel retained to assist a Hearing Committee at a Hearing shall
1169 be permitted to advise it as to legal and procedural issues and to answer any questions raised by the
1170 Subject, by legal counsel for the Subject, by members of the Hearing Committee, by the Investigators
1171 or by legal counsel for the Investigators.

1172

1173 **Section 6. Summons for Witnesses and Evidence**

1174 Both the Subject and the Investigator shall have the right to file a written request for the issuance of
1175 summons with the Professional Practice Department within sixty (60) days of the date that the
1176 Complaint was filed.

1177

1178 A summons will only be issued if the following conditions are met:

1179

1180 1) the request is written;

1181

1182 2) the request is timely;

1183

1184 3) the individual who is to receive the summons is an Appraisal Institute Member, Candidate,
1185 Practicing Affiliate or Affiliate; and

1186

1187 4) the request is for documentary evidence and/or testimony that may be material to the issues in
1188 the case and is reasonably necessary for the prosecution or defense of the case.

1189

1190 A summons may require one or both of the following:

1191

1192 1) that such Member, Candidate, Practicing Affiliate or Affiliate appears and testifies at the Hearing,
1193 and/or

1194

1195 2) that such Member, Candidate, Practicing Affiliate or Affiliate produce such documentary evidence
1196 in his or her possession or control as may be relevant to the subject matter of the proceedings
1197 and specified in such summons.

1198

1199 Except for good cause shown, any Member, Candidate, Practicing Affiliate or Affiliate who possesses
1200 knowledge of the facts which are at issue in the case under consideration and receives such a
1201 summons but fails to appear and testify, or fails to produce relevant documentary evidence in his or
1202 her possession or control which is specified in a summons, shall be in violation of Ethical Rule 2-3(e)
1203 of the Appraisal Institute Code of Professional Ethics.

1204

1205 If the Subject exercises his or her right to request the Chair of the Hearing Committee to issue a
1206 summons, and the Chair of the Hearing Committee does issue such summons, the Subject must pay
1207 the travel expenses of the summoned witness.
1208

1209 **Section 7. Motion to Dismiss**

1210 If prior to the Hearing the Investigator obtains new evidence that leads him or her to conclude that he
1211 or she cannot prove, by the greater weight of the evidence, that the Subject violated the Code of
1212 Professional Ethics as alleged in the Complaint, the Investigator may file a Motion to Dismiss. Such
1213 Motion to Dismiss shall be filed with the Professional Practice Department.
1214

1215 The Chair of the Hearing Committee shall review the factual information set forth in the Motion to
1216 Dismiss, determine whether the Motion to Dismiss should be granted, and advise the parties as to his
1217 or her decision.
1218

1219 **Section 8. Notice of Hearing**

1220 The Professional Practice Department shall issue a written Notice of Hearing setting forth the date,
1221 time, and place for the Hearing. The date of the Hearing shall not be less than sixty (60) days from
1222 the date that the formal Complaint was filed and not less than thirty (30) days from the date of
1223 transmittal of the Notice of Hearing. Upon the timely request of any party to the proceedings and for
1224 good cause shown, the Chair of the Hearing Committee shall have the power to reset the date of the
1225 Hearing.
1226

1227

1228 **Part C: Procedural Rules Governing the Conduct of a Hearing**

1229 **Section 1. General Rules**

1230 The Chair of a Hearing Committee shall preside at the Hearing and conduct the Hearing in
1231 accordance with the rules set forth in this Regulation. The Investigator shall be the complainant at the
1232 Hearing. The Investigator has the burden of proof to establish, by the greater weight of the evidence,
1233 that the actions (or failure to act) of the Subject were in violation of the Appraisal Institute Code of
1234 Professional Ethics. The Subject shall have the right to be present during the entire Hearing.
1235

1236 **Section 2. Procedure at the Hearing**

1237 The Chair of the Hearing Committee shall afford the parties to the Hearing full opportunity to be
1238 heard, to offer the testimony of witnesses, and to present documentary evidence relating to the issues
1239 involved in the Hearing, subject to the judgment of the Hearing Committee as to the relevance of such
1240 testimony and documentary evidence to the issues before it. In evidentiary matters the Hearing
1241 Committee may consider the rules of evidence that are applicable in a court of law. However, the
1242 Hearing Committee shall not be bound by such rules of evidence and may consider in the proceeding
1243 all evidence which, in its opinion, fairness or justice requires. Both the Subject and the Investigator(s)
1244 shall have the right to present such witnesses as the Hearing Committee deems appropriate, whether
1245 or not a summons was issued to any such witnesses.
1246

1247 The Investigator(s) shall introduce at the Hearing evidence to support those allegations of the
1248 Complaint which have not been admitted in the Answer to Complaint of the Subject. However, no
1249 evidence shall be presented at the Hearing and no reference shall be made by the Investigator(s) to
1250 any prior disciplinary action taken against or involving the Subject unless such prior disciplinary action
1251 was published and involved the same substantive violation of the Appraisal Institute Code of
1252 Professional Ethics as is alleged in the pending Complaint. The Investigator may also examine or
1253 cross-examine the Subject; cross-examine witnesses appearing on behalf of the Subject; ask
1254 questions of the Chair or any member of the Hearing Committee, or of legal counsel for the Hearing
1255 Committee or the Subject; and make oral arguments with respect to the subject matter of the
1256 Complaint.

1257

1258 The Subject shall introduce at the Hearing evidence to rebut the allegations of the Complaint and to
1259 support any affirmative defenses raised in the Answer to Complaint. The Subject may also offer the
1260 testimony of witnesses and documentary evidence in his or her defense; examine or cross-examine
1261 the Investigator(s); cross-examine witnesses appearing on behalf of the Investigator(s); ask questions
1262 of the Chair or any member of the Hearing Committee, or of legal counsel for the Hearing Committee
1263 or the Investigator(s); and make oral arguments in support of his or her defense.

1264

1265 The members of the Hearing Committee may examine the Investigator(s); examine the Subject;
1266 examine any of the witnesses presented by the Investigator(s) or by the Subject; and ask questions of
1267 legal counsel for the Subject or for the Investigator(s).

1268

1269 **Section 3. Recess or Adjournment of Hearing**

1270 The Chair of the Hearing Committee may recess the Hearing or adjourn and reconvene the Hearing
1271 from time to time whenever fairness or convenience requires.

1272

1273 **Section 4. Transcript**

1274 A court reporter shall be present at each Hearing held pursuant to this Regulation and take a
1275 verbatim record of the proceedings.

1276

1277

1278 **Part D: Actions to be taken at the Conclusion of Hearing**

1279 **Section 1. Hearing Committee Decision**

1280 The Hearing Committee, in Executive Session, shall consider the Complaint, the Answer to
1281 Complaint, the testimony of the witnesses and documentary evidence introduced at the Hearing and
1282 the oral arguments to determine whether, by the greater weight of the evidence, the Subject violated
1283 the Appraisal Institute Code of Professional Ethics.

1284

1285 If the determination of the Hearing Committee is that the Subject did not violate the Appraisal Institute
1286 Code of Professional Ethics, this determination shall be incorporated in a formal written decision
1287 (hereinafter referred to as "Hearing Committee Decision").

1288

1289 If the determination of the Hearing Committee is that the Subject did violate the Appraisal Institute
1290 Code of Professional Ethics, the Hearing Committee shall then consider and determine its
1291 recommendation as to the appropriate disciplinary action to be taken. For this purpose, the Hearing
1292 Committee may take into account all prior disciplinary actions against the Subject, if any. The
1293 Professional Practice Department will advise the Hearing Committee of the prior disciplinary record of
1294 the Subject, if any, only after the Hearing Committee has made a final determination that the Subject
1295 did violate the Appraisal Institute Code of Professional Ethics.

1296

1297 When the Hearing Committee has made a decision concerning its recommendation as to the
1298 appropriate disciplinary action to be taken, both its determination that the Subject did violate the
1299 Appraisal Institute Code of Professional Ethics and its recommendation as to the appropriate
1300 disciplinary action to be taken shall be incorporated in a Hearing Committee Decision. The Hearing
1301 Committee Decision shall be signed by not less than a majority of the Hearing Committee.

1302

1303 **Section 2. Permitted Recommendations**

1304 If the determination of the Hearing Committee is that the Subject did violate the Appraisal Institute
1305 Code of Professional Ethics, the recommendation of the Hearing Committee as to the appropriate
1306 disciplinary action to be taken shall be one of the following:

1307

1308 a) Admonishment;

1309

1310 b) Reprimand;

1311

1312 c) Censure;

1313

1314 d) Suspension; or

1315

1316 e) Expulsion.

1317

1318 Unless the Hearing Committee recommends Suspension or Expulsion, the Hearing Committee may
1319 further recommend that the Subject be offered an opportunity to complete a specified Educational
1320 Alternative in lieu of the recommended disciplinary action. If the Hearing Committee recommends that
1321 the Subject be offered an opportunity to complete a specified Educational Alternative in lieu of the
1322 recommended disciplinary action, the decision of the Hearing Committee shall also recommend the
1323 Educational Alternative the Subject must successfully complete and the period of time within which
1324 the Educational Alternative must be successfully completed. For any Appraisal Institute course that
1325 has an examination, the Hearing Committee must recommend that the course examination be taken
1326 and passed for successful completion of the Educational Alternative.

1327

1328 Prior to issuance of a Hearing Committee Decision offering an Educational Alternative, the Chair of
1329 the Hearing Committee may contact the Professional Practice Compliance and Enforcement
1330 Committee Chair to obtain his or her advice as to a reasonable and appropriate Educational

1331 Alternative. Upon receipt of any such advice, the Hearing Committee shall make its final
1332 determination concerning the specified Educational Alternative.

1333

1334 **Section 3. Transmittal of Hearing Committee Decision**

1335 A copy of the final Hearing Committee Decision shall be transmitted to each of the parties to the
1336 Hearing.

1337

1338 If the Hearing Committee Decision is that the Subject did violate the Appraisal Institute Code of
1339 Professional Ethics, the transmittal letter shall advise the Subject of his or her right to appeal the
1340 Hearing Committee Decision within thirty (30) days of the date that the Hearing Decision was sent
1341 and the procedures for filing an Appeal.

1342

1343

1344 **Part E: Procedure if a Hearing Committee Recommends Disciplinary
1345 Action**

1346

1347 **Section 1. Action to be Taken When a Timely Appeal is Not Filed and the Hearing Committee
1348 Did Not Recommend That an Educational Alternative be Offered**

1349 If a Subject fails to file a timely notice of appeal from a Hearing Committee Decision which
1350 recommends that a disciplinary action be taken but does not recommend a specified Educational
1351 Alternative in lieu of such disciplinary action, the disciplinary action shall become effective.

1352

1353 **Section 2. Action to be Taken When An Appeal is Not Filed and the Hearing Committee
1354 Recommended That an Educational Alternative be Offered**

1355 If a Subject fails to file a timely notice of appeal from a Hearing Committee Decision and fails to
1356 accept the Educational Alternative in a timely manner, the recommended disciplinary action shall
1357 become effective.

1358

1359 If the Subject accepts the Educational Alternative, the file shall be placed in suspense until the
1360 Professional Practice Department can determine whether the Subject successfully completed the
1361 Educational Alternative within the specified time period.

1362

1363 If the Subject successfully completes an Educational Alternative in lieu of Admonishment or
1364 Reprimand within the specified time period, the disciplinary action shall not become effective and the
1365 successful completion of the Educational Alternative shall be recorded in the file of the Subject.

1366

1367 If the Subject successfully completes an Educational Alternative in lieu of a Censure, the disciplinary
1368 action shall be reduced to Admonishment, which shall be recorded in the file along with the fact that
1369 the Subject successfully completed the Educational Alternative.

1370

1371 If the Subject fails to successfully complete an Educational Alternative within the specified time
1372 period, the specified disciplinary action shall become effective.

1373

1374 **Part F: Alternate Procedure to be followed for Violation of Ethical Rule 1-**
1375 **2**

1376 **Section 1. Automatic Suspension**

1377 Upon receipt of either (a) a certified copy of a court document indicating that a Member, Candidate,
1378 Practicing Affiliate or Affiliate has entered a guilty plea to having committed a crime of the type
1379 referred to in Ethical Rule 1-2 together with information indicating that such individual has not as yet
1380 been convicted of such crime, or (b) a certified copy of a court document indicating that a Member,
1381 Candidate, Practicing Affiliate or Affiliate has been found guilty by a judge or a jury of a crime of the
1382 type referred to in Ethical Rule 1-2 together with information indicating that all rights to appeal from
1383 such conviction have not been exhausted, the Professional Practice Department shall give written
1384 notice to such Member, Candidate, Practicing Affiliate or Affiliate that his or her privileges of
1385 membership, candidacy or affiliation have been suspended.

1386
1387 A suspended Member, Candidate, Practicing Affiliate or Affiliate shall have the duty and obligation to
1388 promptly notify the Professional Practice Department when all rights to appeal a conviction have been
1389 exhausted.

1390
1391 If the Suspension is based upon a plea of guilty as described in (a) above and such plea is
1392 subsequently withdrawn, rejected, or set aside, the Suspension will expire on the date that the
1393 Professional Practice Department confirms that such plea has been withdrawn, rejected, or set aside.

1394
1395 **Section 2. Right to Appeal Automatic Suspension**

1396 A Member, Candidate, Practicing Affiliate or Affiliate who has been suspended from the privileges of
1397 membership, candidacy or affiliation pursuant to Section 1 above shall have the right to appeal such
1398 Suspension by filing a timely notice of appeal with the Professional Practice Department. In such
1399 event, the requirements and procedures governing the appeal shall be as set forth this Regulation
1400 with such modifications thereof as may be required to reflect the fact that the Suspension was
1401 entered pursuant to Section 1 above.

1402
1403 **Section 3. Automatic Expulsion**

1404 Upon receipt of a certified copy of a judgment stating that a Member, Candidate, Practicing Affiliate,
1405 or Affiliate has been convicted of a crime of the type referred to in Ethical Rule 1-2 and evidence that
1406 all rights to appeal from such conviction have been exhausted, the Professional Practice Department
1407 shall give written notice to such Member, Candidate, Practicing Affiliate or Affiliate that he or she will
1408 be expelled from membership, candidacy or affiliation subject to the provisions of Section 4 of this
1409 Part F.

1410
1411 The Member, Candidate, Practicing Affiliate or Affiliate shall be suspended from the rights and
1412 privileges of membership, candidacy or affiliation during the period in which he or she can appeal the
1413 automatic Expulsion. If no appeal is filed, the Expulsion will become effective on the day following the
1414 expiration of the period in which to file an appeal.

1415
1416

1417 **Section 4. Right to Appeal Automatic Expulsion**

1418 A Member, Candidate, Practicing Affiliate or Affiliate who has been sent a notice of Expulsion
1419 pursuant to Section 3 above shall have the right to appeal such Expulsion by filing a timely Notice of
1420 Appeal with the Professional Practice Department. In such event, the requirements and procedures
1421 governing the appeal shall be as set forth in this Regulation with such modifications thereof as may
1422 be required to reflect the fact that the Expulsion was entered pursuant to Section 3 above.

1423

1424 Upon the filing of a timely Notice of Appeal, the automatic Expulsion shall be stayed pending a final
1425 determination of the merits of such appeal. However, the Member, Candidate, Practicing Affiliate or
1426 Affiliate shall continue to be suspended during the pendency of the appeal.

1427

1428 **Section 5. Respondent in an Appeal**

1429 The Professional Practice Department shall appoint an Investigator to act as the respondent in
1430 connection with any such appeal. If the Professional Practice Department determines that the
1431 Investigator may need assistance, the Professional Practice Department may also appoint one (1) or
1432 more Assistant Investigators to assist the Investigator.

1433

1434 **Section 6. Prima Facie Evidence and Burden of Proof**

1435 At any appeal heard pursuant to Section 2 or Section 4 above, the submission into evidence of a
1436 certified copy of a judgment stating that a Member, Candidate, Practicing Affiliate or Affiliate has been
1437 convicted of a crime of the type referred to in Ethical Rule 1-2 shall be prima facie evidence that the
1438 Member, Candidate, Practicing Affiliate or Affiliate has violated Ethical Rule 1-2 of the Code of
1439 Professional Ethics; however, this shall not prevent such individual from introducing such evidence as
1440 may be appropriate to dispute or explain such conviction. The Professional Practice Appeal Board
1441 must reach its final decision based on the greater weight of the evidence.

1442

1443 **Section 7. Decision of an Professional Practice Appeal Board**

1444 At the conclusion of a Hearing on Appeal taken pursuant to Section 2 above, the Professional
1445 Practice Appeal Board for such appeal shall either:

1446

1447 a) affirm the Suspension; or

1448

1449 b) reverse the Suspension and allow the Subject to enjoy the privileges of membership, candidacy
1450 or affiliation until such time as all appeals of his or her conviction have been finally determined.

1451

1452 At the conclusion of a Hearing on Appeal taken pursuant to Section 4 above, the Professional
1453 Practice Appeal Board for such appeal shall have all of the powers of a Professional Practice Appeal
1454 Board set forth in this Regulation.

1455

1456

1457

1458

1459 **Part G: Alternate Procedure for Possible Violation of Ethical Rule 2-3(b),**
1460 **(c), or (d)**

1461 **Section 1. Automatic Expulsion**

1462 Upon receipt of a screened file relating to Ethical Rule 2-3(b), 2-3(c), or 2-3(d), the Professional
1463 Practice Department shall appoint an Investigator to determine whether the Subject violated Ethical
1464 Rule 2-3(b), 2-3(c), or 2-3(d). If the Professional Practice Department determines that the Investigator
1465 may need assistance, the Professional Practice Department may also appoint one or more Assistant
1466 Investigators to assist the Investigator.

1467
1468 If the Investigator determines that such Subject violated Ethical Rule 2-3(b), 2-3(c), or 2-3(d), the
1469 Subject shall be sent written notice that he or she will be expelled from membership, candidacy or
1470 affiliation, subject to the provisions of Section 2 of this Part G.

1471
1472 Upon receipt of an Investigation Report from a duly appointed Investigator stating that a Subject has
1473 violated Ethical Rule 2-3(b), 2-3(c), or 2-3(d) the Professional Practice Department shall give written
1474 notice to the Subject advising that he or she will be expelled from membership, candidacy or
1475 affiliation, subject to the provisions of Section 2 of this Part G.

1476
1477 The Subject shall be suspended from the rights and privileges of membership, candidacy or affiliation
1478 during the period in which he or she can appeal the automatic Expulsion for violation of Ethical Rule
1479 2-3(b), 2-3(c), or 2-3(d). If the Subject fails to file a timely appeal, the Expulsion will become effective
1480 on the day following the expiration of the period in which to file an appeal.

1481
1482 **Section 2. Right to Appeal Automatic Expulsion**

1483 A Member, Candidate, Practicing Affiliate or Affiliate who has been sent a notice of Expulsion
1484 pursuant to Section 1 above shall have the right to appeal such Expulsion by filing a timely notice of
1485 appeal with the Professional Practice Department. In such event, the requirements and procedures
1486 governing the appeal shall be as set forth in this Regulation, with such modifications thereof as may
1487 be required to reflect the fact that the Expulsion was entered pursuant to Section 1 above.

1488
1489 Upon the filing of a timely notice of appeal, the Expulsion shall be stayed pending a final determina-
1490 tion of the merits of such appeal. However, such Member, Candidate, Practicing Affiliate or Affiliate
1491 shall continue to be suspended during the pendency of the appeal.

1492
1493 **Section 3. Prima Facie Evidence and Burden of Proof for Violation of Ethical Rule 2-3(b)**

1494 At any appeal heard pursuant to Section 2 above concerning a violation of Ethical Rule 2-3(b), prima
1495 facie evidence that the Subject violated Ethical Rule 2-3(b) shall be constituted by the submission into
1496 evidence of:

- 1497
1498 a) a copy of a request of the Subject for relevant documentation or information that is or should be in
1499 the possession or control of the Subject;

1500

- 1501 b) a document demonstrating delivery or attempted delivery of the request to the Subject or an
1502 agent thereof; and
1503
1504 c) an Investigation Report finding that the Subject failed or refused to comply with such request or
1505 an affidavit from the authorized party that made the request that the Subject failed or refused to
1506 comply with such request.
1507

1508 However, this shall not prevent a Subject from introducing such evidence as may be appropriate to
1509 dispute or explain the evidence. The Professional Practice Appeal Board must reach its final decision
1510 based on the greater weight of the evidence.
1511

1512 **Section 4. Prima Facie Evidence and Burden of Proof for Violations of Ethical Rule 2-3(c)**

1513 At any appeal heard pursuant to Section 2 above concerning a violation of Ethical Rule 2-3(c), prima
1514 facie evidence that such Subject violated Ethical Rule 2-3(c) shall be constituted by the submission
1515 into evidence of:
1516

- 1517 a) a copy of a written request or contemporaneous record of an oral request of the Subject to
1518 answer one or more relevant questions, and the relevant question or questions that the Subject
1519 failed or refused to promptly answer;
1520
1521 b) if a written request, a document demonstrating delivery or attempted delivery of the request of the
1522 Subject or a an agent thereof; and
1523
1524 c) an Investigation Report finding that the Subject failed or refused to promptly answer one or more
1525 relevant questions or an affidavit from the authorized party that made the request that the Subject
1526 failed or refused to promptly answer.
1527

1528 However, this shall not prevent a Subject from introducing such evidence as may be appropriate to
1529 dispute or explain such failure or refusal to comply. The Professional Practice Appeal Board must
1530 reach its final decision based on the greater weight of the evidence.
1531

1532 **Section 5. Prima Facie Evidence and Burden of Proof for Violations of Ethical Rule 2-3(d)**

1533 At any appeal heard pursuant to Section 2 above concerning a violation of Ethical Rule 2-3(d), prima
1534 facie evidence that such Subject violated Ethical Rule 2-3(d) of the Code of Professional Ethics shall
1535 be constituted by the submission into evidence of:
1536

- 1537 a) copy of a request of the Subject for a personal interview or a telephone interview;
1538
1539 b) a document demonstrating delivery or attempted delivery of the request to the Subject or an
1540 agent thereof; and
1541
1542 c) an Investigation Report finding that the Subject failed or refused to appear for a personal
1543 interview or participate in an interview conducted by telephone, or an affidavit from the authorized

1544 party that made the request, stating that the Subject failed or refused to appear for a personal
1545 interview or participate in an interview conducted by telephone.

1546

1547 However, this shall not prevent a Subject from introducing such evidence as may be appropriate to
1548 dispute or explain such failure to participate or appear. The Professional Practice Appeal Board must
1549 reach its final decision based on the greater weight of the evidence.

1550

1551 **Section 6. Decision of a Professional Practice Appeal Board**

1552 At the conclusion of a Hearing on Appeal taken pursuant to Section 2 above, the Professional
1553 Practice Appeal Board for such appeal shall have all of the powers of a Professional Practice Appeal
1554 Board set forth in this Regulation.

1555

1556

1557 **Part H: Alternate Procedure for Failure to Comply with Terms of**
1558 **Suspension**

1559 **Section 1. Automatic Expulsion**

1560 If a Member, Candidate, Practicing Affiliate or Affiliate fails to transmit his or her certificate, emblem
1561 and other indicia of membership, candidacy or affiliation to the Professional Practice Department in
1562 accordance with the requirements of this Regulation, the Professional Practice Department shall give
1563 written notice to the Member, Candidate, Practicing Affiliate or Affiliate that he or she will be expelled
1564 from membership, candidacy or affiliation, subject to the provisions of Section 2 of this Part H. If a
1565 Member, Candidate, Practicing Affiliate or Affiliate suspended under this Regulation uses or refers to
1566 any Appraisal Institute designation, membership, candidacy or affiliation during the period of
1567 Suspension, the Professional Practice Department shall give written notice to the Member,
1568 Candidate, Practicing Affiliate or Affiliate that he or she will be expelled from membership, candidacy
1569 or affiliation subject to the provisions of Section 2 of this Part H.

1570

1571 The Member, Candidate, Practicing Affiliate or Affiliate shall continue to be suspended from the rights
1572 and privileges of membership, candidacy or affiliation during the period in which he or she can appeal
1573 the automatic Expulsion for violation of the terms of his or her Suspension. If the Member, Candidate,
1574 Practicing Affiliate or Affiliate fails to file a timely appeal, the Expulsion will become effective on the
1575 day following the expiration of the period in which to file an appeal.

1576

1577 **Section 2. Right to Appeal Automatic Expulsion**

1578 A Member, Candidate, Practicing Affiliate or Affiliate who has been sent a notice of Expulsion
1579 pursuant to Section 1 above shall have the right to appeal such Expulsion by filing a timely notice of
1580 appeal with the Professional Practice Department. In such event, the requirements and procedures
1581 governing the appeal shall be as set forth in this Regulation, with such modification thereof as may be
1582 required to reflect the fact that the Expulsion was entered pursuant to Section 1 above.

1583

1584 Upon the filing of a timely Notice of Appeal, the Expulsion shall be stayed pending a final determina-
1585 tion of the merits of such appeal. However, the suspension of membership, candidacy or affiliation
1586 rights and privileges shall continue during the pendency of the appeal.

1587 **Section 3. Respondent in an Appeal**

1588 The Professional Practice Department shall appoint an Investigator to act as the respondent in
1589 connection with any such appeal. If the Professional Practice Department determines that the
1590 Investigator may need assistance, the Professional Practice Department may also appoint one or
1591 more Assistant Investigators to assist the Investigator.

1592

1593 **Section 4. Prima Facie Evidence**

1594 At any appeal heard pursuant to Section 2 above, prima facie evidence that the Member, Candidate,
1595 Practicing Affiliate or Affiliate violated the terms of Suspension shall be constituted by the submission
1596 into evidence of:

1597

- 1598 a) the notice of Suspension, along with an affidavit of a member of the Professional Practice
1599 Department that it did not receive the Member's, Candidate's, Practicing Affiliate's, or Affiliate's
1600 certificate, emblem or other indicia of membership, candidacy or affiliation in accordance with the
1601 requirements of this Regulation; or
1602
1603 b) the notice of Suspension, along with a document or affidavit indicating that a suspended Member,
1604 Candidate, Practicing Affiliate or Affiliate used or referred to any Appraisal Institute designation,
1605 membership, candidacy or affiliation during the Suspension.

1606

1607 However, this shall not prevent the Member, Candidate, Practicing Affiliate or Affiliate from
1608 introducing such evidence as may be appropriate to dispute or explain the failure to comply with the
1609 terms of the Suspension. The Professional Practice Appeal Board must reach its final decision based
1610 on the greater weight of the evidence.

1611

1613

1614 Procedures Governing Hearings on Appeal

1615

1616 **Part A: Right to Appeal a Hearing Committee Decision**

1617 **Section 1. Right to Appeal**

1618 A Member, Candidate, Practicing Affiliate or Affiliate shall have the right to appeal any Hearing
1619 Committee Decision that recommends that a disciplinary action be taken against such individual. This
1620 right to appeal shall be exercisable only by the filing of a timely Notice of Appeal with the Professional
1621 Practice Department in the manner hereinafter set forth. A Notice of Appeal shall be timely if it is filed
1622 by Traceable Carrier within thirty (30) days of the date that the Hearing Committee Decision was sent
1623 to the Member, Candidate, Practicing Affiliate or Affiliate.

1624

1625 **Section 2. Appointment of an Professional Practice Appeal Board**

1626 When a Hearing on Appeal is required by this Regulation, the Chair of the Professional Practice
1627 Appeals Panel shall appoint a Professional Practice Appeal Board consisting of a Chair and not less
1628 than two additional members from the Professional Practice Appeals Panel. The Chair of the
1629 Professional Practice Appeals Panel may serve as Chair or member of a Professional Practice
1630 Appeal Board

1631

1632 If the Chair of the Professional Practice Appeals Panel is unable to appoint a Professional Practice
1633 Appeal Board, the Professional Practice Department shall select another member of the Professional
1634 Practice Appeals Panel to make such appointments.

1635

1636 No member of a Professional Practice Appeal Board shall have a Conflict of Interest with the subject
1637 matter of the Appeal, the Appellant, the Investigator(s) or the Hearing Committee.

1638

1639 The Professional Practice Department shall notify the Appellant of the members appointed to a
1640 Professional Practice Appeal Board. This Notice of Appointment shall contain the following
1641 information:

1642

1643 a) the name of the Chair and each member of the Professional Practice Appeal Board;

1644

1645 b) advice to the Appellant that within twenty (20) days from the date of transmittal of the Notice of
1646 Appointment he or she may file with the Professional Practice Department a challenge for cause
1647 requesting that the Chair or any member of the Professional Practice Appeal Board be excused
1648 from serving on the Professional Practice Appeal Board because such Chair or other member
1649 has a Conflict of Interest;

1650

1651 c) advice to the Appellant that within twenty (20) days from the date of transmittal of the Notice of
1652 Appointment he or she may file with the Professional Practice Department one preemptory

1653 challenge requesting that the Chair or one other member of the Professional Practice Appeal
1654 Board be excused from serving on the Professional Practice Appeal Board;

1655

1656 d) advice to the Appellant that he or she has the right to be represented at any Hearing on Appeal
1657 by legal counsel, provided that he or she gives proper notice;

1658

1659 e) advice to the Appellant as to the requirement to file a written Appeal Brief and the date by which
1660 such Brief must be filed; and

1661

1662 f) advice to the Appellant as to the right to file an Answer to the Reply Brief and the dates by which
1663 such right must be exercised.

1664

1665 The filing date of any challenges or briefs shall be the postmark date that such item is sent to the
1666 Professional Practice.

1667

1668 Upon a timely written request, the Chair of the Professional Practice Appeals Panel shall have the
1669 power to extend the period allowed for the filing of any challenges or pre-hearing filing for good cause
1670 shown.

1671

1672 **Section 3. Challenges for Cause**

1673 An Appellant may file with the Professional Practice Department a challenge for cause requesting that
1674 any member of the Professional Practice Appeal Board be excused from serving on the Professional
1675 Practice Appeal Board because such member has a personal interest in the case or is otherwise
1676 prejudiced against the Appellant. There is no specific limit upon the number of challenges for cause
1677 that may be filed provided that each such challenge for cause is filed within the time limits established
1678 pursuant to this Regulation. Each such challenge for cause must specifically set forth the facts and
1679 reasoning which support the request of the Appellant. A copy of any challenge for cause must also
1680 be filed with the Professional Practice Department.

1681

1682 Upon receipt of a challenge for cause, the Professional Practice Department shall determine whether
1683 such challenge should be granted.

1684

1685 **Section 4. Preemptory Challenge**

1686 An Appellant may file with the Professional Practice Department one (and only one) preemptory
1687 challenge requesting that one member of the Professional Practice Appeal Board be excused from
1688 serving on the Professional Practice Appeal Board. No facts or reasoning need be stated to support a
1689 preemptory challenge and such request shall automatically be allowed if it was filed within the time
1690 limits established pursuant to this Regulation.

1691

1692 **Section 5. Appointment of Replacements**

1693 If a preemptory challenge is received and allowed or if a challenge for cause is received and granted
1694 (or if a member of the Professional Practice Appeal Board resigns), the Chair of the Professional
1695 Practice Appeals Panel may appoint a new member (or Chair) to replace the individual who has been

1696 excused. The Professional Practice Department shall notify the Appellant by Traceable Carrier of
1697 such replacement appointment. This Notice of Replacement Appointment shall contain the following
1698 information:

- 1699
- 1700 a) the name of each newly appointed Chair and/or member of the Professional Practice Appeal
1701 Board;
 - 1702
 - 1703 b) advice to the Appellant that he or she may file with the Professional Practice Department a
1704 challenge for cause requesting that any newly appointed member of the Professional Practice
1705 Appeal Board be excused from serving on the Professional Practice Appeal Board because such
1706 newly appointed member of the Professional Practice Appeal Board has a Conflict of Interest;
1707 and
 - 1708
 - 1709 c) the last date by which any challenges for cause may be filed.
 - 1710

1711 An Appellant shall have the right, exercisable within a period of twenty (20) days from the date of the
1712 transmittal of the notice of replacement appointment, to file a challenge for cause relating to one or
1713 more of the newly appointed members of the Professional Practice Appeal Board. Each such
1714 challenge for cause shall be processed in the same manner as is set forth above.

1715

1716 **Section 6. Removal From Professional Practice Appeal Board**

1717 If the Chair of the Professional Practice Compliance and Enforcement Committee determines that a
1718 member of a Professional Practice Appeal Board may have a Conflict of Interest or may have failed to
1719 perform his or her assigned duties, the Chair may remove such member from the Professional
1720 Practice Appeal Board or discharge the entire Board.

1721

1722 **Section 7. Transcript of Hearing**

1723 Upon receipt of a copy of a Notice of Appeal for a file in which a Hearing has been held, the
1724 Professional Practice Department shall obtain a transcript of the record of the Hearing before the
1725 Hearing Committee. Upon receipt of this transcript, the Professional Practice Department shall
1726 transmit one copy of such transcript to the Appellant and to the Investigator(s).

1727

1728 Upon request, a copy of all documentary evidence admitted at the Hearing shall also be sent to the
1729 Appellant and to the Investigator(s).

1730

1731

1732 **Part B: Appellate Briefs**

1733 **Section 1. Requirement for Appeal Brief**

1734 Within thirty (30) days after a copy of the transcript of the Hearing is sent, or within such additional
1735 time as may be granted for this purpose by the Chair of the Professional Practice Appeals Panel, the
1736 Appellant shall file a written Appeal Brief by Traceable Carrier with the Professional Practice
1737 Department.

1738

1739 The Appeal Brief (and any subsequent pleading) may be prepared and filed by the Appellant or by his
1740 or her legal counsel. Failure to file a written Appeal Brief in support of an appeal within the time
1741 provided shall constitute an abandonment of the appeal and the case shall be processed further
1742 under this Regulation as if the member had failed to file an appeal.
1743

1744 **Section 2. Contents of Appeal Brief**

1745 The Appeal Brief of the Appellant shall state in a concise manner the points relied upon by the
1746 Appellant as the basis for the appeal and shall make appropriate reference to the transcript of the
1747 Hearing and the documentary evidence admitted at the Hearing. If the Appellant believes that the
1748 Hearing Committee did not correctly interpret or apply an Ethical Rule involved in the proceedings,
1749 the Appeal Brief shall point out the alleged error and state the interpretation or application the
1750 Appellant believes to be correct. If the Appellant believes that certain findings of fact in the Hearing
1751 Committee Decision are unwarranted or were not established by the greater weight of the evidence,
1752 such disputed findings of fact shall be identified in the Appeal Brief and the Appellant shall point out
1753 the reasons for disputing such findings of fact.
1754

1755 The Appeal Brief may also include a discussion of such of the following matters as the Appellant
1756 deems applicable to the appeal:

- 1757
- 1758 a) specific procedural errors made by the Hearing Committee that resulted in denying the Appellant
1759 a fair Hearing;
 - 1760
 - 1761 b) evidence excluded at the Hearing which should have been admitted and which would have been
1762 material to the Hearing Committee Decision;
 - 1763
 - 1764 c) evidence material to the Hearing Committee Decision which the Appellant could not, with
1765 reasonable diligence, have produced at the Hearing; and
 - 1766
 - 1767 d) errors in the transcript of the Hearing.
1768

1769 The Appellant may attach to the Appeal Brief such evidentiary materials as he or she deems
1770 appropriate to the appeal.
1771

1772 **Section 3. Reply Brief of the Investigator**

1773 Within thirty (30) days after the Appeal Brief of the Appellant is filed, or within such additional time as
1774 may be granted for this purpose by the Chair of the Professional Practice Appeals Panel, the
1775 Investigator shall file a Reply Brief responding to the arguments set forth in the Appeal Brief of the
1776 Appellant. The Reply Brief may also point out any errors in the transcript of the Hearing. The
1777 Investigator shall send such Reply Brief to the Professional Practice Department by Traceable
1778 Carrier.
1779

1780 If evidentiary materials were attached to the Appeal Brief of the Appellant, the Investigator(s) may
1781 object to or comment upon such evidentiary materials and may also attach evidentiary materials to
1782 the Reply Brief.

1783

1784 **Section 4. Answer of Appellant to Reply Brief**

1785 Within thirty (30) days after a Reply Brief is filed, or within such additional time as may be granted for
1786 this purpose by the Chair of the Professional Practice Appeals Panel, the Appellant may file an
1787 Answer to the Reply Brief with the Professional Practice Department by Traceable Carrier.

1788

1789

1790 **Part C: Setting the Appeal Date**

1791 **Section 1. Setting Date for a Hearing on Appeal**

1792 The Chair of the Professional Practice Appeal Board shall, set a date, time, and place for a Hearing
1793 on Appeal. The Appellant must notify the Professional Practice Department in writing not less than
1794 thirty (30) days prior to the date of Hearing on Appeal as to whether he or she will attend the Hearing
1795 on Appeal in person.

1796

1797 **Section 2. Representation by Legal Counsel at Hearing on Appeal**

1798 If an Appellant intends to present oral argument in whole or in part through legal counsel at the
1799 Hearing on Appeal, he or she must so notify the Professional Practice Department not less than thirty
1800 (30) days prior to the date of the Hearing on Appeal. This notice shall contain the name and contact
1801 information for such legal counsel. For good cause shown, the Chair of the Professional Practice
1802 Appeal Board may allow this notice to be filed less than thirty (30) days prior to the date of the
1803 Hearing on Appeal.

1804

1805 General Counsel of the Appraisal Institute may authorize the retention of legal counsel for the
1806 Investigator(s) at the Hearing on Appeal.

1807

1808 **Section 3. Resetting Date for Hearing on Appeal**

1809 Upon the timely request of any party to the proceedings and for good cause shown, the Chair of the
1810 Professional Practice Appeal Board shall have the power to reset the date of the Hearing on Appeal.
1811 The Chair of the Professional Practice Appeal Board shall also have the right, in his or her sole
1812 discretion, to reset the date of the Hearing on Appeal whenever he or she is of the opinion that justice
1813 requires such resetting.

1814

1815 **Section 4. Preparation for Hearing on Appeal**

1816 Prior to the date of the Hearing on Appeal, the Professional Practice Department shall furnish every
1817 member of the Professional Practice Appeal Board for such appeal with a copy of the Complaint, the
1818 Hearing Committee Decision, the Appeal Brief of the Appellant, the Reply Brief of the Investigator,
1819 and the Answer to Reply Brief, if any. In addition, the Professional Practice Department shall, upon
1820 request, make available to each member of the Professional Practice Appeal Board for such appeal a
1821 copy of all documents introduced into evidence at the Hearing and a copy of the transcript of the

1822 Hearing. The Professional Practice Department shall also arrange for a court reporter to be present at
1823 the Hearing on Appeal so that a verbatim record may be taken of the Hearing on Appeal.

1824

1825 **Part D: Proceedings at Hearings on Appeal**

1826 **Section 1. Individuals Present at Hearing on Appeal**

1827 The Professional Practice Appeal Board for an appeal shall have the right to have legal counsel for
1828 the Appraisal Institute present at each Hearing on Appeal for the protection of both the Appellant and
1829 the Appraisal Institute. Both the Appellant and the Investigator(s) shall have the right to be present at
1830 the Hearing on Appeal and to be represented by legal counsel as provided in this Regulation.

1831

1832 **Section 2. Procedure at the Hearing of Appeal**

1833 The Chair of the Professional Practice Appeal Board for an appeal shall preside at the Hearing on
1834 Appeal. In the event of the absence or inability of the Chair of the Professional Practice Appeal Board
1835 to preside, the remaining members of the Professional Practice Appeal Board shall select one of the
1836 members to act as Chair of the Professional Practice Appeal Board.

1837

1838 The order of proceedings shall be as follows:

1839

1840 1) The Appellant shall have the opportunity to address the Professional Practice Appeal Board and
1841 present oral arguments relating to the matters raised in the Appeal Brief, the Reply Brief, and the
1842 Answer to the Reply Brief. If the Appellant has given timely notice of his or her intention to be
1843 represented by legal counsel, such oral arguments may be made, in whole or in part, through
1844 legal counsel.

1845

1846 2) The Investigator(s) shall have an opportunity to answer the oral argument of the Appellant and to
1847 present oral arguments in support of the matters raised in the Reply Brief of the Investigator.
1848 These arguments may be presented through legal counsel if the retention of legal counsel for the
1849 Investigator(s) had been authorized under the provisions of this Regulation.

1850

1851 3) The Appellant (or, if authorized, such individual's legal counsel) shall have the opportunity to reply
1852 to the oral arguments of the Investigator(s).

1853

1854 Subject to the general control of the Chair of the Professional Practice Appeal Board, any member of
1855 the Professional Practice Appeal Board may at any time ask questions of the Investigator(s), legal
1856 counsel for the Investigator(s) (if any), the Appellant, and legal counsel for the Appellant (if any). The
1857 length of time permitted for the oral arguments described above shall be determined by the Chair of
1858 the Professional Practice Appeal Board, provided, however, that not less than thirty (30) minutes shall
1859 be allowed for (1) above, not less than thirty (30) minutes shall be allowed for (2) above, and not less
1860 than five (5) minutes shall be allowed for (3) above.

1861

1862 **Section 3. Adjournment to Executive Session**

1863 Upon completion of a Hearing on Appeal, the Professional Practice Appeal Board shall, in Executive
1864 Session, discuss the matters raised by the Appeal Brief, the Reply Brief, the Answer to the Reply

1865 Brief and oral arguments. At the discretion of the Chair of the Professional Practice Appeal Board, the
1866 Executive Session may be adjourned and reconvened from time to time.

1867

1868 In Executive Session, the Professional Practice Appeal Board shall first determine whether it should
1869 affirm the determination of the Hearing Committee that the greater weight of the evidence establishes
1870 that the Appellant violated the Appraisal Institute Code of Professional Ethics. If the Professional
1871 Practice Appeal Board affirms any such determination, then the Professional Practice Appeal Board
1872 shall determine the appropriate disciplinary action to be taken.

1873

1874

1875 **Part E: Procedure Following Hearing on Appeal from Hearing Committee** 1876 **Decisions**

1877 **Section 1. Required and Permitted Actions of an Professional Practice Appeal Board**

1878 A Professional Practice Appeal Board shall take one of the following actions with respect to the
1879 Hearing Committee Decision:

1880

1881 a) affirm the determination of the Hearing Committee that the Appellant violated the Appraisal
1882 Institute Code of Professional Ethics and approve the recommendation of the Hearing Committee
1883 as to the appropriate disciplinary action to be taken;

1884

1885 b) affirm the determination of the Hearing Committee that the Appellant violated the Appraisal
1886 Institute Code of Professional Ethics but reduce the disciplinary action recommended by the
1887 Hearing Committee;

1888

1889 c) reverse the Hearing Committee Decision and close the case; or

1890

1891 d) remand the matter to the Hearing Committee for a new Hearing with such instructions as the
1892 Professional Practice Appeal Board deems appropriate.

1893

1894 If a Professional Practice Appeal Board takes action under (a) or (b) above, and if the disciplinary
1895 action to be taken is not Suspension or Expulsion, such Professional Practice Appeal Board may, if it
1896 deems such action to be appropriate, determine that the Appellant shall be offered an opportunity to
1897 accept a specified Educational Alternative to be completed within a fixed period of time in lieu of the
1898 specified disciplinary action. If so, the Decision of such Professional Practice Appeal Board shall
1899 specify the Educational Alternative which must be completed by the Appellant and the period of time
1900 within which the Educational Alternative must be completed. For any Appraisal Institute course that
1901 has an examination, such Professional Practice Appeal Board must require that the examination be
1902 taken and passed.

1903

1904 If an Professional Practice Appeal Board takes action under (a) or (b) above and decides not to offer
1905 the Appellant an Educational Alternative, the Decision of the Professional Practice Appeal Board shall
1906 contain an order making such disciplinary action a part of the record of the Appellant. A similar order

1907 shall become effective if the Appellant declines to accept or fails to complete an Educational
1908 Alternative.

1909

1910 If the disciplinary action to be taken is Expulsion, Suspension or Censure, such disciplinary action
1911 shall be published in both print and electronic media and the Appellant's Chapter shall be notified of
1912 the disciplinary action.

1913

1914 If a Professional Practice Appeal Board takes an action described in items (a), (b), (c), or (d) above,
1915 the action of the Professional Practice Appeal Board shall be final and the Decision of the
1916 Professional Practice Appeal Board shall be reduced to writing. A copy of the Decision of the
1917 Professional Practice Appeal Board shall be delivered to the Appellant, the Investigator(s) and the
1918 Professional Practice Department.

1919

1920 If the Decision of a Professional Practice Appeal Board orders Expulsion or Suspension, a copy of the
1921 transmittal letter advising the Appellant of such Decision and of the order to immediately transmit his
1922 or her indicia of membership, candidacy or affiliation to the Appraisal Institute shall also be delivered
1923 to the Professional Practice Department.

1924

1925 **Section 2. Procedure to be Followed if a Disciplinary Action is to be Taken and an Educational**
1926 **Alternative is Not Offered**

1927 If a Professional Practice Appeal Board decides not to offer an Educational Alternative in lieu of a
1928 disciplinary action, the disciplinary action shall be posted to the record of the Appellant and the file
1929 shall be closed.

1930

1931 **Section 3. Procedure to be Followed if a Disciplinary Action is to be Taken and an Educational**
1932 **Alternative is Offered**

1933 If a Professional Practice Appeal Board decides to offer an Educational Alternative in lieu of
1934 Admonishment, Reprimand, or Censure, the Appellant shall be notified that, unless he or she accepts
1935 the Educational Alternative by a notice in writing to the Professional Practice Department, sent within
1936 thirty (30) days after the Decision was issued, the stated disciplinary action will become effective and
1937 will be made a part of the record of the Appellant.

1938

1939 If the Appellant fails to accept the Educational Alternative within the thirty (30) day period allowed for
1940 such acceptance, the Admonishment, Reprimand, or Censure shall become effective and shall be
1941 posted to the record of the Appellant. If the Appellant accepts the Educational Alternative, the file
1942 shall be placed in suspense and shall be reviewed by the Professional Practice Department following
1943 the expiration of the time period in which the Educational Alternative was to have been completed. If
1944 the Professional Practice Department finds that the Appellant failed to complete the Educational
1945 Alternative, the specified disciplinary action shall become effective and shall be posted to the record
1946 of the Appellant. If the Professional Practice Department finds that the Appellant completed the
1947 specified Educational Alternative in lieu of Admonishment or Reprimand within the allowed time
1948 period, this fact shall be recorded in the file and the disciplinary action shall not become effective and
1949 shall not be posted to the record of the Appellant. If the Professional Practice Department finds that

1950 the Appellant completed the specified Educational Alternative in lieu of Censure, the disciplinary
1951 action shall be reduced to Admonishment, which shall be recorded in the file along with the fact that
1952 the Appellant successfully completed the Educational Alternative.

1953

1954 **Section 4. Procedure to be Followed if an Professional Practice Appeal Board Reverses the**
1955 **Hearing Committee Decision and Dismisses the Case**

1956 If a Professional Practice Appeal Board reverses the Hearing Committee Decision and dismisses the
1957 case, the file shall be closed.

1958

1959 **Section 5. Procedure to be Followed if an Professional Practice Appeal Board Remands the**
1960 **Matter to the Hearing Committee**

1961 Upon receipt of the Decision of a Professional Practice Appeal Board that remands the matter to the
1962 Hearing Committee, the Chair of the Hearing Committee shall schedule a new Hearing in accordance
1963 with the requirements of this Regulation and such new Hearing shall be conducted in accordance with
1964 the instructions of the Professional Practice Appeal Board. Subsequent proceedings shall be
1965 conducted in accordance with the procedural rules set forth in this Regulation; however, in no event
1966 shall the disciplinary action, if any, recommended by the Hearing Committee upon completion of the
1967 new Hearing be more severe than the disciplinary action recommended by the Hearing Committee
1968 upon completion of the first Hearing.

1969