

Appraisal Subcommittee Advisory Committee for Development of Regulations

Committee Recommendations to the
Appraisal Subcommittee (ASC)

Table of Contents

Introduction.....	3
List of Committee Members	4
Overview of Recommendations.....	5
Temporary Practice	5
National Registries.....	6
Information Sharing	7
Enforcement.....	8
Discussion of Recommendations.....	9
Temporary Practice: Policy Statement 2.....	9
National Registries: Policy Statement 3	11
Information Sharing.....	13
Enforcement: Policy Statement 7.....	14
Appendix.....	15
Section 1: Proposed Content for Appraisers on the ASC National Registry	16
Section 2: Proposed Content for Appraisal Management Companies on the ASC National Registry	17
Section 3: Proposed Content for Each State Regulatory Agency on the ASC National Registry	18
Section 4: Proposed Sanctions for Enforcement of ASC Regulations	21
Section 5: Advisory Committee Documents.....	25

Introduction

Process

4 2-day Meetings in Washington, DC

Full participation by ASCAC members and open to the public

Committee Chair presentation at October AARO conference

Must codify ASC Policy Statements into Code of Federal Regulations

If implemented, some recommendations may require significant expenditures by the ASC.

List of Committee Members

Chair:

Roberta Ouellette, Raleigh, North Carolina

Representing

Government Agencies

Vice Chair:

Frank Gregoire, St. Petersburg, FL

Real Estate Agents

Members:

Richard Borges II, Greenwood, IN

Appraisers

Toni Bright, Des Moines, IA

Government Agencies

Maria Brown, Boise, ID

Government Agencies

Thomas Callahan, Dorchester, MA

Consumer Advocates

George Demopoulos, N. Providence, RI

Appraisal Management Companies

Blake Feik, Thornton, CO

Lenders

Wayne Hood, Oak Ridge, TN

Lenders

Alan Hummel, St. Paul, MN

Appraisers

Katherine Kelton, Long Beach, CA

Lenders

Louise Lavertu, Concord, NH

Government Agencies

Jim Martin, Sacramento, CA

Government Agencies

Christine McEntire, Oklahoma City, OK

Government Agencies

LeeAnn Moss, Bloomington, IL

Appraisers

Van Stewart, San Antonio, TX

Lenders

Tony Pistilli, N. Richmond Hill, TX

Appraisal Management Companies

Juana Watkins, Orlando, FL

Government Agencies

Overview of Recommendations

Temporary Practice

Recommendation 1: Until all information on the National Registry is updated in a more timely fashion, the Committee recommends making no changes regarding the “letter of good standing” for a temporary practice permit. Once all States report such data weekly, the Committee recommends finding the use of a letter of good standing as burdensome.

Recommendation 2: Given the importance of criminal background screening, the Committee recommends that no action be taken regarding the requirement by some States of a criminal background check on an applicant for temporary practice.

Recommendation 3: Currently it appears on the National Registry as if the disciplinary action on a temporary practice permit was taken in the applicant’s home State, not the actual State that took disciplinary action. The National Registry should reflect the State that took disciplinary action against the appraiser and the details of the action.

National Registries

Recommendation 1: Absent uniformity across the States, the National Registry should not include trainees, either on a voluntary or mandatory basis.

Recommendation 2: Each appraiser credentialed on the National Registry should have one unique identifier that will be used by each State in which the appraiser is credentialed.

Recommendation 3: All historical disciplinary actions should be maintained for public viewing on each appraiser's screen.

Recommendation 4: The National Registry notes only if an appraiser is active or inactive in a State. If an appraiser is inactive, the Registry should contain a drop down list for the reason the person is inactive, i.e., retired, deceased, license suspension/revocation.

Recommendation 5: Additional content should be added to information currently available on the National Registry for each appraiser. See Section 1 of the Appendix.

Recommendation 6: Appraiser data and information regarding disciplinary actions should be submitted to the ASC as soon as practical and at least weekly.

Recommendation 7: Content for the National Registry of Appraisal Management Companies (AMCs) should include detailed information as set forth in Section 2 of the Appendix.

Information Sharing

Recommendation 1: The ASC website must be significantly enhanced to include much more information on each State appraiser regulatory agency. This data must include information regarding appraisal management companies.

Recommendation 2: There should be more information available about each appraiser on the National Registry. See Section 1 in the Appendix.

Recommendation 3: The ASC should develop an electronic database of all State laws and rules, as well as a digest of all appraiser disciplinary actions.

Enforcement

Recommendation 1:

Discussion of Recommendations Temporary Practice: ASC Policy

Statement 2 Temporary practice is addressed in ASC Policy Statement 2. For the most part, the requirements in the Statement are effective and should be codified into the Code of Federal Regulations. The following recommendations should be considered before they are codified.

I. Most State regulatory agencies utilize the National Registry to verify credential status on applicants for temporary practice. In order to be a reliable source of information, the National Registry must be robust and updated in a timely fashion. *See the recommendations under the Temporary Practice section of this document.*

Since the information on the National Registry is not updated daily for most States, some States require a letter of good standing to issue a temporary practice permit (TPP). These States may not consider an application for a TPP to be “complete” until the letter is received. ASC Policy Statement 2 states that “Home State agencies may not delay the issuance of a written “letter of good standing” for more than five business days after the receipt of a request.” Even so, an applicant for a TPP may have to wait several days before a TPP is issued. Until all information on the National Registry is updated in a more timely fashion, the Committee recommends making no changes regarding the “letter of good standing” for a temporary practice permit. Once all States are uploading data at least weekly, the Committee recommends finding the requirement for a letter of good standing to be burdensome.

II. Some State agencies require a criminal background check as part of a temporary practice application. These States may not consider an application for a TPP to be “complete” until the background check is received. States that do require a background check report that they can usually obtain one within a day or two of the request. If a State knows that it will take several days to obtain such a check, either an applicant may have to wait an extended period of time to receive a TPP, or the State will issue the TPP before the results are back. In that case, if the check indicates a criminal history that calls into question whether the application should have been granted, the State will hold the results of the check and may refuse to issue a TPP in the future if the applicant files another application for a TPP at a later date.

The Appraiser Qualifications Board of The Appraisal Foundation has recognized the importance of criminal background checks for appraisers, as have lenders and appraisal management companies. As of January 1, 2017, all applicants for an appraiser credential will be required to have a State and national criminal history check. There is no requirement that existing credential holders must undergo this screening. As a result, it will be many years before all credentialed appraisers will have undergone a criminal history check.

Given the importance of such screening, the Committee recommends that no action be taken regarding the requirement of a criminal background check on an applicant for temporary practice.

III. Some States have taken disciplinary action against appraisers working in their State under a temporary practice permit. When the States report this to the ASC pursuant to Policy Statement 3 (requiring State agencies to report as soon as practicable any disciplinary action taken against an appraiser to the ASC), the manner in which it appears on the National Registry is somewhat misleading. Currently it appears as if the disciplinary action were taken in the applicant’s home

State, not the actual State that took disciplinary action. The Committee recommends that the appraiser information on the National Registry reflect the State that took disciplinary action.

National Registries: ASC Policy Statement 3

The National Registry is addressed in ASC Policy Statement 3. For the most part, the requirements in Statement 3 are effective and should be codified into the Code of Federal Regulations. The following recommendations should be considered before they are codified.

The National Registry of real estate appraisers is relied upon by appraisers, government agencies, lenders, appraisal management companies, consumers, and others. In order to be a reliable source of information, the National Registry must be robust and updated in a timely fashion.

Recommendations:

- I. Registered trainees are currently not allowed to join the National Registry. Many States have a formal trainee registration program and issue a trainee credential. These States that do, generally follow the Appraiser Qualifications Board's Trainee Real Property Appraiser criteria, which requires 75 hours of qualifying education as outlined in the Core Curriculum. Some require additional education, and some test trainees. Some States do not have any program and allow an unlicensed person to work under the supervision of a certified real estate appraiser, often before the unlicensed person has taken any appraiser qualifying education. The ASC does not have the authority under Title XI to require States to have a formal trainee registration program. Absent uniformity across the States, the Committee does not recommend that the National Registry include trainees, either on a voluntary or mandatory basis.
- II. Each appraiser credentialed on the National Registry should have one unique identifier. The ASC has already begun work on this project.
- III. Currently, the only information available to the public regarding an appraiser's disciplinary action is whether the appraiser is currently unable to appraise. All historical disciplinary actions should be maintained for public viewing on each appraiser's screen. This will allow consumers of appraiser services to determine if an appraiser was able to practice during a specific period of time.
- IV. Currently, the National Registry notes only if an appraiser is active or inactive in a State. There is no provision for noting if an appraiser is deceased, is working in an environment that does not require appraisals for federally related transactions, or has simply failed to renew a credential. If an appraiser is inactive, the data screen should have a drop down list for the reason the person is inactive. If it is not feasible to obtain all of this information, at the very least, the data screen should note if the appraiser is deceased. This would forestall the use of the appraiser's credentials by another person.
- V. Data on appraisers on the National Registry is sparse and confusing. States rely on the information in the National Registry in order to grant TPPs as well as reciprocal licenses. Lenders and appraisal management companies rely on the National Registry as part of their due diligence for determining that an appraiser is properly credentialed. The amount of data currently available is minimal, and should be increased. The data screen for each appraiser should be maintained in a list format. The list should contain:

- The unique identifier.
- Date, type of credential held and current status for each State in which the appraiser has been or is credentialed. Each State listed on the screen should have a hot link to the State web site or the page in the information sharing area of the ASC web site. *See Information Sharing Section below.*
- Name and State of all trainees supervised by the appraiser.
- All disciplinary action taken by any State, either in summary form, a hot link to a contact person for that State, or a linked copy of the actual order. *See Section 5 below.*

VI. Pursuant to current ASC Policy Statement 3, States must submit appraiser data at least monthly to the ASC. Given the increasing reliance on the National Registry, this is not acceptable. States are now required to transmit appraiser data via the extranet application. Appraiser data and information regarding disciplinary actions to the ASC should be submitted as soon as practical and at least weekly. If a State does not submit data via the extranet application, ASC technical staff should contact them to ascertain the reason why this is not done. If it is a funding issue, the ASC should consider a grant to the State to pay for installation of the software and other related costs. Having all States use the extranet application will result in the timely transmission of data in a consistent fashion.

VII. The ASC will be responsible for maintaining a national registry of appraisal management companies (AMCs). The Registry should contain the following information on each AMC:

- A unique identifier for each AMC.
- Date issued and current status for each State in which the AMC has been or is registered, with a hot link to the State web site or the page in the information sharing area of the ASC web site. *See Information Sharing Section below.*
- Name, mailing address, telephone number and email address of the contact person supplied by the AMC.
- Name, address and contact information for any individual or business entity that owns ten percent (10%) or more of the AMC.
- All disciplinary action taken by any State, either in summary form or a linked copy of the actual order. *See Information Sharing Section below.*

Information Sharing

Suggestions for Information Sharing on ASC Website

1. Recommendations in 3 areas
2. 1st area - website
3. Second area – National Registry

Add daily email for AMCs as well as appraisers

4. Third area –
 - A. Have a “button” for State Regulatory information that includes the information in the appendix
 - B. Note on the ASC home page any States that are rated as “poor” or “not in compliance”
 - C. Include all States and Territories
 - D. Use hot links
 - E. Keep information updated. Use ASC Policy Managers as primary source of information

Enforcement: ASC Policy Statement 7

Enforcement is addressed in Policy Statement 7. Historically, the most often noted deficiency in a Compliance Review has been a State agency's timeliness and effectiveness in its enforcement program. Often the basis for the issues with a State's enforcement program is a lack of resources.

In order to be effective, an enforcement program should be timely, consistent, and well-documented. The current Policy Statement is generally adequate to address State enforcement programs, although it could use some further development.

Policy Statement 7 requires States to process complaints against appraisers within one year of the date the complaint is filed, absent special documented circumstances. Compliance with this requirement is difficult for many States. One area of confusion may be the "complaint filing date." This term should be strictly defined as the date the original complaint is received in the State agency office.

The ASC recently amended Policy Statement 7 to provide more detail regarding Special Documented Circumstances. Essentially, if processing a complaint is beyond the control of the State regulatory agency and the agency can document that fact, the State agency is in compliance with Policy Statement 7.

It would be helpful to add more examples of Special Documented Circumstances, as States often are not clear on what exceptions exist. For example, Policy Statement 7 describes one such circumstance as "those periods when State rules require referral of a complaint to another State entity for review and the State agency is precluded from further processing of the complaint until it is returned." This should be clarified to mean a period of time when a case is sent to a separate State agency; for example, to the attorney general's office for prosecution or to an administrative law judge for hearing.

In 2009, the Appraisal Foundation Board of Trustees established the Consistent Enforcement Task Force. The Task Force developed a Voluntary Disciplinary Action Matrix Document that suggests various types and levels of sanctions against appraisers for violations of USPAP. The Matrix has been updated with each edition of USPAP. It is a useful tool for State agencies and its use should be encouraged.

Appendix

Section 1: Proposed Content for Appraisers on the ASC National Registry

Current fields:

Licensing State
State License Number
National Registry Number (unique identifier)
First Name
Middle Name
Last Name
Name Suffix
Company Name
Street address
City
State
Zip
County
Company Name
Telephone Number
Effective Date of License
Expiration Date of License
License Type
Status
Confirms to AQB Criteria
Disciplinary Action Type
Disciplinary Action Effective Date
Disciplinary Action Ending Date

Proposed Additional Fields:

Link to disciplinary action (hot link to contact person or state disciplinary action website)
Maintain appraiser license history, including historical disciplinary actions
Temporary Practice disciplinary actions
Name and States of all trainees supervised by the appraiser

Section 2: Proposed Content for Appraisal Management Companies on the ASC National Registry

Name

Unique identifier

Mailing address

Physical address

Website

General email

Contact name (AMC to determine)

Contact's title

Contact's email

List of all States in which AMC is or has been registered

State contact information and hot link for each State in which AMC is registered

Bond required for States?

Amount of bond

Status for each registration held

Effective date of each registration

Expiration date of each registration

Disciplinary actions

Section 3: Proposed Content for Each State Regulatory Agency on the ASC National Registry

Contact Information:

Name
Mailing address
Physical address
Website
Phone number
Fax Number
General email
General contact name
Contact's email
Link to forms
Newsletter?
How often?
Contact to get on mailing list:
Social media page

National Registry:

Law type (mandatory/voluntary/mandatory for FRTs)
All appraisers in state on National Registry?
Fee for National Registry
Use Simple Object Access Protocol (SOAP)?
Frequency of update

Laws and Rules:

Link to law
Link to rules
Link to proposed rules
Link to proposed law changes
Link to contact person in agency for law/rule changes
Contact to get on mailing list:

Renewals and Continuing Education:

Frequency of renewal
Fees
Letter of good standing required?
Continuing education cycle
Additional state education requirements

Fees:

Appraiser application
Appraiser renewal
Reciprocal application
Temporary Practice
Letter of good standing
Duplicate license
Other

AMC application
AMC renewal
Letter of good standing
Other

Temporary practice:

Link to form on website
How many assignments per year?
Time limit on TPP?
Extensions granted?
Period of extension
Use Federal Registry or requires Letter of Good Standing?
Need TPP for review (yes/if come to state/if give value)?
Additional requirements

Reciprocity:

Link to form on website
Other requirements
Require reciprocity agreement with applicant's state?
Continuing education (proof/affidavit/Letter of Good Standing)
Residency requirement?
Other requirements

Qualifying Education Courses:

Contact name
Contact email
Link to application form
Require State approval?
Accept courses taken in another state?
Accept AQB approved courses without in-state approval?
Approval cycle
Course approval/renewal fees
Instructor approval fees

Other fees

Appraisal Management Companies:

Have registration/regulation program?

Effective date

Link to law

Link to rules

Link to forms

Bond required:

Other requirements:

Complaints:

Link to appraiser complaint form

Link to AMC complaint form

Provide disciplinary action on website? (link)

Statute of limitations on complaints

Other:

Residency requirements?

Have formal trainee registration?

Compliance Review standing

Section 4: Proposed Sanctions for Enforcement of ASC Regulations

To be added

Definitions

Warning: A letter that informs the state that its program is not conducting its business in compliance with Title XI and ASC Policy Statements.

Training for Board members: Requiring all sitting Board members to attend a workshop regarding a specific topic, usually the role of a State appraiser regulatory agency. May also include training in another topic such as USPAP.

Training for staff: Requiring some or all Board staff to attend a workshop regarding a specific topic, such as investigator training or USPAP.

Consultation with State authorities: ASC staff and possibly agency members contacting State officials such as the Governor's office or State legislative members. Contact may be in writing or in person.

Meeting with affected parties: ASC staff and possibly State agency members contacting parties such as State Banking Commissions and real estate broker/appraiser trade organizations.

Require state use of Voluntary Disciplinary Sanction Matrix: Requiring the state to use the Matrix in determining sanctions for enforcement of appraiser complaints.

Expedited review: Scheduling a compliance review or follow up before the usual two year period. May be electronic.

Continuous monitoring: Requiring reports on required or agreed upon corrective actions on a monthly or quarterly basis monthly. Additional monitoring may include on-site monitoring as well as off-site monitoring.

Interim suspension of credential: May be an individual credential or a group of credentials.

Revocation of credential: May be in individual credential or a group of credentials.

Interim derecognition: Derecognizing some or all of credentials issued by the state.

- No new credentials issued
- No upgrades issued to specific credential
- No temporary practice permits issued

Derecognition: Removal of credentials issued by a state from the National Registry, and not accepting any new credentials from that state. As a result, there would be no appraisals of property within that state that could be used for federally related transactions.

Aggravating and Mitigating Circumstances

AGGRAVATING CIRCUMSTANCES

An aggravating factor is any information or evidence regarding the deficiency that might result in an increased sanction. Aggravating circumstances include:

- Prior deficiencies of another type that have not been corrected
- Prior deficiencies of the same type
- Refusal to acknowledge the deficiency
- Lack of cooperation with the ASC staff
- A lack of willingness or ability to correct deficiencies
- Deficiencies are material and, if not corrected in a timely manner, will pose a potential risk to the program
- Submission of false statements or documents, or other deceptive practices
- Risk of program failure

MITIGATING CIRCUMSTANCES

A mitigating factor is any information or evidence regarding the deficiency that might result in a decreased sanction. Mitigating circumstances include:

- No prior deficiencies of any type
- Prior deficiencies of another type that were minor and have been corrected
- Understanding and acknowledgement of deficiency
- Immediate steps taken to correct the issue
- Personnel issues such as illness of a key staff member
- State has an efficient regulatory program

Sanctions Matrix

Section 5: Advisory Committee Documents

1. Advisory Committee Charter
2. Balanced Membership Plan
3. By-Laws and Operating Procedures
4. Title XI of FIRREA, as amended by the Dodd-Frank Act
5. ASC Policy Statements