



Regulation No. 6 Peer Review

Effective May 7, 2020

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

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12

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

13

14

Admonishment

15

16

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

17

18

Board of Directors

19

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

20

21

Censure

22

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

23

24

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

25

26

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

27

28

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

29

30

Code of Professional Ethics

31

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

32

33

Conflict of Interest

34

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

50 **Designated Member in good standing**

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

53

54 **Disciplinary Action**

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

58

59 **Disciplinary Proceedings**

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

63

64 **Educational Alternative**

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

72

73 **Expulsion**

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

77

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

80

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

84

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

87

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

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

94

95 **Investigator**

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

103

104 **Peer Review Proceedings**

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

115

116 **Reprimand**

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

122

123 **Screener**

124 “Screener” shall mean the Director of Screening, a contract screener or other staff screener who
125 performs any of the screening functions as described in this Regulation.

126

127 **Subject**

128 “Subject” means a Designated Member, Candidate, Practicing Affiliate or Affiliate of the Appraisal
129 Institute who is the subject of a peer review proceeding.

130

131 **Standards of Professional Practice**

132 “Standards of Professional Practice” means the Appraisal Institute Standards of Professional Practice
133 or a similar document of one of its predecessors.

134 **Suspension**

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

138

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

142

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

146

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

150

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

153

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

165

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

174 **Traceable Carrier**

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

183

184 General Rules Governing Peer Review 185 Proceedings

186

187 **Part A: Address for Notices**

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

195

196

197 **Part B: Confidentiality**

198 **Section 1. Files to be Confidential**

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

203

204 **Section 2. Advice to Admissions Department**

205 The Professional Practice Department shall notify the Admissions Department:

206

207 a) when a disciplinary proceeding against a Candidate is commenced and when such proceeding is
208 concluded;

209

210 b) when a Candidate is the subject of a pending peer review proceeding in which the individual has
211 been sent an offer of a publishable disciplinary action and when such proceeding is concluded;
212 and

213

214 c) when a peer review proceeding results in the Censure, Suspension or Expulsion of a Candidate.
215 In the case of a Suspension, the Professional Practice Department also shall notify the
216 Admissions Department of the dates the Suspension commences and ends.

217

218 **Section 3. Confidential Treatment of Communications**

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

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

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

- 224
- 225 a) peer review proceedings under the Bylaws and Regulations of the Appraisal Institute, which may
226 result in a disciplinary action; and
 - 227
 - 228 b) legal proceedings against such Member, Candidate, Practicing Affiliate or Affiliate for damages
229 suffered by the Appraisal Institute as the result of the failure of such individual to observe the
230 rules relating to the confidential nature of peer review proceedings under this Regulation.

231

232

233 **Part C: Procedural Matters**

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

238

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

243

244

245 **Part D: Cessation of Peer Review Proceedings During Pendency of**
246 **Litigation**

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

250

251 If the Professional Practice Department determines that continuing the peer review proceeding under
252 this Regulation could interfere with or affect a pending judicial or quasi-judicial proceeding, the
253 Professional Practice Department may direct that the peer review proceedings be postponed. The
254 Professional Practice Department may further direct that the Subject of the peer review proceeding
255 periodically update the Department as to the status of the pending judicial or quasi-judicial
256 proceedings and provide additional information and documentation concerning the pending judicial or
257 quasi-judicial proceedings.

258

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

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

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

267
268 Upon receipt of any such request, the Professional Practice Department shall conduct an
269 investigation to determine whether, in its opinion, the Subject has an illness or disability that
270 substantially impairs the individual's ability to participate in a peer review proceeding. The Subject
271 has a duty to cooperate in any investigation the Professional Practice Department deems appropriate
272 under this Part, both before and after any deferral of the matter. If the Professional Practice
273 Department deems it appropriate, it may request the Subject to:

- 274
275 a) submit to a medical examination by a medical examiner selected by the Professional Practice
276 Department; and
277
278 b) pay for such examination.
279

280 If a Subject is engaged in Valuation Practice as defined by the Code of Professional Ethics during the
281 period of this investigation, such action shall conclusively be deemed to demonstrate the ability of
282 such individual to participate in a peer review proceeding.
283

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

- 288
289 a) the Professional Practice Department determines, after further investigation, that the Subject no
290 longer has an illness or disability that substantially impairs the individual's ability to participate in a
291 peer review proceeding; or
292
293 b) until such time as the Professional Practice Department directs.
294

295 A Subject who has requested or received a deferral under this section shall notify the Professional
296 Practice Department when the illness or disability no longer substantially impairs the individual's
297 ability to participate in a peer review proceeding. If a Subject is engaged in Valuation Practice as
298 defined by the Code of Professional Ethics during the period of a deferral, such action shall
299 conclusively be deemed to demonstrate the ability of such individual to participate in a peer review
300 proceeding.

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

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

307

308

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

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

313

314

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

316 The Ethics Rule of the Uniform Standards of Professional Appraisal Practice promulgated by the
317 Appraisal Standards Board of The Appraisal Foundation shall be enforced solely through the
318 Appraisal Institute Code of Professional Ethics.

319

320 The Code of Conduct of the International Valuation Standards promulgated by the International
321 Valuation Standards Committee shall be enforced solely through the Appraisal Institute Code of
322 Professional Ethics.

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

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324

325 Professional Practice Compliance and 326 Enforcement Committee

327

328 **Part A: Composition**

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

331

332

333 **Part B: Powers and Duties Relating to Peer Review Files**

334 **Section 1. Supervision of Peer Review Proceedings**

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

338

339 **Section 2. Discontinuation of Pending Matters**

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

342

- 343 a) further proceedings under this Regulation would be inappropriate or would serve no useful
344 purpose due to the serious illness or disability of the Subject involved;
- 345
- 346 b) the continuation of the peer review proceeding would violate the civil or criminal law of the
347 jurisdiction in which such matter is pending;
- 348
- 349 c) procedural errors or omissions would make any disciplinary or remedial action unenforceable; or
350
- 351 d) a careful consideration of known facts and circumstances indicates that prosecutorial or
352 investigative discretion should be exercised.

353

354 Further, if a Member, Candidate or Practicing Affiliate is no longer engaged in Valuation Practice as
355 defined by the Code of Professional Ethics, the Professional Practice Compliance and Enforcement
356 Committee shall have the power to discontinue any peer review proceeding concerning such
357 Member, Candidate or Practicing Affiliate provided that the individual:

358

- 359 a) attests in writing that he or she has not been engaged in Valuation Practice in the past six (6)
360 months and has no plans to do so in the future; and
- 361
- 362 b) agrees in writing to notify the Appraisal Institute prior to being engaged in Valuation Practice.

363 If the Member, Candidate or Practicing Affiliate is engaged in Valuation Practice as defined by the
364 Code of Professional Ethics after a peer review proceeding was discontinued under this Part, such
365 proceeding shall resume in accordance with this Regulation.

366

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

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

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

372

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

374 The Professional Practice Compliance and Enforcement Committee may periodically review
375 screening actions to determine whether such actions are consistent with the screening policies
376 established by the Professional Practice Compliance and Enforcement Committee.

377

378 **Section 3. General**

379 The Professional Practice Compliance and Enforcement Committee shall have such other powers
380 and duties as the Bylaws and Regulations of the Appraisal Institute provide. The Professional
381 Practice Compliance and Enforcement Committee shall also perform such other duties as may be
382 assigned to it by the Board of Directors of the Appraisal Institute.

383

385

386 Professional Practice Appeals Panel

387

388 **Part A: Composition**

389 **Section 1. Membership of Panel**

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

392

393

394 **Part B: Powers and Duties**

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

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

401

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

405

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

408

409 **Section 2. Other Duties**

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

Screening

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414

415 Screeners

416

417 **Part A: Director of Screening**

418 **Section 1. Director of Screening**

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

421

422 **Section 2. Powers and Duties**

423 The Director of Screening shall:

424

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

426

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

428

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

430

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

433

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

436

437

438 **Part B: Other Screeners**

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

444

446
447 **Screening Procedures**

448
449 **Part A: Screening of Information**

450 **Section 1. General**

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

- 454
- 455 a) failed to comply with the requirements of the Appraisal Institute Code of Professional Ethics or
456 Standards of Professional Practice;
 - 457
 - 458 b) been convicted of a serious crime committed prior to becoming a Member, Candidate, Practicing
459 Affiliate or Affiliate; or
 - 460
 - 461 c) knowingly made false statements, submitted false information, or failed to fully disclose
462 information requested in an application for admission to membership, candidacy or affiliation.
 - 463

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

469
470 **Section 2. Possible Violations of Ethical Rules Under Canon 5**

471 The Professional Practice Department will screen information suggesting that a Member, Candidate,
472 Practicing Affiliate or Affiliate may have violated an Ethical Rule under Canon 5. The Professional
473 Practice Department may conduct such investigation as the Department deems appropriate for
474 purposes of fulfilling its responsibilities under this Regulation. If the Professional Practice Department
475 determines that a Member, Candidate, Practicing Affiliate or Affiliate may have violated an Ethical
476 Rule under Canon 5, the Professional Practice Department may take one or more of the following
477 actions:

- 478
- 479 a) refer the matter to a Screener.
 - 480
 - 481 b) request that the Subject provide written assurances that the possible violation will cease.
 - 482
 - 483 c) request that the Subject provide proof that the possible violation has been corrected.
 - 484

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

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

491

492

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

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

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

497

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

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

502

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

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

508

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

513

514 a) accept the offer of an Educational Alternative;

515

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

517

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

519

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

522

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

526

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

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

534

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

539

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

544

545 a) accept the Educational Alternative; or

546

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

548

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

552

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

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

556

557

558 **Part C: Additional Rules**

559 **Section 1. Conflict of Interest**

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

Investigations

Effective May 7, 2020

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564

565 Investigations

566

567 **Part A: Composition**

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

569 When a matter is referred for further investigation, the Professional Practice Department shall appoint
570 an Investigator. If the Professional Practice Department determines that the Investigator may need
571 assistance, the Professional Practice Department may also appoint one (1) or more Assistant
572 Investigators to assist the Investigator. An Investigator may assign all or any portion of the functions
573 assigned to the Investigator to any Assistant Investigator(s). The Professional Practice Department
574 may appoint a replacement Investigator or Assistant Investigator at any time during the investigation.
575

576 An Investigator or Assistant Investigator shall be a Designated Member in good standing and shall
577 hold the status of “continuing education program completed” as of the date of appointment. An
578 Investigator or Assistant Investigator shall not have a Conflict of Interest as to the subject matter or
579 the subject Member, Candidate, Practicing Affiliate or Affiliate of the file. Members of the Professional
580 Practice Compliance and Enforcement Committee are not eligible for appointment as an Investigator
581 or Assistant Investigator.
582

583 **Section 2. Notice of Appointment**

584 The Professional Practice Department shall advise the Subject of the appointment of an Investigator
585 and any Assistant Investigator(s) and advise the Subject that within fifteen (15) days from the date of
586 the notice of appointment, the Subject may file with the Professional Practice Department a challenge
587 for cause requesting that an Investigator or Assistant Investigator be excused because of a Conflict of
588 Interest. Any challenge must set forth the facts and reasoning in support of the challenge.
589

590 Upon a timely request by the Subject, and for good cause shown, the Professional Practice
591 Department may extend the period allowed for the filing of any challenges for cause.
592

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

594 Upon receipt of a challenge for cause, the Professional Practice Department shall determine whether
595 the challenge should be granted. If a challenge for cause is granted, the Professional Practice
596 Department may appoint a replacement for the individual who has been excused. The Subject shall
597 have the right to file a challenge for cause to any replacement.
598

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

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

602 **Section 5. Removal**

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

606

607

608 **Part B: Investigation**

609 **Section 1. Procedure for Investigation**

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

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

617

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

622

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

625

626 **Section 2. Other Violations**

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

633

634

635 **Part C: Investigation Report**

636 **Section 1. Duty to Report**

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

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

641 The Investigation Report shall contain the following:

642

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

644

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

646

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

649

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

652

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

654

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

660

661 **Section 3. Permitted Recommendations**

662 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
663 Ethics, each Investigation Report shall make one of the following recommendations:

664

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

666

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

669

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

672

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

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

678 **Section 1. Review of Report**

679 Upon receipt of an Investigation Report, the Professional Practice Department shall review the file
680 and the Investigation Report to determine whether the investigation was adequate and whether the
681 Investigation Report complies with the requirements of this Regulation. As part of the review process,
682 the Professional Practice Department shall submit a copy of the Report to a member of the
683 Professional Practice Compliance and Enforcement Committee who may provide advice concerning
684 the adequacy of the investigation, the compliance of the report with the requirements of this
685 Regulation, and any technical appraisal issues.

686
687 **Section 2. Permitted Actions by the Professional Practice Department**

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

691
692 If the Professional Practice Department determines that the Investigator's investigation was adequate
693 and that the Investigation Report is in compliance with this Regulation, the Department shall proceed
694 as follows:

- 695
696 a) if the Investigator recommended that the file be closed with no further action, the Department
697 shall close the file and advise the Subject that the file has been closed;
698
699 b) if the Investigator recommended that the Subject be contacted about possible violation of the
700 Standards of Professional Practice for educational purposes, the Department shall send the
701 Subject a copy of the Investigation Report for such purposes and close the file; or
702
703 c) if the Investigator recommended giving the Subject the right to accept disciplinary action for
704 possible violations of the Code of Professional Ethics, the Professional Practice Department shall
705 proceed in accordance with Part E of this Article.

706
707
708 **Part E: Procedure if an Investigator Recommends that the Subject be**
709 **Given the Right to Accept Disciplinary Action**

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

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

718 **Section 2. Procedure if Subject is Offered Disciplinary Action Without an Educational**
719 **Alternative Offered**

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

728
729 Upon receipt of a written request from the Subject setting forth facts and circumstances justifying an
730 extension, the Professional Practice Department may extend the time for making such election or
731 filing a request for reconsideration to a date the Professional Practice Department deems reasonable
732 under the circumstances.

733
734 If the Subject affirmatively accepts a disciplinary action in accordance with the requirements of this
735 Regulation, or fails to respond to the offer of disciplinary action within the thirty (30) day period (or any
736 extension thereof), the disciplinary action shall become effective and the file shall be closed.

737
738 If the Subject files a request for reconsideration in accordance with the requirements of this
739 Regulation, the Investigator may reconsider and revise the findings and recommendation in
740 accordance with Section 4 below.

741
742 If the Subject affirmatively and properly elects not to accept such disciplinary action, a formal
743 Complaint shall be prepared in accordance with Section 5 below and the file shall be processed
744 further as set forth in this Regulation.

745
746 **Section 3. Procedure if Subject is Offered Disciplinary Action with an Educational Alternative**

747 If the Investigator recommended offering the Subject a disciplinary action and the opportunity to
748 complete a specified Educational Alternative, the Professional Practice Department shall send the
749 Subject a copy of the Investigation Report and a notice that the Investigator has recommended that
750 such individual be given the right to accept a disciplinary action, or in lieu thereof, the right to
751 successfully complete a specified Educational Alternative within a fixed period of time. This notice
752 shall also advise the Subject that he or she shall have thirty (30) days from the date the notice and
753 Report was sent to advise the Professional Practice Department, in writing by Traceable Carrier, as to
754 whether he or she elects to accept the offer of an Educational Alternative, to accept the offer of
755 disciplinary action, to accept neither the disciplinary action nor the Educational Alternative, or to file a
756 request for reconsideration that shows good cause for such reconsideration.

757
758 Upon receipt of a written request from the Subject setting forth facts and circumstances justifying an
759 extension, the Professional Practice Department may extend the time for making such election or

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

762

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

767

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

771

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

776

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

781

782 If the Professional Practice Department determines that the Subject successfully completed the
783 Educational Alternative within the specified time period, this fact shall be recorded in the file of the
784 Subject and the file shall be closed. If the Educational Alternative was in lieu of Reprimand or
785 Admonishment, the disciplinary action shall not become effective. If the Educational Alternative was
786 in lieu of Censure, the disciplinary action shall be reduced to Admonishment which shall be recorded
787 in the Subject's disciplinary record.

788

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

792

793 **Section 4. Request for Reconsideration**

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

796

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

799

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

802 The Professional Practice Department will review the revised report and/or recommendation to
803 determine whether the revised Investigation Report (if any) and/or recommendation comply with
804 Regulation No. 6. If the revised Investigation Report and/or recommendation are not in compliance
805 with Regulation No. 6, the Professional Practice Department shall remand the matter to the
806 Investigator with instructions to take such further steps as the Professional Practice Department may
807 specify.

808

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

815

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

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

820

821 a) Allegations of Fact

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

825

826 b) Relation to Code of Professional Ethics

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

Rules Governing Disciplinary Proceedings

Effective May 7, 2020

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831

832 Hearings

833

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

835 Section 1. Appointment of Hearing Committee

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

840

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

844

845 Section 2. Filing of Complaint

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

849

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

851

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

856

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

861

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

864

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

867

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

871 **Section 3. Filing Date**

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

874

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

876 Upon a timely written request and for good cause shown, the Professional Practice Department shall
877 have the power to extend the period allowed for the filing of any challenges or pre-hearing filings.
878 However, once the Hearing Committee Chair is determined, the Hearing Committee Chair shall have
879 the power to extend the period allowed for pre-hearing filings upon timely written request and good
880 cause shown.

881

882 **Section 5. Challenges for Cause**

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

888

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

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

892

893 **Section 7. Preemptory Challenge**

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

898

899 **Section 8. Appointment of Replacements**

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

906

907 **Section 9. Removal from Hearing Committee**

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

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

912 **Section 1. Answer to Complaint**

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

915
916 The Answer to the Complaint should address each allegation of the Complaint and may also raise
917 affirmative defenses which, in the opinion of the Subject, serve as further answer to the allegations of
918 the Complaint.

919
920 Failure to file a timely written Answer to the Complaint shall constitute a relinquishment of the right to
921 a Hearing and the peer review matter shall be processed further under this Regulation as if the
922 Subject had failed to exercise his or her right to request a Hearing.

923
924 **Section 2. Request for a Bill of Particulars**

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

930
931 A written Request for a Bill of Particulars must be filed with the Professional Practice Department
932 within sixty (60) days from the date that the Complaint was filed.

933
934 If the Hearing Committee determines that all or any part of a Request for a Bill of Particulars should
935 be granted, the Investigator shall be required to file a Bill of Particulars setting forth such additional
936 factual details as the Hearing Committee may direct.

937
938 If the Hearing Committee concludes that all or any part of a Request for a Bill of Particulars should be
939 denied, the Subject shall be advised of this decision and the basis for such denial.

940
941 If an Investigator is directed to prepare a Bill of Particulars, the Investigator shall prepare and file a
942 Bill of Particulars with the Professional Practice Department

943
944 **Section 3. Notice of Legal Representation**

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

949
950 **Section 4. Retention of Legal Counsel for the Investigators**

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

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

957

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

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

964

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

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

969

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

971

972 1) the request is written;

973

974 2) the request is timely;

975

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

978

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

981

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

983

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

986

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

990

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

996 If the Subject exercises his or her right to request the Chair of the Hearing Committee to issue a
997 summons, and the Chair of the Hearing Committee does issue such summons, the Subject must pay
998 the travel expenses of the summoned witness.
999

1000 **Section 7. Motion to Dismiss**

1001 If prior to the Hearing the Investigator obtains new evidence that leads him or her to conclude that he
1002 or she cannot prove, by the greater weight of the evidence, that the Subject violated the Code of
1003 Professional Ethics as alleged in the Complaint, the Investigator may file a Motion to Dismiss. Such
1004 Motion to Dismiss shall be filed with the Professional Practice Department.
1005

1006 The Chair of the Hearing Committee shall review the factual information set forth in the Motion to
1007 Dismiss, determine whether the Motion to Dismiss should be granted, and advise the parties as to his
1008 or her decision.
1009

1010 **Section 8. Notice of Hearing**

1011 The Professional Practice Department shall issue a written Notice of Hearing setting forth the date,
1012 time, and place for the Hearing. The date of the Hearing shall not be less than sixty (60) days from
1013 the date that the formal Complaint was filed and not less than thirty (30) days from the date of
1014 transmittal of the Notice of Hearing. Upon the timely request of any party to the proceedings and for
1015 good cause shown, the Chair of the Hearing Committee shall have the power to reset the date of the
1016 Hearing.
1017

1018

1019 **Part C: Procedural Rules Governing the Conduct of a Hearing**

1020 **Section 1. General Rules**

1021 The Chair of a Hearing Committee shall preside at the Hearing and conduct the Hearing in
1022 accordance with the rules set forth in this Regulation. The Investigator shall be the complainant at the
1023 Hearing. The Investigator has the burden of proof to establish, by the greater weight of the evidence,
1024 that the actions (or failure to act) of the Subject were in violation of the Appraisal Institute Code of
1025 Professional Ethics. The Subject shall have the right to be present during the entire Hearing.
1026

1027 **Section 2. Procedure at the Hearing**

1028 The Chair of the Hearing Committee shall afford the parties to the Hearing full opportunity to be
1029 heard, to offer the testimony of witnesses, and to present documentary evidence relating to the issues
1030 involved in the Hearing, subject to the judgment of the Hearing Committee as to the relevance of such
1031 testimony and documentary evidence to the issues before it. In evidentiary matters the Hearing
1032 Committee may consider the rules of evidence that are applicable in a court of law. However, the
1033 Hearing Committee shall not be bound by such rules of evidence and may consider in the proceeding
1034 all evidence which, in its opinion, fairness or justice requires. Both the Subject and the Investigator(s)
1035 shall have the right to present such witnesses as the Hearing Committee deems appropriate, whether
1036 or not a summons was issued to any such witnesses.

1037 The Investigator(s) shall introduce at the Hearing evidence to support those allegations of the
1038 Complaint which have not been admitted in the Answer to Complaint of the Subject. However, no
1039 evidence shall be presented at the Hearing and no reference shall be made by the Investigator(s) to
1040 any prior disciplinary action taken against or involving the Subject unless such prior disciplinary action
1041 was published and involved the same substantive violation of the Appraisal Institute Code of
1042 Professional Ethics as is alleged in the pending Complaint. The Investigator may also examine or
1043 cross-examine the Subject; cross-examine witnesses appearing on behalf of the Subject; ask
1044 questions of the Chair or any member of the Hearing Committee, or of legal counsel for the Hearing
1045 Committee or the Subject; and make oral arguments with respect to the subject matter of the
1046 Complaint.

1047

1048 The Subject shall introduce at the Hearing evidence to rebut the allegations of the Complaint and to
1049 support any affirmative defenses raised in the Answer to Complaint. The Subject may also offer the
1050 testimony of witnesses and documentary evidence in his or her defense; examine or cross-examine
1051 the Investigator(s); cross-examine witnesses appearing on behalf of the Investigator(s); ask questions
1052 of the Chair or any member of the Hearing Committee, or of legal counsel for the Hearing Committee
1053 or the Investigator(s); and make oral arguments in support of his or her defense.

1054

1055 The members of the Hearing Committee may examine the Investigator(s); examine the Subject;
1056 examine any of the witnesses presented by the Investigator(s) or by the Subject; and ask questions of
1057 legal counsel for the Subject or for the Investigator(s).

1058

1059 **Section 3. Recess or Adjournment of Hearing**

1060 The Chair of the Hearing Committee may recess the Hearing or adjourn and reconvene the Hearing
1061 from time to time whenever fairness or convenience requires.

1062

1063 **Section 4. Transcript**

1064 A court reporter shall be present at each Hearing held pursuant to this Regulation and take a
1065 verbatim record of the proceedings.

1066

1067

1068 **Part D: Actions to be taken at the Conclusion of Hearing**

1069 **Section 1. Hearing Committee Decision**

1070 The Hearing Committee, in Executive Session, shall consider the Complaint, the Answer to
1071 Complaint, the testimony of the witnesses and documentary evidence introduced at the Hearing and
1072 the oral arguments to determine whether, by the greater weight of the evidence, the Subject violated
1073 the Appraisal Institute Code of Professional Ethics.

1074

1075 If the determination of the Hearing Committee is that the Subject did not violate the Appraisal Institute
1076 Code of Professional Ethics, this determination shall be incorporated in a formal written decision
1077 (hereinafter referred to as "Hearing Committee Decision").

1078 If the determination of the Hearing Committee is that the Subject did violate the Appraisal Institute
1079 Code of Professional Ethics, the Hearing Committee shall then consider and determine its
1080 recommendation as to the appropriate disciplinary action to be taken. For this purpose, the Hearing
1081 Committee may take into account all prior disciplinary actions against the Subject, if any. The
1082 Professional Practice Department will advise the Hearing Committee of the prior disciplinary record of
1083 the Subject, if any, only after the Hearing Committee has made a final determination that the Subject
1084 did violate the Appraisal Institute Code of Professional Ethics.

1085

1086 When the Hearing Committee has made a decision concerning its recommendation as to the
1087 appropriate disciplinary action to be taken, both its determination that the Subject did violate the
1088 Appraisal Institute Code of Professional Ethics and its recommendation as to the appropriate
1089 disciplinary action to be taken shall be incorporated in a Hearing Committee Decision. The Hearing
1090 Committee Decision shall be signed by not less than a majority of the Hearing Committee.

1091

1092 **Section 2. Permitted Recommendations**

1093 If the determination of the Hearing Committee is that the Subject did violate the Appraisal Institute
1094 Code of Professional Ethics, the recommendation of the Hearing Committee as to the appropriate
1095 disciplinary action to be taken shall be one of the following:

1096

1097 a) Admonishment;

1098

1099 b) Reprimand;

1100

1101 c) Censure;

1102

1103 d) Suspension; or

1104

1105 e) Expulsion.

1106

1107 Unless the Hearing Committee recommends Suspension or Expulsion, the Hearing Committee may
1108 further recommend that the Subject be offered an opportunity to complete a specified Educational
1109 Alternative in lieu of the recommended disciplinary action. If the Hearing Committee recommends that
1110 the Subject be offered an opportunity to complete a specified Educational Alternative in lieu of the
1111 recommended disciplinary action, the decision of the Hearing Committee shall also recommend the
1112 Educational Alternative the Subject must successfully complete and the period of time within which
1113 the Educational Alternative must be successfully completed. For any Appraisal Institute course that
1114 has an examination, the Hearing Committee must recommend that the course examination be taken
1115 and passed for successful completion of the Educational Alternative.

1116

1117 Prior to issuance of a Hearing Committee Decision offering an Educational Alternative, the Chair of
1118 the Hearing Committee may contact the Professional Practice Compliance and Enforcement
1119 Committee Chair to obtain his or her advice as to a reasonable and appropriate Educational

1120 Alternative. Upon receipt of any such advice, the Hearing Committee shall make its final
1121 determination concerning the specified Educational Alternative.

1122

1123 **Section 3. Transmittal of Hearing Committee Decision**

1124 A copy of the final Hearing Committee Decision shall be transmitted to each of the parties to the
1125 Hearing.

1126

1127 If the Hearing Committee Decision is that the Subject did violate the Appraisal Institute Code of
1128 Professional Ethics, the transmittal letter shall advise the Subject of his or her right to appeal the
1129 Hearing Committee Decision within thirty (30) days of the date that the Hearing Decision was sent
1130 and the procedures for filing an Appeal.

1131

1132

1133 **Part E: Procedure if a Hearing Committee Recommends Disciplinary**
1134 **Action**

1135

1136 **Section 1. Action to be Taken When a Timely Appeal is Not Filed and the Hearing Committee**
1137 **Did Not Recommend That an Educational Alternative be Offered**

1138 If a Subject fails to file a timely notice of appeal from a Hearing Committee Decision which
1139 recommends that a disciplinary action be taken but does not recommend a specified Educational
1140 Alternative in lieu of such disciplinary action, the disciplinary action shall become effective.

1141

1142 **Section 2. Action to be Taken When an Appeal is Not Filed and the Hearing Committee**
1143 **Recommended That an Educational Alternative be Offered**

1144 If a Subject fails to file a timely notice of appeal from a Hearing Committee Decision and fails to
1145 accept the Educational Alternative in a timely manner, the recommended disciplinary action shall
1146 become effective.

1147

1148 If the Subject accepts the Educational Alternative, the file shall be placed in suspense until the
1149 Professional Practice Department can determine whether the Subject successfully completed the
1150 Educational Alternative within the specified time period.

1151

1152 If the Subject successfully completes an Educational Alternative in lieu of Admonishment or
1153 Reprimand within the specified time period, the disciplinary action shall not become effective and the
1154 successful completion of the Educational Alternative shall be recorded in the file of the Subject.

1155

1156 If the Subject successfully completes an Educational Alternative in lieu of a Censure, the disciplinary
1157 action shall be reduced to Admonishment, which shall be recorded in the file along with the fact that
1158 the Subject successfully completed the Educational Alternative.

1159

1160 If the Subject fails to successfully complete an Educational Alternative within the specified time
1161 period, the specified disciplinary action shall become effective.

1162 **Part F: Alternate Procedure to be followed for Violation of Ethical Rule 1-**
1163 **2**

1164 **Section 1. Automatic Suspension**

1165 Upon receipt of either (a) a certified copy of a court document indicating that a Member, Candidate,
1166 Practicing Affiliate or Affiliate has entered a guilty plea to having committed a crime of the type
1167 referred to in Ethical Rule 1-2 together with information indicating that such individual has not as yet
1168 been convicted of such crime, or (b) a certified copy of a court document indicating that a Member,
1169 Candidate, Practicing Affiliate or Affiliate has been found guilty by a judge or a jury of a crime of the
1170 type referred to in Ethical Rule 1-2 together with information indicating that all rights to appeal from
1171 such conviction have not been exhausted, the Professional Practice Department shall give written
1172 notice to such Member, Candidate, Practicing Affiliate or Affiliate that his or her privileges of
1173 membership, candidacy or affiliation have been suspended.

1174
1175 A suspended Member, Candidate, Practicing Affiliate or Affiliate shall have the duty and obligation to
1176 promptly notify the Professional Practice Department when all rights to appeal a conviction have been
1177 exhausted.

1178
1179 If the Suspension is based upon a plea of guilty as described in (a) above and such plea is
1180 subsequently withdrawn, rejected, or set aside, the Suspension will expire on the date that the
1181 Professional Practice Department confirms that such plea has been withdrawn, rejected, or set aside.

1182
1183 **Section 2. Right to Appeal Automatic Suspension**

1184 A Member, Candidate, Practicing Affiliate or Affiliate who has been suspended from the privileges of
1185 membership, candidacy or affiliation pursuant to Section 1 above shall have the right to appeal such
1186 Suspension by filing a timely notice of appeal with the Professional Practice Department. In such
1187 event, the requirements and procedures governing the appeal shall be as set forth this Regulation
1188 with such modifications thereof as may be required to reflect the fact that the Suspension was
1189 entered pursuant to Section 1 above.

1190
1191 **Section 3. Automatic Expulsion**

1192 Upon receipt of a certified copy of a judgment stating that a Member, Candidate, Practicing Affiliate,
1193 or Affiliate has been convicted of a crime of the type referred to in Ethical Rule 1-2 and evidence that
1194 all rights to appeal from such conviction have been exhausted, the Professional Practice Department
1195 shall give written notice to such Member, Candidate, Practicing Affiliate or Affiliate that he or she will
1196 be expelled from membership, candidacy or affiliation subject to the provisions of Section 4 of this
1197 Part F.

1198
1199 The Member, Candidate, Practicing Affiliate or Affiliate shall be suspended from the rights and
1200 privileges of membership, candidacy or affiliation during the period in which he or she can appeal the
1201 automatic Expulsion. If no appeal is filed, the Expulsion will become effective on the day following the
1202 expiration of the period in which to file an appeal.

1203 **Section 4. Right to Appeal Automatic Expulsion**

1204 A Member, Candidate, Practicing Affiliate or Affiliate who has been sent a notice of Expulsion
1205 pursuant to Section 3 above shall have the right to appeal such Expulsion by filing a timely Notice of
1206 Appeal with the Professional Practice Department. In such event, the requirements and procedures
1207 governing the appeal shall be as set forth in this Regulation with such modifications thereof as may
1208 be required to reflect the fact that the Expulsion was entered pursuant to Section 3 above.

1209

1210 Upon the filing of a timely Notice of Appeal, the automatic Expulsion shall be stayed pending a final
1211 determination of the merits of such appeal. However, the Member, Candidate, Practicing Affiliate or
1212 Affiliate shall continue to be suspended during the pendency of the appeal.

1213

1214 **Section 5. Respondent in an Appeal**

1215 The Professional Practice Department shall appoint an Investigator to act as the respondent in
1216 connection with any such appeal. If the Professional Practice Department determines that the
1217 Investigator may need assistance, the Professional Practice Department may also appoint one (1) or
1218 more Assistant Investigators to assist the Investigator.

1219

1220 **Section 6. Prima Facie Evidence and Burden of Proof**

1221 At any appeal heard pursuant to Section 2 or Section 4 above, the submission into evidence of a
1222 certified copy of a judgment stating that a Member, Candidate, Practicing Affiliate or Affiliate has been
1223 convicted of a crime of the type referred to in Ethical Rule 1-2 shall be prima facie evidence that the
1224 Member, Candidate, Practicing Affiliate or Affiliate has violated Ethical Rule 1-2 of the Code of
1225 Professional Ethics; however, this shall not prevent such individual from introducing such evidence as
1226 may be appropriate to dispute or explain such conviction. The Professional Practice Appeal Board
1227 must reach its final decision based on the greater weight of the evidence.

1228

1229 **Section 7. Decision of a Professional Practice Appeal Board**

1230 At the conclusion of a Hearing on Appeal taken pursuant to Section 2 above, the Professional
1231 Practice Appeal Board for such appeal shall either:

1232

1233 a) affirm the Suspension; or

1234

1235 b) reverse the Suspension and allow the Subject to enjoy the privileges of membership, candidacy
1236 or affiliation until such time as all appeals of his or her conviction have been finally determined.

1237

1238 At the conclusion of a Hearing on Appeal taken pursuant to Section 4 above, the Professional
1239 Practice Appeal Board for such appeal shall have all of the powers of a Professional Practice Appeal
1240 Board set forth in this Regulation.

1241 **Part G: Alternate Procedure for Possible Violation of Ethical Rule 2-3(b),**
1242 **(c), or (d)**

1243 **Section 1. Automatic Expulsion**

1244 Upon receipt of a screened file relating to Ethical Rule 2-3(b), 2-3(c), or 2-3(d), the Professional
1245 Practice Department shall appoint an Investigator to determine whether the Subject violated Ethical
1246 Rule 2-3(b), 2-3(c), or 2-3(d). If the Professional Practice Department determines that the Investigator
1247 may need assistance, the Professional Practice Department may also appoint one or more Assistant
1248 Investigators to assist the Investigator.

1249
1250 If the Investigator determines that such Subject violated Ethical Rule 2-3(b), 2-3(c), or 2-3(d), the
1251 Subject shall be sent written notice that he or she will be expelled from membership, candidacy or
1252 affiliation, subject to the provisions of Section 2 of this Part G.

1253
1254 Upon receipt of an Investigation Report from a duly appointed Investigator stating that a Subject has
1255 violated Ethical Rule 2-3(b), 2-3(c), or 2-3(d) the Professional Practice Department shall give written
1256 notice to the Subject advising that he or she will be expelled from membership, candidacy or
1257 affiliation, subject to the provisions of Section 2 of this Part G.

1258
1259 The Subject shall be suspended from the rights and privileges of membership, candidacy or affiliation
1260 during the period in which he or she can appeal the automatic Expulsion for violation of Ethical Rule
1261 2-3(b), 2-3(c), or 2-3(d). If the Subject fails to file a timely appeal, the Expulsion will become effective
1262 on the day following the expiration of the period in which to file an appeal.

1263
1264 **Section 2. Right to Appeal Automatic Expulsion**

1265 A Member, Candidate, Practicing Affiliate or Affiliate who has been sent a notice of Expulsion
1266 pursuant to Section 1 above shall have the right to appeal such Expulsion by filing a timely notice of
1267 appeal with the Professional Practice Department. In such event, the requirements and procedures
1268 governing the appeal shall be as set forth in this Regulation, with such modifications thereof as may
1269 be required to reflect the fact that the Expulsion was entered pursuant to Section 1 above.

1270
1271 Upon the filing of a timely notice of appeal, the Expulsion shall be stayed pending a final determina-
1272 tion of the merits of such appeal. However, such Member, Candidate, Practicing Affiliate or Affiliate
1273 shall continue to be suspended during the pendency of the appeal.

1274
1275 **Section 3. Prima Facie Evidence and Burden of Proof for Violation of Ethical Rule 2-3(b)**

1276 At any appeal heard pursuant to Section 2 above concerning a violation of Ethical Rule 2-3(b), prima
1277 facie evidence that the Subject violated Ethical Rule 2-3(b) shall be constituted by the submission into
1278 evidence of:

- 1279
1280 a) a copy of a request of the Subject for relevant documentation or information that is or should be in
1281 the possession or control of the Subject;

- 1282 b) a document demonstrating delivery or attempted delivery of the request to the Subject or an
1283 agent thereof; and
1284
1285 c) an Investigation Report finding that the Subject failed or refused to comply with such request or
1286 an affidavit from the authorized party that made the request that the Subject failed or refused to
1287 comply with such request.
1288

1289 However, this shall not prevent a Subject from introducing such evidence as may be appropriate to
1290 dispute or explain the evidence. The Professional Practice Appeal Board must reach its final decision
1291 based on the greater weight of the evidence.
1292

1293 **Section 4. Prima Facie Evidence and Burden of Proof for Violations of Ethical Rule 2-3(c)**

1294 At any appeal heard pursuant to Section 2 above concerning a violation of Ethical Rule 2-3(c), prima
1295 facie evidence that such Subject violated Ethical Rule 2-3(c) shall be constituted by the submission
1296 into evidence of:
1297

- 1298 a) a copy of a written request or contemporaneous record of an oral request of the Subject to
1299 answer one or more relevant questions, and the relevant question or questions that the Subject
1300 failed or refused to promptly answer;
1301
1302 b) if a written request, a document demonstrating delivery or attempted delivery of the request of the
1303 Subject or a an agent thereof; and
1304
1305 c) an Investigation Report finding that the Subject failed or refused to promptly answer one or more
1306 relevant questions or an affidavit from the authorized party that made the request that the Subject
1307 failed or refused to promptly answer.
1308

1309 However, this shall not prevent a Subject from introducing such evidence as may be appropriate to
1310 dispute or explain such failure or refusal to comply. The Professional Practice Appeal Board must
1311 reach its final decision based on the greater weight of the evidence.
1312

1313 **Section 5. Prima Facie Evidence and Burden of Proof for Violations of Ethical Rule 2-3(d)**

1314 At any appeal heard pursuant to Section 2 above concerning a violation of Ethical Rule 2-3(d), prima
1315 facie evidence that such Subject violated Ethical Rule 2-3(d) of the Code of Professional Ethics shall
1316 be constituted by the submission into evidence of:
1317

- 1318 a) copy of a request of the Subject for a personal interview or a telephone interview;
1319
1320 b) a document demonstrating delivery or attempted delivery of the request to the Subject or an
1321 agent thereof; and
1322
1323 c) an Investigation Report finding that the Subject failed or refused to appear for a personal
1324 interview or participate in an interview conducted by telephone, or an affidavit from the authorized

1325 party that made the request, stating that the Subject failed or refused to appear for a personal
1326 interview or participate in an interview conducted by telephone.

1327

1328 However, this shall not prevent a Subject from introducing such evidence as may be appropriate to
1329 dispute or explain such failure to participate or appear. The Professional Practice Appeal Board must
1330 reach its final decision based on the greater weight of the evidence.

1331

1332 **Section 6. Decision of a Professional Practice Appeal Board**

1333 At the conclusion of a Hearing on Appeal taken pursuant to Section 2 above, the Professional
1334 Practice Appeal Board for such appeal shall have all of the powers of a Professional Practice Appeal
1335 Board set forth in this Regulation.

1336

1337

1338 **Part H: Alternate Procedure for Failure to Comply with Terms of**
1339 **Suspension**

1340 **Section 1. Automatic Expulsion**

1341 If a Member, Candidate, Practicing Affiliate or Affiliate fails to transmit his or her certificate, emblem
1342 and other indicia of membership, candidacy or affiliation to the Professional Practice Department in
1343 accordance with the requirements of this Regulation, the Professional Practice Department shall give
1344 written notice to the Member, Candidate, Practicing Affiliate or Affiliate that he or she will be expelled
1345 from membership, candidacy or affiliation, subject to the provisions of Section 2 of this Part H. If a
1346 Member, Candidate, Practicing Affiliate or Affiliate suspended under this Regulation uses or refers to
1347 any Appraisal Institute designation, membership, candidacy or affiliation during the period of
1348 Suspension, the Professional Practice Department shall give written notice to the Member,
1349 Candidate, Practicing Affiliate or Affiliate that he or she will be expelled from membership, candidacy
1350 or affiliation subject to the provisions of Section 2 of this Part H.

1351

1352 The Member, Candidate, Practicing Affiliate or Affiliate shall continue to be suspended from the rights
1353 and privileges of membership, candidacy or affiliation during the period in which he or she can appeal
1354 the automatic Expulsion for violation of the terms of his or her Suspension. If the Member, Candidate,
1355 Practicing Affiliate or Affiliate fails to file a timely appeal, the Expulsion will become effective on the
1356 day following the expiration of the period in which to file an appeal.

1357

1358 **Section 2. Right to Appeal Automatic Expulsion**

1359 A Member, Candidate, Practicing Affiliate or Affiliate who has been sent a notice of Expulsion
1360 pursuant to Section 1 above shall have the right to appeal such Expulsion by filing a timely notice of
1361 appeal with the Professional Practice Department. In such event, the requirements and procedures
1362 governing the appeal shall be as set forth in this Regulation, with such modification thereof as may be
1363 required to reflect the fact that the Expulsion was entered pursuant to Section 1 above.

1364

1365 Upon the filing of a timely Notice of Appeal, the Expulsion shall be stayed pending a final determina-
1366 tion of the merits of such appeal. However, the suspension of membership, candidacy or affiliation
1367 rights and privileges shall continue during the pendency of the appeal.

1368 **Section 3. Respondent in an Appeal**

1369 The Professional Practice Department shall appoint an Investigator to act as the respondent in
1370 connection with any such appeal. If the Professional Practice Department determines that the
1371 Investigator may need assistance, the Professional Practice Department may also appoint one or
1372 more Assistant Investigators to assist the Investigator.

1373

1374 **Section 4. Prima Facie Evidence**

1375 At any appeal heard pursuant to Section 2 above, prima facie evidence that the Member, Candidate,
1376 Practicing Affiliate or Affiliate violated the terms of Suspension shall be constituted by the submission
1377 into evidence of:

1378

- 1379 a) the notice of Suspension, along with an affidavit of a member of the Professional Practice
1380 Department that it did not receive the Member's, Candidate's, Practicing Affiliate's, or Affiliate's
1381 certificate, emblem or other indicia of membership, candidacy or affiliation in accordance with the
1382 requirements of this Regulation; or
- 1383
- 1384 b) the notice of Suspension, along with a document or affidavit indicating that a suspended Member,
1385 Candidate, Practicing Affiliate or Affiliate used or referred to any Appraisal Institute designation,
1386 membership, candidacy or affiliation during the Suspension.

1387

1388 However, this shall not prevent the Member, Candidate, Practicing Affiliate or Affiliate from
1389 introducing such evidence as may be appropriate to dispute or explain the failure to comply with the
1390 terms of the Suspension. The Professional Practice Appeal Board must reach its final decision based
1391 on the greater weight of the evidence.

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Procedures Governing Hearings on Appeal

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Part A: Right to Appeal a Hearing Committee Decision

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Section 1. Right to Appeal

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

1406

Section 2. Appointment of a Professional Practice Appeal Board

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

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1414

1415

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

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

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1423

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

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

1432

1433

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

1434 challenge requesting that the Chair or one other member of the Professional Practice Appeal
1435 Board be excused from serving on the Professional Practice Appeal Board;

1436

1437 d) advice to the Appellant that he or she has the right to be represented at any Hearing on Appeal
1438 by legal counsel, provided that he or she gives proper notice;

1439

1440 e) advice to the Appellant as to the requirement to file a written Appeal Brief and the date by which
1441 such Brief must be filed; and

1442

1443 f) advice to the Appellant as to the right to file an Answer to the Reply Brief and the dates by which
1444 such right must be exercised.

1445

1446 The filing date of any challenges or briefs shall be the postmark date that such item is sent to the
1447 Professional Practice.

1448

1449 Upon a timely written request, the Chair of the Professional Practice Appeals Panel shall have the
1450 power to extend the period allowed for the filing of any challenges or pre-hearing filing for good cause
1451 shown.

1452

1453 **Section 3. Challenges for Cause**

1454 An Appellant may file with the Professional Practice Department a challenge for cause requesting that
1455 any member of the Professional Practice Appeal Board be excused from serving on the Professional
1456 Practice Appeal Board because such member has a personal interest in the case or is otherwise
1457 prejudiced against the Appellant. There is no specific limit upon the number of challenges for cause
1458 that may be filed provided that each such challenge for cause is filed within the time limits established
1459 pursuant to this Regulation. Each such challenge for cause must specifically set forth the facts and
1460 reasoning which support the request of the Appellant. A copy of any challenge for cause must also
1461 be filed with the Professional Practice Department.

1462

1463 Upon receipt of a challenge for cause, the Professional Practice Department shall determine whether
1464 such challenge should be granted.

1465

1466 **Section 4. Preemptory Challenge**

1467 An Appellant may file with the Professional Practice Department one (and only one) preemptory
1468 challenge requesting that one member of the Professional Practice Appeal Board be excused from
1469 serving on the Professional Practice Appeal Board. No facts or reasoning need be stated to support a
1470 preemptory challenge and such request shall automatically be allowed if it was filed within the time
1471 limits established pursuant to this Regulation.

1472

1473 **Section 5. Appointment of Replacements**

1474 If a preemptory challenge is received and allowed or if a challenge for cause is received and granted
1475 (or if a member of the Professional Practice Appeal Board resigns), the Chair of the Professional
1476 Practice Appeals Panel may appoint a new member (or Chair) to replace the individual who has been

1477 excused. The Professional Practice Department shall notify the Appellant by Traceable Carrier of
1478 such replacement appointment. This Notice of Replacement Appointment shall contain the following
1479 information:

1480

1481 a) the name of each newly appointed Chair and/or member of the Professional Practice Appeal
1482 Board;

1483

1484 b) advice to the Appellant that he or she may file with the Professional Practice Department a
1485 challenge for cause requesting that any newly appointed member of the Professional Practice
1486 Appeal Board be excused from serving on the Professional Practice Appeal Board because such
1487 newly appointed member of the Professional Practice Appeal Board has a Conflict of Interest;
1488 and

1489

1490 c) the last date by which any challenges for cause may be filed.

1491

1492 An Appellant shall have the right, exercisable within a period of twenty (20) days from the date of the
1493 transmittal of the notice of replacement appointment, to file a challenge for cause relating to one or
1494 more of the newly appointed members of the Professional Practice Appeal Board. Each such
1495 challenge for cause shall be processed in the same manner as is set forth above.

1496

1497 **Section 6. Removal from Professional Practice Appeal Board**

1498 If the Chair of the Professional Practice Compliance and Enforcement Committee determines that a
1499 member of a Professional Practice Appeal Board may have a Conflict of Interest or may have failed to
1500 perform his or her assigned duties, the Chair may remove such member from the Professional
1501 Practice Appeal Board or discharge the entire Board.

1502

1503 **Section 7. Transcript of Hearing**

1504 Upon receipt of a copy of a Notice of Appeal for a file in which a Hearing has been held, the
1505 Professional Practice Department shall obtain a transcript of the record of the Hearing before the
1506 Hearing Committee. Upon receipt of this transcript, the Professional Practice Department shall
1507 transmit one copy of such transcript to the Appellant and to the Investigator(s).

1508

1509 Upon request, a copy of all documentary evidence admitted at the Hearing shall also be sent to the
1510 Appellant and to the Investigator(s).

1511

1512

1513 **Part B: Appellate Briefs**

1514 **Section 1. Requirement for Appeal Brief**

1515 Within thirty (30) days after a copy of the transcript of the Hearing is sent, or within such additional
1516 time as may be granted for this purpose by the Chair of the Professional Practice Appeals Panel, the
1517 Appellant shall file a written Appeal Brief by Traceable Carrier with the Professional Practice
1518 Department.

1519 The Appeal Brief (and any subsequent pleading) may be prepared and filed by the Appellant or by his
1520 or her legal counsel. Failure to file a written Appeal Brief in support of an appeal within the time
1521 provided shall constitute an abandonment of the appeal and the case shall be processed further
1522 under this Regulation as if the member had failed to file an appeal.
1523

1524 **Section 2. Contents of Appeal Brief**

1525 The Appeal Brief of the Appellant shall state in a concise manner the points relied upon by the
1526 Appellant as the basis for the appeal and shall make appropriate reference to the transcript of the
1527 Hearing and the documentary evidence admitted at the Hearing. If the Appellant believes that the
1528 Hearing Committee did not correctly interpret or apply an Ethical Rule involved in the proceedings,
1529 the Appeal Brief shall point out the alleged error and state the interpretation or application the
1530 Appellant believes to be correct. If the Appellant believes that certain findings of fact in the Hearing
1531 Committee Decision are unwarranted or were not established by the greater weight of the evidence,
1532 such disputed findings of fact shall be identified in the Appeal Brief and the Appellant shall point out
1533 the reasons for disputing such findings of fact.
1534

1535 The Appeal Brief may also include a discussion of such of the following matters as the Appellant
1536 deems applicable to the appeal:

- 1537
- 1538 a) specific procedural errors made by the Hearing Committee that resulted in denying the Appellant
1539 a fair Hearing;
 - 1540
 - 1541 b) evidence excluded at the Hearing which should have been admitted and which would have been
1542 material to the Hearing Committee Decision;
 - 1543
 - 1544 c) evidence material to the Hearing Committee Decision which the Appellant could not, with
1545 reasonable diligence, have produced at the Hearing; and
 - 1546
 - 1547 d) errors in the transcript of the Hearing.
1548

1549 The Appellant may attach to the Appeal Brief such evidentiary materials as he or she deems
1550 appropriate to the appeal.
1551

1552 **Section 3. Reply Brief of the Investigator**

1553 Within thirty (30) days after the Appeal Brief of the Appellant is filed, or within such additional time as
1554 may be granted for this purpose by the Chair of the Professional Practice Appeals Panel, the
1555 Investigator shall file a Reply Brief responding to the arguments set forth in the Appeal Brief of the
1556 Appellant. The Reply Brief may also point out any errors in the transcript of the Hearing. The
1557 Investigator shall send such Reply Brief to the Professional Practice Department by Traceable
1558 Carrier.

1559 If evidentiary materials were attached to the Appeal Brief of the Appellant, the Investigator(s) may
1560 object to or comment upon such evidentiary materials and may also attach evidentiary materials to
1561 the Reply Brief.

1562

1563 **Section 4. Answer of Appellant to Reply Brief**

1564 Within thirty (30) days after a Reply Brief is filed, or within such additional time as may be granted for
1565 this purpose by the Chair of the Professional Practice Appeals Panel, the Appellant may file an
1566 Answer to the Reply Brief with the Professional Practice Department by Traceable Carrier.

1567

1568

1569 **Part C: Setting the Appeal Date**

1570 **Section 1. Setting Date for a Hearing on Appeal**

1571 The Chair of the Professional Practice Appeal Board shall, set a date, time, and place for a Hearing
1572 on Appeal. The Appellant must notify the Professional Practice Department in writing not less than
1573 thirty (30) days prior to the date of Hearing on Appeal as to whether he or she will attend the Hearing
1574 on Appeal in person.

1575

1576 **Section 2. Representation by Legal Counsel at Hearing on Appeal**

1577 If an Appellant intends to present oral argument in whole or in part through legal counsel at the
1578 Hearing on Appeal, he or she must so notify the Professional Practice Department not less than thirty
1579 (30) days prior to the date of the Hearing on Appeal. This notice shall contain the name and contact
1580 information for such legal counsel. For good cause shown, the Chair of the Professional Practice
1581 Appeal Board may allow this notice to be filed less than thirty (30) days prior to the date of the
1582 Hearing on Appeal.

1583

1584 General Counsel of the Appraisal Institute may authorize the retention of legal counsel for the
1585 Investigator(s) at the Hearing on Appeal.

1586

1587 **Section 3. Resetting Date for Hearing on Appeal**

1588 Upon the timely request of any party to the proceedings and for good cause shown, the Chair of the
1589 Professional Practice Appeal Board shall have the power to reset the date of the Hearing on Appeal.
1590 The Chair of the Professional Practice Appeal Board shall also have the right, in his or her sole
1591 discretion, to reset the date of the Hearing on Appeal whenever he or she is of the opinion that justice
1592 requires such resetting.

1593

1594 **Section 4. Preparation for Hearing on Appeal**

1595 Prior to the date of the Hearing on Appeal, the Professional Practice Department shall furnish every
1596 member of the Professional Practice Appeal Board for such appeal with a copy of the Complaint, the
1597 Hearing Committee Decision, the Appeal Brief of the Appellant, the Reply Brief of the Investigator,
1598 and the Answer to Reply Brief, if any. In addition, the Professional Practice Department shall, upon
1599 request, make available to each member of the Professional Practice Appeal Board for such appeal a
1600 copy of all documents introduced into evidence at the Hearing and a copy of the transcript of the

1601 Hearing. The Professional Practice Department shall also arrange for a court reporter to be present at
1602 the Hearing on Appeal so that a verbatim record may be taken of the Hearing on Appeal.

1603

1604 **Part D: Proceedings at Hearings on Appeal**

1605 **Section 1. Individuals Present at Hearing on Appeal**

1606 The Professional Practice Appeal Board for an appeal shall have the right to have legal counsel for
1607 the Appraisal Institute present at each Hearing on Appeal for the protection of both the Appellant and
1608 the Appraisal Institute. Both the Appellant and the Investigator(s) shall have the right to be present at
1609 the Hearing on Appeal and to be represented by legal counsel as provided in this Regulation.

1610

1611 **Section 2. Procedure at the Hearing of Appeal**

1612 The Chair of the Professional Practice Appeal Board for an appeal shall preside at the Hearing on
1613 Appeal. In the event of the absence or inability of the Chair of the Professional Practice Appeal Board
1614 to preside, the remaining members of the Professional Practice Appeal Board shall select one of the
1615 members to act as Chair of the Professional Practice Appeal Board.

1616

1617 The order of proceedings shall be as follows:

1618

1619 1) The Appellant shall have the opportunity to address the Professional Practice Appeal Board and
1620 present oral arguments relating to the matters raised in the Appeal Brief, the Reply Brief, and the
1621 Answer to the Reply Brief. If the Appellant has given timely notice of his or her intention to be
1622 represented by legal counsel, such oral arguments may be made, in whole or in part, through
1623 legal counsel.

1624

1625 2) The Investigator(s) shall have an opportunity to answer the oral argument of the Appellant and to
1626 present oral arguments in support of the matters raised in the Reply Brief of the Investigator.
1627 These arguments may be presented through legal counsel if the retention of legal counsel for the
1628 Investigator(s) had been authorized under the provisions of this Regulation.

1629

1630 3) The Appellant (or, if authorized, such individual's legal counsel) shall have the opportunity to reply
1631 to the oral arguments of the Investigator(s).

1632

1633 Subject to the general control of the Chair of the Professional Practice Appeal Board, any member of
1634 the Professional Practice Appeal Board may at any time ask questions of the Investigator(s), legal
1635 counsel for the Investigator(s) (if any), the Appellant, and legal counsel for the Appellant (if any). The
1636 length of time permitted for the oral arguments described above shall be determined by the Chair of
1637 the Professional Practice Appeal Board, provided, however, that not less than thirty (30) minutes shall
1638 be allowed for (1) above, not less than thirty (30) minutes shall be allowed for (2) above, and not less
1639 than five (5) minutes shall be allowed for (3) above.

1640

1641 **Section 3. Adjournment to Executive Session**

1642 Upon completion of a Hearing on Appeal, the Professional Practice Appeal Board shall, in Executive
1643 Session, discuss the matters raised by the Appeal Brief, the Reply Brief, the Answer to the Reply

1644 Brief and oral arguments. At the discretion of the Chair of the Professional Practice Appeal Board, the
1645 Executive Session may be adjourned and reconvened from time to time.

1646

1647 In Executive Session, the Professional Practice Appeal Board shall first determine whether it should
1648 affirm the determination of the Hearing Committee that the greater weight of the evidence establishes
1649 that the Appellant violated the Appraisal Institute Code of Professional Ethics. If the Professional
1650 Practice Appeal Board affirms any such determination, then the Professional Practice Appeal Board
1651 shall determine the appropriate disciplinary action to be taken.

1652

1653

1654 **Part E: Procedure Following Hearing on Appeal from Hearing Committee** 1655 **Decisions**

1656 **Section 1. Required and Permitted Actions of an Professional Practice Appeal Board**

1657 A Professional Practice Appeal Board shall take one of the following actions with respect to the
1658 Hearing Committee Decision:

1659

1660 a) affirm the determination of the Hearing Committee that the Appellant violated the Appraisal
1661 Institute Code of Professional Ethics and approve the recommendation of the Hearing Committee
1662 as to the appropriate disciplinary action to be taken;

1663

1664 b) affirm the determination of the Hearing Committee that the Appellant violated the Appraisal
1665 Institute Code of Professional Ethics but reduce the disciplinary action recommended by the
1666 Hearing Committee;

1667

1668 c) reverse the Hearing Committee Decision and close the case; or

1669

1670 d) remand the matter to the Hearing Committee for a new Hearing with such instructions as the
1671 Professional Practice Appeal Board deems appropriate.

1672

1673 If a Professional Practice Appeal Board takes action under (a) or (b) above, and if the disciplinary
1674 action to be taken is not Suspension or Expulsion, such Professional Practice Appeal Board may, if it
1675 deems such action to be appropriate, determine that the Appellant shall be offered an opportunity to
1676 accept a specified Educational Alternative to be completed within a fixed period of time in lieu of the
1677 specified disciplinary action. If so, the Decision of such Professional Practice Appeal Board shall
1678 specify the Educational Alternative which must be completed by the Appellant and the period of time
1679 within which the Educational Alternative must be completed. For any Appraisal Institute course that
1680 has an examination, such Professional Practice Appeal Board must require that the examination be
1681 taken and passed.

1682

1683 If an Professional Practice Appeal Board takes action under (a) or (b) above and decides not to offer
1684 the Appellant an Educational Alternative, the Decision of the Professional Practice Appeal Board shall
1685 contain an order making such disciplinary action a part of the record of the Appellant. A similar order

1686 shall become effective if the Appellant declines to accept or fails to complete an Educational
1687 Alternative.

1688

1689 If the disciplinary action to be taken is Expulsion, Suspension or Censure, such disciplinary action
1690 shall be published in both print and electronic media and the Appellant's Chapter shall be notified of
1691 the disciplinary action.

1692

1693 If a Professional Practice Appeal Board takes an action described in items (a), (b), (c), or (d) above,
1694 the action of the Professional Practice Appeal Board shall be final and the Decision of the
1695 Professional Practice Appeal Board shall be reduced to writing. A copy of the Decision of the
1696 Professional Practice Appeal Board shall be delivered to the Appellant, the Investigator(s) and the
1697 Professional Practice Department.

1698

1699 If the Decision of a Professional Practice Appeal Board orders Expulsion or Suspension, a copy of the
1700 transmittal letter advising the Appellant of such Decision and of the order to immediately transmit his
1701 or her indicia of membership, candidacy or affiliation to the Appraisal Institute shall also be delivered
1702 to the Professional Practice Department.

1703

1704 **Section 2. Procedure to be Followed if a Disciplinary Action is to be Taken and an Educational**
1705 **Alternative is Not Offered**

1706 If a Professional Practice Appeal Board decides not to offer an Educational Alternative in lieu of a
1707 disciplinary action, the disciplinary action shall be posted to the record of the Appellant and the file
1708 shall be closed.

1709

1710 **Section 3. Procedure to be Followed if a Disciplinary Action is to be Taken and an Educational**
1711 **Alternative is Offered**

1712 If a Professional Practice Appeal Board decides to offer an Educational Alternative in lieu of
1713 Admonishment, Reprimand, or Censure, the Appellant shall be notified that, unless he or she accepts
1714 the Educational Alternative by a notice in writing to the Professional Practice Department, sent within
1715 thirty (30) days after the Decision was issued, the stated disciplinary action will become effective and
1716 will be made a part of the record of the Appellant.

1717

1718 If the Appellant fails to accept the Educational Alternative within the thirty (30) day period allowed for
1719 such acceptance, the Admonishment, Reprimand, or Censure shall become effective and shall be
1720 posted to the record of the Appellant. If the Appellant accepts the Educational Alternative, the file
1721 shall be placed in suspense and shall be reviewed by the Professional Practice Department following
1722 the expiration of the time period in which the Educational Alternative was to have been completed. If
1723 the Professional Practice Department finds that the Appellant failed to complete the Educational
1724 Alternative, the specified disciplinary action shall become effective and shall be posted to the record
1725 of the Appellant. If the Professional Practice Department finds that the Appellant completed the
1726 specified Educational Alternative in lieu of Admonishment or Reprimand within the allowed time
1727 period, this fact shall be recorded in the file and the disciplinary action shall not become effective and
1728 shall not be posted to the record of the Appellant. If the Professional Practice Department finds that

1729 the Appellant completed the specified Educational Alternative in lieu of Censure, the disciplinary
1730 action shall be reduced to Admonishment, which shall be recorded in the file along with the fact that
1731 the Appellant successfully completed the Educational Alternative.
1732

1733 **Section 4. Procedure to be Followed if an Professional Practice Appeal Board Reverses the**
1734 **Hearing Committee Decision and Dismisses the Case**

1735 If a Professional Practice Appeal Board reverses the Hearing Committee Decision and dismisses the
1736 case, the file shall be closed.
1737

1738 **Section 5. Procedure to be Followed if an Professional Practice Appeal Board Remands the**
1739 **Matter to the Hearing Committee**

1740 Upon receipt of the Decision of a Professional Practice Appeal Board that remands the matter to the
1741 Hearing Committee, the Chair of the Hearing Committee shall schedule a new Hearing in accordance
1742 with the requirements of this Regulation and such new Hearing shall be conducted in accordance with
1743 the instructions of the Professional Practice Appeal Board. Subsequent proceedings shall be
1744 conducted in accordance with the procedural rules set forth in this Regulation; however, in no event
1745 shall the disciplinary action, if any, recommended by the Hearing Committee upon completion of the
1746 new Hearing be more severe than the disciplinary action recommended by the Hearing Committee
1747 upon completion of the first Hearing.