

Regulation No. 6 Peer Review

Effective November 15, 2011

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1 Purpose, Definitions and
2 General Rules Governing
3 Peer Review Proceedings
4

5 **Effective November 15, 2011**

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6 **ARTICLE I**

7

8 **Purpose**

9

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

12

14

15 **Definitions**

16

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

19

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

21

22 “Member” means a Designated Member, Associate Member, or Affiliate Member of the Appraisal
23 Institute.

24

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

27

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

30

31 “Conflict of Interest” means a situation in which an individual’s judgment in matters regarding
32 another person’s interests or rights would be materially affected by the individual’s own financial,
33 business, property, or personal interests or by the individual’s own Personal Bias or experience.

34 “Personal Bias” means an individual’s predisposition, either favorable or prejudicial, to the
35 interests or rights of another individual; having Personal Bias is the opposite of being impartial.

36

37 “Investigator” means the individual appointed to perform the functions assigned to an Investigator
38 as described in this Regulation. “Assistant Investigator” means any individual appointed to assist
39 an Investigator in performing his or her duties. “Investigators” means the Investigator and any
40 Assistant Investigators appointed to perform the functions assigned to an Investigator pursuant to
41 this Regulation. Any Grievance Committee in place as of the effective date of this Regulation
42 shall henceforth be known as “Investigators” and the Chair of any such Grievance Committee
43 shall henceforth be known as “Investigator.”

44

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

47

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

50

51 “Peer Review Proceedings” applies to all actions taken pursuant to this Regulation to determine
52 whether a Member may have violated or did violate the requirements of the Appraisal Institute
53 Standards of Professional Appraisal Practice or Code of Professional Ethics and to take
54 appropriate remedial or disciplinary measures. Peer review proceedings also applies to all actions

55 taken pursuant to this Regulation to determine whether a Member has failed to comply with the
56 terms of Suspension; has been convicted of a serious crime committed prior to becoming a
57 Member; or has knowingly made false statements, submitted false information, or failed to fully
58 disclose information requested in an application for admission to membership, candidacy, or
59 affiliate status and to take appropriate disciplinary action.

60

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

64

65 “Disciplinary Action” means a penalty imposed upon a Member for violation of the Appraisal
66 Institute Code of Professional Ethics. Disciplinary actions include admonishment, reprimand,
67 Censure, Suspension, and Expulsion.

68

69 “Educational Alternative” is an opportunity that may be offered to a Member to complete an
70 educational experience in lieu of further investigation or in lieu of the disciplinary action of
71 admonishment, reprimand, or Censure. If a Member successfully completes an Educational
72 Alternative in lieu of further investigation, admonishment, or reprimand, this fact is entered into
73 the Member’s record for a period of one (1) year after the Educational Alternative is successfully
74 completed. If a Member successfully completes an Educational Alternative in lieu of Censure, the
75 disciplinary action is reduced to admonishment.

76

77 “Admonishment” is a disciplinary action that is a warning, calling the attention of a Member to one
78 or more violations of the Appraisal Institute Code of Professional Ethics. An Admonishment is
79 entered into a Member’s record for a period of five (5) years but is not published or made known
80 to the membership or the general public.

81

82 “Reprimand” is a disciplinary action that is a serious warning, calling the attention of a Member to
83 one or more violations of the Appraisal Institute Code of Professional Ethics. A Reprimand is
84 entered into a Member’s record for a period of ten (10) years but is not published or made known
85 to the membership or the general public.

86

87 “Censure” is a disciplinary action that is a formal expression of severe criticism and disapproval
88 for one or more violations of the Appraisal Institute Code of Professional Ethics. A Censure is
89 entered into the Member’s record for a period of thirty (30) years and is published in both print
90 and electronic media. In addition, the Member’s chapter is notified of the Censure.

91

92 A Member who receives a Censure shall be ineligible to hold any national, regional, or chapter
93 position or serve as an instructor for the Appraisal Institute for five (5) years from the effective
94 date of the Censure. If a Member is holding one or more national, regional, or chapter positions or
95 is serving as an approved instructor for the Appraisal Institute as of the effective date of the
96 Censure, the Member shall be automatically removed from any and all such positions.

97 “Suspension” is a disciplinary action that is a temporary revocation of the privileges (but not the
98 obligations) of membership in the Appraisal Institute for one or more violations of the Code of
99 Professional Ethics.

100
101 The period of Suspension shall not be more than two (2) years. A Suspension is entered into the
102 Member’s record for a period of thirty (30) years and is published in both print and electronic
103 media. In addition, the Member’s chapter is notified of the Suspension.

104
105 A Member who receives a Suspension must transmit his or her certificate, emblem and other
106 indicia of membership to the Professional Practice Department no later than the date the
107 Suspension commences to be held for the period of Suspension. At the expiration of the period of
108 Suspension, the suspended Member, if eligible, is automatically restored to the full privileges of
109 membership in the Appraisal Institute and his or her certificate, emblem and other indicia of
110 membership are returned.

111
112 A suspended Member is not entitled to the benefits or privileges of membership in the Appraisal
113 Institute. For example, a suspended Member may not:

- 114
- 115 • Use or refer to any Appraisal Institute designation or membership in correspondence,
116 business cards, statements of qualifications, web presence, written or oral reports or
117 testimony.
 - 118
 - 119 • Hold any national, regional, or chapter positions or serve as an instructor for the
120 Appraisal Institute for five (5) years from the date the Suspension commences. If a
121 Member is holding one or more national, regional, or chapter positions or is serving as
122 an approved instructor for the Appraisal Institute when the Suspension commences, the
123 Member shall be automatically removed from any and all such positions.
 - 124
 - 125 • Receive membership discounts on Appraisal Institute products and services.
- 126

127 Although a suspended Member is not entitled to the benefits and privileges of membership, a
128 suspended Member does remain a Member of the Appraisal Institute for all other purposes and is
129 required to comply with the Appraisal Institute Code of Professional Ethics and Standards of
130 Professional Appraisal Practice during the Suspension. Any failure to observe the requirements of
131 the Appraisal Institute Code of Professional Ethics or Standards of Professional Appraisal
132 Practice during the Suspension may result in further disciplinary proceedings under this
133 Regulation.

134
135 “Expulsion” is a disciplinary action that is a complete termination of membership in the Appraisal
136 Institute for one or more violations of the Appraisal Institute Code of Professional Ethics.

137
138 No later than the effective date of the Expulsion, the individual who receives the Expulsion shall
139 return to the Appraisal Institute his or her membership certificate, emblem and other indicia of

140 membership. Upon the effective date of an Expulsion, the individual who received the Expulsion
141 shall completely cease any use of the Appraisal Institute designations or reference to Appraisal
142 Institute membership.

143

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

147

148 An individual who receives an Expulsion is ineligible to apply for readmission to membership, to
149 hold any national, regional, or chapter position, and to serve as an instructor for the Appraisal
150 Institute for five (5) years from the effective date of the Expulsion. If an individual is holding one or
151 more national, regional, or chapter positions or is serving as an approved instructor for the
152 Appraisal Institute as of the effective date of the Expulsion, the individual shall be automatically
153 removed from any and all such positions.

154

155 "Traceable Carrier" means a service that will deliver a document and that will provide proof of
156 delivery or attempted delivery. Examples of Traceable Carriers may include, but are not limited to,
157 the United States Postal Service when certified or registered mail is used, an overnight delivery
158 service that can provide proof of the date and recipient of delivery, a messenger service that can
159 provide proof of the date and recipient of delivery, or e-mail that can provide proof of date of
160 delivery and e-mail address to which the document was sent. The sender is responsible for
161 obtaining and maintaining proof of delivery.

162

164

165 **General Rules Governing Peer Review** 166 **Proceedings**

167

168 **Part A: Address for Notices**

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

175

176 **Part B: Confidentiality**

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

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

182

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

184 The Professional Practice Department shall notify the Admissions Department:

185

- 186 a. when a disciplinary proceeding against an Associate Member is commenced and when such
187 proceeding is concluded;
- 188
- 189 b. when an Associate Member is the subject of a pending peer review proceeding in which the
190 Associate Member has been sent an offer of a publishable disciplinary action and when such
191 proceeding is concluded; and
- 192
- 193 c. when a peer review proceeding results in the Censure, Suspension or Expulsion of an
194 Associate Member. In the case of a Suspension, the Professional Practice Department also
195 shall notify the Admissions Department of the dates the Suspension commences and ends.

196

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

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

200

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

202 A Member who fails to observe the rules relating to the confidential nature of peer review
203 proceedings under this Regulation may be subject to:

- 204 a. peer review proceedings under the Bylaws and Regulations of the Appraisal Institute, which
205 may result in a disciplinary action; and
206
- 207 b. legal proceedings against such Member for damages suffered by the Appraisal Institute as
208 the result of the failure of such Member to observe the rules relating to the confidential nature
209 of peer review proceedings under this Regulation.

210

211 **Part C: Procedural Matters**

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

217

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

222

223 **Part D: Cessation of Peer Review Proceedings During Pendency of 224 Litigation**

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

228

229 If the Professional Practice Department determines that continuing the peer review proceeding
230 under this Regulation could interfere with or affect a pending judicial or quasi-judicial proceeding,
231 the Professional Practice Department may direct that the peer review proceedings be postponed.
232 The Professional Practice Department may further direct that the Member who is the subject of
233 the peer review proceeding periodically update the Department as to the status of the pending
234 judicial or quasi-judicial proceedings and provide additional information and documentation
235 concerning the pending judicial or quasi-judicial proceedings.

236

237 A Member who is the subject of a postponed peer review proceeding under this section must
238 promptly notify the Professional Practice Department when such pending judicial or quasi-judicial
239 proceeding has concluded.

240

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

242 If a Member who is the subject of a peer review proceeding believes that he or she has a serious
243 illness or disability that substantially impairs his or her ability to participate in a peer review
244 proceeding, such Member may advise the Professional Practice Department of this fact and
245 request a deferral of such proceeding.

246 Upon receipt of any such request, the Professional Practice Department shall conduct an
247 investigation to determine whether, in its opinion, the Member has an illness or disability that
248 substantially impairs the Member's ability to participate in a peer review proceeding. The Member
249 has a duty to cooperate in any investigation the Professional Practice Department deems
250 appropriate under this Part, both before and after any deferral of the matter. If the Professional
251 Practice Department deems it appropriate, it may request the Member to:

252

253 a. submit to a medical examination by a medical examiner selected by the Professional Practice
254 Department; and

255

256 b. pay for such examination.

257

258 If a Member performs one or more "Services" as defined by the Code of Professional Ethics
259 during the period of this investigation, such action shall conclusively be deemed to demonstrate
260 the ability of such Member to participate in a peer review proceeding.

261

262 If, upon completion of its investigation, the Professional Practice Department determines that the
263 Member has a illness or disability that substantially impairs such Member's ability to participate in
264 a peer review proceeding, the Professional Practice Department shall direct that all or any part of
265 the peer review proceeding be deferred until either:

266

267 a. the Professional Practice Department determines, after further investigation, that the
268 Member no longer has an illness or disability that substantially impairs the Member's ability to
269 participate in a peer review proceeding; or

270

271 b. until such time as the Professional Practice Department directs.

272

273 A Member who has requested or received a deferral under this section shall notify the
274 Professional Practice Department when the illness or disability no longer substantially impairs the
275 Member's ability to participate in a peer review proceeding. If a Member performs one or more
276 "Services" as defined by the Code of Professional Ethics during the period of a deferral, such
277 action shall conclusively be deemed to demonstrate the ability of such Member to participate in a
278 peer review proceeding.

279

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

281 If a Member who is the subject of a peer review proceeding is called to active military duty, such
282 Member may advise the Professional Practice Department of this fact and request that the peer
283 review proceeding be deferred while the Member is on active military duty. The Professional
284 Practice Department may defer the peer review proceeding until the Member is no longer on
285 active military duty or until such time as the Professional Practice Department directs.

286 **Part G: Events Beyond Member's Control**

287 If a Member violates a Standards or Ethical Rule due to an event beyond the Member's control,
288 such as an act of God, the duly authorized party reviewing the matter should consider such event
289 and all the relevant facts to avoid an inequitable result.

290

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

292 The Ethics Rule of the Uniform Standards of Professional Appraisal Practice promulgated by the
293 Appraisal Standards Board of The Appraisal Foundation shall be enforced solely through the
294 Appraisal Institute Code of Professional Ethics.

295

296 The Code of Conduct of the International Valuation Standards promulgated by the International
297 Valuation Standards Committee shall be enforced solely through the Appraisal Institute Code of
298 Professional Ethics.

299
300
301
302
303

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

304
305

Effective November 15, 2011

307

308 **Professional Practice Compliance and**
309 **Enforcement Committee**

310

311 **Part A: Composition**

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

314

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

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

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

320

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

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

324

- 325 a. further proceedings under this Regulation would be inappropriate or would serve no useful
326 purpose due to the serious illness or disability of the Member involved;
- 327
- 328 b. the continuation of the peer review proceeding would violate the civil or criminal law of the
329 jurisdiction in which such matter is pending;
- 330
- 331 c. procedural errors or omissions would make any disciplinary or remedial action unenforceable; or
332
- 333 d. a careful consideration of known facts and circumstances indicates that prosecutorial or
334 investigative discretion should be exercised.

335

336 Further, if a Member no longer provides any Service as defined by the Code of Professional Ethics,
337 the Professional Practice Compliance and Enforcement Committee shall have the power to
338 discontinue any peer review proceeding concerning such Member provided that the Member:

339

- 340 a. attests in writing that he or she has not provided any Services in the past six (6) months and has
341 no plans to provide any Service in the future; and
- 342
- 343 b. agrees in writing to notify the Appraisal Institute prior to providing any Service.

344

345 If the Member does provide a Service after a peer review proceeding was discontinued under this
346 Part, such proceeding shall resume in accordance with this Regulation.

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

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

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

352

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

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

357

358 **Section 3. General**

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

363

365

366 Professional Practice Appeals Panel

367

368 **Part A: Composition**

369 **Section 1. Membership of Panel**

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

372

373 **Part B: Powers and Duties**

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

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

380

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

384

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

387

388 **Section 2. Other Duties**

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

392 **Screening**

393
394 **Effective November 15, 2011**

396

397 **Screeners**

398

399 **Part A: Director of Screening**

400 **Section 1. Director of Screening**

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

403

404 **Section 2. Powers and Duties**

405 The Director of Screening shall:

406

407 a. serve as a member of the Professional Practice Compliance and Enforcement Committee;

408

409 b. exercise general supervision over all files in screening;

410

411 c. act upon screening files as authorized by this Regulation;

412

413 d. oversee any contract or staff Screeners, as directed by the General Counsel of the Appraisal
414 Institute; and

415

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

418

419 **Part B: Other Screeners**

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

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ARTICLE VII

Screening Procedures

Part A: Screening of Information

Section 1. General

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

- a. failed to comply with the requirements of the Appraisal Institute Code of Professional Ethics or Standards of Professional Appraisal Practice;
- b. been convicted of a serious crime committed prior to becoming a Member; or
- c. knowingly made false statements, submitted false information, or failed to fully disclose information requested in an application for admission to membership, candidacy, or affiliation.

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

Section 2. Possible Violations of Ethical Rules Under Canon 5

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

- a. Refer the matter to a Screener.
- b. Request that the Member provide written assurances that the possible violation will cease.
- c. Request that the Member provide proof that the possible violation has been corrected.

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

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

471

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

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

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

476

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

478 If the Screener determines, in his or her sole judgment, that the Member would benefit from
479 educational interaction with the Screener, the Screener may contact the Member for such purposes.
480 The Screener shall then close file.

481

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

483 If the Screener determines, in his or her sole judgment, that a Member would benefit from completing
484 a specified Educational Alternative in lieu of further investigation and processing under this
485 Regulation, the Screener shall so notify the Professional Practice Department.

486

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

491

492 a. accept the offer of an Educational Alternative;

493

494 b. file a request for reconsideration that provides good cause for such reconsideration; or

495

496 c. request that the file be referred for further investigation.

497

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

500

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

504

505 If the Member affirmatively accepts an Educational Alternative in accordance with the requirements of
506 this Regulation the Professional Practice Department shall place the file in suspense until the
507 Department can determine whether the Member successfully completed the Educational Alternative.

508

509 If the Professional Practice Department determines that the Member successfully completed the
510 Educational Alternative within the specified time period, this fact shall be entered into the Member's

511 record for a period of one (1) year after the Educational Alternative is completed and the peer review
512 file shall be closed.

513

514 If the Professional Practice Department determines that the Member failed to successfully complete
515 the Educational Alternative within the specified time period, the disciplinary action of admonishment
516 will be entered into the Member's record for a period of five years and the peer review file shall be
517 closed.

518

519 If the Member files a request for reconsideration in accordance with the requirements of this
520 Regulation, the Screener may reconsider and revise his or her determination. If the Screener decides
521 not to revise his or her determination the Professional Practice Department shall notify the Member of
522 the Screener's decision and the Member will have a right to either:

523

524 a. accept the Educational Alternative; or

525

526 b. request that the matter be referred for further investigation.

527

528 If the Member affirmatively elects in accordance with the requirements of this Regulation not to
529 accept the offer of an Educational Alternative, the matter will be referred for further processing in
530 accordance with this Regulation.

531

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

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

535

536 **Part C: Additional Rules**

537 **Section 1. Conflict of Interest**

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

540 **Investigations**

541

542 **Effective November 15, 2011**

544

545 Investigations

546

547 **Part A: Composition**

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

549 When a matter is referred for further investigation, the Professional Practice Department shall appoint
550 an Investigator. If the Professional Practice Department determines that the Investigator may need
551 assistance, the Professional Practice Department may also appoint one (1) or more Assistant
552 Investigators to assist the Investigator. An Investigator may assign all or any portion of the functions
553 assigned to the Investigator to any Assistant Investigator(s). The Professional Practice Department
554 may appoint a replacement Investigator or Assistant Investigator at any time during the investigation.

555

556 An Investigator or Assistant Investigator shall be a Designated Member in good standing and shall
557 hold the status of “continuing education completed” as of the date of appointment. An Investigator or
558 Assistant Investigator shall not have a Conflict of Interest as to the subject matter or the subject
559 Member of the file. Members of the Professional Practice Compliance and Enforcement Committee
560 are not eligible for appointment as an Investigator or Assistant Investigator.

561

562 **Section 2. Notice of Appointment**

563 The Professional Practice Department shall advise the Member of the appointment of an Investigator
564 and any Assistant Investigator(s) and advise the Member that within fifteen (15) days from the date of
565 the notice of appointment, the Member may file with the Professional Practice Department a
566 challenge for cause requesting that an Investigator or Assistant Investigator be excused because of a
567 Conflict of Interest. Any challenge must set forth the facts and reasoning in support of the challenge.

568

569 Upon a timely request by the Member, and for good cause shown, the Professional Practice
570 Department may extend the period allowed for the filing of any challenges for cause.

571

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

573 Upon receipt of a challenge for cause, the Professional Practice Department shall determine whether
574 the challenge should be granted. If a challenge for cause is granted, the Professional Practice
575 Department may appoint a replacement for the individual who has been excused. The Member shall
576 have the right to file a challenge for cause to any replacement.

577

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

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

581 **Section 5. Removal**
582 If the Professional Practice Department determines that an Investigator or Assistant Investigator may
583 have a Conflict of Interest or may have failed to perform his or her assigned duties, the Department
584 may remove such individual from the investigation.

585 **Part B: Investigation**

586 **Section 1. Procedure for Investigation**

588 An Investigator shall conduct a thorough investigation of the matter assigned.
589 As part of the investigation, the Investigator should interview the Member. When requested to do so
590 by a duly authorized Investigator, a Member must appear for a personal interview, participate in an
591 interview conducted by telephone or other electronic medium, and answer all questions concerning
592 the matter under investigation. If the Member declines to be interviewed, the Investigator shall
593 document this fact in writing and shall complete any additional investigation he or she deems
594 appropriate.

595
596 When requested to do so, a Member must, at his or her own expense, submit to an Investigator
597 information that is or should be in the Member's possession or control and that the Investigator
598 believes may be relevant to the investigation. In addition, the Member may submit, at his or her own
599 expense, any additional information that he or she believes may be relevant to the investigation.

600
601 When the Investigator has completed his or her investigation, the Investigator shall evaluate the
602 relevant facts and decide on a preliminary recommendation.

603 **Section 2. Other Violations**

604
605 If, as a result of an investigation of the subject matter of a file, the Investigator finds or receives
606 information indicating that a Member may have violated the Appraisal Institute Code of Professional
607 Ethics or Standards of Professional Appraisal Practice other than in connection with the subject
608 matter of the file assigned for investigation, the Investigator shall report such information to the
609 Professional Practice Department. The Investigator shall take no further action relating to any such
610 other possible violation(s) unless and until such matter is formally assigned to the Investigator.

611 **Part C: Investigation Report**

612 **Section 1. Duty to Report**

613
614 After the Investigator has completed an investigation and made a decision as to a preliminary
615 recommendation, the Investigator shall prepare a preliminary written Investigation Report and file
616 such Report with the Professional Practice Department.

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

618
619 The Investigation Report shall contain the following:

- 620
621 a. a statement identifying the subject matter of the file;

622

- 623 b. a summary of the procedures followed by the Investigator in conducting the investigation;
624
625 c. the Investigator's findings of fact, together with a summary of the evidence that led to the
626 conclusion that such facts could be established by the greater weight of the evidence;
627
628 d. a conclusion as to whether the Member violated the Code of Professional Ethics and/or
629 Standards of Professional Appraisal Practice; and
630
631 e. a preliminary recommendation made in accordance with the requirements of Section 3 below.
632

633 If the Investigator concludes that a Member did violate the Code of Professional Ethics and/or the
634 Standards of Professional Appraisal Practice, the Investigation Report shall contain a clear, precise
635 statement as to the particular provision or provisions of the Code of Professional Ethics and/or
636 Standards of Professional Appraisal Practice violated, as well as the specific details of the action (or
637 failure to act) which constituted such violation(s).
638

639 **Section 3. Permitted Recommendations**

640 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
641 Ethics, each Investigation Report shall make one of the following recommendations:
642

- 643 a. that the file be closed with no further action;
644
645 b. that the Member be contacted about the possible violation of the Standards of Professional
646 Appraisal Practice for educational purposes; or
647
648 c. that the Member be given the right to accept a specified disciplinary action for violation(s) of the
649 Code of Professional Ethics.
650

651 If the Investigator determines that a violation of Ethical Rule 2-3(b), 2-3(c), or 2-3(d) of the Code of
652 Professional Ethics has occurred, the Investigator shall prepare a report and recommend that the file
653 be further processed in accordance with the automatic Suspension/Expulsion provisions of this
654 Regulation.
655

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

657 **Section 1. Review of Report**

658 Upon receipt of an Investigation Report, the Professional Practice Department shall review the file
659 and the Investigation Report to determine whether the investigation was adequate and whether the
660 Investigation Report complies with the requirements of this Regulation. As part of the review process,
661 the Professional Practice Department shall submit a copy of the Report to a member of the
662 Professional Practice Compliance and Enforcement Committee who may provide advice concerning
663 the adequacy of the investigation, the compliance of the report with the requirements of this
664 Regulation, and any technical appraisal issues.

665 **Section 2. Permitted Actions by the Professional Practice Department**

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

669
670 If the Professional Practice Department determines that the Investigator's investigation was adequate
671 and that the Investigation Report is in compliance with this Regulation, the Department shall proceed
672 as follows:

- 673
- 674 a. if the Investigator recommended that the file be closed with no further action, the Department
675 shall close the file and advise the Member that the file has been closed;
 - 676
 - 677 b. if the Investigator recommended that the Member be contacted about possible violation of the
678 Standards of Professional Appraisal Practice for educational purposes, the Department shall
679 send the Member a copy of the Investigation Report for such purposes and close the file; or
680
 - 681 c. if the Investigator recommended giving the Member the right to accept disciplinary action for
682 possible violations of the Code of Professional Ethics, the Professional Practice Department shall
683 proceed in accordance with Part E of this Article.
- 684

685 **Part E: Procedure if an Investigator Recommends that a Member be**
686 **Given the Right to Accept Disciplinary Action**

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

688 If the Professional Practice Department determines that the investigation was adequate and that the
689 Investigator's recommendation that the Member be given the right to accept a specified disciplinary
690 action complies with this Regulation, the Department shall review the Appraisal Institute records to
691 determine whether such Member has previously received any disciplinary actions. The Department
692 shall then notify the Investigator of the Member's prior disciplinary record, if any. The Investigator may
693 then consider such record and change the recommendation as to disciplinary action and any
694 Educational Alternative.

695
696 **Section 2. Procedure if Member is Offered Disciplinary Action Without an Educational**
697 **Alternative Offered**

698 If the Investigator recommended disciplinary action without an Educational Alternative, the
699 Professional Practice Department shall send the Member a copy of the Investigation Report and a
700 notice that the Investigator has recommended that such Member be given the right to accept a
701 specified disciplinary action. This notice shall also advise the Member that he or she shall have thirty
702 (30) days from the date the notice and Report to advise the Professional Practice Department in
703 writing by Traceable Carrier as to whether the Member accepts such disciplinary action or requests
704 reconsideration of the Investigator's findings and/or recommendation. A request for reconsideration
705 must provide good cause for such reconsideration.

706 Upon receipt of a written request from the Member setting forth facts and circumstances justifying an
707 extension, the Professional Practice Department may extend the time for making such election or
708 filing a request for reconsideration to a date the Professional Practice Department deems reasonable
709 under the circumstances.

710

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

714

715 If the Member files a request for reconsideration in accordance with the requirements of this
716 Regulation, the Investigator may reconsider and revise the findings and recommendation in
717 accordance with Section 4 below.

718

719 If the Member affirmatively and properly elects not to accept such disciplinary action, a formal
720 Complaint shall be prepared in accordance with Section 5 below and the file shall be processed
721 further as set forth in this Regulation.

722

723 **Section 3. Procedure if Member is Offered Disciplinary Action with an Educational Alternative**

724 If the Investigator recommended offering the Member a disciplinary action and the opportunity to
725 complete a specified Educational Alternative, the Professional Practice Department shall send the
726 Member a copy of the Investigation Report and a notice that the Investigator has recommended that
727 such Member be given the right to accept a disciplinary action, or in lieu thereof, the right to
728 successfully complete a specified Educational Alternative within a fixed period of time. This notice
729 shall also advise the Member that he or she shall have thirty (30) days from the date the notice and
730 Report was sent to advise the Professional Practice Department, in writing by Traceable Carrier, as to
731 whether he or she elects to accept the offer of an Educational Alternative, to accept the offer of
732 disciplinary action, to accept neither the disciplinary action nor the Educational Alternative, or to file a
733 request for reconsideration that shows good cause for such reconsideration.

734

735 Upon receipt of a written request from the Member setting forth facts and circumstances justifying an
736 extension, the Professional Practice Department may extend the time for making such election or
737 filing a request for reconsideration to a date which the Professional Practice Department deems
738 reasonable under the circumstances.

739

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

744

745 If the Member files a written request for reconsideration in accordance with the requirements of this
746 Regulation, the Investigator may reconsider and revise the findings and recommendation in
747 accordance with Section 4 below.

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

752

753 If the Member elects to accept such Educational Alternative in accordance with the requirements of
754 this Regulation, the file shall be placed in suspense until the Professional Practice Department can
755 determine whether the Member successfully completed the Educational Alternative within the
756 specified time period.

757

758 If the Professional Practice Department determines that the Member successfully completed the
759 Educational Alternative within the specified time period, this fact shall be recorded in the file of the
760 Member and the file shall be closed. If the Educational Alternative was in lieu of reprimand or
761 admonishment, the disciplinary action shall not become effective. If the Educational Alternative was in
762 lieu of Censure, the disciplinary action shall be reduced to admonishment which shall be recorded in
763 the Member's disciplinary record.

764

765 If the Professional Practice Department determines that the Member failed to successfully complete
766 the Educational Alternative within the specified time period, the disciplinary action shall become
767 effective, shall be posted to the record of the Member, and the file shall be closed.

768

769 **Section 4. Request for Reconsideration**

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

772

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

775

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

778

779 The Professional Practice Department will review the revised report and/or recommendation to
780 determine whether the revised Report (if any) and/or recommendation comply with Regulation No. 6.
781 If the revised Report and/or recommendation are not in compliance with Regulation No. 6, the
782 Professional Practice Department shall remand the matter to the Investigator with instructions to take
783 such further steps as the Professional Practice Department may specify.

784

785 If the Professional Practice Department determines that the revised Report and/or recommendation
786 comply with Regulation No. 6, the Professional Practice Department shall notify the Member of the
787 findings and recommendation. However, if the Investigator still recommends disciplinary action (and
788 possibly an Educational Alternative in lieu thereof), the Member shall have a right to request a

789 Hearing (in which case a formal Complaint will be prepared and filed), rather than the right to file
790 another request for reconsideration.

791

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

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

796

797 a. Allegations of Fact: The Investigator shall set forth in detail each alleged act (or failure to act) that
798 the Investigator believes violates the Appraisal Institute Code of Professional Ethics so as to fully
799 inform the Member of the basis for the Complaint; and

800

801 b. Relation to Code of Professional Ethics: The Investigator shall set forth each provision of the
802 Appraisal Institute Code of Professional Ethics that the Investigator alleges the Member violated.
803 The Complaint shall also clearly and specifically state the Member's act or acts (or failure to act)
804 that violated each such provision.

805 Rules Governing Disciplinary
806 Proceedings

807
808 **Effective November 15, 2011**

810

811 Hearings

812

813 **Part A: Appointment of Hearing Committee and Filing of Complaint**

814 **Section 1. Appointment of Hearing Committee**

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

819

820 Each Hearing Committee shall consist of a Chair and not less than two (2) other members. No
821 member of the Hearing Committee shall have a Conflict of Interest with the subject matter of the
822 case, the accused Member, or the Investigator(s).

823

824 **Section 2. Filing of Complaint**

825 The Professional Practice Department shall file the formal Complaint by sending a Notice of Hearing
826 Committee Appointment and a copy of the Complaint to the accused Member. The Notice of Hearing
827 Committee Appointment shall contain the following information:

828

829 a. the name of the Chair and each member of the Hearing Committee;

830

831 b. advice to the accused Member that within twenty (20) days from the date of transmittal of the
832 Notice of Hearing Committee Appointment he or she may file a challenge for cause requesting
833 that the Chair or any member of the Hearing Committee be excused from serving on the Hearing
834 Committee because of a Conflict of Interest;

835

836 c. advice to the accused Member that within twenty (20) days from the date of transmittal of the
837 Notice of Hearing Committee Appointment he or she may file one Preemptory Challenge
838 requesting that the Chair or one other member of the Hearing Committee be excused from
839 serving on the Hearing Committee;

840

841 d. advice to the accused Member that he or she has the right to be represented at the Hearing by
842 legal counsel provided that he or she gives proper notice;

843

844 e. notice to the accused Member that he or she must file a written Answer to the Complaint and the
845 date by which such Answer must be filed; and

846

847 f. advice to the accused Member that he or she has the right to file a written Request for a Bill of
848 Particulars, and/or a written request that the Hearing Committee Chair issue summons for
849 witnesses or the production of documents, and the dates by which such rights must be exercised.

850 **Section 3. Filing Date**

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

853

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

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

860

861 **Section 5. Challenges for Cause**

862 An accused Member may file with the Professional Practice Department a challenge for cause
863 requesting that any member of the Hearing Committee be excused from serving on the Hearing
864 Committee because such member has a Conflict of Interest. There is no specific limit upon the
865 number of challenges for cause that may be filed provided that each such challenge for cause is
866 timely filed. Each such challenge for cause must specifically set forth the facts and reasoning which
867 support the request.

868

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

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

872

873 **Section 7. Preemptory Challenge**

874 An accused Member may file with the Professional Practice Department one (and only one)
875 preemptory challenge requesting that one member of the Hearing Committee be excused from
876 serving on the Hearing Committee. No facts or reasoning need be stated to support a preemptory
877 challenge and such request shall automatically be allowed if it was timely filed.

878

879 **Section 8. Appointment of Replacements**

880 If a timely preemptory challenge is received, if a timely challenge for cause is granted, or if for any
881 reason a replacement Hearing Committee member (or Chair) is needed, the Professional Practice
882 Department may appoint a replacement member (or Chair). The Professional Practice Department
883 shall notify the accused Member of any replacement appointment and of his or her right to file a
884 challenge for cause in writing within twenty (20) days from the date of transmittal of the Notice of
885 Replacement Hearing Committee Appointment to any newly appointed member of the Hearing
886 Committee.

887

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

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

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

893 **Section 1. Answer to Complaint**

894 An accused Member must file a written Answer to Complaint with the Professional Practice
895 Department within sixty (60) days from the date that the Complaint was filed.

896
897 The Answer to the Complaint should address each allegation of the Complaint and may also raise
898 affirmative defenses which, in the opinion of the accused Member, serve as further answer to the
899 allegations of the Complaint.

900
901 Failure to file a timely written Answer to the Complaint shall constitute a relinquishment of the right to
902 a Hearing and the peer review matter shall be processed further under this Regulation as if the
903 accused Member had failed to exercise his or her right to request a Hearing.

904
905 **Section 2. Request for a Bill of Particulars**

906 If, in the opinion of the accused Member, the Complaint does not sufficiently set forth the details of
907 each action (or failure to act) which is alleged to be in violation of the Appraisal Institute Code of
908 Professional Ethics, the accused Member may file a written Request for a Bill of Particulars to compel
909 the Investigator to supply such additional information as will enable the accused Member to be fully
910 aware of the nature of the allegations and permit such accused Member to prepare his or her
911 defense.

912
913 A written Request for a Bill of Particulars must be filed with the Professional Practice Department
914 within sixty (60) days from the date that the Complaint was filed.

915
916 If the Hearing Committee determines that all or any part of a Request for a Bill of Particulars should
917 be granted, the Investigator shall be required to file a Bill of Particulars setting forth such additional
918 factual details as the Hearing Committee may direct.

919
920 If the Hearing Committee concludes that all or any part of a Request for a Bill of Particulars should be
921 denied, the accused Member shall be advised of this decision and the basis for such denial.

922
923 If an Investigator is directed to prepare a Bill of Particulars, the Investigator shall prepare and file a
924 Bill of Particulars with the Professional Practice Department

925
926 **Section 3. Notice of Legal Representation**

927 If an accused Member intends to be represented by legal counsel at the Hearing, the accused
928 Member must file a written Notice of Legal Representation with the Professional Practice Department
929 by Traceable Carrier within sixty (60) days from the date that the Complaint was filed. This notice
930 shall specify the name and contact information for the legal counsel who will represent the accused
931 Member at the Hearing.

933 **Section 4. Retention of Legal Counsel for the Investigators**

934 The Appraisal Institute General Counsel may authorize the retention of legal counsel for the
935 Investigators at the Hearing. Legal counsel retained to assist Investigators at a Hearing may advise
936 and counsel the Investigators; to ask questions of the Chair and other members of the Hearing
937 Committee; to conduct a direct examination or a cross examination of the accused Member or any
938 other witness at the Hearing; to ask questions of legal counsel for the accused Member; and to make
939 oral arguments with respect to the position of the Investigators.

940

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

942 The Appraisal Institute General Counsel may authorize the retention of legal counsel for the Hearing
943 Committee at the Hearing. Legal counsel retained to assist a Hearing Committee at a Hearing shall
944 be permitted to advise it as to legal and procedural issues and to answer any questions raised by the
945 accused Member, by legal counsel for the accused Member, by the Investigators or by legal counsel
946 for the Investigators.

947

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

949 Both the accused Member and the Investigator shall have the right to file a written request for the
950 issuance of summons with the Professional Practice Department within sixty (60) days of the date
951 that the Complaint was filed.

952

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

954

955 (1) the request is written;

956

957 (2) the request is timely; and

958

959 (3) the request is for documentary evidence and/or testimony that may be material to the issues in
960 the case and is reasonably necessary for the prosecution or defense of the case.

961

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

963

964 (1) that such Member appears and testifies at the Hearing, and/or

965

966 (2) that such Member produce such documentary evidence in his or her possession or control as
967 may be relevant to the subject matter of the proceedings and specified in such summons.

968

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

974 If the accused Member exercises his or her right to request the Chair of the Hearing Committee to
975 issue a summons, and the Chair of the Hearing Committee does issue such summons, the accused
976 Member must pay the travel expenses of the summoned witness.

977

978 **Section 7. Motion to Dismiss**

979 If prior to the Hearing the Investigator obtains new evidence that leads him or her to conclude that he
980 or she cannot prove, by the greater weight of the evidence, that the accused Member violated the
981 Code of Professional Ethics as alleged in the Complaint, the Investigator may file a Motion to
982 Dismiss. Such Motion to Dismiss shall be filed with the Professional Practice Department.

983

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

987

988 **Section 8. Notice of Hearing**

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

995

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

997 **Section 1. General Rules**

998 The Chair of a Hearing Committee shall preside at the Hearing and conduct the Hearing in
999 accordance with the rules set forth in this Regulation. The Investigator shall be the complainant at the
1000 Hearing. The Investigator has the burden of proof to establish, by the greater weight of the evidence,
1001 that the actions (or failure to act) of the accused Member were in violation of the Appraisal Institute
1002 Code of Professional Ethics. The accused Member shall have the right to be present during the entire
1003 Hearing.

1004

1005 **Section 2. Procedure at the Hearing**

1006 The Chair of the Hearing Committee shall afford the parties to the Hearing full opportunity to be
1007 heard, to offer the testimony of witnesses, and to present documentary evidence relating to the issues
1008 involved in the Hearing, subject to the judgment of the Hearing Committee as to the relevance of such
1009 testimony and documentary evidence to the issues before it. In evidentiary matters the Hearing
1010 Committee may consider the rules of evidence that are applicable in a court of law. However, the
1011 Hearing Committee shall not be bound by such rules of evidence and may consider in the proceeding
1012 all evidence which, in its opinion, fairness or justice requires. Both the accused Member and the
1013 Investigator(s) shall have the right to present such witnesses as the Hearing Committee deems
1014 appropriate, whether or not a summons was issued to any such witnesses.

1015

1016 The Investigator(s) shall introduce at the Hearing evidence to support those allegations of the
1017 Complaint which have not been admitted in the Answer to Complaint of the accused Member.
1018 However, no evidence shall be presented at the Hearing and no reference shall be made by the
1019 Investigator(s) to any prior disciplinary action taken against or involving the accused Member unless
1020 such prior disciplinary action was published and involved the same substantive violation of the
1021 Appraisal Institute Code of Professional Ethics as is alleged in the pending Complaint. The
1022 Investigator may also examine or cross-examine the accused Member; cross-examine witnesses
1023 appearing on behalf of the accused Member; ask questions of the Chair or any member of the
1024 Hearing Committee, or of legal counsel for the Hearing Committee or the accused Member; and
1025 make oral arguments with respect to the subject matter of the Complaint.

1026
1027 The accused Member shall introduce at the Hearing evidence to rebut the allegations of the
1028 Complaint and to support any affirmative defenses raised in the Answer to Complaint. The accused
1029 Member may also offer the testimony of witnesses and documentary evidence in his or her defense;
1030 examine or cross-examine the Investigator(s); cross-examine witnesses appearing on behalf of the
1031 Investigator(s); ask questions of the Chair or any member of the Hearing Committee, or of legal
1032 counsel for the Hearing Committee or the Investigator(s); and make oral arguments in support of his
1033 or her defense.

1034
1035 The members of the Hearing Committee may examine the Investigator(s); examine the accused
1036 Member; examine any of the witnesses presented by the Investigator(s) or by the accused Member;
1037 and ask questions of legal counsel for the accused Member or for the Investigator(s).

1038
1039 **Section 3. Recess or Adjournment of Hearing**

1040 The Chair of the Hearing Committee may recess the Hearing or adjourn and reconvene the Hearing
1041 from time to time whenever fairness or convenience requires.

1042
1043 **Section 4. Transcript**

1044 A court reporter shall be present at each Hearing held pursuant to this Regulation and take a
1045 verbatim record of the proceedings.

1046
1047 **Part D: Actions to be taken at the Conclusion of Hearing**

1048 **Section 1. Hearing Committee Decision**

1049 The Hearing Committee, in Executive Session, shall consider the Complaint, the Answer to
1050 Complaint, the testimony of the witnesses and documentary evidence introduced at the Hearing, and
1051 the oral arguments to determine whether, by the greater weight of the evidence, the accused Member
1052 violated the Appraisal Institute Code of Professional Ethics.

1053
1054 If the determination of the Hearing Committee is that the accused Member did not violate the
1055 Appraisal Institute Code of Professional Ethics, this determination shall be incorporated in a formal
1056 written decision (hereinafter referred to as "Hearing Committee Decision").

1057

1058 If the determination of the Hearing Committee is that the accused Member did violate the Appraisal
1059 Institute Code of Professional Ethics, the Hearing Committee shall then consider and determine its
1060 recommendation as to the appropriate disciplinary action to be taken. For this purpose, the Hearing
1061 Committee may take into account all prior disciplinary actions against the Member, if any. The
1062 Professional Practice Department will advise the Hearing Committee of the prior disciplinary record of
1063 the accused Member, if any, only after the Hearing Committee has made a final determination that
1064 the accused Member did violate the Appraisal Institute Code of Professional Ethics.

1065

1066 When the Hearing Committee has made a decision concerning its recommendation as to the
1067 appropriate disciplinary action to be taken, both its determination that the accused Member did violate
1068 the Appraisal Institute Code of Professional Ethics and its recommendation as to the appropriate
1069 disciplinary action to be taken shall be incorporated in a Hearing Committee Decision. The Hearing
1070 Committee Decision shall be signed by not less than a majority of the Hearing Committee.

1071

1072 **Section 2. Permitted Recommendations**

1073 If the determination of the Hearing Committee is that the accused Member did violate the Appraisal
1074 Institute Code of Professional Ethics, the recommendation of the Hearing Committee as to the
1075 appropriate disciplinary action to be taken shall be one of the following:

1076

1077 a. Admonishment;

1078

1079 b. Reprimand;

1080

1081 c. Censure;

1082

1083 d. Suspension; or

1084

1085 e. Expulsion.

1086

1087 Unless the Hearing Committee recommends Suspension or Expulsion, the Hearing Committee may
1088 further recommend that the Member be offered an opportunity to complete a specified Educational
1089 Alternative in lieu of the recommended disciplinary action. If the Hearing Committee recommends that
1090 the Member be offered an opportunity to complete a specified Educational Alternative in lieu of the
1091 recommended disciplinary action, the decision of the Hearing Committee shall also recommend the
1092 Educational Alternative the Member must successfully complete and the period of time within which
1093 the Educational Alternative must be successfully completed. For any Appraisal Institute course that
1094 has an examination, the Hearing Committee must recommend that the course examination be taken
1095 and passed for successful completion of the Educational Alternative.

1096

1097 Prior to issuance of a Hearing Committee Decision offering an Educational Alternative, the Chair of
1098 the Hearing Committee may contact the Professional Practice Compliance and Enforcement
1099 Committee Chair to obtain his or her advice as to a reasonable and appropriate Educational

1100 Alternative. Upon receipt of any such advice, the Hearing Committee shall make its final
1101 determination concerning the specified Educational Alternative.

1102

1103 **Section 3. Transmittal of Hearing Committee Decision**

1104 A copy of the final Hearing Committee Decision shall be transmitted to each of the parties to the
1105 Hearing.

1106

1107 If the Hearing Committee Decision is that the accused Member did violate the Appraisal Institute
1108 Code of Professional Ethics, the transmittal letter shall advise the accused Member of his or her right
1109 to appeal the Hearing Committee Decision within thirty (30) days of the date that the Hearing
1110 Decision was sent and the procedures for filing an Appeal.

1111

1112 If the Hearing Committee Decision recommends that an Educational Alternative be offered in lieu of
1113 disciplinary action, then the transmittal letter shall further notify the Member that unless he or she
1114 appeals the Decision as specified above or accepts the Educational Alternative in writing to the
1115 Hearing Committee Chair by Traceable Carrier within thirty (30) days of the date that the Hearing
1116 Committee Decision was sent, the disciplinary action recommended in the Hearing Committee
1117 decision will become effective and will be made a part of the record of the Member.

1118

1119 **Part E: Procedure if a Hearing Committee Recommends Disciplinary**
1120 **Action**

1121 **Section 1. Action to be Taken When a Timely Appeal is Not Filed and the Hearing Committee**
1122 **Did Not Recommend That an Educational Alternative be Offered**

1123 If a Member fails to file a timely notice of appeal from a Hearing Committee Decision which
1124 recommends that a disciplinary action be taken but does not recommend a specified Educational
1125 Alternative in lieu of such disciplinary action, the disciplinary action shall become effective.

1126

1127 **Section 2. Action to be Taken When An Appeal is Not Filed and the Hearing Committee**
1128 **Recommended That an Educational Alternative be Offered**

1129 If a Member fails to file a timely notice of appeal from a Hearing Committee Decision and fails to
1130 accept the Educational Alternative in a timely manner, the recommended disciplinary action shall
1131 become effective.

1132

1133 If the Member accepts the Educational Alternative, the file shall be placed in suspense until the
1134 Professional Practice Department can determine whether the Member successfully completed the
1135 Educational Alternative within the specified time period.

1136

1137 If the Member successfully completes an Educational Alternative in lieu of admonishment or
1138 reprimand within the specified time period, the disciplinary action shall not become effective and the
1139 successful completion of the Educational Alternative shall be recorded in the file of the Member.

1140

1141 If the Member successfully completes an Educational Alternative in lieu of a Censure, the disciplinary
1142 action shall be reduced to admonishment, which shall be recorded in the file along with the fact that
1143 the Member successfully completed the Educational Alternative.

1144
1145 If the Member fails to successfully complete an Educational Alternative within the specified time
1146 period, the specified disciplinary action shall become effective.

1147

1148 **Part F: Alternate Procedure to be followed for Violation of Ethical Rule 1-** 1149 **2**

1150 **Section 1. Automatic Suspension**

1151 Upon receipt of either (a) a certified copy of a Court document indicating that a Member has entered
1152 a guilty plea to having committed a crime of the type referred to in Ethical Rule 1-2 together with
1153 information indicating that such Member has not as yet been convicted of such crime, or (b) a
1154 certified copy of a court document indicating that a Member has been found guilty by a judge or a jury
1155 of a crime of the type referred to in Ethical Rule 1-2 together with information indicating that all rights
1156 to appeal from such conviction have not been exhausted, the Professional Practice Department shall
1157 give written notice to such Member that his or her privileges of membership have been suspended.

1158

1159 A suspended Member shall have the duty and obligation to promptly notify the Professional Practice
1160 Department when all rights to appeal a conviction have been exhausted.

1161

1162 If the Suspension is based upon a plea of guilty as described in (a) above and such plea is
1163 subsequently withdrawn, rejected, or set aside, the Suspension will expire on the date that the
1164 Professional Practice Department confirms that such plea has been withdrawn, rejected, or set aside.

1165

1166 **Section 2. Right to Appeal Automatic Suspension**

1167 A Member who has been suspended from the privileges of membership pursuant to Section 1 above
1168 shall have the right to appeal such Suspension by filing a timely notice of appeal with the Professional
1169 Practice Department. In such event, the requirements and procedures governing the appeal shall be
1170 as set forth this Regulation with such modifications thereof as may be required to reflect the fact that
1171 the Suspension was entered pursuant to Section 1 above.

1172

1173 **Section 3. Automatic Expulsion**

1174 Upon receipt of a certified copy of a judgment stating that a Member has been convicted of a crime of
1175 the type referred to in Ethical Rule 1-2 and evidence that all rights to appeal from such conviction
1176 have been exhausted, the Professional Practice Department shall give written notice to such Member
1177 that he or she will be expelled from membership, subject to the provisions of Section 4 of this Part F.

1178

1179 The Member shall be suspended from the rights and privileges of membership during the period in
1180 which he or she can appeal the automatic Expulsion. If the Member fails to file a timely appeal, the
1181 Expulsion will become effective on the day following the expiration of the period in which to file an
1182 appeal.

1183 **Section 4. Right to Appeal Automatic Expulsion**

1184 A Member who has been sent a notice of Expulsion pursuant to Section 3 above shall have the right
1185 to appeal such Expulsion by filing a timely Notice of Appeal with the Professional Practice
1186 Department. In such event, the requirements and procedures governing the appeal shall be as set
1187 forth in this Regulation with such modifications thereof as may be required to reflect the fact that the
1188 Expulsion was entered pursuant to Section 3 above.

1189
1190 Upon the filing of a timely Notice of Appeal, the automatic Expulsion shall be stayed pending a final
1191 determination of the merits of such appeal. However, the membership privileges of such Member
1192 shall continue to be suspended during the pendency of the appeal.

1193
1194 **Section 5. Respondent in an Appeal**

1195 The Professional Practice Department shall appoint an Investigator to act as the respondent in
1196 connection with any such appeal. If the Professional Practice Department determines that the
1197 Investigator may need assistance, the Professional Practice Department may also appoint one (1) or
1198 more Assistant Investigators to assist the Investigator.

1199
1200 **Section 6. Prima Facie Evidence and Burden of Proof**

1201 At any appeal heard pursuant to Section 2 or Section 4 above, the submission into evidence of a
1202 certified copy of a judgment stating that a Member has been convicted of a crime of the type referred
1203 to in Ethical Rule 1-2 shall be prima facie evidence that the Member has violated Ethical Rule 1-2 of
1204 the Code of Professional Ethics; however, this shall not prevent a Member from introducing into
1205 evidence such evidence as may be appropriate to dispute or explain such conviction. The
1206 Professional Practice Appeal Board must reach its final decision based on the greater weight of the
1207 evidence.

1208
1209 **Section 7. Decision of an Professional Practice Appeal Board**

1210 At the conclusion of a Hearing on an Appeal taken pursuant to Section 2 above, the Professional
1211 Practice Appeal Board for such appeal shall either:

- 1212
1213 a. affirm the Suspension; or
1214
1215 b. reverse the Suspension and allow the Member to enjoy the privileges of membership until such
1216 time as all appeals of his or her conviction have been finally determined.

1217
1218 At the conclusion of a Hearing on Appeal taken pursuant to Section 4 above, the Professional
1219 Practice Appeal Board for such appeal shall have all of the powers of a Professional Practice Appeal
1220 Board set forth in this Regulation.

1221 **Part G: Alternate Procedure for Possible Violation of Ethical Rule 2-3(b),**
1222 **(c), or (d)**

1223 **Section 1. Automatic Expulsion**

1224 Upon receipt of a screened file relating to Ethical Rule 2-3(b), 2-3(c), or 2-3(d), the Professional
1225 Practice Department shall appoint an Investigator to determine whether the Member violated Ethical
1226 Rule 2-3(b), 2-3(c), or 2-3(d). If the Professional Practice Department determines that the Investigator
1227 may need assistance, the Professional Practice Department may also appoint one or more Assistant
1228 Investigators to assist the Investigator.

1229
1230 If the Investigator determines that such Member violated Ethical Rule 2-3(b), 2-3(c), or 2-3(d), the
1231 Member shall be sent written notice that he or she will be expelled from membership, subject to the
1232 provisions of Section 2 of this Part G.

1233
1234 Upon receipt of an Investigation Report from a duly appointed Investigator stating that a Member has
1235 violated Ethical Rule 2-3(b), 2-3(c), or 2-3(d) the Professional Practice Department shall give written
1236 notice to such Member advising that he or she will be expelled from membership, subject to the
1237 provisions of Section 2 of this Part G.

1238
1239 The Member shall be suspended from the rights and privileges of membership during the period in
1240 which he or she can appeal the automatic Expulsion for violation of Ethical Rule 2-3(b), 2-3(c), or 2-
1241 3(d). If the Member fails to file a timely appeal, the Expulsion will become effective on the day
1242 following the expiration of the period in which to file an appeal.

1243
1244 **Section 2. Right to Appeal Automatic Expulsion**

1245 A Member who has been sent a notice of Expulsion pursuant to Section 1 above shall have the right
1246 to appeal such Expulsion by filing a timely notice of appeal with the Professional Practice
1247 Department. In such event, the requirements and procedures governing the appeal shall be as set
1248 forth in this Regulation, with such modifications thereof as may be required to reflect the fact that the
1249 Expulsion was entered pursuant to Section 1 above.

1250
1251 Upon the filing of a timely notice of appeal, the Expulsion shall be stayed pending a final determina-
1252 tion of the merits of such appeal. However, the membership privileges of such Member shall continue
1253 to be suspended during the pendency of the appeal.

1254
1255 **Section 3. Prima Facie Evidence and Burden of Proof for Violation of Ethical Rule 2-3(b)**

1256 At any Appeal heard pursuant to Section 2 above concerning a violation of Ethical Rule 2-3(b), prima
1257 facie evidence that the Member violated Ethical Rule 2-3(b) shall be constituted by the submission
1258 into evidence of:

- 1259
1260 a. a copy of a request of the Member for relevant documentation or information that is or should be
1261 in the possession or control of the Member;

- 1263 b. a document demonstrating delivery or attempted delivery of the request to the Member or an
1264 agent thereof; and
1265
1266 c. an Investigation Report finding that the Member failed or refused to comply with such request or
1267 an affidavit from the authorized party that made the request that the Member failed or refused to
1268 comply with such request.

1269
1270 However, this shall not prevent a Member from introducing such evidence as may be appropriate to
1271 dispute or explain the evidence. The Professional Practice Appeal Board must reach its final decision
1272 based on the greater weight of the evidence.

1273
1274 **Section 4. Prima Facie Evidence and Burden of Proof for Violations of Ethical Rule 2-3(c)**

1275 At any Appeal heard pursuant to Section 2 above concerning a violation of Ethical Rule 2-3(c), prima
1276 facie evidence that such Member violated Ethical Rule 2-3(c) shall be constituted by the submission
1277 into evidence of:

- 1278
1279 a. a copy of a written request or contemporaneous record of an oral request of the Member to
1280 answer one or more relevant questions, and the relevant question or questions that the Member
1281 failed or refused to promptly answer;
1282
1283 b. if a written request, a document demonstrating delivery or attempted delivery of the request of
1284 the Member or a an agent thereof; and
1285
1286 c. an Investigation Report finding that the Member failed or refused to promptly answer one or more
1287 relevant questions or an affidavit from the authorized party that made the request that the
1288 Member failed or refused to promptly answer.

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

1293
1294 **Section 5. Prima Facie Evidence and Burden of Proof for Violations of Ethical Rule 2-3(d)**

1295 At any Appeal heard pursuant to Section 2 above concerning a violation of Ethical Rule 2-3(d), prima
1296 facie evidence that such Member violated Ethical Rule 2-3(d) of the Code of Professional Ethics shall
1297 be constituted by the submission into evidence of:

- 1298
1299. a. copy of a request of the Member for a personal interview or a telephone interview;
1300
1301 b. a document demonstrating delivery or attempted delivery of the request to the Member or an
1302 agent thereof; and
1303

1304 c. an Investigation Report finding that the Member failed or refused to appear for a personal
1305 interview or participate in an interview conducted by telephone, or an affidavit from the authorized
1306 party that made the request, stating that the Member failed or refused to appear for a personal
1307 interview or participate in an interview conducted by telephone.

1308
1309 However, this shall not prevent a Member from introducing such evidence as may be appropriate to
1310 dispute or explain such failure to participate or appear. The Professional Practice Appeal Board must
1311 reach its final decision based on the greater weight of the evidence.

1312
1313 **Section 6. Decision of a Professional Practice Appeal Board**
1314 At the conclusion of a Hearing on Appeal taken pursuant to Section 2 above, the Professional
1315 Practice Appeal Board for such appeal shall have all of the powers of a Professional Practice Appeal
1316 Board set forth in this Regulation.

1317
1318 **Part H: Alternate Procedure for Failure to Comply with Terms of**
1319 **Suspension**

1320 **Section 1. Automatic Expulsion**

1321 If a Member fails to transmit his or her certificate, emblem and other indicia of membership to the
1322 Professional Practice Department in accordance with the requirements of this Regulation, the
1323 Professional Practice Department shall give written notice to the Member he or she will be expelled
1324 from membership, subject to the provisions of Section 2 of this Part H. If a Member suspended under
1325 this Regulation uses or refers to any Appraisal Institute designation or membership during the period
1326 of Suspension, the Professional Practice Department shall give written notice to the Member that he
1327 or she will be expelled from membership, subject to the provisions of Section 2 of this Part H.

1328
1329 The Member shall continue to be suspended from the rights and privileges of membership during the
1330 period in which he or she can appeal the automatic Expulsion for violation of the terms of his or her
1331 Suspension. If the Member fails to file a timely appeal, the Expulsion will become effective on the day
1332 following the expiration of the period in which to file an appeal.

1333
1334 **Section 2. Right to Appeal Automatic Expulsion**

1335 A Member who has been sent a notice of Expulsion pursuant to Section 1 above shall have the right
1336 to appeal such Expulsion by filing a timely notice of appeal with the Professional Practice
1337 Department. In such event, the requirements and procedures governing the appeal shall be as set
1338 forth in this Regulation, with such modification thereof as may be required to reflect the fact that the
1339 Expulsion was entered pursuant to Section 1 above.

1340
1341 Upon the filing of a timely Notice of Appeal, the Expulsion shall be stayed pending a final determina-
1342 tion of the merits of such appeal. However, the membership privileges of such Member shall continue
1343 to be suspended during the pendency of the appeal.

1344

1345 **Section 3. Respondent in an Appeal**

1346 The Professional Practice Department shall appoint an Investigator to act as the respondent in
1347 connection with any such appeal. If the Professional Practice Department determines that the
1348 Investigator may need assistance, the Professional Practice Department may also appoint one or
1349 more Assistant Investigators to assist the Investigator.

1350

1351 **Section 4. Prima Facie Evidence**

1352 At any appeal heard pursuant to Section 2 above, prima facie evidence that the Member violated the
1353 terms of Suspension shall be constituted by the submission into evidence of:

1354

1355 a. the notice of Suspension, along with an affidavit of a member of the Professional Practice
1356 Department that it did not receive the Member's certificate, emblem or other indicia of
1357 membership in accordance with the requirements of this Regulation; or

1358

1359 b. the notice of Suspension, along with a document or affidavit indicating that a suspended Member
1360 used or referred to any Appraisal Institute designation or membership during the Suspension.

1361

1362 However, this shall not prevent the Member from introducing such evidence as may be appropriate
1363 to dispute or explain the failure to comply with the terms of the Suspension. The Professional Practice
1364 Appeal Board must reach its final decision based on the greater weight of the evidence.

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ARTICLE X

Procedures Governing Hearings on Appeal

Part A: Right to Appeal a Hearing Committee Decision

Section 1. Right to Appeal

A Member shall have the right to appeal any Hearing Committee Decision that recommends that a disciplinary action be taken against such Member. 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.

Section 2. Appointment of an Professional Practice Appeal Board

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

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.

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.

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

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

- 1407 d. advice to the Appellant that he or she has the right to be represented at any Hearing on Appeal
1408 by legal counsel, provided that he or she gives proper notice;
1409
1410 e. advice to the Appellant as to the requirement to file a written Appeal Brief and the date by which
1411 such Brief must be filed; and
1412
1413 f. advice to the Appellant as to the right to file an Answer to the Reply Brief and the dates by which
1414 such right must be exercised.
1415

1416 The filing date of any challenges or briefs shall be the postmark date that such item is sent to the
1417 Professional Practice.

1418
1419 Upon a timely written request, the Chair of the Professional Practice Appeals Panel shall have the
1420 power to extend the period allowed for the filing of any challenges or pre-hearing filing for good cause
1421 shown.
1422

1423 **Section 3. Challenges for Cause**

1424 An Appellant may file with the Professional Practice Department a challenge for cause requesting that
1425 any member of the Professional Practice Appeal Board be excused from serving on the Professional
1426 Practice Appeal Board because such member has a personal interest in the case or is otherwise
1427 prejudiced against the Appellant. There is no specific limit upon the number of challenges for cause
1428 that may be filed provided that each such challenge for cause is filed within the time limits established
1429 pursuant to this Regulation. Each such challenge for cause must specifically set forth the facts and
1430 reasoning which support the request of the Appellant. A copy of any challenge for cause must also
1431 be filed with the Professional Practice Department.
1432

1433 Upon receipt of a challenge for cause, the Professional Practice Department shall determine whether
1434 such challenge should be granted.
1435

1436 **Section 4. Preemptory Challenge**

1437 An Appellant may file with the Professional Practice Department one (and only one) preemptory
1438 challenge requesting that one member of the Professional Practice Appeal Board be excused from
1439 serving on the Professional Practice Appeal Board. No facts or reasoning need be stated to support a
1440 preemptory challenge and such request shall automatically be allowed if it was filed within the time
1441 limits established pursuant to this Regulation.
1442

1443 **Section 5. Appointment of Replacements**

1444 If a preemptory challenge is received and allowed or if a challenge for cause is received and granted
1445 (or if a member of an Professional Practice Appeal Board resigns), the Chair of the Professional
1446 Practice Appeals Panel may appoint a new member (or Chair) to replace the individual who has been
1447 excused. The Professional Practice Department shall notify the Appellant by Traceable Carrier of

1448 such replacement appointment. This Notice of Replacement Appointment shall contain the following
1449 information:

1450

1451 a. the name of each newly appointed Chair and/or member of the Professional Practice Appeal
1452 Board;

1453

1454 b. advice to the Appellant that he or she may file with the Professional Practice Department a
1455 challenge for cause requesting that any newly appointed member of the Professional Practice
1456 Appeal Board be excused from serving on the Professional Practice Appeal Board because such
1457 newly appointed member of the Professional Practice Appeal Board has a Conflict of Interest;
1458 and

1459

1460 c. the last date by which any challenges for cause may be filed.

1461

1462 An Appellant shall have the right, exercisable within a period of twenty (20) days from the date of the
1463 transmittal of the notice of replacement appointment, to file a challenge for cause relating to one or
1464 more of the newly appointed members of the Professional Practice Appeal Board. Each such
1465 challenge for cause shall be processed in the same manner as is set forth above.

1466

1467 **Section 6. Removal From Professional Practice Appeal Board**

1468 If the Chair of the Professional Practice Compliance and Enforcement Committee determines that a
1469 member of a Professional Practice Appeal Board may have a Conflict of Interest or may have failed to
1470 perform his or her assigned duties, the Chair may remove such member from the Professional
1471 Practice Appeal Board or discharge the entire Board.

1472

1473 **Section 7. Transcript of Hearing**

1474 Upon receipt of a copy of a Notice of Appeal for a file in which a Hearing has been held, the
1475 Professional Practice Department shall obtain a transcript of the record of the Hearing before the
1476 Hearing Committee. Upon receipt of this transcript, the Professional Practice Department shall
1477 transmit one copy of such transcript to the Appellant and to the Investigator(s).

1478

1479 Upon request, a copy of all documentary evidence admitted at the Hearing shall also be sent to the
1480 Appellant and to the Investigator(s).

1481

1482 **Part B: Appellate Briefs**

1483 **Section 1. Requirement for Appeal Brief**

1484 Within thirty (30) days after a copy of the transcript of the Hearing is sent, or within such additional
1485 time as may be granted for this purpose by the Chair of the Professional Practice Appeals Panel, the
1486 Appellant shall file a written Appeal Brief by Traceable Carrier with the Professional Practice
1487 Department.

1488

1489 The Appeal Brief (and any subsequent pleading) may be prepared and filed by the Appellant or by his
1490 or her legal counsel. Failure to file a written Appeal Brief in support of an appeal within the time
1491 provided shall constitute an abandonment of the appeal and the case shall be processed further
1492 under this Regulation as if the member had failed to file an appeal.

1493

1494 **Section 2. Contents of Appeal Brief**

1495 The Appeal Brief of the Appellant shall state in a concise manner the points relied upon by the
1496 Appellant as the basis for the appeal and shall make appropriate reference to the transcript of the
1497 Hearing and the documentary evidence admitted at the Hearing. If the Appellant believes that the
1498 Hearing Committee did not correctly interpret or apply an Ethical Rule involved in the proceedings,
1499 the Appeal Brief shall point out the alleged error and state the interpretation or application the
1500 Appellant believes to be correct. If the Appellant believes that certain findings of fact in the Hearing
1501 Committee Decision are unwarranted or were not established by the greater weight of the evidence,
1502 such disputed findings of fact shall be identified in the Appeal Brief and the Appellant shall point out
1503 the reasons for disputing such findings of fact.

1504

1505 The Appeal Brief may also include a discussion of such of the following matters as the Appellant
1506 deems applicable to the appeal:

1507

- 1508 a. specific procedural errors made by the Hearing Committee that resulted in denying the Appellant
1509 a fair Hearing;
- 1510
- 1511 b. evidence excluded at the Hearing which should have been admitted and which would have been
1512 material to the Hearing Committee Decision;
- 1513
- 1514 c. evidence material to the Hearing Committee Decision which the Appellant could not, with
1515 reasonable diligence, have produced at the Hearing; and
- 1516
- 1517 d. errors in the transcript of the Hearing.
- 1518

1519

1520 The Appellant may attach to the Appeal Brief such evidentiary materials as he or she deems
1521 appropriate to the appeal.

1522

1522 **Section 3. Reply Brief of the Investigator**

1523 Within thirty (30) days after the Appeal Brief of the Appellant is filed, or within such additional time as
1524 may be granted for this purpose by the Chair of the Professional Practice Appeals Panel, the
1525 Investigator shall file a Reply Brief responding to the arguments set forth in the Appeal Brief of the
1526 Appellant. The Reply Brief may also point out any errors in the transcript of the Hearing. The
1527 Investigator shall send such Reply Brief to the Professional Practice Department by Traceable
1528 Carrier.

1529 If evidentiary materials were attached to the Appeal Brief of the Appellant, the Investigator(s) may
1530 object to or comment upon such evidentiary materials and may also attach evidentiary materials to
1531 the Reply Brief.

1532

1533 **Section 4. Answer of Appellant to Reply Brief**

1534 Within thirty (30) days after a Reply Brief is filed, or within such additional time as may be granted for
1535 this purpose by the Chair of the Professional Practice Appeals Panel, the Appellant may file an
1536 Answer to the Reply Brief with the Professional Practice Department by Traceable Carrier.

1537

1538 **Part C: Setting the Appeal Date**

1539 **Section 1. Setting Date for a Hearing on Appeal**

1540 The Chair of the Professional Practice Appeal Board shall, set a date, time, and place for a Hearing
1541 on Appeal. The Appellant must notify the Professional Practice Department in writing not less than
1542 thirty (30) days prior to the date of Hearing on Appeal as to whether he or she will attend the Hearing
1543 on Appeal in person.

1544

1545 **Section 2. Representation by Legal Counsel at Hearing on Appeal**

1546 If an Appellant intends to present oral argument in whole or in part through legal counsel at the
1547 Hearing on Appeal, he or she must so notify the Professional Practice Department not less than thirty
1548 (30) days prior to the date of the Hearing on Appeal. This notice shall contain the name and contact
1549 information for such legal counsel. For good cause shown, the Chair of the Professional Practice
1550 Appeal Board may allow this notice to be filed less than thirty (30) days prior to the date of the
1551 Hearing on Appeal.

1552

1553 General Counsel of the Appraisal Institute may authorize the retention of legal counsel for the
1554 Investigator(s) at the Hearing on Appeal.

1555

1556 **Section 3. Resetting Date for Hearing on Appeal**

1557 Upon the timely request of any party to the proceedings and for good cause shown, the Chair of
1558 the Professional Practice Appeal Board shall have the power to reset the date of the Hearing on
1559 Appeal. The Chair of the Professional Practice Appeal Board shall also have the right, in his or her
1560 sole discretion, to reset the date of the Hearing on Appeal whenever he or she is of the opinion that
1561 justice requires such resetting.

1562

1563 **Section 4. Preparation for Hearing on Appeal**

1564 Prior to the date of the Hearing on Appeal, the Professional Practice Department shall furnish every
1565 member of the Professional Practice Appeal Board for such appeal with a copy of the Complaint, the
1566 Hearing Committee Decision, the Appeal Brief of the Appellant, the Reply Brief of the Investigator,
1567 and the Answer to Reply Brief, if any. In addition, the Professional Practice Department shall, upon
1568 request, make available to each member of the Professional Practice Appeal Board for such appeal a
1569 copy of all documents introduced into evidence at the Hearing and a copy of the transcript of the

1570 Hearing. The Professional Practice Department shall also arrange for a court reporter to be present at
1571 the Hearing on Appeal so that a verbatim record may be taken of the Hearing on Appeal.

1572

1573 **Part D: Proceedings at Hearings on Appeal**

1574 **Section 1. Individuals Present at Hearing on Appeal**

1575 The Professional Practice Appeal Board for an appeal shall have the right to have legal counsel for
1576 the Appraisal Institute present at each Hearing on Appeal for the protection of both the Appellant and
1577 the Appraisal Institute. Both the Appellant and the Investigator(s) shall have the right to be present at
1578 the Hearing on Appeal and to be represented by legal counsel as provided in this Regulation.

1579

1580 **Section 2. Procedure at the Hearing of Appeal**

1581 The Chair of the Professional Practice Appeal Board for an appeal shall preside at the Hearing on
1582 Appeal. In the event of the absence or inability of the Chair of the Professional Practice Appeal Board
1583 to preside, the remaining members of the Professional Practice Appeal Board shall select one of the
1584 members to act as Chair of the Professional Practice Appeal Board.

1585

1586 The order of proceedings shall be as follows:

1587

- 1588 1. The Appellant shall have the opportunity to address the Professional Practice Appeal Board and
1589 present oral arguments relating to the matters raised in the Appeal Brief, the Reply Brief, and the
1590 Answer to the Reply Brief. If the Appellant has given timely notice of his or her intention to be
1591 represented by legal counsel, such oral arguments may be made, in whole or in part, through
1592 legal counsel.
- 1593
- 1594 2. The Investigator(s) shall have an opportunity to answer the oral argument of the Appellant and to
1595 present oral arguments in support of the matters raised in the Reply Brief of the Investigator.
1596 These arguments may be presented through legal counsel if the retention of legal counsel for the
1597 Investigator(s) had been authorized under the provisions of this Regulation.
- 1598
- 1599 3. The Appellant (or, if authorized, legal counsel for such Member) shall have the opportunity to
1600 reply to the oral arguments of the Investigator(s).

1601

1602 Subject to the general control of the Chair of the Professional Practice Appeal Board, any member of
1603 the Professional Practice Appeal Board may at any time ask questions of the Investigator(s), legal
1604 counsel for the Investigator(s) (if any), the Appellant, and legal counsel for the Appellant (if any). The
1605 length of time permitted for the oral arguments described above shall be determined by the Chair of
1606 the Professional Practice Appeal Board, provided, however, that not less than thirty (30) minutes shall
1607 be allowed for (1) above, not less than thirty (30) minutes shall be allowed for (2) above, and not less
1608 than five (5) minutes shall be allowed for (3) above.

1609

1610 **Section 3. Adjournment to Executive Session**

1611 Upon completion of a Hearing on Appeal, the Professional Practice Appeal Board shall, in Executive
1612 Session, discuss the matters raised by the Appeal Brief, the Reply Brief, the Answer to the Reply
1613 Brief and oral arguments. At the discretion of the Chair of the Professional Practice Appeal Board, the
1614 Executive Session may be adjourned and reconvened from time to time.

1615
1616 In Executive Session, the Professional Practice Appeal Board shall first determine whether it should
1617 affirm the determination of the Hearing Committee that the greater weight of the evidence establishes
1618 that the Appellant violated the Appraisal Institute Code of Professional Ethics. If the Professional
1619 Practice Appeal Board affirms any such determination, then the Professional Practice Appeal Board
1620 shall determine the appropriate disciplinary action to be taken.

1621
1622 **Part E: Procedure Following Hearing on Appeal from Hearing Committee**
1623 **Decisions**

1624 **Section 1. Required and Permitted Actions of an Professional Practice Appeal Board**

1625 A Professional Practice Appeal Board shall take one of the following actions with respect to the
1626 Hearing Committee Decision:

- 1627
- 1628 a. affirm the determination of the Hearing Committee that the Appellant violated the Appraisal
1629 Institute Code of Professional Ethics and approve the recommendation of the Hearing Committee
1630 as to the appropriate disciplinary action to be taken;
 - 1631
 - 1632 b. affirm the determination of the Hearing Committee that the Appellant violated the Appraisal
1633 Institute Code of Professional Ethics but reduce the disciplinary action recommended by the
1634 Hearing Committee;
 - 1635
 - 1636 c. reverse the Hearing Committee Decision and close the case; or
 - 1637
 - 1638 d. remand the matter to the Hearing Committee for a new Hearing with such instructions as the
1639 Professional Practice Appeal Board deems appropriate.

1640
1641 If a Professional Practice Appeal Board takes action under (a) or (b) above, and if the disciplinary
1642 action to be taken is not Suspension or Expulsion, such Professional Practice Appeal Board may, if it
1643 deems such action to be appropriate, determine that the Member shall be offered an opportunity to
1644 accept a specified Educational Alternative to be completed within a fixed period of time in lieu of the
1645 specified disciplinary action. If so, the Decision of such Professional Practice Appeal Board shall
1646 specify the Educational Alternative which must be completed by the Member and the period of time
1647 within which the Educational Alternative must be completed. For any Appraisal Institute course that
1648 has an examination, such Professional Practice Appeal Board must require that the examination be
1649 taken and passed.
1650

1651 If an Professional Practice Appeal Board takes action under (a) or (b) above and decides not to offer
1652 the Member an Educational Alternative, the Decision of the Professional Practice Appeal Board shall
1653 contain an order making such disciplinary action a part of the record of the Member. A similar order
1654 shall become effective if the Member declines to accept or fails to complete an Educational
1655 Alternative.

1656
1657 If the disciplinary action to be taken is Expulsion, Suspension or Censure, such disciplinary action
1658 shall be published in both print and electronic media and the Member's Chapter shall be notified of
1659 the disciplinary action.

1660
1661 If a Professional Practice Appeal Board takes an action described in items (a), (b), (c), or (d) above,
1662 the action of the Professional Practice Appeal Board shall be final and the Decision of the
1663 Professional Practice Appeal Board shall be reduced to writing. A copy of the Decision of the
1664 Professional Practice Appeal Board shall be delivered to the Member, the Investigator(s), and the
1665 Professional Practice Department.

1666
1667 If the Decision of a Professional Practice Appeal Board orders Expulsion or Suspension, a copy of the
1668 transmittal letter advising the Member of such Decision and of the order to immediately transmit his or
1669 her indicia of membership to the Appraisal Institute shall also be delivered to the Professional
1670 Practice Department.

1671

1672 **Section 2. Procedure to be Followed if a Disciplinary Action is to be Taken and an Educational**
1673 **Alternative is Not Offered**

1674 If a Professional Practice Appeal Board decides not to offer an Educational Alternative in lieu of a
1675 disciplinary action, the disciplinary action shall be posted to the record of the Member and the file
1676 shall be closed.

1677

1678 **Section 3. Procedure to be Followed if a Disciplinary Action is to be Taken and an Educational**
1679 **Alternative is Offered**

1680 If a Professional Practice Appeal Board decides to offer an Educational Alternative in lieu of
1681 admonishment, reprimand, or Censure, the Member shall be notified that, unless he or she accepts
1682 the Educational Alternative by a notice in writing to the Professional Practice Department, sent within
1683 thirty (30) days after the Decision was issued, the stated disciplinary action will become effective and
1684 will be made a part of the record of the Member.

1685

1686 If the Member fails to accept the Educational Alternative within the thirty (30) day period allowed for
1687 such acceptance, the admonishment, reprimand, or Censure shall become effective and shall be
1688 posted to the record of the Member. If the Member accepts the Educational Alternative, the file shall
1689 be placed in suspense and shall be reviewed by the Professional Practice Department following the
1690 expiration of the time period in which the Educational Alternative was to have been completed. If the
1691 Professional Practice Department finds that the Member failed to complete the Educational
1692 Alternative, the specified disciplinary action shall become effective and shall be posted to the record

1693 of the Member. If the Professional Practice Department finds that the Member completed the
1694 specified Educational Alternative in lieu of admonishment or reprimand within the allowed time period,
1695 this fact shall be recorded in the file and the disciplinary action shall not become effective and shall
1696 not be posted to the record of the Member. If the Professional Practice Department finds that the
1697 Member completed the specified Educational Alternative in lieu of Censure, the disciplinary action
1698 shall be reduced to admonishment, which shall be recorded in the file along with the fact that the
1699 Member successfully completed the Educational Alternative.

1700

1701 **Section 4. Procedure to be Followed if an Professional Practice Appeal Board Reverses the**
1702 **Hearing Committee Decision and Dismisses the Case**

1703 If a Professional Practice Appeal Board reverses the Hearing Committee Decision and dismisses the
1704 case file shall be closed.

1705

1706 **Section 5. Procedure to be Followed if an Professional Practice Appeal Board Remands the**
1707 **Matter to the Hearing Committee**

1708 Upon receipt of the Decision of a Professional Practice Appeal Board that remands the matter to the
1709 Hearing Committee, the Chair of the Hearing Committee shall schedule a new Hearing in accordance
1710 with the requirements of this Regulation and such new Hearing shall be conducted in accordance with
1711 the instructions of the Professional Practice Appeal Board. Subsequent proceedings shall be
1712 conducted in accordance with the procedural rules set forth in this Regulation; however, in no event
1713 shall the disciplinary action, if any, recommended by the Hearing Committee upon completion of the
1714 new Hearing be more severe than the disciplinary action recommended by the Hearing Committee
1715 upon completion of the first Hearing.

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1718 11/15/11