



STATE OF MAINE  
DEPARTMENT OF PROFESSIONAL  
AND FINANCIAL REGULATION  
BOARD OF REAL ESTATE APPRAISERS  
35 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0035

Janet T. Mills  
Governor

Anne L. Head  
Commissioner

**Public Board Meeting  
Tuesday, August 1, 2023  
AGENDA**

**Location:** 221 State Street  
Augusta, ME 04330

**Room:** Central Conference Room

**Time:** 9:00 a.m.

**Contact:** Jen Maddox – (207) 624-8522  
[jen.maddox@maine.gov](mailto:jen.maddox@maine.gov)

**Option for Virtual Attendance by the Public:**

In addition, though not required by law, this meeting is being made virtually available using the Zoom platform to members of the public who do not attend in-person. A link for the public to access the Board of Real Estate Appraisers meeting virtually will be posted on the Real Estate Appraisers Board website at:

<https://www.maine.gov/pfr/professionallicensing/professions/board-real-estate-appraisers/home/board-meeting-information>

The Board of Real Estate Appraisers expects that members of the public who attend the meeting virtually will be able to provide public comment to the same extent as members of the public who attend in-person.

**I. CALL TO ORDER**

**II. AGENDA MODIFICATIONS**

**III. MINUTES REVIEW AND APPROVAL**

Review and approval of June 6, 2023 Minutes

**IV. COMPLAINT PRESENTATIONS**

2023-REA-18884  
2023-REA-18945  
2023-REA-19116

**V. ADMINISTRATOR'S REPORT**

1. [ASC Annual Report](#) (link provided – no attachment)
2. AQB and ASC Updates
3. Scope of License Communications
4. Hybrid Appraisal Question
5. Application Issue
6. Licensing Process Memo

FAX: (207)624-8637

PRINTED ON RECYCLED PAPER  
TTY users call Maine Relay 711

PHONE: (207)624-8522

[www.maine.gov/professionallicensing](http://www.maine.gov/professionallicensing)

OFFICES LOCATED AT:

[Jen.Maddox@maine.gov](mailto:Jen.Maddox@maine.gov)

221 STATE STREET, AUGUSTA, ME 04330

Page 1 of 129

## **VI. PUBLIC COMMENT**

*Under this item, the Board will offer an opportunity to members of the public in attendance to comment on any public matter under the jurisdiction of the Board, except for any open application or complaint. While the Board cannot take action on any issues presented, the Board will listen to comments and may ask staff to place the issue on a subsequent agenda. At the discretion of the Board Chair, a time limit on comments may be set.*

## **VII. MEETING SCHEDULE**

Next meeting scheduled for September 5, 2023

## **VIII. ADJOURNMENT**

DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION  
OFFICE OF PROFESSIONAL AND OCCUPATIONAL REGULATION  
221 State Street, Augusta, Maine

MAINE BOARD OF REAL ESTATE APPRAISERS  
*VIRTUAL BOARD MEETING*  
June 6, 2023  
MINUTES

| <b><u>MEMBERS PRESENT</u></b>   | <b><u>STAFF PRESENT</u></b>              |
|---------------------------------|--|
| Wendy Boston, Chair             | Cathy Pendergast, Administrator          |
| Nathan Shipley, Vice-Chair      | Andrew Black, Assistant Attorney General |
| Alan Johnson, Complaint Officer | John Belisle, Assistant Attorney General |
| Russell Barrows                 | Regina Ritchie, Licensing Supervisor     |
| Jacques Weinstein               | Shara Chesley, Office Specialist I       |
|                                 | Jen Maddox, Office Specialist I          |
| <b><u>MEMBERS ABSENT</u></b>    | <b><u>OTHERS PRESENT</u></b>             |
| <u>None</u>                     | <u>None</u>                              |

**Location:** 90 Blossom Lane, Augusta, ME      **Start:** 9:02 a.m.      **Adjourn:** 11:18 a.m.

**I. CALL TO ORDER**

The meeting was called to order by the Chair at 9:02 a.m.

**II. AGENDA MODIFICATIONS**

A motion was made by Weinstein and seconded by Barrows to add an email from the Appraisal Institute to the agenda. Unanimous.

**III. MINUTES REVIEW AND APPROVAL**

A motion was made by Weinstein and seconded by Shipley to approve the May 2, 2023 minutes as presented. Unanimous.

**IV. PRESENTATION OF JOINT STATEMENT TO THE BOARD**

2022-REA-18721

A motion was made by Barrows and seconded by Shipley to deny the proposed Joint Statement resolution. Boston, Barrows, Shipley and Weinstein voted affirmative. Johnson abstained. Motion carried.

**V. COMPLAINT PRESENTATIONS**

2022-REA-18599 –A motion was made by Barrows and seconded by Shipley to offer a consent agreement for violation of 32 M.R.S. §§ 14014-A for lack of diligence and competency to conduct real estate appraisal activity in a manner that safeguards the public; USPAP Standards 1-1(c), 1-2(e)(i), 1-3(a)(i), 1-6, 2-1(a) and (b) and the Record Keeping Rule. Sanctions include a reprimand, one year suspension and \$3,000 civil penalty. Boston, Barrows, Shipley and Weinstein voted affirmative. Johnson abstained. Motion carried.

2022-REA-18737 –A motion was made by Barrows and seconded by Shipley to table the complaint. Boston, Barrows, Shipley and Weinstein voted affirmative. Johnson abstained. Motion carried.

2023-REA-18884 –A motion was made by Weinstein and seconded by Shipley to table the complaint. Boston, Barrows, Shipley and Weinstein voted affirmative. Johnson abstained. Motion carried.

**VI. CONSENT AGREEMENT**

2022-REA-18386 – A motion was made by Weinstein and seconded by Johnson to allow Board chair to approve treatment plan. Boston, Barrows, Shipley and Weinstein voted affirmative. Johnson abstained. Motion carried.

## **VII. LETTERS OF GUIDANCE FOR REVIEW**

2022-REA-18700 – A motion was made by Barrows and seconded by Shipley to accept the Letter of Guidance. Boston, Barrows, Shipley and Weinstein voted affirmative. Johnson abstained. Motion carried.

2022-REA-18719 – A motion was made by Barrows and seconded by Shipley to accept the Letter of Guidance. Boston, Barrows, Shipley and Weinstein voted affirmative. Johnson abstained. Motion carried.

2022-REA-18752 – A motion was made by Barrows and seconded by Shipley to accept the Letter of Guidance. Boston, Barrows, Shipley and Weinstein voted affirmative. Johnson abstained. Motion carried.

2022-REA-18814 – A motion was made by Barrows and seconded by Shipley to accept the Letter of Guidance. Boston, Barrows, Shipley and Weinstein voted affirmative. Johnson abstained. Motion carried.

## **VIII. ADMINISTRATORS REPORT**

1. Trainee Real Property Appraiser – Application Issue: The Administrator discussed with the board an application issue. A motion was made by Johnson and seconded by Barrows to direct staff to proceed with licensing applicant. Unanimous
2. Review Work Experience Question - The Board discussed appraiser trainees gaining experience through review work.

## **IX. PUBLIC COMMENT**

In-Person, member of the public offered comment on exemptions from USPAP. Topic will be added to the next meeting agenda.

## **X. MEETING SCHEDULE**

The next meeting is currently scheduled for Tuesday, August 1, 2023.

## **XI. ADJOURN**

A motion was made by Weinstein and seconded by Barrows to adjourn the meeting. Unanimous.

Being no further board business, the meeting was adjourned at 11:18 a.m.



## Pendergast, Catherine

---

**From:** Neal Fenochietti <neal@asc.gov>  
**Sent:** Monday, June 26, 2023 10:24 AM  
**To:** KOCH Chad ACLB; Kelly Luteijn; Craig Coffee; Pendergast, Catherine; Shelley N. Choy; Peterson, Sharon; don; Dillon, Loretta@BREA; Bratsch, Peter (COMM); khennesy@pa.gov; Nick Barker  
**Subject:** FW: AQB and ASB Updates  
**Attachments:** Second Exposure Draft of Proposed Changes to the Criteria\_FINAL.pdf; 2024 Summary of Actions - Detailed Version - FINAL.pdf; 2024 Summary of Actions - Short Version - FINAL.pdf

**EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Dear States –

On June 22, 2023, the AQB approved the Second Exposure Draft of Proposed Changes to the Real Property Appraiser Qualification Criteria (attached). The revised Criteria will include requirements for appraisers to take a course on Valuation Bias and Fair Lending Laws and Regulations for both qualifying and continuing education purposes. Aspiring appraisers will be required to take a 7-hour (plus 1 hour exam) qualifying education course. Existing appraisers will be required to take a 4-hour course every 2 years as part of their continuing education requirements; although, the first time the course is taken for continuing education purposes, it must be the 7-hour course. The name of the 7-Hour National USPAP Update Course has been changed to 7-Hour National USPAP Continuing Education Course. Other changes are also included in the attachment. **The new Criteria will be effective January 1, 2026.**

The ASB also posted detailed and summarized overviews of the recent changes to USPAP that are **effective January 1, 2024** (both are attached.) The most significant changes to USPAP will be the Ethics Rule updates and the 2 new Advisory Opinions (39/40) on antidiscrimination.

Please take a look at what you will need to do in order to adopt these new requirements and let me know if you have any questions,

Neal Fenochietti,  
ASC Policy Manager

# Second Exposure Draft

Real Property Appraiser Qualifications Criteria

May 17, 2023

# Table of Contents

|   |           |
|---|-----------|
| <b>Join the Conversation.....</b>   | <b>3</b>  |
| Send Your Comments by June 17, 2023 .....   | 3         |
| <b>Introduction .....</b>   | <b>4</b>  |
| <b>Proposed Revision to Continuing Education (CE) Requirements .....</b>  | <b>13</b> |
| Rationale - Addition of Valuation Bias and Fair Housing Laws and Regulations<br>Education Requirements .....              | 13        |
| Name Change of 7-Hour National USPAP Update Course .....  | 15        |
| Name Change of 7-Hour Instructor Recertification Course (IRC).....  | 15        |
| Name Change of Valuation Bias, Fair Housing, and/or Equal Opportunity as an<br>Allowable Continuing Education Topic ..... | 16        |
| Location of Proposed Changes in current <i>Criteria</i> .....   | 16        |
| CRITERIA APPLICABLE TO ALL APPRAISER CLASSIFICATIONS.....   | 17        |
| III. Generic Education Criteria .....   | 17        |
| <b>Proposed Addition to Qualifying Education (QE) Requirements.....</b>   | <b>21</b> |
| Rationale.....  | 21        |
| Location of Proposed Changes in the current <i>Criteria</i> .....   | 21        |
| CRITERIA APPLICABLE TO ALL APPRAISER CLASSIFICATIONS.....   | 23        |
| III. Generic Education Criteria .....   | 23        |
| TRAINEE REAL PROPERTY APPRAISER.....  | 24        |
| III. Qualifying Education .....   | 24        |
| V. Training.....  | 24        |
| LICENSED RESIDENTIAL REAL PROPERTY APPRAISER.....   | 24        |
| II. Examination.....  | 24        |
| III. Qualifying Education .....   | 24        |
| CERTIFIED RESIDENTIAL REAL PROPERTY APPRAISER.....  | 25        |
| III. Qualifying Education .....   | 25        |
| CERTIFIED GENERAL REAL PROPERTY APPRAISER .....   | 25        |
| III. Qualifying Education .....   | 25        |
| REQUIRED CORE CURRICULUM .....  | 27        |
| <b>Proposed Valuation Bias and Fair Housing Laws and Regulations Course Outline<br/>.....</b>                             | <b>30</b> |

|  |           |
|--|-----------|
| Rationale.....   | 30        |
| VALUATION BIAS AND FAIR HOUSING LAWS AND REGULATIONS COURSE<br>OUTLINE ..... | 31        |
| <b>Proposed Change to Guide Note .....</b>                                   | <b>33</b> |
| Rationale - Addition of a Course Outline to GN-1 .....                       | 33        |
| AQB GUIDE NOTE 1 (GN-1) .....  | 34        |

# Join the Conversation

---

Appraisal Qualifications Board (AQB) Chair Brad Swinney, Vice Chair Jerry Yurek, and Appraisal Foundation (Foundation) Vice President of Appraisal Issues Lisa Desmarais will host a webinar to discuss this Exposure Draft on June 1, 2023, at 1:00 PM ET (11:00 AM PT). Register [here](#) to attend the webinar.

The AQB will also accept verbal comments at its virtual public meeting on June 22, 2023, at 1:00 PM ET. You may register [here](#).

All interested parties are encouraged to comment in writing to the AQB before the deadline of June 17, 2023. Each member of the AQB will thoroughly read and consider all comments.

## Send Your Comments by June 17, 2023

This exposure draft begins with rationale for the proposed changes to the *Real Property Appraiser Qualification Criteria* (*Criteria*). The rationale is identified as such and does not have line numbering. Where proposed changes to the *Criteria* are noted, the exposure draft contains line numbers. This difference is intended to distinguish those parts that explain the changes to the *Criteria* from the proposed changes themselves.

When commenting on various aspects of the exposure draft, it is very helpful to reference the line numbers, fully explain the reasons for concern or support, provide examples or illustrations, and suggest any alternatives or additional issues the AQB should consider.

Unless otherwise noted, where text is proposed to be deleted from the *Criteria*, that text is shown as strikethrough. For example: ~~This is strikethrough text proposed for deletion~~. Text that is proposed to be added to the *Criteria* is underlined. For example: This is text proposed for insertion.

To submit comments, please visit: <https://www.surveymonkey.com/r/AQBComments>

While for ease of processing, we prefer you use the SurveyMonkey for your comments, if you are unable to provide your comments via SurveyMonkey, you may also email [AQB@appraisalfoundation.org](mailto:AQB@appraisalfoundation.org).

All written comments will be posted for public viewing, exactly as submitted, on the Foundation's website. Names may be redacted upon request. The Foundation reserves the right not to post written comments that contain offensive or inappropriate statements.

# Introduction

---

## **Second Exposure Draft of Proposed Changes to the *Real Property Appraiser Qualification Criteria (Criteria)***

In the First Exposure Draft, the AQB proposed two changes to the *Criteria*:

1. Adding Qualifying Education (QE) and Continuing Education (CE) requirements for course work in valuation bias and fair housing laws and regulations.
2. Revising and updating the name of the current *7-Hour National USPAP Update Course*.

In this Second Exposure Draft, the AQB continues to propose these changes, however, based on feedback from stakeholders, the board is slightly modifying the proposed requirements. Before presenting the explanation of the changes and the rationale for each change, the AQB is providing summary rationale to address questions raised by stakeholders during the First Exposure Draft.

### **First Exposure Draft Questions and AQB Responses**

1. Why is the AQB proposing this now?

Every profession undergoes change which often stems from issues that arise in practice. Appraisal bias is an important issue that affects public trust. The AQB strongly feels that to reinforce and maintain public trust, it is necessary to ensure all appraisers know and understand their obligations under all applicable antidiscrimination laws. For this reason, the AQB is proposing all credentialed appraisers have focused education in valuation bias and fair housing laws and regulations.

2. Why is the AQB taking the approach of proposing requirements where **all** real property appraisers complete education on fair housing laws and regulations, regardless of the property type each individual appraiser may choose to focus on in their practice (residential, commercial, industrial, etc.)?

Regardless of the type of work an appraiser may choose to practice, a Licensed Residential, Certified Residential or Certified General credential qualifies that individual to complete appraisal assignments to which fair housing laws and regulations might apply (subject to also meeting the requirements of the COMPETENCY RULE in USPAP). Even if an appraiser chooses to never complete an assignment where a fair housing law or regulation applies, they must understand these laws because their

credential qualifies them to complete those assignments.

Additionally, because avoiding valuation bias is a key aspect of appraisal practice, the AQB believes specifically requiring focused education on this topic is imperative to ensure the public trust now and going forward.

While many appraisers have at least some education and training related to valuation bias and/or fair housing laws and regulations, this AQB proposed training consists of specific topics every appraiser must complete.

3. Can you provide an additional explanation on why the AQB is proposing to increase the number of required QE hours for some credential levels?

If the proposed requirement to take this new course is adopted, the QE requirements would increase minimally for two classifications. Of the four credential classifications (trainee, LR, CR, CG), only two (the trainee classification and LR classification) are proposed to have an increase of eight total hours each for their QE requirements.

Because the trainee classification and the LR classification have no elective hours required in their existing QE requirements, it was not possible to add additional requirements without increasing the total number of QE hours required for these classifications.

There is no proposed change in the total number of QE hours for the CR or CG classifications.

If these proposed changes are adopted, an individual seeking to be classified as a Trainee Appraiser would need to take a total of 83 QE hours (versus 75 hours in the current *Criteria*) and the LR would need to take a total of 158 QE hours (versus 150 hours in the current *Criteria*).

To clarify: these are actual hours, not semester hours. Thus, for example, if a student uses 40 hours a week as their measure, it will take just over two weeks to complete all their QE requirements. The increase in the number of hours is minimal in relation to the benefit of the student gaining important education in valuation bias and fair housing laws and regulations.

4. As an appraiser who is also a Realtor®, can I use the fair housing education I receive through the National Association of Realtors® to meet the AQB's proposed education requirements?

A Realtor®-centered fair housing course typically has different content than what is being proposed for appraiser education on this topic. If the course is approved in the state and meets the required content of the Valuation Bias and Fair Housing Laws and Regulations Outline, then the course will meet these proposed education requirements.

5. Has the AQB considered, instead of a stand-alone QE course in valuation bias and fair housing laws and regulations, that all of the QE courses be modified to include this topic throughout all existing materials in every appraisal course?

Yes, the AQB explored this option and concluded it was not the best course of action and created practical implementation challenges. These topics are better understood and taught in a course that is solely focused on these issues.

Additionally, it would be onerous for course providers to weave this topic into existing courses. Further, if the topic was interspersed throughout existing education, it would be challenging for course providers and appraisers to ensure adequate education on all necessary aspects of the topic, and challenging for regulators to track how every appraiser was trained on all required valuation bias and fair housing laws and regulations content.

6. Will the Foundation develop the bias and fair housing laws and regulations course?

No. Any education developer is free to develop a course and submit it through the AQB's Course Approval Program or to individual states for approval.

7. Why not just add this material to the USPAP courses?

USPAP contains the ethical standards and competency requirements for individual appraisers and the accompanying courses are designed to teach those standards and competency requirements. Antidiscrimination is one of many issues addressed within USPAP. With the recent adoption of changes to the ETHICS RULE in USPAP, future courses will address this



issue as one component of USPAP, and a focused fair housing course is necessary to ensure adequate training. A combined course (USPAP + fair housing + valuation bias) would not be able to present the level of detail needed for an appraiser to adequately understand this important subject while maintaining a sufficient focus on other areas of USPAP.

8. Instead of requiring more QE, can the AQB just increase enforcement of bias and fair housing and lending related issues?

No. While enforcement is a key factor in the success of any law or regulation, neither the AQB nor The Foundation are entities authorized to make, judge, or enforce law.

9. Did the AQB develop the course outline in consultation with experts? And can you tell me exactly who provided feedback to the AQB?

Yes. The outline was developed considering the direct advice received from fair housing experts, and legal professionals with expertise in fair housing laws and the production of education related materials.

Participants included representatives of fair housing advocacy groups, civil rights experts, federal agencies, education providers, appraiser membership organizations, and state regulatory agencies. Additionally, revisions have been made in the Second Exposure Draft based on comments on the First Exposure Draft received from such entities, including federal regulatory bodies.

To view one of the public forums held on this topic, [click here](#), and you will be directed to our YouTube recording of the AQB's *Forum to Explore Education Requirements: Fair Housing Laws and Valuation Bias Education* (Forum).

10. The course outline only teaches Federal fair housing laws, shouldn't the course also teach individual state laws?

The proposed course requirement reflects content that is relevant on a national level.

Federal law sets the minimum requirement for appraisers nationwide. It would not be possible for the Foundation to design training that includes material from all states and territories. However, appraisers are required by USPAP to comply with all applicable laws and regulations, including state and local antidiscrimination laws, and should seek training through state-level courses, state regulatory agencies, and other available resources.

Also, many states already require appraisers to take a state-approved course that specifically teaches laws relevant to the appraiser working in that state. The AQB could not develop a national standard that requires different content for the different states and territories.

Additionally, under USPAP, appraisers are responsible to comply with the COMPETENCY RULE and follow any applicable law or regulations, including those that only apply to a small jurisdiction where a subject property is located.

11. Should the outline contain the topics of “disparate impact” and “disparate treatment?”

In the first exposure draft, the AQB did not propose these two separate topics to be included in the outline, namely because they would be an implied sub-topic to be covered. However, to be clear to all education developers, the AQB is now adding those topics to the outline proposed in this draft.

12. Since the course will cover fair housing laws and regulations, which is a specialized topic, will the AQB have requirements for qualifying each course instructor?

There are only two instances where the AQB has instructor qualifications for QE or CE courses. In the first instance, the AQB trains, tests, and certifies instructors who teach courses on USPAP (which is the Foundation’s publication).

In the second instance, if an education developer submits a course to the AQB’s Course Approval Program (CAP), they are doing so knowing they will follow the CAP policies. CAP policies do have requirements relating to instructor qualifications.

However, education providers are not required to submit their courses to CAP for approval, because they may submit their courses directly to the state. States may choose to have instructor qualification requirements for any courses submitted to them.

13. The effective date proposed in the First Exposure Draft of January 1, 2025, does not allow sufficient time for states to add the requirement for this course. Can you extend that effective date?

Yes, with this exposure draft, if adopted, the new proposed effective date would be January 1, 2026. Both the Appraisal Subcommittee (ASC) and numerous individual states expressed concern that the proposed effective date for these changes was not far enough in the future to allow states sufficient time to enact required legislative changes.

14. The proposed course contains complex legal content that will require specific expertise. Will the AQB's CAP employ experts to review and approve the course material related to the laws and regulations?

Education providers are not required to submit their courses to CAP for approval. However, because expertise in fair housing laws and regulations is important, CAP policies are in the process of being discussed and updated. Right now, discussions center on the possibility of implementing a requirement that any material related to fair housing laws and regulations be reviewed and approved for legal accuracy before a course is submitted to CAP. If this type of policy is adopted, CAP will employ experts in the subject to assist in this determination and ample time will be given to education developers to understand how they will be required to demonstrate in a CAP submission that the legal content is correct.

We imagine any policy we develop can help state regulators as well. States that choose to review and approve these courses on their own can choose to follow a similar process.

As noted, these updated policies are still in development. We welcome your feedback on this issue.

15. Why is AQB proposing the four (4) hour course to have less coverage on the topics of "Understanding Real Estate Bias" and "Federal Fair Housing Laws"?

The intent is to allow for the seven (7) hour course to address core principles of the proposed content, and for the four (4) hour course to be practice-based, focusing more on examples, case studies and/or

emerging issues. This will ensure that appraisers receive a well-rounded education with some content required being base-level knowledge, while other content focuses on applying and implementation of that knowledge.

### **Adding Qualifying Education and Continuing Education requirements for course work in valuation bias and fair housing laws and regulations.**

Under the provisions of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), the Appraiser Qualifications Board (AQB) establishes the minimum education, experience, and examination requirements for real property appraisers to obtain a state license or certification, as well as Supervisory Appraiser requirements. The AQB regularly solicits and receives comments and suggestions for improving the *Real Property Appraiser Qualification Criteria (Criteria)*.

Concerns relating to discrimination and fair housing law violations in real property appraisals are important topics throughout the housing industry and the appraisal profession. While these are complex issues, many of which go beyond the scope of the *Criteria*, a wide range of stakeholders have urged the AQB to require courses on valuation bias and fair housing laws and regulations as part of an appraiser's qualifying and continuing education. For example, a major stakeholder is the White House task force known as PAVE (Property Appraisal and Valuation Equity) issued an action plan in early 2022 that includes recommendations to the AQB to add education on these topics for all credentialed and aspiring appraisers.

Considering this request and based on feedback from the industry, the AQB believed it important to reach out to stakeholders to explore adding these types of requirements to the *Criteria* and to hear their perspectives on these important topics.

As noted above, the AQB held the Forum on September 12, 2022. The overwhelming feedback from Forum participants indicated topics of valuation bias and fair housing laws and regulations should be required education for all appraisers. Subsequently, the AQB held a working group meeting with state appraiser regulatory agencies; professional appraiser organizations; education providers; appraiser coalitions; and consumer, civil rights, and fair housing advocacy groups to receive feedback on what exactly these education requirements should contain.

Based on the comments received at the Forum, in the stakeholder meeting, and other feedback channels, the AQB issued a First Exposure Draft with proposed changes to the *Criteria*. The AQB then held a webinar to discuss the changes, held a focus group discussion (which included representatives from fair housing advocates, state regulatory agencies, education developers, appraiser membership organizations and Federal agencies), and discussed in board meetings feedback received in various forms, including comment letters. As a result of this feedback, the AQB modified some of the proposed requirements and is issuing this Second Exposure Draft.

## **Revising and updating the name of the current *7-Hour National USPAP Update Course* and the *7-Hour Instructor Recertification Course*.**

The AQB is continuing to propose updating the name of the *7-Hour National USPAP Update Course* to “*7-Hour National USPAP Continuing Education Course*.” The AQB is also proposing the removal of the “7-Hour” from the title of the *7-Hour Instructor Recertification Course*. The proposed change better reflects the purpose and content of the courses.

## **Minor Edits**

On page 16 of this exposure draft, a few minor edits, while largely administrative in nature, and made solely for the purposes of clarification, are also proposed for change. The edits do not result in any substantial change to the *Criteria*. Here are those proposed edits (shown in below orange text):

11. AQB Certified USPAP Instructors successfully completing an ~~7-Hour~~ *Instructor Recertification Course* and exam (if an exam is required) within their current continuing education cycle have satisfied the *7-Hour National USPAP Update Continuing Education Course* continuing education requirement.
12. ~~11.~~ A ~~S~~state appraiser regulatory agencyies with the appropriate authority to do so may place a credential holder in an “inactive status” if the state determines a deficiency in continuing education was due to extenuating circumstances.

## **Timing of Proposed Changes**

For the purpose of this Second Exposure Draft, these changes assume that they will be included in new *Criteria* that will be adopted at the public meeting on June 22, 2023, with those changes becoming effective January 1, 2026. This effective date change extends the time period for implementation by 1 year as compared to the First Exposure Draft.

Concerns were directly expressed by the states and from the Appraisal Subcommittee (ASC) that an effective date of January 1, 2025, did not allow an adequate time period for the changes to be successfully implemented by the states.

Each state has different regulatory processes, with some taking up to two years or more to amend its laws and regulations. Extending the date by one year allows sufficient lead time providing states the ability to implement these *Criteria* changes.

Of course, states can choose to implement these changes prior to the effective date of the *Criteria*.

**On behalf of the AQB, thank you for taking time to review and respond to this exposure draft.**

If you have any questions, please contact the Board at [AQB@appraisalfoundation.org](mailto:AQB@appraisalfoundation.org).

Brad Swinney  
Chair, Appraiser Qualifications Board.

# Proposed Revision to Continuing Education (CE) Requirements

---

## Rationale - Addition of Valuation Bias and Fair Housing Laws and Regulations Education Requirements

### Overview of Proposed Changes

The AQB is proposing to revise the current continuing education requirements. The proposal is to require a portion of the existing required continuing education hours meet specific content requirements.

Currently for an appraiser seeking to keep their license or certification current, two of the continuing education requirements in the *Criteria* which apply are:

- (1) *Appraisers must successfully complete the 7-Hour National USPAP Update Course, or its AQB-approved equivalent, every two calendar years. Equivalency shall be determined through the AQB Course Approval Program or by an alternate method established by the AQB.*
- (2) *The equivalent of fourteen (14) class hours of instruction in courses or seminars for each year during the period preceding the renewal is required. For example, a two-year continuing education cycle would require twenty-eight hours. The class hour requirement can be fulfilled at any time during the cycle.*

In other words, every two calendar-year period in an appraiser's education cycle currently requires twenty-eight hours of continuing education, of which seven hours must be obtained from successfully completing the *7-Hour National USPAP Update Course*.<sup>1</sup> This existing requirement allows the appraiser to choose how they obtain the other twenty-one hours of mandatory continuing education. The AQB is proposing to require a portion of those remaining twenty-one hours be allocated to a valuation bias and fair housing laws and regulations course.

---

<sup>1</sup> Note that this course name is proposed in this Second Exposure Draft to be changed to the "7-Hour National USPAP Continuing Education Course."

## Explanation of Proposed Changes

The AQB concurred with the stakeholder feedback to have two distinct (or mutually exclusive) **continuing education** requirements for valuation bias and fair housing laws and regulations education. The proposed continuing education requirements are:

Appraisers must successfully complete a course which meets the content requirements of the Valuation Bias and Fair Housing Laws and Regulations Outline, every two calendar years.

- a. The first time an appraiser completes the continuing education requirement for this course, the course length must be seven (7) hours. If an appraiser successfully completed a seven (7) hour (plus 1 hour exam) course as part of their qualifying education, they have met this requirement.
- b. Every two calendar years thereafter, the course length must be at least four (4) hours.

The difference between the seven (7) hour course and the eight (8) hour course is the eight (8) hour course includes a required one-hour exam. Therefore, the eight (8) hour course is the same identical content as the seven (7) hour course, with one extra hour added to allow for an exam to be administered.

The goal is to provide in-depth and detailed education for all credentialed appraisers on the topics of valuation bias and fair housing laws and regulations, with content that matches what is expected in a QE course on the same topics. Once the appraiser has completed the initial course and gained core knowledge of these topics, the appraiser will need to complete a four (4) hour refresher course every two years.

## Implementation Period

The AQB deems it prudent to public trust in appraisal practice that all currently credentialed appraisers complete this proposed training as quickly as reasonably possible, while considering the inherent constraints and differing operations of differing states and territories. These constraints include allowing state appraiser regulatory agencies ample time to make any necessary revisions to their laws or regulations in advance of the effective date, for example, some states' legislatures meet every other year.

The AQB's guiding principle is to ensure that every new or existing appraiser completes the initial fair housing course within two calendar years after their adoption and effective date.



## Name Change of 7-Hour National USPAP Update Course

The first AQB approved *7-Hour National USPAP Update Course* became available on January 1, 2003, and was the result of the AQB concluding, after receiving stakeholder feedback, that there needed to be a requirement for appraisers to have ongoing continuing education in the professional ethical and competency standards of USPAP.

The purpose of the course has always been to provide ongoing education on the principles and requirements of USPAP and to present and explain any updates made from one edition to another. To better reflect the intent and objectives of the course, the AQB is proposing to change the name of this course to *7-Hour National USPAP Continuing Education Course*.

This proposed change remains the same from the First Exposure Draft to this Second Exposure Draft.

## Name Change of 7-Hour Instructor Recertification Course (IRC)

Under section III.F.12 of the *Criteria*, the AQB is proposing to remove “7-Hour” from the title of the “*7-Hour Instructor Recertification Course*.” The goal of the course is to keep instructors up to date so they can continue to be qualified to teach USPAP courses. Originally, when the course was only held in-person, it was a seven-hour course. However, when it became an asynchronous course, its subject matter often was taught in less than seven hours. Removing the words “7-Hour” from the title more accurately reflects what the course is, and that the number of hours is not a key objective of the course.

This change makes it clear that the successful completion of the IRC course is related to gaining competency, rather than attending for a specific number of hours.<sup>2</sup>

Instructors go through an extremely rigorous course and difficult exam process to gain an AQB Certified USPAP credential. Therefore, the bi-annual training they receive does not need to cover, as the 7-hour course typically does, the basics of USPAP. The instructors are made aware of any changes made to USPAP (when they take the Instructor Recertification Course) and how to teach the topics that are the focus of the course. Requiring instructors to sit through a 7-hour course defeats the purpose of recognizing they have mastered the core material.

---

<sup>2</sup> Moreover, AQB certified instructors have access to all instructor materials, notes and answer keys, and they spend independent time studying these materials (outside of the IRC course).

## Name Change of Valuation Bias, Fair Housing, and/or Equal Opportunity as an Allowable Continuing Education Topic

The AQB is proposing a name change to item F. 3. f. from “valuation bias, fair housing, and/or equal opportunity” to “valuation bias and fair housing laws and regulations.” The change of title is to ensure consistency with the proposed course. This proposed change remains the same from the First Exposure Draft to this Second Exposure Draft.

## Location of Proposed Changes in current *Criteria*

For ease of reference, the proposed changes presented below relate to requirements found on pages 10 and 11 of the [Real Property Appraiser Qualification Criteria](#) currently in effect.

### CRITERIA APPLICABLE TO ALL APPRAISER CLASSIFICATIONS

#### III. Generic Education Criteria

#### F. Criteria Specific to Continuing Education

# CRITERIA APPLICABLE TO ALL APPRAISER CLASSIFICATIONS

## III. Generic Education Criteria

### F. *Criteria* Specific to Continuing Education

1. The purpose of continuing education is to ensure that appraisers participate in a program that maintains and increases their skill, knowledge, and competency in real property appraising.

Aside from complying with the requirements to complete the *7-Hour National USPAP Update Continuing Education Course* or its equivalent, appraisers may not receive credit for completion of the same continuing education course offering within the same continuing education cycle.

2. Credit towards the continuing education hour requirements for each appraiser classification may be granted only where the length of the educational offering is at least two (2) hours.
3. Credit may be granted for education offerings that are consistent with the purpose of continuing education and cover real property related appraisal topics, including, but not limited to:
  - a. Ad valorem taxation;
  - b. Arbitration, dispute resolution;
  - c. Courses related to the practice of real estate appraisal or consulting;
  - d. Development cost estimating;
  - e. Ethics and standards of professional practice, USPAP;
  - f. Valuation bias, and fair housing laws and regulations, and/or equal opportunity;
  - g. Land use planning, zoning;
  - h. Management, leasing, timesharing;
  - i. Property development, partial interests;
  - j. Real estate law, easements, and legal interests;
  - k. Real estate litigation, damages, condemnation;
  - l. Real estate financing and investment;
  - m. Real estate appraisal-related computer applications;
  - n. Real estate securities and syndication;
  - o. Developing opinions of real property value in appraisals that also include personal property and/or business value;
  - p. Seller concessions and impact on value; and/or
  - q. Energy-efficient items and “green building” appraisals.

- 35 4. Up to one half of an individual's continuing education requirement may  
36 also be granted for participation, other than as a student, in appraisal  
37 educational processes and programs. Examples of activities for which  
38 credit may be granted are teaching, program development, authorship of  
39 textbooks, or similar activities that are determined to be equivalent to  
40 obtaining continuing education. Credit for instructing any given course or  
41 seminar can only be awarded once during a continuing education cycle.
- 42 5. Educational offerings taken by an individual in order to fulfill the class hour  
43 requirement for a different classification than his/her current classification  
44 may be simultaneously counted towards the continuing education  
45 requirement of his/her current classification.
- 46 6. In addition to the generic requirements described in III.D., asynchronous  
47 distance education courses intended for use as continuing education must  
48 include at least one of the following:
- 49 a. A written examination proctored by an official approved by the  
50 college or university, or by the sponsoring organization. Remote  
51 proctoring, including bio-metric procedures as noted in III E. 7.  
52 above, is acceptable. The term "written" as used herein refers to  
53 an exam that might be written on paper or administered  
54 electronically on a computer workstation or other device. Oral  
55 exams are not acceptable; or
- 56 b. Successful completion of prescribed course mechanisms required  
57 to demonstrate knowledge of the subject matter.
- 58 7. Real estate appraisal-related field trips may be acceptable for credit  
59 toward the continuing education requirements. However, transit time to or  
60 from the field trip may not be included when awarding credit unless  
61 instruction occurs during said transit time.
- 62 8. Appraisers must successfully complete the *7-Hour National USPAP*  
63 *Update Continuing Education* Course, or its AQB-approved equivalent,  
64 every two-calendar-years. Equivalency shall be determined through the  
65 AQB Course Approval Program or by an alternate method established by  
66 the AQB.
- 67 9. Individuals who are credentialed in more than one jurisdiction shall not  
68 have to take more than one *7-Hour National USPAP Update Continuing*  
69 *Education* Course within a two-calendar-year period for the purposes of  
70 meeting AQB Criteria.

- 71 10. USPAP continuing education credit shall only be awarded when the  
72 course is instructed by at least one AQB Certified USPAP Instructor who  
73 is also a state certified appraiser in good standing.
- 74 11. Appraisers must successfully complete a course which meets the content  
75 requirements of the Valuation Bias and Fair Housing Laws and  
76 Regulations Outline, every two calendar years.  
77 a. The first time an appraiser completes the continuing education  
78 requirement for this course, the course length must be seven (7)  
79 hours. If an appraiser successfully completed a seven (7) hour  
80 (plus 1 hour exam) course as part of their qualifying education,  
81 they have met this requirement.  
82 b. Every two calendar years thereafter, the course length must be at  
83 least four (4) hours.
- 84 12. ~~11.~~ The equivalent of fourteen (14) class hours of instruction in courses or  
85 seminars for each year during the period preceding the renewal is  
86 required. For example, a two-year continuing education cycle would  
87 require twenty-eight hours. The class hour requirement can be fulfilled at  
88 any time during the cycle.
- 89 13. ~~12.~~ AQB Certified USPAP Instructors successfully completing an 7-Hour  
90 *Instructor Recertification Course* and exam (if an exam is required) within  
91 their current continuing education cycle have satisfied the *7-Hour National*  
92 *USPAP Update Continuing Education Course* continuing education  
93 requirement.  
94  
95
- 96 14. ~~13.~~ A State appraiser regulatory agencyies with the appropriate authority  
97 to do so may place a credential holder in an “inactive status” if the state  
98 determines a deficiency in continuing education was due to extenuating  
99 circumstances.

100 Prior to reactivation, credential holders in an inactive status must complete  
101 all required continuing education hours that would have been required if  
102 the credential holder was in an active status. The required hours must also  
103 include the most recent edition of a *7-Hour National USPAP Update*  
104 *Continuing Education Course* (or its AQB-approved equivalent).

105 Waivers may not be granted to credential holders who have failed to meet  
106 the continuing education requirements.

107 Deferrals may not be granted to credential holders, except in the case of  
108 individuals returning from active military duty, or individuals impacted by a  
109 state- or federally-declared disaster. State appraiser regulatory agencies  
110 may allow credential holders returning from active military duty to be

placed in active status for a period of up to 90 days pending completion of all continuing education requirements. State appraiser regulatory agencies may allow credential holders impacted by a state- or federally-declared disaster that occurs within 90 days prior to the end of the continuing education cycle to remain (or be placed in) active status for a period of up to 90 days after the end of the credential holder's continuing education cycle, pending completion of all continuing education requirements.

15. ~~14.~~ Credentialed appraisers are required to complete continuing education for a partial year in a continuing education cycle as follows:

For continuing education cycle periods of 185 days or more, 14 hours of continuing education is required.

For continuing education cycle periods of less than 185 days, no hours of continuing education are required.

**Example #1:** A credential issued on August 15 that expires on December 31 of the same year would not require any continuing education hours for that year.

**Example #2:** A credential issued on May 15 that expires on December 31 of the same year would require 14 continuing education hours for that year.

**Example #3:** A credential issued on August 15 that expires on December 31 of the following year would require 14 hours of continuing education to renew.

16. ~~15.~~ State appraiser regulatory agencies may award continuing education credit to credentialed appraisers who attend a state appraiser regulatory agency meeting, under the following conditions:

- a. Credit may be awarded for a single state appraiser regulatory agency meeting per continuing education cycle. The meeting must be open to the public and must be a minimum of two (2) hours in length. The total credit cannot exceed seven (7) hours; and
- b. The state appraiser regulatory agency must ensure that the credentialed appraiser attends the meeting for the required period of time.

# Proposed Addition to Qualifying Education (QE) Requirements

---

## Rationale

### Summary of Proposed Changes

These proposed changes are identical to those in the First Exposure Draft.

The AQB is proposing to add an additional course requirement to the list of required qualifying education courses for each appraisal classification (Trainee, Licensed Residential, Certified Residential and Certified General). This core course will provide a baseline of knowledge for all appraisers on the topics of valuation bias and fair housing laws and regulations. The eight (8) hour course must be part of the required QE for aspiring appraisers no later than **January 1, 2026**.

### Explanation of Proposed Changes

There are multiple areas of the *Criteria* this proposed change impacts. This includes needing to propose a change to requirement III.E.3:

*Class hours may be obtained only where the minimum length of the educational offering is at least 15 hours.*

In addition to a change being needed to reflect the required eight (8) hour in length, changes are needed to the qualifying education requirements for each classification.

Thus, while only one requirement is changing (an eight-hour course is being added to all qualifying education requirements), this results in multiple areas of the *Criteria* needing to be edited to reflect the proposed change, and the total hours required increasing for the Trainee classification and for the Licensed Residential credential.

For the Certified Residential and the Certified General qualifying education (QE) requirements, it was possible to propose adding the eight (8) hour course without increasing the total number of QE hours. This was possible because the AQB is proposing to reduce the total number of required elective hours accordingly.

## Location of Proposed Changes in the current *Criteria*

For ease of reference, the proposed changes found below relate to requirements you can find on the following pages of the [Real Property Appraiser Qualification Criteria](#) currently in effect:

- QE courses needing to be 15 hours in length

- Page 10, item III.E.3
- Licensed Residential Appraiser Real Property Appraiser
  - Page 17, item III.B
- Certified Residential Real Property Appraiser
  - Page 21, item III.E
  - Page 21, item III.F
- Certified General Real Property Appraiser
  - Page 24, item III.D
  - Page 24, item III.E



# CRITERIA APPLICABLE TO ALL APPRAISER CLASSIFICATIONS

## III. Generic Education Criteria

### E. *Criteria* Specific to Qualifying Education

#### 3. Class hours may be obtained only where:

- i. the minimum length of the educational offering is at least 15 hours (except for the eight (8) hour course on valuation bias and fair housing laws and regulations); and
- ii. the individual successfully completes a proctored, closed-book final examination pertinent to that educational offering.

# TRAINEE REAL PROPERTY APPRAISER

## III. Qualifying Education

- A. As the prerequisite for application, an applicant must have completed ~~seventy-five (75)~~ eighty-three (83) hours of qualifying education as specified in the *Required Core Curriculum*. Additionally, applicants must pass the course examinations and pass the *15-Hour National USPAP Course* (or its AQB-approved equivalent) and examination as part of the ~~75~~ eighty-three (83) hours. All qualifying education must be completed within the five (5) year period immediately preceding the date of application for a Trainee Appraiser credential.

## V. Training

- F. Trainee Appraisers shall be required to complete a course that, at minimum, complies with the specifications for course content established by the AQB, which is specifically oriented to the requirements and responsibilities of Supervisory Appraisers and Trainee Appraisers. The course must be completed by the Trainee Appraiser before obtaining a Trainee Appraiser credential. Further, the Trainee Appraiser course cannot be included in the ~~75~~ eighty-three (83) hours of required qualifying education. Please refer to the Supervisory Appraiser / Trainee Appraiser Course Objectives and Outline in ~~this~~ the *Criteria* booklet for more information.

# LICENSED RESIDENTIAL REAL PROPERTY APPRAISER

## II. Examination

- A. The AQB-approved Licensed Residential Real Property Appraiser examination must be successfully completed. The only alternative to successful completion of the Licensed Residential examination is the successful completion of the Certified Residential or Certified General examination.
- B. The prerequisites for taking the AQB-approved examination are completion of:
1. One hundred fifty~~-eight~~ (1508) creditable class hours as specified in the *Required Core Curriculum*; and
  2. One thousand (1,000) hours of qualifying experience in no fewer than six (6) months.

## III. Qualifying Education

- A. The Licensed Residential Real Property Appraiser classification requires completion of one hundred fifty~~-eight~~ (1508) creditable class hours as specified in the *Required Core Curriculum*. As part of the one hundred fifty-eight 1508

required hours, the applicant shall successfully complete the *15-Hour National USPAP Course*, or its AQB-approved equivalent, and successfully pass the examination. There is no alternative to successful completion of the USPAP Course and examination.

## CERTIFIED RESIDENTIAL REAL PROPERTY APPRAISER

### III. Qualifying Education

E. Appraisers holding a valid **Trainee Appraiser** credential may satisfy the educational requirements for the Certified Residential Real Property Appraiser credential by successfully completing the following additional educational hours:

- |   |                        |
|---|------------------------|
| 1. Residential Market Analysis and Highest and Best Use   | 15 Hours               |
| 2. Residential Appraiser Site Valuation and Cost Approach | 15 Hours               |
| 3. Residential Sales Comparison and Income Approaches     | 30 Hours               |
| 4. Residential Report Writing and Case Studies            | 15 Hours               |
| 5. Statistics, Modeling and Finance                       | 15 Hours               |
| 6. Advanced Residential Applications and Case Studies     | 15 Hours               |
| 7. Appraisal Subject Matter Electives                     | <del>12</del> 20 Hours |

**TOTAL** ~~125~~ **117** Hours

F. Appraisers holding a valid **Licensed Residential Real Property Appraiser** credential may satisfy the educational requirements for the Certified Residential Real Property Appraiser credential by successfully completing the following additional educational hours:

- |   |                        |
|---|------------------------|
| 1. Statistics, Modeling, and Finance                  | 15 Hours               |
| 2. Advanced Residential Applications and Case Studies | 15 Hours               |
| 3. Appraisal Subject Matter Electives                 | <del>12</del> 20 Hours |

**TOTAL** ~~50~~ **42** Hours

## CERTIFIED GENERAL REAL PROPERTY APPRAISER

### III. Qualifying Education

D. Appraisers holding a valid **Trainee Appraiser** credential may satisfy the educational requirements for the Certified General Real Property Appraiser credential by successfully completing the following additional educational hours:

- |   |          |
|---|----------|
| 1. General Appraiser Market Analysis and Highest and Best Use | 30 Hours |
| 2. Statistics, Modeling and Finance                           | 15 Hours |
| 3. General Appraiser Sales Comparison Approach                | 30 Hours |
| 4. General Appraiser Site Valuation and Cost Approach         | 30 Hours |

|     |  |                               |
|-----|--|-------------------------------|
| 209 | 5. General Appraiser Income Approach                 | 60 Hours                      |
| 210 | 6. General Appraiser Report Writing and Case Studies | 30 Hours                      |
| 211 | 7. Appraisal Subject Matter Electives                | <u>22</u> <del>30</del> Hours |

212 **TOTAL** **225 ~~217~~ Hours**

213 E. Appraisers holding a valid **Licensed Residential Real Property Appraiser**  
 214 credential may satisfy the educational requirements for the Certified General  
 215 Real Property Appraiser credential by successfully completing the following  
 216 additional educational hours:

|     |   |                               |
|-----|---|-------------------------------|
| 217 | 1. General Appraiser Market Analysis and Highest and Best Use | 15 Hours                      |
| 218 | 2. Statistics, Modeling and Finance                           | 15 Hours                      |
| 219 | 3. General Appraiser Sales Comparison Approach                | 15 Hours                      |
| 220 | 4. General Appraiser Site Valuation and Cost Approach         | 15 Hours                      |
| 221 | 5. General Appraiser Income Approach                          | 45 Hours                      |
| 222 | 6. General Appraiser Report Writing and Case Studies          | 15 Hours                      |
| 223 | 7. Appraisal Subject Matter Electives                         | <u>22</u> <del>30</del> Hours |

224 **TOTAL** **150 ~~142~~ Hours**

## REQUIRED CORE CURRICULUM

| TRAINEE APPRAISER   |                               |
|---|-------------------------------|
| BASIC APPRAISAL PRINCIPLES                                  | 30 HOURS                      |
| BASIC APPRAISAL PROCEDURES                                  | 30 HOURS                      |
| <u>VALUATION BIAS AND FAIR HOUSING LAWS AND REGULATIONS</u> | <u>8 HOURS</u>                |
| 15-HOUR NATIONAL USPAP COURSE (OR ITS EQUIVALENT)           | 15 HOURS                      |
| <b>TOTAL</b>  | <del>75</del> <u>83</u> HOURS |

| LICENSED RESIDENTIAL  |                                 |
|---|---------------------------------|
| BASIC APPRAISAL PRINCIPLES                                  | 30 HOURS                        |
| BASIC APPRAISAL PROCEDURES                                  | 30 HOURS                        |
| <u>VALUATION BIAS AND FAIR HOUSING LAWS AND REGULATIONS</u> | <u>8 HOURS</u>                  |
| 15-HOUR NATIONAL USPAP COURSE (OR ITS EQUIVALENT)           | 15 HOURS                        |
| RESIDENTIAL MARKET ANALYSIS AND HIGHEST AND BEST USE        | 15 HOURS                        |
| RESIDENTIAL APPRAISER SITE VALUATION AND COST APPROACH      | 15 HOURS                        |
| RESIDENTIAL SALES COMPARISON AND INCOME APPROACHES          | 30 HOURS                        |
| RESIDENTIAL REPORT WRITING AND CASE STUDIES                 | 15 HOURS                        |
| <b>TOTAL</b>  | <del>150</del> <u>158</u> HOURS |

| CERTIFIED RESIDENTIAL   |                               |
|---|-------------------------------|
| BASIC APPRAISAL PRINCIPLES  | 30 HOURS                      |
| BASIC APPRAISAL PROCEDURES  | 30 HOURS                      |
| <u>VALUATION BIAS AND FAIR HOUSING LAWS AND REGULATIONS</u>   | <u>8 HOURS</u>                |
| 15-HOUR NATIONAL USPAP COURSE (OR ITS EQUIVALENT)   | 15 HOURS                      |
| RESIDENTIAL APPRAISER MARKET ANALYSIS AND HIGHEST AND BEST USE                                      | 15 HOURS                      |
| RESIDENTIAL APPRAISER SITE VALUATION AND COST APPROACH  | 15 HOURS                      |
| RESIDENTIAL SALES COMPARISON AND INCOME APPROACHES  | 30 HOURS                      |
| RESIDENTIAL REPORT WRITING AND CASE STUDIES   | 15 HOURS                      |
| STATISTICS, MODELING AND FINANCE  | 15 HOURS                      |
| ADVANCED RESIDENTIAL APPLICATIONS AND CASE STUDIES  | 15 HOURS                      |
| APPRAISAL SUBJECT MATTER ELECTIVES<br>(May include hours over minimum shown above in other modules) | <del>20</del> <u>12</u> HOURS |
| <b>TOTAL</b>  | <b>200 HOURS</b>              |

| <b>CERTIFIED GENERAL</b>  |                               |
|---|-------------------------------|
| BASIC APPRAISAL PRINCIPLES  | 30 HOURS                      |
| BASIC APPRAISAL PROCEDURES  | 30 HOURS                      |
| <u>VALUATION BIAS AND FAIR HOUSING LAWS AND REGULATIONS</u>   | <u>8 HOURS</u>                |
| 15-HOUR NATIONAL USPAP COURSE (OR ITS EQUIVALENT)   | 15 HOURS                      |
| GENERAL APPRAISER MARKET ANALYSIS AND HIGHEST AND BEST USE  | 30 HOURS                      |
| STATISTICS, MODELING AND FINANCE  | 15 HOURS                      |
| GENERAL APPRAISER SITE VALUATION AND COST APPROACH  | 30 HOURS                      |
| GENERAL APPRAISER SALES COMPARISON APPROACH   | 30 HOURS                      |
| GENERAL APPRAISER INCOME APPROACH   | 60 HOURS                      |
| GENERAL APPRAISER REPORT WRITING AND CASE STUDIES   | 30 HOURS                      |
| APPRAISAL SUBJECT MATTER ELECTIVES<br>(May include hours over minimum shown above in other modules) | <del>30</del> <u>22</u> HOURS |
| <b>TOTAL</b>  | <b>300 HOURS</b>              |

# Proposed Valuation Bias and Fair Housing Laws and Regulations Course Outline

---

## Rationale

This proposed outline was modified slightly from the First Exposure Draft explicitly to include the topics of disparate impact and disparate treatment. As discussed above, the AQB received positive stakeholder feedback in support of proposing an outline for the of valuation bias and fair housing laws and regulations course in the *Criteria*.

The panelists at the Forum provided written answers to one of the AQB questions to list the required topics for the course. The AQB received and reviewed the extensive list of topics for the course content.

The AQB reviewed current course outlines available on this topic for their required content from various state agencies and education providers. The AQB also received comments from stakeholders at various meetings and speaking engagements such as The Appraisal Foundation Advisory Council, Industry Advisory Council, and Association of Appraiser Regulatory Officials.

The AQB asked for greater feedback from the pre-exposure draft working group. The working group's comments further refined the required outline.

Lastly, the AQB received advice from fair housing attorneys on the required outline.

The goal of this proposed outline is to provide high-quality consistent/uniform education for all appraisers on the topics of valuation bias and fair housing laws and regulations.



# VALUATION BIAS AND FAIR HOUSING LAWS AND REGULATIONS COURSE OUTLINE

The course must contain information to ensure the appraiser understands valuation bias and fair housing laws and regulations related issues. The same outline is required for the seven (7) hour course, the eight-hour course (which is the seven-hour course plus a one-hour exam) and the four (4) hour course.

However, the four-hour course will have less content on the topics of “Understanding Real Estate Bias” and “Federal Fair Housing Laws and Regulations” and more content on “Valuation Bias” and “Case Studies.”

Education developers must include the topics contained in the following outline when creating course content:

## A. Understanding Real Estate Bias

### 1. Historical Context

- a. Role of the following: real estate agents, insurance, appraisers, lenders, Government Sponsored Enterprises, federal, state and local agencies, and legislation
- b. Redlining
- c. Restrictive Covenants
- d. Court Rulings

### 2. Contemporary Context

- a. Economic Impact of Property Value Disparities for Protected Classes
- b. Public Conversation Regarding Valuation Bias
- c. Recent Cases and Developments

## B. Federal Fair Housing and Antidiscrimination Laws and Regulations

### 1. Laws and Regulations

- a. Civil Rights Act of 1866 (Section 1981 and Section 1982)
- b. Fair Housing Act
- c. Equal Credit Opportunity Act (ECOA)
- d. Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA)
- e. Unfair and Deceptive Acts and Practices (UDAP)
- f. Unfair, Deceptive or Abusive Acts and Practices (UDAAP)

### 2. Key Legal Concepts

- a. Disparate Treatment
- b. Disparate Impact

## C. Valuation Bias

### 1. Components of Valuation Bias

- a. Explicit
- b. Implicit

|     |  |
|-----|--|
| 263 | c. <u>Structural</u>                                 |
| 264 | 2. <u>Recognizing and Avoiding Valuation Bias</u>    |
| 265 | <b>D. <u>Case Studies</u></b>                        |
| 266 | 1. <u>Current Valuation Bias Topics</u>              |
| 267 | 2. <u>Best Practices for Avoiding Valuation Bias</u> |

# Proposed Change to Guide Note

---

## Rationale - Addition of a Course Outline to GN-1

This section remains unchanged from the First Exposure Draft to the Second Exposure Draft.

Assuming the above changes are adopted, Guide Note 1 will need to be updated to reflect those changes for consistency.

Guide Notes consist of guidance only and therefore do not contain any *Criteria* requirements. The edits to Guide Note 1 will consist of adding a high-level required outline in a format that is consistent with how the Guide Note is formatted.

Therefore, the outline in the Guide Note for the Valuation Bias and Fair Housing Laws and Regulations Course Outline is necessarily more abbreviated than it appears in the *Criteria*. The *Criteria* contains the full requirement to be met, and the Guide Note contains a condensed outline which is consistent with the formatting of Guide Note 1.

## AQB GUIDE NOTE 1 (GN-1)

### I. BASIC APPRAISAL PRINCIPLES (required for the Trainee Appraiser, Licensed Residential, Certified Residential, and Certified General classifications)

30 HOURS

#### A. Real Property Concepts and Characteristics

1. Basic Real Property Concepts
2. Real Property Characteristics
3. Legal Description

#### B. Legal Considerations

1. Forms of Ownership
2. Public and Private Controls
3. Real Estate Contracts
4. Leases

#### C. Influences on Real Estate Values

1. Governmental
2. Economic
3. Social
4. Environmental, Geographic, and Physical

#### D. Types of Value

1. Market Value
2. Other Value Types

#### E. Economic Principles

1. Classic Economic Principles
2. Application and Illustrations of the Economic Principles

#### F. Overview of Real Estate Markets and Analysis

1. Market Fundamentals, Characteristics, and Definitions
2. Supply Analysis
3. Demand Analysis
4. Use of Market Analysis

#### G. Ethics and How They Apply in Appraisal Theory and Practice

#### H. Valuation Bias, and Fair Housing Laws and Regulations, and/or Equal Opportunity

### II. BASIC APPRAISAL PROCEDURES (required for the Trainee Appraiser, Licensed Residential, Certified Residential, and Certified General classifications)

30 HOURS

#### A. Overview of Approaches to Value

#### B. Valuation Procedures

- 304 1. Defining the Problem
- 305 2. Collecting and Selecting Data
- 306 3. Analyzing
- 307 4. Reconciling and Final Value Opinion
- 308 5. Communicating the Appraisal

309 C. Property Description

- 310 1. Geographic Characteristics of the Land/Site
- 311 2. Geologic Characteristics of the Land/Site
- 312 3. Location and Neighborhood Characteristics
- 313 4. Land/Site Considerations for Highest and Best Use
- 314 5. Improvements - Architectural Styles and Types of Construction
- 315 6. Special Energy-Efficient Characteristics of the Improvements

316 D. Residential or General Applications

317 **III. VALUATION BIAS AND/OR FAIR HOUSING LAWS AND REGULATIONS**  
318 **(required for the Trainee Appraiser, Licensed Residential, Certified Residential,**  
319 **and Certified General classifications)**

320 **8 HOURS**

321 A. Understanding Real Estate Bias

- 322 1. Historical Context
- 323 2. Contemporary Context

324 B. Federal Fair Housing and Antidiscrimination Laws and Regulations

- 325 1. Laws and Regulations
- 326 2. Key Legal Concepts

327 C. Valuation Bias

- 328 1. Components of Valuation Bias
- 329 2. Recognizing and Avoiding Valuation Bias

330 D. Case Studies

- 331 1. Current Valuation Bias Topics
- 332 2. Best Practices for Avoiding Valuation Bias

# Summary of Actions

2024 USPAP

June 2, 2023

Short Version

# Summary of Actions for 2024 USPAP

---

On May 5, 2023, the Appraisal Standards Board (ASB) adopted modifications to the *Uniform Standards of Professional Appraisal Practice* (USPAP). The actions of the board continued in earnest after a [Discussion Draft](#) was issued in June 2021 which asked if the requirement for an appraiser to avoid relying upon “unsupported conclusions” relating to demographic characteristics was understood by appraisers and users of appraisal services. [Five exposure drafts](#) followed in which written comments were received, and oral comments were provided at each of the five public meetings and exposure draft [webinars](#). Each member of the ASB read and carefully considered every comment.

Please read the [Fifth Exposure Draft](#) with [written comments](#) and watch the [webinar](#) for an in-depth explanation of the proposed changes.

Based on the feedback received, the Board adopted the following proposed changes from the Fifth Exposure Draft in a [virtual public meeting](#) on May 5, 2023, which will be incorporated in the 2024 edition of USPAP with an effective date of January 1, 2024.

## Changes to the ETHICS RULE

The Board adopted a [Nondiscrimination](#) Section in the ETHICS RULE and deleted all language relating to supported and unsupported conclusions in the [Conduct](#) section of the ETHICS RULE. There are no changes to the [Management](#) and [Confidentiality](#) sections of the ETHICS RULE.

Please read the [Detailed Summary of Actions](#) for complete rationale and the adopted changes.

## Transfers and Sales

The Board adopted the addition of “[and other transfers](#),” words to Standards Rule 1-5(b), Standards Rule 2-2(a)(x)(3), Standards Rule 2-2(b)(xii)(3), Standards Rule 7-5(b), Standards Rule 8-2(a)(x)(3) Standards Rule 8-2(b)(xii)(3), and Standards Rule 9-4(b).

## Retired Definitions

The Board retired the definition of Assignment Elements, Misleading, and Relevant Characteristics.

## Modified Definitions

The Board modified the definition of Appraiser, Personal Inspection, and Workfile.

## Minor Edits

The Board adopted replacement of the words “a summary” with “the description” in one sentence in each of the following Standards Rules: Standards Rule 2-3(c)(ii), Standards Rule 4-3(c)(ii), Standards Rule 6-3(c)(ii), Standards Rule 8-3(c)(ii), and Standards Rule 10-3(c)(ii). The Board also adopted the addition of words “in writing and” to a sentence in STANDARD 6. The Board adopted adding words to a requirement in Standards Rule 8-2(b) so that it is consistent with the exact wording in 8-2(a).

## Advisory Opinions

---

The following proposed changes from the [Fifth Exposure Draft](#) were adopted by the Board with administrative changes on May 22, 2023, with an effective date of January 1, 2024:

### Revisions to Advisory Opinion 2

The Board adopted changes to Advisory Opinion 2, *Inspection of Subject Property*, in part, to reflect adopted changes in the definition of Personal Inspection.

### Retirement of Advisory Opinion 16

The ASB retired Advisory Opinion 16, *Fair Housing Laws and Appraisal Report Content*. With the removal of a prohibition and the addition of the Nondiscrimination section of the ETHICS RULE, the guidance in this Advisory Opinion is no longer relevant.

### Creation of new Advisory Opinion 39

The Board adopted Advisory Opinion 39, *Antidiscrimination*. This Advisory Opinion provides guidance on the new [Nondiscrimination](#) section of the ETHICS RULE.

### Creation of new Advisory Opinion 40

The Board adopted Advisory Opinion 40, *Antidiscrimination and the Research, Analysis, and Reporting of Location Data, including Demographics, for Residential Real Property Appraisal Assignments* to provide guidance on the new [Nondiscrimination](#) section of the ETHICS RULE.



# Summary of Actions

2024 USPAP

June 2, 2023

Detailed Version



The Appraisal  
**FOUNDATION**

Authorized by Congress as the Source of Appraisal  
Standards and Appraiser Qualifications

APPRAISAL STANDARDS BOARD

# Contents

---

|  |           |
|--|-----------|
| <b>Summary of Actions for 2024 USPAP .....</b>     | <b>3</b>  |
| Changes to the ETHICS RULE .....                   | 3         |
| Transfers and Sales.....                           | 11        |
| Retired Definitions .....                          | 16        |
| Definition of Assignment Elements .....            | 16        |
| Definition of Misleading .....                     | 16        |
| Definition of Relevant Characteristics.....        | 16        |
| Modified Definitions .....                         | 17        |
| Definition of Appraiser .....                      | 17        |
| Definition of Personal Inspection .....            | 17        |
| Definition of Workfile .....                       | 19        |
| Minor Edits.....                                   | 20        |
| Minor Change in 2-3, 4-3, 6-3, 8-3, and 10-3 ..... | 20        |
| Minor Change in STANDARD 6 .....                   | 24        |
| Minor change in Standards Rule 8-2(b)(xii)(3)..... | 25        |
| <b>Advisory Opinions .....</b>                     | <b>27</b> |
| Revisions to Advisory Opinion 2 .....              | 27        |
| Retirement of Advisory Opinion 16 .....            | 35        |
| Creation of new Advisory Opinion 39.....           | 36        |
| Creation of new Advisory Opinion 40.....           | 50        |

# Summary of Actions for 2024 USPAP

---

On May 5, 2023, the Appraisal Standards Board (ASB) adopted modifications to the *Uniform Standards of Professional Appraisal Practice* (USPAP). The actions of the board continued in earnest after a [Discussion Draft](#) was issued in June 2021 which asked if the requirement for an appraiser to avoid relying upon “unsupported conclusions” relating to demographic characteristics was understood by appraisers and users of appraisal services. [Five exposure drafts](#) followed in which written comments were received, and oral comments were provided at each of the five public meetings and exposure draft [webinars](#). Each member of the ASB read and carefully considered every comment.

Please read the [Fifth Exposure Draft](#) with [written comments](#) and watch the [webinar](#) for an in-depth explanation of the proposed changes.

Based on the feedback received, the Board adopted the following proposed changes from the Fifth Exposure Draft in a [virtual public meeting](#) on May 5, 2023, which will be incorporated in the 2024 edition of USPAP with an effective date of January 1, 2024.

## Changes to the ETHICS RULE

The Board adopted a [Nondiscrimination](#) Section in the ETHICS RULE and deleted all language relating to supported and unsupported conclusions in the [Conduct](#) section of the ETHICS RULE. There are no changes to the [Management](#) and [Confidentiality](#) sections of the ETHICS RULE.

The [Nondiscrimination](#) Section focuses on core concepts from key antidiscrimination laws and explicitly requires that appraisers be knowledgeable about and follow antidiscrimination laws that apply to the appraiser or the assignment.

The section begins by prohibiting an appraiser from acting “in a manner that violates or contributes to a violation of federal, state, or local antidiscrimination laws or regulations.” It highlights the Fair Housing Act (FHA), the Equal Credit Opportunity Act (ECOA), and the Civil Rights Act of 1866, three key federal antidiscrimination laws that are relevant to appraisal practice. The section also requires an appraiser to have knowledge of antidiscrimination laws and regulations and when those laws and regulations apply to the appraiser or to the assignment.

The section then states specific prohibitions that apply when the appraiser is completing a residential real property assignment or an assignment where the intended use is in connection with a credit transaction. These prohibitions, grounded in the FHA, ECOA, and the Civil Rights Act of 1866, plainly state that an appraiser is prohibited from basing their opinion of value on any of the characteristics protected under relevant law.

Under the prohibition related to residential real property, a comment states in plain language what the FhAct prohibits and that the FhAct can be violated through disparate treatment and disparate impact—concepts that are further discussed in guidance. The comment also highlights Section 1981 and Section 1982 of the Civil Rights Act of 1866, which apply broadly to appraisals, including real and personal property appraisals. Under the prohibition related to assignments where the intended use is in connection with a credit transaction, a comment states in plain language what ECOA prohibits.

The Nondiscrimination section continues with four additional prohibitions that apply across appraisal disciplines, regardless of whether (or which) antidiscrimination laws or regulations also apply. These prohibitions apply with respect to an enumerated list of personal characteristics that are drawn from federal antidiscrimination protections, namely the actual or perceived race, ethnicity, color, religion, national origin, sex, sexual orientation, gender, gender identity, gender expression, marital status, familial status, age, receipt of public assistance income, or disability of any person(s).

- An appraiser must not develop and/or report an opinion of value based, in whole or in part, on any of the listed characteristics;
- An appraiser must not base an opinion of value upon the premise that homogeneity of the inhabitants of a geographic area is relevant for the appraisal;
- An appraiser must not perform an assignment with bias<sup>1</sup> with respect to any of the listed characteristics; and
- An appraiser must not use or rely upon another characteristic as a pretext to conceal the use of or reliance upon a listed characteristic.

Finally, the Nondiscrimination section recognizes that limited circumstances exist where use of a protected characteristic<sup>2</sup> in an assignment would not constitute discrimination and would not violate the ETHICS RULE. For use of or reliance upon a protected characteristic in an assignment to be permissible, the use or reliance must not be prohibited by antidiscrimination laws and regulations, and must further be essential to the assignment and necessary for credible assignment results. These requirements are intentionally stringent. And finally, the remaining elements of the exception—that the use or reliance be permitted by antidiscrimination laws and regulations and be essential to the assignment and necessary for credible assignment results—appropriately limit the circumstances under which use of or reliance upon a protected characteristic can be allowed.

### **The Board adopted the following changes to the ETHICS RULE:**

- 
- 1 “Bias,” as a defined term in USPAP, means “a preference or inclination that precludes an appraiser’s impartiality, independence, or objectivity in an assignment.”
  - 2 As a footnote to this part of the ETHICS RULE states: for purposes of the exception, “‘protected characteristic’ means race, ethnicity, color, religion, national origin, sex, sexual orientation, gender, gender identity, gender expression, marital status, familial status, age, receipt of public assistance income, or disability of any person(s), or any other characteristic protected by applicable antidiscrimination laws or regulations.”

## ETHICS RULE

An appraiser must promote and preserve the public trust inherent in appraisal practice by observing the highest standards of professional ethics.

An appraiser must comply with USPAP when obligated by law or regulation, or by agreement with the client or intended users. In addition to these requirements, an individual should comply any time that individual represents that he or she is performing the service as an appraiser.

Comment: This Rule specifies the personal obligations and responsibilities of the individual appraiser. An individual appraiser employed by a group or organization that conducts itself in a manner that does not conform to USPAP should take steps that are appropriate under the circumstances to ensure compliance with USPAP.

This ETHICS RULE is divided into four sections: **Nondiscrimination**, **Conduct**, **Management**, and **Confidentiality**, which apply to all appraisal practice.

### **NONDISCRIMINATION:**

**An appraiser must not act in a manner that violates or contributes to a violation of federal, state, or local antidiscrimination laws or regulations.<sup>3</sup> This includes the Fair Housing Act (FHA), the Equal Credit Opportunity Act (ECOA), and the Civil Rights Act of 1866.**

**An appraiser must have knowledge of antidiscrimination laws and regulations and when those laws or regulations apply to the appraiser or to the assignment. An appraiser must complete an assignment in full compliance with applicable laws and regulations.**

- 1. An appraiser, when completing a residential real property assignment, must not base their opinion of value in whole or in part on race, color, religion, national origin, sex, disability, or familial status.**

Comment: The FHA prohibits discrimination in residential real estate appraisals on the basis of race, color, religion, national origin, sex, disability, or familial status. Under the FHA, an appraiser may not use or rely upon information relating to these protected characteristics, with limited exceptions.

The FHA can be violated through disparate treatment (treating individuals of one protected group differently from and less favorably than others not in that protected group) and disparate impact (employing

<sup>3</sup> See Advisory Opinion 39, Antidiscrimination Laws and Nondiscrimination.

neutral policies or practices that disproportionately harm members of a protected group, except when those policies or practices are justified and there are no less disproportionate policies or practices that could be used instead).

Section 1981 of the federal Civil Rights Act of 1866 prohibits many forms of discrimination with respect to the making and enforcement of contracts, and Section 1982 of the same law prohibits discrimination with respect to the purchasing, leasing, selling, holding, and conveyance of real and personal property. The Civil Rights Act of 1866 applies to real property appraisals, in addition to personal property and other appraisals.

2. **An appraiser, when completing an assignment where the intended use is in connection with a credit transaction, not limited to credit secured by real property, must not base their opinion of value in whole or in part on race, color, religion, national origin, sex, marital status, age, source of income, or the good-faith exercise of rights under the Consumer Credit Protection Act.**

Comment: ECOA prohibits discrimination in any aspect of a credit transaction on the basis of race, color, religion, national origin, sex, marital status, age, source of income, or the good-faith exercise of any right under the Consumer Credit Protection Act in any aspect of a credit transaction, with limited exceptions. An appraisal used in connection with a credit transaction is an aspect of the credit transaction.

3. **An appraiser must not violate any state or local antidiscrimination laws or regulations applicable to the appraiser or to their assignment.**

Comment: State and local laws may expand upon federal antidiscrimination requirements to protect additional characteristics and/or prohibit additional practices. The specific laws and regulations that are applicable to an appraiser or an assignment will vary.

#### **Whether or not any antidiscrimination law or regulation applies:**

1. **An appraiser must not develop and/or report an opinion of value that, in whole or in part, is based on the actual or perceived race, ethnicity, color, religion, national origin, sex, sexual orientation, gender, gender identity, gender expression, marital status, familial status, age, receipt of public assistance income, or disability of any person(s).**

Comment: Within the context of the Nondiscrimination section of the ETHICS RULE, “person(s)” includes but is not limited to:

- a property or asset owner;
- a purchaser or potential purchaser of a property or an asset;

- an individual who might derive benefit from or use a property or an asset;
  - a client, representative or agent of a client, or any other intended user; or
  - the inhabitants of a geographic area.
2. An appraiser must not base an opinion of value upon the premise that homogeneity of the inhabitants of a geographic area is relevant for the appraisal.<sup>4</sup>
  3. An appraiser must not perform an assignment with bias with respect to the actual or perceived race, ethnicity, color, religion, national origin, sex, sexual orientation, gender, gender identity, gender expression, marital status, familial status, age, receipt of public assistance income, or disability of any person(s).
  4. An appraiser must not use or rely upon another characteristic as a pretext to conceal the use of or reliance upon race, ethnicity, color, religion, national origin, sex, sexual orientation, gender, gender identity, gender expression, marital status, familial status, age, receipt of public assistance income, or disability of any person(s), when performing an assignment.

Comment: Where an antidiscrimination law or regulation applies to the appraiser or the appraiser's assignment, the practices described in 1-4 immediately above may also be prohibited by applicable antidiscrimination law, including the FHAct, ECOA, and the Civil Rights Act of 1866. Any practice prohibited by an applicable antidiscrimination law or regulation is also prohibited by the preceding requirements of the Nondiscrimination section.

If an assignment does not involve residential real property and the intended use is not in connection with a credit transaction, the FHAct and ECOA do not apply. If the FHAct and ECOA do not apply, and no other law or regulation prohibits the use of or reliance upon a protected characteristic,<sup>5</sup> then the use of or reliance upon that characteristic is permitted only to the extent that it is essential to the assignment and necessary for credible assignment results.

<sup>4</sup> See Advisory Opinion 40, *Antidiscrimination and the Research, Analysis, and Reporting of Location Data, including Demographics, for Residential Real Property Appraisal Assignments*.

<sup>5</sup> For purposes of this exception, "protected characteristic" means race, ethnicity, color, religion, national origin, sex, sexual orientation, gender, gender identity, gender expression, marital status, familial status, age, receipt of public assistance income, or disability of any person(s), or any other characteristic protected by applicable antidiscrimination laws or regulations.

Comment: Where the FHAAct, ECOA, or another antidiscrimination law or regulation applies, any use of or reliance upon a protected characteristic must be expressly permitted by applicable laws or regulations.

## **CONDUCT:**

**An appraiser must perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.**

**An appraiser:**

- **must not perform an assignment with bias;**
- **must not advocate the cause or interest of any party or issue;**
- **must not agree to perform an assignment that includes the reporting of predetermined opinions and conclusions;**
- **must not misrepresent his or her role when providing valuation services that are outside of appraisal practice;**
- **must not communicate assignment results with the intent to mislead or to defraud;**
- **must not use or communicate a report or assignment results known by the appraiser to be misleading or fraudulent;**
- **must not knowingly permit an employee or other person to communicate a report or assignment results that are misleading or fraudulent;**
- ~~**must not use or rely on unsupported conclusions relating to characteristics such as race, color, religion, national origin, gender, marital status, familial status, age, receipt of public assistance income, handicap, or an unsupported conclusion that homogeneity of such characteristics is necessary to maximize value;**~~
- **must not engage in criminal conduct;**
- **must not willfully or knowingly violate the requirements of the RECORD KEEPING RULE; and**
- **must not perform an assignment in a grossly negligent manner.**

Comment: Development standards (1-1, 3-1, 5-1, 7-1 and 9-1) address the requirement that “an appraiser must not render appraisal services in a careless or negligent manner.” The above requirement deals with an appraiser being grossly negligent in performing an assignment which would be a violation of the Conduct section of the ETHICS RULE.

**If known prior to agreeing to perform an assignment, and/or if discovered at any time during the assignment, an appraiser must disclose to the client, and in each subsequent report certification:**

- **any current or prospective interest in the subject property or parties involved; and**
- **any services regarding the subject property performed by the appraiser, as an appraiser or in any other capacity, within the three-year period immediately preceding the agreement to perform the assignment.**



Comment: Disclosing the fact that the appraiser has previously appraised the property is permitted except in the case when an appraiser has agreed with the client to keep the mere occurrence of a prior assignment confidential. If an appraiser has agreed with a client not to disclose that he or she has appraised a property, the appraiser must decline all subsequent agreements to perform assignments that fall within the three-year period.

In assignments in which there is no appraisal or appraisal review report, only the initial disclosure to the client is required.

## **MANAGEMENT:**

**An appraiser must disclose that he or she paid a fee or commission, or gave a thing of value in connection with the procurement of an assignment.**

Comment: The disclosure must appear in the certification and in any transmittal letter in which conclusions are stated; however, disclosure of the amount paid is not required. In groups or organizations engaged in appraisal practice, intra-company payments to employees for business development do not require disclosure.

**An appraiser must not agree to perform an assignment, or have a compensation arrangement for an assignment, that is contingent on any of the following:**

1. the reporting of a predetermined result (e.g., opinion of value);
2. a direction in assignment results that favors the cause of the client;
3. the amount of a value opinion;
4. the attainment of a stipulated result (e.g., that the loan closes, or taxes are reduced); or
5. the occurrence of a subsequent event directly related to the appraiser's opinions and specific to the assignment's purpose.

**An appraiser must not advertise for or solicit assignments in a manner that is false, misleading, or exaggerated.**

**An appraiser must affix, or authorize the use of, his or her signature to certify recognition and acceptance of his or her USPAP responsibilities in an appraisal or appraisal review assignment (see Standards Rules 2-3, 4-3, 6-3, 8-3, and 10-3). An appraiser may authorize the use of his or her signature only on an assignment-by-assignment basis.**

**An appraiser must not affix the signature of another appraiser without his or her consent.**

Comment: An appraiser must exercise due care to prevent unauthorized use of his or her signature. An appraiser exercising such care is not responsible for unauthorized use of his or her signature.

## **CONFIDENTIALITY:**

**An appraiser must protect the confidential nature of the appraiser-client relationship.**

**An appraiser must act in good faith with regard to the legitimate interests of the client in the use of confidential information and in the communication of assignment results.**

**An appraiser must be aware of, and comply with, all confidentiality and privacy laws and regulations applicable in an assignment.**

**An appraiser must not disclose: (1) confidential information; or (2) assignment results to anyone other than:**

- the client;
- parties specifically authorized by the client;
- state appraiser regulatory agencies;
- third parties as may be authorized by due process of law; or
- a duly authorized professional peer review committee except when such disclosure to a committee would violate applicable law or regulation.

**An appraiser must take reasonable steps to safeguard access to confidential information and assignment results by unauthorized individuals, whether such information or results are in physical or electronic form.**

**An appraiser must ensure that employees, co-workers, sub-contractors, or others who may have access to confidential information or assignment results, are aware of the prohibitions on disclosure of such information or results.**

**A member of a duly authorized professional peer review committee must not disclose confidential information presented to the committee.**

Comment: When all confidential elements of confidential information, and assignment results are removed through redaction or the process of aggregation, client authorization is not required for the disclosure of the remaining information, as modified.

## Transfers and Sales

The Board adopted the addition of “and other transfers,” words to Standards Rule 1-5(b), Standards Rule 2-2(a)(x)(3), Standards Rule 2-2(b)(xii)(3), Standards Rule 7-5(b), Standards Rule 8-2(a)(x)(3) Standards Rule 8-2(b)(xii)(3), and Standards Rule 9-4(b).

STANDARDS 1, 7, and 9 have requirements, under certain circumstances, where the appraiser would need to analyze prior sales of a subject property. However, while a “sale of a property” is essentially a “transfer of a property,” there is a minor technical difference between the two. A sale always includes a transfer, but a transfer may not always technically include a sale.

This issue is directly related to the work of real property appraisers (STANDARDS 1 and 2), personal property appraisers (STANDARDS 7 and 8), and business appraisers (STANDARDS 9 and 10).

As an example, for business appraisers, in the sale of companies, those sales are often structured in ways that are not considered “true” sales. For example, they can be re-organizations, mergers, or other legal processes that convey or transfer an interest from one person (or entity) to another. There might even be partial transfers of businesses.

While USPAP guidance has always maintained that a “sale” and a “transfer” are essentially the same, enough questions have been raised about the issue that the ASB has made a change.

**Based on the above, the Board adopted the following changes to USPAP:**

### STANDARDS RULE 1

Standards Rule 1-5, **SUBJECT SALES AND OTHER TRANSFERS**, SALE AGREEMENTS, OPTIONS, **AND LISTINGS**, **AND PRIOR SALES**

When the value opinion to be developed is market value, an appraiser must, if such information is available to the appraiser in the normal course of business:

- (a) analyze all agreements of sale, options, and listings of the subject property current as of the effective date of the appraisal; and
- (b) analyze all sales **and other transfers** of the subject property that occurred within the three (3) years prior to the effective date of the appraisal.

## STANDARDS RULE 2

### Standards Rule 2-2, CONTENT OF A REAL PROPERTY APPRAISAL REPORT

Each written real property appraisal report must be prepared under one of the following options and prominently state which option is used: Appraisal Report or Restricted Appraisal Report.

An appraiser may use any other label in addition to, but not in place of, the labels set forth in this Standards Rule for the type of report provided. The use of additional labels such as analysis, consultation, evaluation, study, or valuation does not exempt an appraiser from adherence to USPAP.

The report content and level of information requirements in this Standards Rule are minimums for each type of report. An appraiser must supplement a report form, when necessary, to ensure that any intended user of the appraisal is not misled and that the report complies with the applicable content requirements.

- (a) The content of an Appraisal Report must be appropriate for the intended use of the appraisal and, at a minimum:

- .....
- (x) provide sufficient information to indicate that the appraiser complied with the requirements of STANDARD 1 by:

(1) summarizing the appraisal methods and techniques employed;

(2) stating the reasons for excluding the sales comparison, cost, or income approach(es) if any have not been developed;

(3) summarizing the results of analyzing the subject sales and other transfers, agreements of sale, options, and listings in accordance with Standards Rule 1-5;

Comment: If such information is unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.

- .....
- (b) The content of a Restricted Appraisal Report must be appropriate for the intended use of the appraisal and, at a minimum:
- .....

- (xii) provide sufficient information to indicate that the appraiser complied with the requirements of STANDARD 1 by:
  - (1) stating the appraisal methods and techniques employed;
  - (2) stating the reasons for excluding the sales comparison, cost, or income approach(es) if any have not been developed;
  - (3) summarizing the results of analyzing the subject sales and other transfers, agreements of sale, options, and listings in accordance with Standards Rule 1-5; and

Comment: If such information is unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.

## STANDARDS RULE 7

### Standards Rule 7-5, SUBJECT SALES AND OTHER TRANSFERS, SALE AGREEMENTS, OPTIONS, AND LISTINGS, ~~AND PRIOR SALES~~

When necessary for credible assignment results, an appraiser must, if such information is available to the appraiser in the normal course of business:

- (a) analyze all agreements of sale, validated offers or third-party offers to sell, options, and listings of the subject property current as of the effective date of the appraisal if warranted by the intended use of the appraisal; and
- (b) analyze all prior sales and other transfers of the subject property that occurred within a reasonable and applicable time period if relevant given the intended use of the appraisal and property type.

## Standards Rule 8-2, CONTENT OF A PERSONAL PROPERTY APPRAISAL REPORT

Each written personal property appraisal report must be prepared under one of the following options and prominently state which option is used: Appraisal Report or Restricted Appraisal Report.

An appraiser may use any other label in addition to, but not in place of, the labels set forth in this Standards Rule for the type of report provided. The use of additional labels such as analysis, consultation, evaluation, study, or valuation does not exempt an appraiser from adherence to USPAP.

The report content and level of information requirements in this Standards Rule are minimums for each type of report.

- (a) The content of an Appraisal Report must be appropriate for the intended use of the appraisal and, at a minimum:

- .....
- (x) provide sufficient information to indicate that the appraiser complied with the requirements of STANDARD 7 by:
    - (1) summarizing the appraisal methods or techniques employed;
    - (2) stating the reasons for excluding the sales comparison, cost, or income approach(es) if any have not been developed;
    - (3) summarizing the results of analyzing the subject property's sales **and other transfers**, agreements of sale, options, and listings when, in accordance with Standards Rule 7-5, it was necessary for credible assignment results and if such information was available to the appraiser in the normal course of business;

Comment: If such information is unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.

- .....
- (b) The content of a Restricted Appraisal Report must be appropriate for the intended use of the appraisal and, at a minimum:

- .....
- (xii) provide sufficient information to indicate that the appraiser complied with the requirements of STANDARD 7 by:
    - (1) stating the appraisal methods and techniques employed;
    - (2) stating the reasons for excluding the sales comparison, cost, or income approach(es) if any have not been developed;
    - (3) summarizing the results of analyzing the subject sales **and other transfers**, agreements of sale, options, and listings in accordance with Standards Rule 7-5; and

Comment: If such information is unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging the existence of the information and citing its lack of relevance is required.

## STANDARDS RULE 9

### Standards Rule 9-4, APPROACHES TO VALUE

In developing an appraisal of an interest in a business enterprise or intangible asset, an appraiser must collect and analyze all information necessary for credible assignment results.

- .....
- (b) An appraiser must, when necessary for credible assignment results, analyze the effect on value, if any, of:
    - (i) the nature and history of the business enterprise or intangible asset;
    - (ii) financial and economic conditions affecting the business enterprise or intangible asset, its industry, and the general economy;
    - (iii) past results, current operations, and future prospects of the business enterprise;
    - (iv) past sales and other transfers of capital stock or other ownership interests in the business enterprise or intangible asset being appraised;
    - (v) sales and other transfers of capital stock or other ownership interests in similar business enterprises;
    - (vi) prices, terms, and conditions affecting past sales and other transfers of similar ownership interests in the asset being appraised or a similar asset; and
    - (vii) economic benefit of tangible and intangible assets.

Comment on (i)-(vii): This Standards Rule directs the appraiser to study the prospective and retrospective aspects of the business enterprise in terms of the economic and industry environment within which it operates.

## Retired Definitions

The Board retired the definition of Assignment Elements, Misleading, and Relevant Characteristics.

### Definition of Assignment Elements

The Board retired the definition of ASSIGNMENT ELEMENTS. The definition included a list of the assignment elements, as stated in the Problem Identification section of the SCOPE OF WORK RULE, which were applicable in every appraisal assignment. However, in a few circumstances, the assignment elements listed in the definition may not be the exact ones that would be applicable in some appraisal review assignments.

~~**ASSIGNMENT ELEMENTS:** Specific information needed to identify the appraisal or appraisal review problem: client and any other intended users; intended use of the appraiser's opinions and conclusions; type and definition of value; effective date of the appraiser's opinions and conclusions; subject of the assignment and its relevant characteristics; and assignment conditions.~~

### Definition of Misleading

The definition of MISLEADING has been retired. Under the definition, there was some confusion as to if even a very small error (such as insignificant typo) in an appraisal report or appraisal review report met the USPAP definition of misleading. The definition of the word “misleading” then will now revert to its common dictionary definition and will no longer have a definition specific to USPAP.

~~**MISLEADING:** Intentionally or unintentionally misrepresenting, misstating, or concealing relevant facts or conclusions.~~

### Definition of Relevant Characteristics

The Board retired the definition of RELEVANT CHARACTERISTICS. The retirement of this definitions will avoid drawing a distinction between the phrase “relevant characteristics” and the following similar phrases:

- a. “property characteristics relevant to the assignment” and
- b. “characteristics of the property that are relevant to the type and definition value.”

These two phrases have identical meanings as “relevant characteristics.” Defining one term, but not the others, implied there is a difference requiring a distinction when no difference existed.

~~**RELEVANT CHARACTERISTICS:** features that may affect a property's value or marketability such as legal, economic, or physical characteristics.~~



## Modified Definitions

The Board modified the definition of Appraiser, Personal Inspection, and Workfile.

### Definition of Appraiser

The prior definition of APPRAISER in USPAP was:

**APPRAISER:** *one who is expected to perform valuation services competently and in a manner that is independent, impartial, and objective.*

The newly adopted definition of Appraiser adds the following Comment into the definition of APPRAISER:

*Comment:* *Such expectation occurs when individuals, either by choice or by requirement placed upon them or upon the service they provide by law, regulation, or agreement with the client or intended users, represent that they comply.*

The Comment provides important information needed to fully understand the definition. The Comment makes it clear where the *expectation* that an appraiser has an obligation to comply with USPAP comes from.

**The definition of APPRAISER is now as follows:**

**APPRAISER:** one who is expected to perform valuation services competently and in a manner that is independent, impartial, and objective.

*Comment:* *Such expectation occurs when individuals, either by choice or by requirement placed upon them or upon the service they provide by law, regulation, or agreement with the client or intended users, represent that they comply.*

### Definition of Personal Inspection

The definition of Personal Inspection has been modified. The new definition was adopted in light of technological changes related to property inspections. The new definition clarifies that, as used in USPAP, the term “personal inspection” refers only to the appraiser’s inspection completed as a part of a scope of work for an appraisal (or appraisal review) assignment.

The phrase “personal inspection” is only used in USPAP in the certification and this new definition makes the meaning of the phrase clear in the context with which it is used.

**The Board adopted the following changes:**

**PERSONAL INSPECTION:** (for an appraisal assignment) the appraiser's in-person observation of the subject property performed as part of the scope of work; (for an appraisal review assignment) the reviewer's in-person observation of the subject of the work under review, performed as part of the scope of work. ~~a physical observation performed to assist in identifying relevant property characteristics in a valuation service.~~

Comment: An appraiser's personal inspection is typically limited to those things readily observable without the use of special testing or equipment. Appraisals of some types of property, such as gems and jewelry, may require the use of specialized equipment. An personal inspection ~~by an appraiser~~ is not the equivalent of an inspection by an inspection professional (e.g., a structural engineer, home inspector, or art conservator).

## Definition of Workfile

The ASB amended the definition of WORKFILE. The prior definition was:

***WORKFILE:*** *data, information, and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with USPAP.*

While the main purpose of a workfile is to contain the documentation necessary to *support* the appraiser's opinions and conclusions, the workfile can also serve other purposes. For example, an appraiser can also choose to retain additional materials that go beyond showing compliance with USPAP, such as materials used to answer questions, to document correspondence with a client, or to provide background information on a business contract.

To reflect what the ASB intends for the workfile to contain, and not restrict it to just materials specifically intended to show compliance with USPAP, the ASB adopted the following changes to the definition:

**WORKFILE:** ~~data, information, and~~ documentation necessary to support ~~the~~ an appraiser's analyses, opinions, and conclusions ~~and to show compliance with USPAP.~~

## Minor Edits

The Board adopted replacement of the words “a summary” with “the description” in one sentence in each of the following Standards Rules: Standards Rule 2-3(c)(ii), Standards Rule 4-3(c)(ii), Standards Rule 6-3(c)(ii), Standards Rule 8-3(c)(ii), and Standards Rule 10-3(c)(ii). The Board also adopted the addition of words “in writing and” to a sentence in STANDARD 6. The Board adopted adding words to a requirement in Standards Rule 8-2(b) so that it is consistent with the exact wording in 8-2(a).

## Minor Change in 2-3, 4-3, 6-3, 8-3, and 10-3

The ASB replaced the words “a summary” with “the description” in one sentence in each of the certification requirements for STANDARDS 2, 4, 6, 8, and 10. To explain this change, we will use STANDARD 2 as an example.

In the reporting Standards and specifically in the Certification requirements, there is a section that deals with significant appraisal assistance and where disclosures related to the assistance may appear in a report:

*Comment: Although a certification must contain the names of individuals providing significant real property appraisal assistance, it is not required that a **summary** of the extent of their assistance be located in a certification. This disclosure may be in any part(s) of the report. **(bold added for emphasis)***

The requirements to report the extent of any significant appraisal assistance come from the requirements for an Appraisal Report and for a Restricted Appraisal Report. Each requirement is:

For an Appraisal Report (Standard Rule 2-2(a)(ix)):

*...**summarize** the extent of any significant real property appraisal assistance*

For a Restricted Appraisal Report (Standard Rule 2-2(b)(xi))

*...**state** the extent of any significant real property appraisal assistance*

Thus, depending on which reporting option is used, the appraiser is required to, at a minimum, either state or summarize the extent of the assistance. To be certain both options are encapsulated in the requirement, the ASB replaced the word “summary” with the word “description.”

**The Board adopted the following changes:**

**STANDARD RULE 2****Standards Rule 2-3, CERTIFICATION**

**A signed certification is an integral part of the appraisal report.**

.....

**(c) When a signing appraiser has relied on work done by appraisers and others who do not sign the certification, the signing appraiser is responsible for the decision to rely on their work.**

- (i) The signing appraiser is required to have a reasonable basis for believing that those individuals performing the work are competent; and**
- (ii) The signing appraiser must have no reason to doubt that the work of those individuals is credible.**

Comment: Although a certification must contain the names of individuals providing significant real property appraisal assistance, it is not required that a summary the description of the extent of their assistance be located in a certification. This disclosure may be in any part(s) of the report.

**STANDARD RULE 4****Standards Rule 4-3, CERTIFICATION**

**A signed certification is an integral part of the appraisal review report.**

.....

**(c) When a signing appraiser has relied on work done by appraisers and others who do not sign the certification, the signing appraiser is responsible for the decision to rely on their work.**

- (i) The signing appraiser is required to have a reasonable basis for believing that those individuals performing the work are competent; and**

- (ii) **The signing appraiser must have no reason to doubt that the work of those individuals is credible.**

Comment: Although a certification must contain the names of individuals providing significant appraisal or appraisal review assistance, it is not required that ~~a summary~~ the description of the extent of their assistance be located in a certification. This disclosure may be in any part(s) of the report.

## **STANDARD RULE 6**

### **Standards Rule 6-3, CERTIFICATION**

**A signed certification is an integral part of the appraisal report.**

- .....
- (c) **When a signing appraiser has relied on work done by appraisers and others who do not sign the certification, the signing appraiser is responsible for the decision to rely on their work.**

- (i) **The signing appraiser is required to have a reasonable basis for believing that those individuals performing the work are competent; and**
- (ii) **The signing appraiser must have no reason to doubt that the work of those individuals is credible.**

Comment: Although a certification must contain the names of individuals providing significant mass appraisal assistance, it is not required that ~~a summary~~ the description of the extent of their assistance be located in a certification. This disclosure may be in any part(s) of the report.

## **STANDARD RULE 8**

### **Standards Rule 8-3, CERTIFICATION**

**A signed certification is an integral part of the appraisal report.**

.....

**(c) When a signing appraiser has relied on work done by appraisers and others who do not sign the certification, the signing appraiser is responsible for the decision to rely on their work.**

- (i) The signing appraiser is required to have a reasonable basis for believing that those individuals performing the work are competent; and**
- (ii) The signing appraiser must have no reason to doubt that the work of those individuals is credible.**

Comment: Although a certification must contain the names of individuals providing significant personal property appraisal assistance, it is not required that ~~a summary~~ the description of the extent of their assistance be located in a certification. This disclosure may be in any part(s) of the report.

## **STANDARD RULE 10**

### **Standards Rule 10-3, CERTIFICATION**

**A signed certification is an integral part of the appraisal report.**

.....

**(c) When a signing appraiser has relied on work done by appraisers and others who do not sign the certification, the signing appraiser is responsible for the decision to rely on their work.**

- (i) The signing appraiser is required to have a reasonable basis for believing that those individuals performing the work are competent; and**
- (ii) The signing appraiser must have no reason to doubt that the work of those individuals is credible.**

Comment: Although a certification must contain the names of individuals providing significant business and/or intangible asset appraisal assistance, it is not required that ~~a summary~~ the description of the extent of their assistance be located in a certification. This disclosure may be in any part(s) of the report.

## Minor Change in STANDARD 6

The Board adopted addition of words “in writing and” to a sentence in STANDARD 6. STANDARD 6 addresses how an appraiser should report the results of a mass appraisal. The ASB holds that STANDARD 6 does not include an option for an oral report. This exclusion is now directly stated.

**The Board adopted the following change:**

### **STANDARD RULE 6**

**In reporting the results of a mass appraisal, an appraiser must communicate each analysis, opinion, and conclusion in writing and in a manner that is not misleading.**

Comment: STANDARD 6 addresses the content and level of information required in a report that communicates the results of a mass appraisal.

STANDARD 6 does not dictate the form, format, or style of mass appraisal reports. The substantive content of a report determines its compliance.



## Minor change in Standards Rule 8-2(b)(xii)(3)

The Board adopted adding words to a requirement in Standards Rule 8-2(b) so that it is consistent with the exact wording in 8-2(a).

**The Board adopted the following changes:**

### STANDARD RULE 8

#### Standards Rule 8-2, CONTENT OF A PERSONAL PROPERTY APPRAISAL REPORT

Each written personal property appraisal report must be prepared under one of the following options and prominently state which option is used: Appraisal Report or Restricted Appraisal Report.

An appraiser may use any other label in addition to, but not in place of, the labels set forth in this Standards Rule for the type of report provided. The use of additional labels such as analysis, consultation, evaluation, study, or valuation does not exempt an appraiser from adherence to USPAP.

The report content and level of information requirements in this Standards Rule are minimums for each type of report.

.....

**(b) The content of a Restricted Appraisal Report must be appropriate for the intended use of the appraisal and, at a minimum:**

**(xii) provide sufficient information to indicate that the appraiser complied with the requirements of STANDARD 7 by:**

- (1) stating the appraisal methods and techniques employed;**
- (2) stating the reasons for excluding the sales comparison, cost, or income approach(es) if any have not been developed;**
- (3) summarizing the results of analyzing the subject property's sales and other transfers, agreements of sale, options, and listings when, in accordance with Standards Rule 7-5, it was necessary for credible assignment results and if such information was available to the appraiser in the normal course of business; and**

Comment: If such information is unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required. If such information is irrelevant, a statement acknowledging

the existence of the information and citing its lack of relevance is required.

# Advisory Opinions

The following proposed changes from the [Fifth Exposure Draft](#) were adopted by the Board with administrative changes on May 22, 2023, with an effective date of January 1, 2024:

## Revisions to Advisory Opinion 2

The Board adopted changes to Advisory Opinion 2, *Inspection of Subject Property*, in part, to reflect adopted changes in the definition of Personal Inspection.

The new definition of Personal Inspection clarifies the distinction between an appraiser's inspection that is part of the scope of work for the assignment and an inspection that is completed by a third party outside of the appraiser's scope of work. The guidance in Advisory Opinion 2 illustrates the applicability of this revised definition and includes guidance regarding an appraiser's disclosure obligations related to a personal inspection.

**Due to the extent of the changes, the adopted changes are not shown in strikethrough:**

### **ADVISORY OPINION 2 (AO-2)**

*This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.*

### **SUBJECT: Inspection of Subject Property**

### **APPLICATION: Real Property, Personal Property**

### **THE ISSUE:**

An inspection of a property is not required by USPAP, but one is often conducted. USPAP does require the report to include a certification that indicates whether or not the subject property was personally inspected by the appraiser(s).

- What is the purpose of inspecting a subject property?
- What is a personal inspection?
- Is an appraiser's inspection different than a third-party inspection?
- When is an inspection part of the appraiser's scope of work?
- Does USPAP mandate a minimum level of property inspection?
- What are an appraiser's disclosure obligations relating to an inspection?
- When does a personal inspection conducted as Significant Appraisal Assistance require disclosure?

## **ADVICE FROM THE ASB ON THE ISSUE:**

### **Relevant USPAP & Advisory References:**

- **DEFINITION of PERSONAL INSPECTION**

PERSONAL INSPECTION: (for an appraisal assignment) the appraiser's in-person observation of the subject property performed as part of the scope of work; (for an appraisal review assignment) the reviewer's in-person observation of the subject of the work under review, performed as part of the scope of work.

Comment: An appraiser's personal inspection is typically limited to those things readily observable without the use of special testing or equipment. Appraisals of some types of property, such as gems and jewelry, may require the use of specialized equipment. A personal inspection is not the equivalent of an inspection by an inspection professional (e.g., a structural engineer, home inspector, or art conservator).

- Standards Rules 1-2(e) and 7-2(e)
- Standards Rules 2-3 and 8-3
- **SCOPE OF WORK RULE**
- Advisory Opinion 23, Identifying the Relevant Characteristics of the Subject Property in a Real Property Appraisal Assignment.

### **Purpose of an Inspection**

The primary reason for an appraiser to inspect a property is to gather information about the characteristics of the property that are *relevant* to its value.<sup>6</sup>

### **What is a Personal Inspection?**

A personal inspection is an appraiser's in-person observation of a property that is performed as part of the scope of work, usually to gather information about some or many of the property characteristics relevant to the assignment. While there are other ways to gather information on the subject property's relevant characteristics, the in-person observation (the personal inspection) allows the appraiser to conclude what information to gather that is relevant to the assignment.

---

<sup>6</sup> See Advisory Opinion 23, *Identifying the Relevant Characteristics of the Subject Property of a Real Property Appraisal Assignment* and Advisory Opinion 39, *Antidiscrimination Laws and Nondiscrimination*, and Advisory Opinion 40, *Antidiscrimination and the Research, Analysis, and Reporting of Location Data, including Demographics, for Residential Real Property Appraisal Assignments*.

The appraiser's personal inspection involves more than just gathering data about a property, it also includes developing relevant analyses. In all parts of the appraisal process, including during a personal inspection, the appraiser, acting competently and correctly applying judgment, continually determines the appropriate methods and techniques to use to gather the relevant information needed to solve the appraisal problem.

A personal inspection performed by an appraiser can be assisted by tools, and as technology evolves, so will the available tools. For example, the use of unmanned aerial vehicles, or drones, are tools that can be used to amplify vision like binoculars or a jeweler's loupe. Drones now allow an appraiser to view much more of a subject property while making a personal inspection. However, any tools used to view a property, or any data (video recordings, images, photos, etc.) produced by those tools are never a substitute for an appraiser's personal inspection. A "personal" inspection is when the appraiser makes the in-person observation of the subject property, regardless of any tools that appraiser may be using while making those in-person observations.

### **An Appraiser's Personal Inspection Versus a Third-Party Inspection**

There is a clear distinction between an appraiser who inspects a property as part of the scope of work to complete an appraisal assignment, and a "third party" person who has inspected or will inspect the same property, but who is not engaged in performing any part of the scope of work used to develop the appraisal.

Per the SCOPE OF WORK RULE:

For each appraisal and appraisal review assignment, **an appraiser** must:

1. identify the problem to be solved;
2. determine and **perform the scope of work** necessary to develop credible assignment results; and
3. disclose the scope of work in the report. [Bold added for emphasis]

It is only the appraiser, the individual signing the certification for the appraisal report, who is responsible for determining and performing the scope of work necessary to develop credible assignment results. Deciding whether or not that appraiser will complete a personal inspection of the subject property is, therefore, part of that appraiser's scope of work decision.

Sometimes, a client will provide the appraiser with an inspection report of the subject property, which was completed by, for example, a person that is identified as a data collector. These reports may be provided to the appraiser before the appraiser agrees to perform an appraisal assignment, or at any point during the assignment. Regardless

of the timing of the inspection report being provided, and if the information is useful to the appraiser, it is the appraiser who still needs to conclude if they must personally inspect the property to produce credible assignment results for the intended use.

The following are examples of third-party inspector data reports:

- 1) A property inspection report completed by an appraiser, whose assignment was to only inspect the property and to collect data.
- 2) An assessment office property data card filled out by an appraiser.
- 3) A multiple listing service report filled out by an individual (who sometimes acts as an appraiser) who was acting in the role of a real estate broker when they collected the information about a property and listed that information in the MLS.

In cases when the appraiser relies upon the data and information in a third-party inspector's report, the appraiser still must conclude if they need to gather additional information (by, for example, making a personal inspection) to identify the relevant characteristics of the subject property.

A third-party inspection report that includes the inspector's opinions and conclusions about physical characteristics is not a substitute for the appraiser's opinions and conclusions about those same characteristics. An appraiser who signs a certification in an appraisal report is indicating that all opinions and conclusions in that report are the appraiser's own personal opinions and conclusions. Therefore, an inspection report provided to the appraiser is just information to consider, not conclusions the appraiser must accept, which is no different than any other information or data the appraiser uses such as MLS data, property tax data, maps, photographs, etc.

Third-party inspectors are not performing an inspection that is part of the scope of work of the assignment; it is only the appraiser that concludes what data is needed for the assignment.

### **A Personal Inspection as Part of the Scope of Work**

Appraisers are often asked to appraise a property which they have previously inspected. If an appraiser has driven past a property many times prior to that property becoming the subject of an assignment, the appraiser has not yet inspected the property as a part of his or her scope of work for the assignment.

The definition of PERSONAL INSPECTION is distinguished as an inspection the appraiser performs "as part of the scope of work" for an appraisal or an appraisal review assignment. In these situations, prior inspections occurred before the agreement to perform an assignment and thus are not part of the appraiser's scope of work. It is not unusual for an appraiser to have, for example, seen a property in-person before they agree to perform an appraisal assignment.

## **Minimum Extent of a Personal Inspection**

An inspection is not required by USPAP for appraisal or appraisal review assignments, but one is often conducted.

The appraiser's personal inspection, and the extent of that inspection, is an aspect of the scope of work and may be required as an assignment condition and/or be necessary for the intended use of the assignment results. The extent of any personal inspection can be quite comprehensive, or very limited in scope. Regardless of the level of detail of a personal inspection, it is always possible to perform a personal inspection that is even more thorough. It is the appraiser's responsibility to determine the appropriate scope of work, including the extent of a personal inspection (when one is performed, required or necessary to produce credible assignment results given the intended use of the assignment results).

There are many circumstances that influence the appraiser's personal inspection. In some assignments, the client may request that the appraiser perform an exterior-only inspection from the street or perform no inspection of the subject property (i.e., a "desktop appraisal"). There are situations where inspection of the subject property is not possible; for example, if the improvements have been destroyed, removed, or not yet built. In some cases, the appraiser is denied access to the property for legal, personal safety, or other reasons. In such cases, the appraiser must use other means to gather information about the characteristics of the subject property relevant to the assignment in order to provide credible assignment results in the context of the intended use.

## **Disclosure Requirements Regarding the Appraiser's Personal Inspection**

While an inspection is not required, written appraisal reports for real and personal property must contain a signed certification (oral reports must have the signed certification in the workfile) that clearly states whether the appraiser has or has not personally inspected the subject property.

When a personal inspection is performed as part of the scope of work used to develop the appraisal, there are additional reporting requirements.

First, the report must contain sufficient information to enable the intended users to understand the scope of work performed. Per the SCOPE OF WORK RULE this includes, "the extent to which tangible property is inspected". This disclosure informs the intended user how much (or what parts) of the property were personally inspected (or, if necessary, details about which parts of the property that were not inspected), so that the communication is meaningful and not misleading.

And, regardless of the minimum USPAP reporting requirements related to inspections performed as part of the scope of work, situations may arise where the intended user would need to know, provided there are no applicable confidentiality restrictions from a prior assignment, that the appraiser has inspected the property sometime prior to agreeing to perform an assignment. Such a disclosure of an inspection that occurred



prior to agreeing to perform an assignment may be especially necessary if that knowledge was uniquely relevant to being able to solve the appraisal problem for the current assignment.

Second, the report must contain a certification indicating whether any signing appraiser has or has not personally inspected the property that is the subject of the appraisal report. For an appraisal review assignment, the certification would disclose if any signing appraiser personally inspected the property that is the subject of the work under review. A personal inspection that satisfies the appraiser's certification must be conducted as part of the scope of work for the appraisal or appraisal review assignment. An inspection by the appraiser that occurred outside of the assignment may be information used by the appraiser, but those inspections are a type of research that was not informed by the scope of work needed to solve the appraisal problem. Therefore, certifying a personal inspection was made as part of the assignment when the inspection occurred outside of the assignment would be misleading. If information from a prior inspection about a subject property is used to develop an appraisal, then appropriate disclosure of that inspection would be necessary as part of the scope of work reporting requirements.

Regarding third-party inspection reports, no disclosure about those reports is required in the certification or in the appraisal report, however, there may be instances where disclosures about those types of reports is necessary for the intended user to properly understand the appraisal report.

### **Disclosure Requirements for a Personal Inspection as part of Significant Appraisal Assistance**

Appraisals can be completed by more than one appraiser. One common situation is there is a "signing appraiser" (the one who signs the certification) and a "trainee appraiser" (where that trainee is providing significant appraisal assistance).

In the case of a residential real property appraisal assignment, consider the following:

When a trainee appraiser inspects the subject property, the signing appraiser needs to determine if that inspection was just administrative in nature (i.e., the trainee is being employed to provide something similar to a third-party inspection report to the signing appraiser), or if the trainee's inspection was a personal inspection (one that meets the definition of personal inspection in USPAP, and thus, was performed as part of the scope of work used to develop the appraisal). If the signing appraiser concludes the trainee appraiser did perform a personal inspection, and did provide significant real property appraisal assistance, then the extent of that assistance must be disclosed in the appraisal report.



In other words, a trainee’s inspection may or may not be a “personal inspection” (as defined in USPAP) and may or may not be significant real property appraisal assistance.

If a trainee appraiser made a personal inspection (as defined in USPAP) of the subject property, the appraisal report, and maybe even the certification, must clearly disclose the significant real property appraisal assistance that was performed by the trainee.

### **Illustrations**

1. I have agreed to appraise a single-unit property and I performed an exterior-only inspection of the property from the street. What are my reporting obligations for an Appraisal Report related to this inspection that I performed as part of the scope of work?

An exterior-only inspection performed from the street, where the appraiser made an in-person observation of the property, is a personal inspection. As the appraiser signing the certification, you would indicate in the certification that you did make a personal inspection of the property. Additionally, you are required to disclose the scope of work used to develop the appraisal, including the extent to which the property was inspected sufficient to enable the intended users to understand the report properly.

2. I have agreed to perform an appraisal for a client. The client provided me with a detailed property inspection report that includes photographs, types of materials, and condition ratings of those materials by a third-party inspector. Does USPAP allow me to use this information to develop my opinions and conclusions and what am I required to disclose regarding the inspection completed by the third-party inspector?

The property inspection report is information; therefore, you can use the information to conclude the characteristics of the property that are relevant to the assignment or decide to research additional information. An appraiser must have sufficient information to develop their own opinions and conclusions. Therefore, in cases when the appraiser relies upon a third-party inspector’s report, it may be necessary to obtain additional information and/or examine other documents in order to understand the property characteristics relevant to the assignment. Since the inspection was not performed by you, it was not a part of the scope of work completed as a part of the appraisal assignment.

3. I have been contacted by a property owner who is being transferred by their employer to another city. The owner indicated that while they might want a “detailed appraisal” later, right now they only need a rough idea of the value of the residence to begin negotiations related to the relocation. The owner has asked me to perform a “desktop” appraisal (i.e., an appraisal with no inspection of the property). I believe that, given this intended use, credible assignment results can be developed without a personal inspection. Is this permitted under USPAP?

Yes, this is permitted if sufficient information is available to conclude the characteristics of the property that are relevant to the assignment. Such information could be obtained from public records, previous listings of the property for sale, appraiser's files, etc.

While such an issue would likely not exist in this example, if, in a similar scenario the use of an extraordinary assumption about the condition of the property is necessary, then one must comply with the requirements for the use of an extraordinary assumption.

## Retirement of Advisory Opinion 16

The ASB retired Advisory Opinion 16, *Fair Housing Laws and Appraisal Report Content*. This Advisory Opinion largely provided guidance on the following prohibition in the ETHICS RULE:

*An appraiser must not use or rely on unsupported conclusions relating to characteristics such as race, color, religion, national origin, gender, marital status, familial status, age, receipt of public assistance income, handicap, or an unsupported conclusion that homogeneity of such characteristics is necessary to maximize value.*

With the removal of this prohibition and the addition of the Nondiscrimination section of the ETHICS RULE, the guidance in this Advisory Opinion is no longer relevant.

## Creation of new Advisory Opinion 39

The Board adopted Advisory Opinion 39, *Antidiscrimination*. This Advisory Opinion provides guidance on the new Nondiscrimination section of the ETHICS RULE.

The Advisory Opinion 39 notes that both the ETHICS RULE and the COMPETENCY RULE require an appraiser to understand and comply with all applicable antidiscrimination laws, whether at the federal, state, or local level. The Advisory Opinion also provides background information on the FHAct, ECOA, and the Civil Rights Act of 1866, and how these laws and their implementing regulations are relevant to appraisal practice. It also explains in greater detail the concepts of disparate treatment and disparate impact. And finally, Advisory Opinion 39 provides guidance and illustrations regarding the narrow circumstances in which use of or reliance upon protected characteristics is permitted under the Nondiscrimination section.

**The Board adopted the following:**

### **Advisory Opinion 39, Antidiscrimination Laws and Nondiscrimination**

*This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.*

### **SUBJECT: Antidiscrimination Laws and Nondiscrimination**

### **APPLICATION: Real Property, Personal Property, Intangible Property (ALL)**

### **THE ISSUE:**

How do federal antidiscrimination laws such as the Fair Housing Act (FHAct), the Equal Credit Opportunity Act (ECOA), and the Civil Rights Act of 1866 affect appraisal practice?

Whether or not a particular antidiscrimination law or regulation applies, how can an appraiser comply with the Nondiscrimination section of the ETHICS RULE?

### **BACKGROUND:**

USPAP requires an appraiser to be, or become, knowledgeable about and to fully comply with all laws applicable to the appraiser or to the assignment, including antidiscrimination laws. The three key U.S. federal antidiscrimination laws most relevant to appraisal practice are noted in the Nondiscrimination section of the ETHICS RULE:

- The Fair Housing Act (FHAAct);
- The Equal Credit Opportunity Act (ECOA); and
- Sections 1981 and 1982 of the Civil Rights Act of 1866.

In addition to mentioning these federal antidiscrimination laws, the Nondiscrimination section also references the long-established legal concepts of “disparate treatment” and “disparate impact,” which are integral to the cited laws and explained below.

The ETHICS RULE requires that an appraiser not act in a manner that violates antidiscrimination laws or regulations, and further, not act in a manner that contributes to a violation of those laws. For any given assignment, this might require compliance with one or more federal antidiscrimination laws and their implementing regulations, as well as state and local antidiscrimination laws and regulations.<sup>7</sup> For example, where the intended use of residential real property appraisal assignment results is to facilitate a mortgage-related transaction, the FHAAct, ECOA, the Civil Rights Act of 1866, and state and local laws have provisions that may apply to the appraiser or the assignment, which the appraiser will need to follow in order not to violate or contribute to violations of antidiscrimination law.

### **The Fair Housing Act**

The Fair Housing Act (FHAAct), also known as Title VIII of the 1968 Civil Rights Act (subsequently amended in 1988 by the Fair Housing Amendments Act), addresses housing discrimination and is a key component of the antidiscrimination framework of the U.S. legal system.

The FHAAct prohibits discrimination in a number of activities relating to housing, including the renting or buying of a home and obtaining a mortgage.<sup>8</sup> The FHAAct prohibits discrimination in residential real estate-related transactions, which the FHAAct defines to include “the appraising of residential real property.”<sup>9</sup> The Department of Housing and Urban Development (HUD) provides the regulations through which the FHAAct is enforced. HUD regulations contain information that applies to appraisers, so appraisers should look to HUD regulations when determining how to comply with the FHAAct.<sup>10</sup>

<sup>7</sup> USPAP also requires an appraiser to comply with all other federal, state, or local laws and regulations that are applicable to the assignment as a matter of competency.

<sup>8</sup> 42 U.S.C. §§ 3601—3619; Housing Discrimination Under the Fair Housing Act, [https://www.hud.gov/program\\_offices/fair\\_housing\\_equal\\_opp/fair\\_housing\\_act\\_overview](https://www.hud.gov/program_offices/fair_housing_equal_opp/fair_housing_act_overview); 42 U.S.C. § 3605(b).

<sup>9</sup> 42 U.S.C. § 3605(b).

<sup>10</sup> Some terms common to appraisers may be defined differently in the FHAAct and HUD regulations than in USPAP. Definitions found in laws and regulations are used in the application of the law, whereas defined terms within USPAP are intended to clarify the meaning of words or phrases in USPAP that differ from or are not found in popular English dictionaries, or in a few instances meant to clarify the intended use of the term within USPAP. To ensure compliance with the ETHICS RULE, appraisers should understand any USPAP terms as well as any legal terms relevant to their practice, and how those terms might differ. For example, HUD regulations use the term “appraisal” to mean “an estimate or opinion of the value of a specified residential real

Key concepts in the FHAct and its implementing HUD regulations include:

- FHAct-covered activities may not be based either in whole or in part on information involving race, color, religion, sex, handicap, familial status, or national origin,<sup>11</sup> unless there is an applicable exception in the FHAct (for example, exceptions for housing for older persons). For purposes of the FHAct, “sex” includes gender identity and sexual orientation.<sup>12</sup>
- Under the FHAct, protected characteristics include the demographic characteristics of the neighborhood where the property is located.<sup>13</sup>
- Disparate treatment and disparate impact can establish a basis for liability under the FHAct.

Disparate treatment occurs when an appraiser intentionally treats a person differently from others, either in whole or in part, because of a protected characteristic.<sup>14</sup> Disparate treatment can occur even if the appraiser is not motivated by malice or prejudice.<sup>15</sup> Additionally, in an appraisal, using or relying on a non-protected characteristic as a pretext to conceal using or relying upon a protected characteristic is a form of disparate treatment. Disparate treatment is discriminatory and violates applicable laws and USPAP even if the appraiser believes that statistics or other data might support the differential treatment.

Disparate impact involves neutral policies or practices—that is, policies or practices that do not on their face reference or rely upon protected characteristics—that have an effect that is disproportionately adverse to individuals with a particular protected characteristic.<sup>16</sup> Disparate impact discrimination or liability does not occur every time there is a disparate impact—some neutral policies and practices with a disparate impact may be permissible. A policy or practice that has a disparate impact is permissible if the policy or practice is justified by a business need, and there is no alternative policy or practice that would meet that need but have less of a disparate impact. A person or entity is not required to go to all lengths to minimize a disparate impact, but if an

---

property made in a business context in connection with the sale, rental, financing or refinancing of a dwelling or in connection with any activity that otherwise affects the availability of a residential real estate-related transaction.” 24 C.F.R. § 100.135(b).

11 42 U.S.C. § 3605(a).

12 See U.S. Department of Housing and Urban Development, Memorandum re: Implementation of Executive Order 13988 on the Enforcement of the Fair Housing Act, [https://www.hud.gov/sites/dfiles/PA/documents/HUD\\_Memo\\_EO13988.pdf](https://www.hud.gov/sites/dfiles/PA/documents/HUD_Memo_EO13988.pdf).

13 See Advisory Opinion 40, *Antidiscrimination and the Research, Analysis, and Reporting of Location Data, including Demographics, for Residential Real Property Appraisal Assignments*.

14 See also *Sanghvi v. City of Claremont*, 328 F.3d 532, 536–38 (9th Cir. 2003); *Reg'l Econ. Cmty. Action Program, Inc. v. City of Middletown*, 294 F.3d 35, 48–52 (2d Cir. 2002); *Kormoczy v. HUD*, 53 F.3d 821, 823–24 (7th Cir. 1995) (all describing and applying a disparate treatment analysis to claims brought under the FHAct).

15 See *Cmty. Servs., Inc. v. Wind Gap Mun. Auth.*, 421 F.3d 170, 177 (3d Cir. 2005) (stating that a plaintiff bringing a disparate treatment claim under the FHAct is not required to show “an evil or hostile motive,” instead only “that a protected characteristic played a role in the defendant’s decision to treat her differently”) (internal citations omitted).

16 See 24 C.F.R. § 100.500; see also *Texas Dep’t of Hous. & Cmty. Affs. v. Inclusive Communities Project, Inc.*, 576 U.S. 519, 533 (2015).

alternative policy or practice is reasonably available and does not impose a material burden, the law will generally require adoption of that alternative. In other words, if the need underpinning a policy or practice that causes a disparate impact could be met by an alternative policy or practice with less of an adverse impact on a protected group, then not adopting that alternative could give rise to disparate impact discrimination. As with disparate treatment, disparate impact discrimination does not require an appraiser to be motivated by malice or prejudice. Disparate impact does not require a showing of intent to treat members of a protected class differently from other persons.<sup>17</sup>

HUD regulations provide additional details about what is considered an unlawful practice related to the appraisal of residential real property, including “[u]sing an appraisal of residential real property in connection with the sale, rental, or financing of any dwelling where the person knows or reasonably should know that the appraisal improperly takes into consideration race, color, religion, sex, handicap, familial status, or national origin.”<sup>18</sup>

### **The Equal Credit Opportunity Act**

The Equal Credit Opportunity Act (ECOA) was originally passed by Congress in 1974. ECOA prohibits discrimination by “creditors”<sup>19</sup> in any aspect of a credit transaction on the basis of race, color, religion, national origin, sex, marital status, age, an applicant’s receipt of public assistance, or the good faith exercise of an applicant’s rights under the Consumer Credit Protection Act.<sup>20</sup> ECOA applies to “any extension of credit, including extensions of credit to small businesses, corporations, partnerships, and trusts.”<sup>21</sup> Like the FHAct, ECOA has been interpreted to prohibit discrimination on the basis of sexual orientation and gender identity.<sup>22</sup> Also, as under the FHAct, both disparate treatment and disparate impact can give rise to a violation of ECOA.<sup>23</sup> The Consumer Financial Protection Bureau (CFPB) provides the regulations through which ECOA is enforced, known as Regulation B.<sup>24</sup>

An appraisal that is used in connection with a credit transaction is an aspect of that credit transaction. Therefore, if an appraisal report is used in the course of a credit

17 See *de Reyes v. Waples Mobile Home Park Ltd. P’ship*, 903 F.3d 415, 421 (4th Cir. 2018) (citing *Inclusive Communities*, 576 U.S. at 524).

18 24 C.F.R. § 100.135(d)(1).

19 The term “creditor” is defined in ECOA’s implementing regulations as “a person who, in the ordinary course of business, regularly participates in a credit decision, including setting the terms of the credit.” Entities such as banks or lenders are commonly treated as creditors subject to ECOA, but any person who, “in the ordinary course of business, regularly participates in a credit decision” also qualifies as a creditor subject to ECOA. 12 C.F.R. § 1002.2(l).

20 15 U.S.C. § 1691(a).

21 59 Fed. Reg. 18267 (Apr. 15, 1994).

22 See, e.g., CFPB Clarifies That Discrimination by Lenders on the Basis of Sexual Orientation and Gender Identity Is Illegal, <https://www.consumerfinance.gov/about-us/newsroom/cfpb-clarifies-discrimination-by-lenders-on-basis-of-sexual-orientation-and-gender-identity-is-illegal/>.

23 12 CFR Part 1002 Supp. I Sec. 1002.4(a)-1; 12 CFR Part 1002 Supp. I Sec. 1002.6(a)-2.

24 12 C.F.R. Part 1002 et seq.



transaction, and the appraisal is inconsistent with the antidiscrimination provisions of ECOA, the appraiser likely has contributed to a legal violation on the part of the creditor in the transaction. A creditor cannot take a protected characteristic into account in any system of evaluating the creditworthiness of applicants.<sup>25</sup> A creditor cannot rely on a discriminatory appraisal to deny a loan. Consistent with these requirements, courts have held that creditors can be held liable under both the FHAct and ECOA in relying on discriminatory appraisals.

## **The Civil Rights Act of 1866**

The Civil Rights Act of 1866 is foundational to U.S. antidiscrimination law and applies in many contexts. Among its provisions are Section 1981 and Section 1982. Section 1981 guarantees the right of all persons to “make and enforce contracts.” This includes “the making, performance, modification, and termination of contracts, and the enjoyment of all benefits, privileges, terms, and conditions of the contractual relationship.” Section 1982 guarantees all citizens the right to “inherit, purchase, lease, sell, hold, and convey real and personal property.” The Civil Rights Act of 1866 prohibits disparate treatment on the basis of race, ethnicity, national origin, and religion.<sup>26</sup>

The provisions of Sections 1981 and 1982 of the Civil Rights Act of 1866 are applicable to appraisers, regardless of an individual appraiser’s discipline, and they have implications for how appraisers choose to accept or refuse assignments, treat clients, and how appraisers determine the appropriate scope of work for each assignment the appraiser agrees to perform. The results of the assignment in an appraisal report can directly affect a person’s ability to purchase, sell, hold, and convey real or personal property. Additionally, a refusal to accept certain assignments for discriminatory reasons (e.g., refusing to accept assignments from potential clients of a particular race, or refusing to accept assignments to appraise property with owners who are of a particular national origin) could violate Section 1981. Finally, courts often consider Section 1982 in conjunction with the FHAct to analyze housing-related discrimination claims.<sup>27</sup> Accordingly, discriminatory conduct that violates the FHAct could also be found to violate Section 1982.<sup>28</sup>

## **ADVICE FROM THE ASB ON THE ISSUE:**

### **Relevant USPAP & Advisory References**

<sup>25</sup> See 12 CFR § 1002.6(b)(1).

<sup>26</sup> *St. Francis College v. Al-Khazraji*, 481 U.S. 604 (1987); *Shaare Tefila Congregation v. Cobb*, 481 U.S. 615 (1987).

<sup>27</sup> See, e.g., *Watts v. Boyd Properties, Inc.*, 758 F.2d 1482, 1484 (11th Cir. 1985) (“...many of the cases arising under the Fair Housing Act also involve claims arising under § 1982, courts have often decided the cases without distinguishing between the two statutes.”).

<sup>28</sup> *Jones v. Alfred H. Mayer Co.*, 392 U.S. 409, 413 (1968); *City of Memphis v. Greene*, 451 U.S. 100, 122–23 (1981).



- The Nondiscrimination section of the ETHICS RULE, particularly regarding the requirement that “An appraiser must not act in a manner that violates or contributes to a violation of federal, state, or local antidiscrimination laws or regulations.”
- The COMPETENCY RULE, in the following ways:
  - As it requires “recognition of, and compliance with, laws and regulations that apply to the appraiser or to the assignment.”
  - As it provides for acquiring competency by “1. disclos[ing] the lack of knowledge and/or experience to the client before agreeing to perform an assignment; 2. tak[ing] all steps necessary or appropriate to complete the assignment competently; and 3. describ[ing], in the report, the lack of knowledge and/or experience and the steps taken to complete the assignment competently.”
- DEFINITIONS,<sup>29</sup> specifically the following:
  - APPRAISER: One who is expected to perform valuation services competently and in a manner that is independent, impartial, and objective.  
  
Comment: Such expectation occurs when individuals, either by choice or by requirement placed upon them or upon the service they provide by law, regulation, or agreement with the client or intended users, represent that they comply.
  - ASSIGNMENT CONDITIONS: Assumptions, extraordinary assumptions, hypothetical conditions, laws and regulations, jurisdictional exceptions, and other conditions that affect the scope of work.
  - BIAS: A preference or inclination that precludes an appraiser’s impartiality, independence, or objectivity in an assignment.

### **Requirements to Comply with Antidiscrimination Laws**

The opening lines of the Nondiscrimination section of the ETHICS RULE require that an appraiser not act in a manner that violates or contributes to a violation of antidiscrimination law, including the FHAct, ECOA, and the Civil Rights Act of 1866. The Nondiscrimination section further states that an appraiser must have knowledge of antidiscrimination laws and regulations and when they apply to the appraiser or to the assignment, in addition to the requirement to comply with the law. The Nondiscrimination section then provides two more specific requirements for appraisers conducting assignments (1) related to residential real property or (2) where the intended use is in connection with a credit transaction. As used in the ETHICS RULE and this guidance, “residential real property” includes any dwelling under the FHAct or ECOA,

<sup>29</sup> See USPAP Definitions Section.

and property that is part of a “residential real estate-related transaction” under the FHAct.<sup>30</sup> The Nondiscrimination section then provides a third requirement to follow applicable antidiscrimination laws and regulations of other jurisdictions, such as states and localities. State and local laws and regulations can protect additional personal characteristics and/or prohibit additional business practices and appraisal-related activities beyond the federal laws highlighted in the ETHICS RULE.

Understanding when an antidiscrimination law or regulation is applicable to an appraiser or an assignment is a component of both acting ethically and performing competently. A law is applicable to an appraiser where an appraiser’s actions could directly violate that law. For example, an appraiser who has agreed to develop an opinion of value for residential real property that will be used in connection with a mortgage transaction would violate the FHAct if the appraiser bases the opinion of value on information about race. Additionally, an appraiser could contribute to a violation of law by another person or entity (such as a lender or client) if a law is applicable to the appraisal report, even if it is not directly applicable to the appraiser. For example, an appraiser who has agreed to provide an opinion of value for collateral in connection with a business loan would contribute to a violation of ECOA if the appraiser bases the opinion of value on race, leading to an ECOA violation on the part of the lender. Knowledge of antidiscrimination laws and their application can be gained in multiple ways, including by taking education courses or undertaking personal study of the laws and regulations. An appraiser who does not recognize when an antidiscrimination law or regulation applies to the appraiser or to their assignment, and therefore does not comply with it, will violate both the COMPETENCY RULE and the ETHICS RULE. Competency is not limited to any one set of applicable laws or regulations, but to all laws and regulations that may be applicable to the appraiser or the assignment.<sup>31</sup>

### **General Principles of Nondiscrimination, Regardless of Applicable Law**

Where an antidiscrimination law or regulation applies to an appraiser or to the appraiser’s assignment, the appraiser could violate the ETHICS RULE in two ways. As discussed above, the first part of the Nondiscrimination section of the ETHICS RULE (starting at “An appraiser must not act in a manner that violates” and continuing through

30 See 42 U.S.C § 3602(b) (dwelling defined as “any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof”); 42 U.S.C. § 3605(b) (defining “residential real estate-related transaction” as the “making or purchasing of loans or providing other financial assistance” “for purchasing, constructing, improving, repairing, or maintaining a dwelling” or “secured by residential real estate,” as well as “the selling, brokering, or appraising of residential real property” (emphasis added)); 12 CFR § 1002.14(b)(2) (defining “dwelling” as “a residential structure that contains one to four units whether or not that structure is attached to real property. The term includes, but is not limited to, an individual condominium or cooperative unit, and a mobile or other manufactured home”). An appraiser should be knowledgeable about any applicable definitions and understand the conditions that trigger nondiscrimination requirements under applicable law, including state law.

31 This is consistent with the SCOPE OF WORK RULE, which states: “Laws include constitutions, legislative and court-made law, administrative rules, and ordinances. Regulations include rules or orders, having legal force, issued by an administrative agency.”

the comment about state and local antidiscrimination laws) prohibits conduct that violates or contributes to a violation of antidiscrimination laws or regulations. The remainder of the Nondiscrimination section (starting at “Whether or not any antidiscrimination law or regulation applies”) extends nondiscrimination obligations to all appraisal disciplines and all appraisers, regardless of the valuation service provided by an individual appraiser and whether any antidiscrimination laws would apply to that appraiser or that appraiser’s assignments.

These requirements and prohibitions, which are in addition to the requirements to not violate or contribute to violations of antidiscrimination laws, prohibit an appraiser from developing and/or reporting an opinion of value on the basis of specified characteristics; basing an opinion of value upon the premise that homogeneity of the inhabitants of a geographic area is relevant for the appraisal; performing an assignment with bias with respect to specified characteristics; and pretextually concealing the use of or reliance upon specified characteristics through reference to any other characteristic. Although these requirements and prohibitions are independent of any law, they reflect core prohibitions of antidiscrimination laws. Following these requirements helps an appraiser comply with antidiscrimination laws and regulations and preserve public trust in appraisal practice.

### **Developing or Reporting an Opinion of Value Based on Certain Personal Characteristics**

The Nondiscrimination section prohibits an appraiser from developing or reporting an opinion of value that, in whole or in part, is based on:

*the actual or perceived race, ethnicity, color, religion, national origin, sex, sexual orientation, gender, gender identity, gender expression, marital status, familial status, age, receipt of public assistance income, or disability of any person(s).*

The list of characteristics are personal characteristics that are protected by the FHAct, ECOA, and/or the Civil Rights Act of 1866. These are personal characteristics that are broadly protected by many antidiscrimination laws. As a matter of ethics, appraisers cannot use or rely upon these characteristics in developing or reporting an opinion of value, except in the limited circumstances discussed below. The words “actual or perceived” mean, for example, a person could either be Hispanic or just be perceived (by the appraiser) as Hispanic because he or she has a last name that is believed by the appraiser to be a Hispanic name.

### **Irrelevance of Homogeneity of the Inhabitants of a Geographic Area**

The Nondiscrimination section also prohibits an appraiser from basing an opinion of value upon the premise that homogeneity of the inhabitants of a geographic area is

relevant for an appraisal. The homogeneity—or diversity—of the inhabitants of an area is not relevant when appraising residential real property.

### **Bias with Respect to Certain Personal Characteristics**

An appraiser also must not “perform an assignment” with bias with respect to the actual or perceived race, ethnicity, color, religion, national origin, sex, sexual orientation, gender, gender identity, gender expression, marital status, familial status, age, receipt of public assistance income, or disability of any person(s).

“Bias” is defined in USPAP as:

*a preference or inclination that precludes an appraiser’s impartiality, independence, or objectivity in an assignment.*

The Conduct section of the ETHICS RULE prohibits an appraiser from performing an assignment with bias. Performing an assignment with bias with respect to any of the personal characteristics listed is a violation of both the Conduct section *and* the Nondiscrimination section of the ETHICS RULE. Although this prohibition relates to bias, bias is not required for a violation of any other portion of the Nondiscrimination section.

### **Pretext**

An appraiser must not conceal the use of or reliance upon any of the personal characteristics enumerated in the ETHICS RULE by pretextually referring to some other characteristic as though that other characteristic were the reason for the appraiser’s opinions or conclusions. Misrepresentation of an appraiser’s reasoning is misleading, in violation of USPAP’s Standards Rules, and concealment by using pretext in this way also is a violation of the ETHICS RULE. Although it can be acceptable for an appraiser to use data that may have a correlation with a protected characteristic, it is never acceptable to use correlated data *because of* its correlation with one of these personal characteristics. This would constitute a pretext.

### **The Limited Circumstances When Use of a Protected Characteristic in an Assignment is Permissible**

The ETHICS RULE recognizes that, in very limited circumstances, an appraiser may use or rely upon a protected characteristic in an assignment. A footnote to the Rule defines “protected characteristic” here as “race, ethnicity, color, religion, national origin, sex, sexual orientation, gender, gender identity, gender expression, marital status, familial status, age, receipt of public assistance income, or disability of any person(s), or any other characteristic protected by applicable antidiscrimination law.”

Any use of or reliance upon a protected characteristic in a manner that violates applicable antidiscrimination laws is necessarily a violation of USPAP.<sup>32</sup> Where the FHAct and ECOA do not apply, and no other law or regulation prohibits the use of or reliance upon a protected characteristic, “then the use of or reliance upon that characteristic is permitted only to the extent that it is essential to the assignment and necessary for credible assignment results.” This limitation applies regardless of when during the assignment the appraiser concludes a protected characteristic may be necessary for a valid solution to the assignment problem.

These conditions are intentionally stringent. Any use of or reliance upon protected characteristics in an assignment should be approached with the utmost care. As the comment to this part of the Nondiscrimination section states, where the FHAct, ECOA, or any other applicable antidiscrimination law or regulation prohibits the use of or reliance upon a protected characteristic, any use of or reliance upon that characteristic must be “expressly permitted.” An appraiser who is developing or reporting an opinion of value for residential real property, however, is never permitted to use or rely upon race, ethnicity, or national origin, or the racial, ethnic, or national origin demographics of a geographic area.

To determine whether it is ethical to use or rely upon a protected characteristic in an assignment, the appraiser should ask (1) whether applicable law prohibits consideration of that characteristic, and (2) whether consideration of the characteristic is essential to the assignment and necessary for credible assignment results.

### ***Is consideration of the characteristic prohibited by law?***

Use of or reliance upon a protected characteristic is permitted only where applicable laws and regulations expressly permit such use or reliance, or no antidiscrimination law or regulation applies.

If no antidiscrimination law or regulation applies, then use of or reliance upon a protected characteristic is not prohibited. If an assignment does not involve residential real property and the intended use is not in connection with a credit transaction, the FHAct and ECOA do not apply. For example, assuming the appraisal is not part of a credit transaction, when appraising a piece of turquoise jewelry, the FHAct and ECOA do not apply or prohibit an appraiser from taking into account whether that jewelry was authenticated as having been made by a Navajo artisan.

However, when the FHAct, ECOA, or another antidiscrimination law or regulation applies, use of or reliance upon a characteristic protected by applicable law is prohibited

---

32 “Use” and “reliance” require more than simply coming into contact with information during the course of the assignment. For example, an appraiser might come across demographic information for a geographic area during the course of research. Simply being aware of that information does not violate the Nondiscrimination provision. However, the prohibition regarding pretext still applies: an appraiser must not use information about a nonprotected characteristic to conceal use of or reliance upon information that would be prohibited under the ETHICS RULE or antidiscrimination laws or regulations.

unless it is expressly permitted. Such express permission can occur in two circumstances. First, “expressly permit” means a law that otherwise prohibits basing an opinion of value on a protected characteristic also has a stated exception that, in specified circumstances, allows basing an opinion of value on the otherwise protected characteristic. For example, the FHAAct prohibits discrimination based on familial status, but also contains an exception for housing for older persons.

Second, “expressly permit” can also mean that there are other laws and regulations that authorize consideration of a particular protected characteristic in applicable circumstances, such that it would be illogical for the appraiser to be prohibited from similarly considering that protected characteristic. For example, Congress has authorized a Disadvantaged Business Enterprise (DBE) program. Under this program, businesses owned and controlled by “socially and economically disadvantaged individual(s),” such as women, are certified as DBEs and become eligible for certain federally funded contracts. Thus, when conducting a business valuation of a woman-owned DBE, the appraiser’s reliance on the fact that the business is certified as a woman-owned business to complete the assignment would likely not be prohibited by law. It is important to note that there are relatively few instances when basing an opinion of value on a protected characteristic in a manner that would otherwise be prohibited by law, is nevertheless expressly permitted by law.

If applicable law prohibits basing an opinion of value on a protected characteristic, and there is no express permission to use or rely upon that characteristic, that ends the analysis: the characteristic may not be used or relied upon by the appraiser to develop their opinions and conclusions. However, if an appraiser knows that laws and regulations do not prohibit an appraiser from basing their opinions and conclusions on a protected characteristic, this is not the end of the analysis, because the appraiser must still ensure that doing so is essential to the assignment and necessary for credible assignment results.

***Is use of or reliance upon the characteristic “essential to an assignment” and “necessary for credible assignment results”?***

Use of or reliance upon a protected characteristic must also be both essential to the assignment—in other words, inherently part of the appraisal problem to be solved—and necessary for credible assignment results, meaning that the evidence and logic required to credibly support an appraiser’s opinions and conclusions requires it. It is not enough for an appraiser to believe information related to a protected characteristic is somehow helpful to the analysis, or that use of the information is supportable. It must be essential to the assignment and necessary for credible assignment results.

For example, relevant characteristics of a piece of turquoise jewelry that is claimed to be of Navajo origin may be its provenance and authenticity. If, in the context of the assignment and in light of the scope of work for the assignment, it is essential to consider whether the jewelry is, in fact, Navajo-crafted, and information about provenance and authenticity is necessary for credible assignment results, it is appropriate under the ETHICS RULE for an appraiser to use and/or rely upon such



information. On the other hand, in most circumstances it would be neither essential to the assignment nor necessary for credible assignment results to consider any other protected characteristic, such as the race or ethnicity of the jewelry's current owner.

## **Public Trust**

Individuals who act as appraisers<sup>33</sup> often perform other roles as well, including as real estate brokers, auctioneers, property managers, or even advocates or consultants for various types of valuation services. However, once there is an expectation that the individual is acting as an appraiser in a context where the appraiser must comply with USPAP, the appraiser must promote and preserve public trust in appraisal practice by observing the highest standards of professional ethics as embodied in the ETHICS RULE, including the Nondiscrimination section.

Additionally, some antidiscrimination laws may apply to appraisers outside of the requirements of USPAP, such as when deciding whether an appraiser will agree to perform an assignment or not. Complying with all applicable antidiscrimination laws and regulations is critical to protecting the public trust.

## **Illustrations:**

1. An appraiser based in the U.S. is requested to appraise a house by an appraisal management company that contracts with a mortgage lender. How should the appraiser determine which antidiscrimination laws must be followed in connection with this assignment?

Answer: USPAP does not prescribe which laws and regulations apply in any given circumstance. Instead, it is the duty of the appraiser under the COMPETENCY RULE to recognize and comply with laws and regulations that apply to the appraiser or to the assignment. This includes antidiscrimination laws and regulations that must be followed as a matter of both competency and of ethics. The appraiser's evaluation of applicable law should be informed by adequate training, information, and knowledge, which can be acquired in multiple ways, including through self-study, training on these laws, or working with another appraiser who has knowledge of how to comply with these laws.

Under USPAP, the appraiser must not act in a manner that violates or contributes to a violation of antidiscrimination laws or regulations. In this situation, the appraiser has been asked to perform an assignment that likely involves residential real property and a residential mortgage loan. As such, the appraisal is likely to constitute a real estate-related transaction under the FHAct, meaning that law's provisions would then

---

<sup>33</sup> See Advisory Opinion 21, USPAP Compliance.

apply. Additionally, if the intended use of the appraisal is to provide a mortgage (which is a type of credit transaction), ECOA likely would apply to the appraisal report. As such, the appraiser's failure to follow the requirements in ECOA could contribute to a violation of ECOA.

In addition to the FHAct and ECOA, other federal, state, and local laws, such as the Civil Rights Act of 1866 and state and local antidiscrimination laws, might also apply or be otherwise relevant to the assignment. The appraiser is required to be knowledgeable about and follow applicable laws and regulations.

2. An appraiser is employed by a major bank to conduct appraisal reviews for the bank's commercial loan division. How should the Nondiscrimination section of the ETHICS RULE guide this appraiser's work?

Answer: USPAP prohibits an appraiser from engaging in any conduct that violates or contributes to a violation of antidiscrimination laws or regulations. An appraiser working for a bank should know that banks typically are considered "creditors" subject to ECOA.

The ETHICS RULE prohibits an appraiser from developing or reporting an opinion of value that is based on specified personal characteristics, and from performing the assignment with bias. However, these requirements and prohibitions do not prevent an appraiser from, in an appraisal review assignment, identifying or reporting potential discrimination or other instances of bias.

3. An appraiser advertises appraisal services in a U.S. city through a variety of different media. However, the appraiser maintains a practice of declining offers to perform assignments from potential clients of one particular race. Does this policy violate antidiscrimination laws or USPAP?

Answer: Section 1981 of the Civil Rights Act of 1866 prohibits discrimination in contracting on the basis of race. Refusing to enter into an appraisal assignment—a contractual relationship—with particular individuals because of their race would violate this law.

USPAP does not state how an appraiser must decide which assignments to agree to perform and which ones they can legally turn down. However, USPAP does prohibit an appraiser from acting in a manner that violates applicable antidiscrimination laws or regulations and from advertising for or soliciting assignments "in a manner that is false, misleading, or exaggerated."<sup>34</sup> The practice of refusing to enter into an appraisal assignment because of a potential client's race thus violates USPAP.

---

<sup>34</sup> See Management section of the ETHICS RULE.





## Creation of new Advisory Opinion 40

The Board adopted Advisory Opinion 40, *Antidiscrimination and the Research, Analysis, and Reporting of Location Data, including Demographics, for Residential Real Property Appraisal Assignments* to provide guidance on the new Nondiscrimination section of the ETHICS RULE.

Advisory Opinion 40 provides greater detail on the requirements of applicable antidiscrimination laws and USPAP in the context of residential real property appraisal assignments. Building on discussion of the FHAct and other relevant laws and regulations in Advisory Opinion 39, the Advisory Opinion 40 provides guidance related to the prohibitions on using particular protected characteristics in developing an opinion of value for residential real property assignments and in the research, analysis, and reporting of location-related data, including demographics, for these types of assignments. The Advisory Opinion 40 also discusses the relationship between the USPAP prohibition on pretext and “code words” that can indicate discrimination.

**The Board adopted the following:**

**Advisory Opinion 40, Antidiscrimination and the Research, Analysis, and Reporting of Location Data, including Demographics, for Residential Real Property Appraisal Assignments**

*This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. Advisory Opinions are issued to illustrate the applicability of appraisal standards in specific situations and to offer advice from the ASB for the resolution of appraisal issues and problems.*

**SUBJECT: Antidiscrimination and the Research, Analysis, and Reporting of Location Data, including Demographics, for Residential Real Property Appraisal Assignments**

**APPLICATION: Real Property**

**THE ISSUE:**

There are antidiscrimination laws and ethical standards that prohibit an appraiser from using or relying upon data or information about protected characteristics when developing and/or reporting an opinion of value for residential real property.

In a residential real property appraisal assignment, to develop a credible opinion of value, an appraiser must identify the characteristics of the property that are relevant to the type and definition of value and the intended use of the appraisal. This includes the property’s location and its physical, legal, and economic characteristics. After the appraisal is developed, the appraiser must communicate the appraisal, including the property characteristics relevant to the assignment, in a manner that is not misleading.

When performing an appraisal assignment for residential real property, what requirements and prohibitions in USPAP address researching, analyzing, and reporting the appraiser's opinions and conclusions related to the property's location, including using or relying upon demographic data about inhabitants of a geographic area?

### **ADVICE FROM THE ASB ON THE ISSUE:**

#### **Relevant USPAP & Advisory References:**

- The PREAMBLE states, in part:  
*The appraiser's responsibility is to protect the overall public trust and it is the importance of the role of the appraiser that places ethical obligations on those who serve in this capacity [as an appraiser who is complying with USPAP].*
- The Nondiscrimination section of the ETHICS RULE states, in part:
  - *An appraiser must not act in a manner that violates or contributes to a violation of federal, state, or local antidiscrimination laws or regulations.*
  - *An appraiser, when completing a residential real property assignment, must not base their opinion of value in whole or in part on race, color, religion, national origin, sex, disability, or familial status.*
  - *An appraiser must not develop and/or report an opinion of value that, in whole or in part, is based on the actual or perceived race, ethnicity, color, religion, national origin, sex, sexual orientation, gender, gender identity, gender expression, marital status, familial status, age, receipt of public assistance income, or disability of any person(s).*
  - *An appraiser must not base an opinion of value upon the premise that homogeneity of the inhabitants of a geographic area is relevant for the appraisal.*
  - *An appraiser must not use or rely upon another characteristic as a pretext to conceal the use of or reliance upon race, ethnicity, color, religion, national origin, sex, sexual orientation, gender, gender identity, gender expression, marital status, familial status, age, receipt of public assistance income, or disability of any person(s), when performing an assignment.*
- A Comment in the Nondiscrimination section of the ETHICS RULE states that in this context:  
*"any person(s)" includes the "inhabitants of a geographic area."*
- A Comment in the Nondiscrimination section of the ETHICS RULE states that:

Where the FHAct, ECOA, or another antidiscrimination law or regulation applies, any use of or reliance upon a protected characteristic must be expressly permitted by applicable laws or regulations.

- The COMPETENCY RULE requires:  
...recognition of, and compliance with, laws and regulations that apply to the appraiser or to the assignment.
- The Comment to the COMPETENCY RULE states, in part:  
Competency may apply to factors such as, but not limited to, an appraiser's familiarity with a specific type of property or asset, a market, a geographic area, an intended use, specific laws and regulations, or an analytical method.
- The SCOPE OF WORK RULE states, in part:  
In an appraisal assignment, for example, identification of the problem to be solved requires the appraiser to identify the...subject of the assignment and its relevant characteristics...
- The Comment to Standards Rule 1-2 states, in part:  
In developing a real property appraisal, an appraiser must...(e) identify, from sources the appraiser reasonably believes to be reliable, the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal, including: (i) its location...
- Standards Rule 2, states, in part:  
In reporting the results of a real property appraisal, an appraiser must communicate each analysis, opinion, and conclusion in a manner that is not misleading.

### **USPAP's Prohibitions and Requirements Regarding Use of or Reliance Upon Protected Characteristics<sup>35</sup>**

As discussed more fully in Advisory Opinion 39 (AO-39), USPAP requires knowledge of and compliance with applicable antidiscrimination laws and regulations as a matter of both ethics and competency.<sup>36</sup> The Nondiscrimination section of the ETHICS RULE states: "[a]n appraiser must not act in a manner that violates or contributes to a violation of federal, state, or local antidiscrimination laws or regulations." When completing an

<sup>35</sup> "Protected characteristics" refers to race, ethnicity, color, religion, national origin, sex, sexual orientation, gender, gender identity, gender expression, marital status, familial status, age, receipt of public assistance income, or disability of any person(s). Additionally, when an antidiscrimination law or regulation applies, "protected characteristics" include any additional characteristics protected under applicable law.

<sup>36</sup> See Advisory Opinion 39, *Antidiscrimination Laws and Nondiscrimination*.

assignment involving residential real property,<sup>37</sup> appraisers must be aware that federal antidiscrimination laws, including the Fair Housing Act (FHA), prohibit an appraiser from relying on certain types of data and information when developing and reporting an opinion of value. Under the FHA, it is not permissible for an appraiser to base an opinion of value on race, color, religion, national origin, sex, disability, or familial status (“FHA protected characteristics”).<sup>38</sup> This prohibition includes not only the FHA protected characteristics of individual people, but also the protected characteristic demographics of geographic areas such as neighborhoods. The prohibition also extends to reliance upon the homogeneity, or lack thereof, of the inhabitants of a geographic area.

In addition to the prohibitions of applicable antidiscrimination law, the ETHICS RULE prohibits an appraiser from developing and/or reporting an opinion of value that, in whole or in part, is based on the race, ethnicity, color, religion, national origin, sex, sexual orientation, gender, gender identity, gender expression, marital status, familial status, age, receipt of public assistance income, or disability of any person(s). The prohibition on using or relying upon these protected characteristics is properly understood to include a prohibition on using or relying upon demographic information about such characteristics.

There are some limited circumstances under law and USPAP where use of or reliance upon particular characteristics is permitted—i.e., when such use and/or reliance is not prohibited by applicable laws or regulations, and it is essential to the assignment and necessary for credible assignment results.<sup>39</sup> However, an appraiser who is developing or reporting an opinion of value for residential real property is never permitted to use or rely upon race, ethnicity, or national origin, or the racial, ethnic, or national origin demographics of a geographic area. Such use and/or reliance is prohibited by the FHA.

A 1977 settlement between the United States Department of Justice (DOJ) and the American Institute of Real Estate Appraisers (AIREA) underscores the importance of

37 Different laws may have different definitions defining the scope of what constitutes residential real property for purposes of a specific law. As used in the ETHICS RULE and this guidance, and as discussed in Advisory Opinion 39, “residential real property” includes any “dwelling” as defined under the FHA, see 42 U.S.C. § 3602(b) (dwelling defined as “any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof”); property that is part of a “residential real estate-related transaction” under the FHA, see 42 U.S.C. § 3605(b) (defining “residential real estate-related transaction” as the “making or purchasing of loans or providing other financial assistance” “for purchasing, constructing, improving, repairing, or maintaining a dwelling” or “secured by residential real estate,” as well as “the selling, brokering, or appraising of residential real property” (emphasis added)); and property that is a “dwelling” under ECOA, see 12 CFR § 1002.14(b)(2) (defining “dwelling” as “a residential structure that contains one to four units whether or not that structure is attached to real property. The term includes, but is not limited to, an individual condominium or cooperative unit, and a mobile or other manufactured home”). An appraiser should be knowledgeable about any applicable definitions and understand the conditions that trigger nondiscrimination requirements under applicable law.

38 The FHA also covers discrimination on the basis of gender identity and sexual orientation in addition to the characteristics listed above. See U.S. Department of Housing and Urban Development, Memorandum re: Implementation of Executive Order 13988 on the Enforcement of the Fair Housing Act, [https://www.hud.gov/sites/dfiles/PA/documents/HUD\\_Memo\\_EO13988.pdf](https://www.hud.gov/sites/dfiles/PA/documents/HUD_Memo_EO13988.pdf).

39 See *Advisory Opinion 39, Antidiscrimination Laws and Nondiscrimination*.

this prohibition.<sup>40</sup> The settlement made clear that it is impermissible to “base a conclusion or opinion of value upon the premise that the racial, ethnic or religious homogeneity of the inhabitants of an area or of a property is necessary for maximum value.” This same settlement made it clear that, when evaluating neighborhood trends, “racial, religious, and ethnic factors are deemed unreliable predictors of value trends or price variance.” This demonstrates that the ETHICS RULE is consistent with antidiscrimination law.

Additional laws such as state and local laws could apply to the appraiser or the appraiser’s assignment and expand upon federal prohibitions. It is the appraiser’s responsibility to be or become knowledgeable about and comply with all applicable law as a matter of both ethics and competency.<sup>41</sup>

### **Researching and Relying on Location and Demographic Data**

When developing an opinion of value for residential real property, appraisers may have many sources of data and information available to them. The information available could include general population trends for a subject property’s location, including density and distribution of the population, and could also include demographic information that in some cases provides the ethnicity, race, gender, or sex of the person(s) in a geographic area. However, the simple fact that particular information is available to an appraiser does not mean the information can be used or relied upon when the appraiser is developing and/or reporting their opinion of value. The COMPETENCY RULE requires appraisers to know and follow applicable law, which might prohibit use of certain types of data. Competency also requires that appraisers know which information is needed to develop credible assignment results. Demographic data related to race, ethnicity, and national origin of a subject property’s neighborhood is never necessary for credible assignment results when developing or reporting an opinion of value for residential real property.

### **Demographic Data and Developing an Appraisal**

When developing an opinion of value for residential real property, a relevant characteristic of the subject property is often its location. Relevant characteristics of a property’s location may include the physical, legal, and economic characteristics of the subject property. Standards Rule 1-2(e)(i) states that appraisers are to “*identify... the characteristics of the property that are relevant to the type and definition of value and intended use of the appraisal, including...its location and physical, legal, and economic characteristics...*”

Relevant characteristics of a property’s location do not include the protected characteristics of any person or group of persons who may be associated with the property or the appraisal. This includes the property owner, occupants of the property, occupants of any of the nearby properties, potential buyers, the client of the report, etc. Any data or information related to the protected characteristics of individuals or groups

<sup>40</sup> *United States v. American Institute of Real Estate Appraisers*, 442 F. Supp. 1072 (N.D. Ill. 1977).

<sup>41</sup> See *Advisory Opinion 39, Antidiscrimination Laws and Nondiscrimination*.



may not be used or relied upon when developing an opinion of value, unless the limited exception as set forth in the Nondiscrimination section of the ETHICS RULE applies.<sup>42</sup>

### **Pretext and Use of Code Words**

An appraiser violates USPAP’s prohibition on pretext when the appraiser refers to something other than a protected characteristic to conceal use of or reliance upon a protected characteristic.<sup>43</sup> The use of code words in an appraisal report can indicate that an appraiser has engaged in disparate treatment, and pretextually referred to a non-protected characteristic as a way to conceal the appraiser’s use of or reliance upon a protected characteristic.

Examples of phrases that can constitute code word evidence of disparate treatment include, but are not limited to, “ghetto,” “crime” or “crime-ridden,” “inner city,” and “blight”; references to “shared values” or “undesirables”; concerns about “personal safety due to ‘new people’”; or statements that an area is lacking “pride of ownership.”<sup>44</sup> References to public assistance income and Section 8 vouchers can also have a coded meaning.<sup>45</sup> Whether a code word indicates discrimination depends on the context in which it is used.

### **Illustrations:**

1. An appraiser agrees to perform an assignment to develop an opinion of the market value of a residential property for a financial institution where the intended use is in connection with a mortgage loan. The resulting Appraisal Report states that the subject property is located in a “predominantly Black neighborhood.” What concerns could be raised by the appraiser’s inclusion of this information in the Appraisal Report?

Answer: USPAP requires the appraiser to understand which factors are relevant in developing an opinion of value and which are permitted to be used under USPAP and under applicable law, including the FHAct, ECOA, and the Civil Rights Act of 1866. The appraiser may not use factors related to actual or perceived protected characteristics of a geographically defined area to develop an opinion of value, unless permitted under the law and under the exception in the Nondiscrimination section of the ETHICS RULE. The use of or reliance upon

<sup>42</sup> *id.*

<sup>43</sup> *id.*

<sup>44</sup> See FHFA Advisory Bulletin AB 2021-04 - Enterprise Fair Lending and Housing Compliance, <https://www.fhfa.gov/SupervisionRegulation/AdvisoryBulletins/AdvisoryBulletinDocuments/AB%202021-04%20Enterprise%20Fair%20Lending%20and%20Fair%20Housing%20Compliance.pdf>; *New Orleans Fair Hous. Ctr. v. St. Bernard Parish*, 641 F. Supp. 2d 563, 571-72 (E.D. La. 2009).

<sup>45</sup> See Emily Badger, Time Magazine, *How Section 8 became a ‘racial slur’* (June 15, 2015), <https://www.washingtonpost.com/news/wonk/wp/2015/06/15/how-section-8-became-a-racial-slur/>; Abby Vesoulis, Time Magazine, *‘A Mask for Racial Discrimination.’ How Housing Voucher Programs Can Hurt the Low-Income Families They’re Designed to Help* (Feb. 20, 2020), <https://time.com/5783945/housing-vouchers-discrimination/>; Antonia Fasanelli & Philip Tegeler, American Bar Association, *Your Money’s No Good Here: Combatting Source of Income Discrimination in Housing* (Nov. 30, 2019), [https://www.americanbar.org/groups/crsj/publications/human\\_rights\\_magazine\\_home/economic-justice/your-money-s-no-good-here--combatting-source-of-income-discrimin/](https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/economic-justice/your-money-s-no-good-here--combatting-source-of-income-discrimin/).

race and information about race is never permitted when developing or reporting an opinion of value for residential real property. Therefore, a discussion of race should not be included in the Appraisal Report.<sup>46</sup>

2. An appraiser agrees to perform an assignment to develop an opinion of the market value of a residential property for a financial institution where the intended use is in connection with a mortgage loan. The resulting Appraisal Report states that the subject property is located in an “ethnically diverse neighborhood.” What concerns could be raised by the appraiser’s inclusion of this information in the Appraisal Report?

Answer: USPAP requires the appraiser to understand which factors are relevant in developing an opinion of value and which are permitted to be used under USPAP and under applicable law, including the FHAct, ECOA, and the Civil Rights Act of 1866. The appraiser may not use factors related to actual or perceived protected characteristics of a geographically defined area to develop the opinion of value, unless permitted under the law and under the exception in the Nondiscrimination section of the ETHICS RULE. Similar to race and information about race, the use of or reliance upon ethnicity and information about ethnicity is never permitted when developing or reporting an opinion of value for residential real property. Discussion of the ethnicity of the neighborhood, therefore, should not be included in the Appraisal Report.

3. An appraiser agrees to perform an assignment to develop an opinion of the market value of a residential property for a financial institution where the intended use is in connection with a mortgage loan. The resulting Appraisal Report states that the subject property is located in a “crime-ridden area” and is “lacking pride of ownership.” What concerns could be raised by the appraiser’s inclusion of this language in the Appraisal Report?

Answer: USPAP requires the appraiser to understand which factors are relevant in developing an opinion of value and which are permitted to be used under USPAP and under applicable law, including the FHAct, ECOA, and the Civil Rights Act of 1866. The FHAct does not permit using or relying upon race, ethnicity, or national origin, or racial, ethnic, or national origin demographic information in residential real property appraisal assignments, and such use or reliance therefore is also prohibited by USPAP. USPAP also prohibits the appraiser from using code words as pretext to refer to a protected characteristic. Crime and pride of ownership are not themselves protected characteristics, but here, the language of the Appraisal Report could indicate that the appraiser used these phrases as code words for a protected characteristic such as race. Courts

---

<sup>46</sup> In a review of millions of appraisals, the Federal Housing Finance Agency noted, “[t]he racial and ethnic composition of the neighborhood should never be a factor that influences the value of a family’s home. Our observation of appraisals suggest that racial and ethnic compositions of a neighborhood are still sometimes included in commentary, clearly indicating the writer thought it was important to establishing value.” FHFA, “Reducing Valuation Bias by Addressing Appraiser and Property Valuation Commentary,” Dec. 14, 2021, <https://www.fhfa.gov/Media/Blog/Pages/Reducing-Valuation-Bias-by-Addressing-Appraiser-and-Property-Valuation-Commentary.aspx>.



have concluded that certain terms or references may be “nothing more than camouflaged racial expressions.”<sup>47</sup> Both “crime-ridden area” and “pride of ownership” can be understood as coded language that is intended to stand in for protected characteristics such as race and ethnicity. This is especially the case because both the phrase “crime-ridden area” and the idea of “pride of ownership” are subjective, not the type of objective information that should form the basis of an opinion of value. This potentially coded language could be evidence of discriminatory treatment in violation of the FHAct and USPAP.<sup>48</sup>

4. An appraiser agrees to perform an assignment to develop an opinion of the market value of a residential property for a financial institution where the intended use is in connection with a mortgage loan. The resulting Appraisal Report states that the subject property is located in a district named “Little Cuba,” which is then described as a “spicy” area. The Appraisal Report also notes that “the businesses located near the residential properties in the subject’s neighborhood predominantly serve clients who appear to be immigrants.” What concerns could be raised by the appraiser’s inclusion of this information in the Appraisal Report?

Answer: USPAP requires the appraiser to understand which factors are relevant in developing an opinion of value and which are permitted to be used under USPAP and under applicable law. The appraiser may not use factors related to actual or perceived protected characteristics of a geographically defined area to develop their opinion of value, unless permitted under the exception in the Nondiscrimination section of the ETHICS RULE.

Some neighborhoods or even towns have legally recorded names that contain words or phrases that refer to a protected characteristic. These include neighborhoods such as “Chinatown,” “Greektown,” etc. Describing a designated area as “Little Cuba” could be appropriate if it is the legal name of an area, and “Little Cuba” is not being used by the appraiser in order to describe or otherwise communicate the racial or ethnic makeup of the area.<sup>49</sup>

Using an adjective such as “spicy” to describe a neighborhood, however, could indicate that the appraiser violated USPAP and applicable antidiscrimination laws and regulations. A word like “spicy” can be understood to serve as a pretext or code word for the racial and/or ethnic makeup of an area. In the context of the other statements in the Appraisal Report, the use of “spicy” can indicate that the

47 *Greater New Orleans Fair Hous. Action Ctr. v. St. Bernard Parish*, 641 F. Supp. 2d. 563, 571 (E.D. La. 2009) (internal quotation marks omitted).

48 FHFA Advisory Bulletin AB 2021-04 - Enterprise Fair Lending and Housing Compliance, <https://www.fhfa.gov/SupervisionRegulation/AdvisoryBulletins/AdvisoryBulletinDocuments/AB%202021-04%20Enterprise%20Fair%20Lending%20and%20Fair%20Housing%20Compliance.pdf>.

49 The FHFA has explained that factors such as “context” and “historical usage” are relevant to “[w]hether a code word is evidence of disparate treatment.” FHFA Advisory Bulletin AB 2021-04 - Enterprise Fair Lending and Housing Compliance, at fn. 21, <https://www.fhfa.gov/SupervisionRegulation/AdvisoryBulletins/Pages/Enterprise-Fair-Lending-and-Fair-Housing-Compliance.aspx#footnote21>.

appraiser used or relied upon racial or ethnic information in developing and reporting the opinion of value.

Stating the fact that a residential property is located near particular businesses may have been relevant when developing an opinion of value; however, the race and ethnicity of the clients that such businesses serve would be irrelevant. The mention of “immigrants” can reasonably be understood to refer to the national origin, race, and/or ethnicity of individuals, and could indicate that the appraiser inappropriately considered one or more of these protected characteristics in their appraisal in violation of USPAP and applicable laws and regulations.

## Pendergast, Catherine

---

**From:** board, rlestateappr  
**Sent:** Friday, June 16, 2023 12:24 PM  
**To:** Pendergast, Catherine  
**Subject:** FW: Appraiser license question

---

**From:** Tim Gatto <tim@appraisalgroupauburn.com>  
**Sent:** Monday, May 22, 2023 5:52 PM  
**To:** board, rlestateappr <rlestateappr.board@maine.gov>  
**Subject:** Appraiser license question

**EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Board of Real Estate Appraisers:

Good evening, I am just looking to get further clarification on an issue that has come up at our office. One of our licensed appraisers just completed an inspection on a property that is well over 1 million dollars in value. The town card had limited data and the appraiser would not have accepted the assignment if they were aware. Based on my knowledge a licensed appraiser cannot complete an assignment that is over 1 million dollars in value or a property that is deemed complex as it falls outside their licensure. Unless the report is signed off by a certified appraiser. So, our appraiser was withdrawing from the assignment as he lacks the proper qualifications to complete this assignment and I do not have the availability to inspect or review this assignment due to the lenders time constraints.

The lender is upset and stated that the licensed appraiser can complete this assignment because the loan amount is well under 1 million. Based on my knowledge and experience this is not accurate. Also, I have had other appraiser's in the industry state that a licensed appraiser can complete over million dollar assignments if the loan amount is under 1 million. I have told them that his is not accurate.

I am just looking for your clarification so I can inform the lender that I am correct and have received validation from the State of Maine Board of Appraisers.

Any help in this matter would be greatly appreciated.

Sincerely,

**Timothy J. Gatto**

**Certified Residential Real Estate Appraiser**

Appraisal Group, Inc.  
466 Main St., Suite 100  
Lewiston, ME 04240  
**P:** (207) 333-3311  
**F:** (207) 333-6311  
**C:** (207) 240-6682  
MLS# 010835  
[www.appraisalgroupauburn.com](http://www.appraisalgroupauburn.com)

This message (including attachments, if any) is confidential, may be privileged and is intended for the above-named recipient(s) only. If you are not the intended recipient of this message please notify me by return email and delete this message from your system. Any unauthorized use or disclosure of this message is strictly prohibited.

## Pendergast, Catherine

---

**From:** board, rlestateappr  
**Sent:** Friday, June 16, 2023 1:03 PM  
**To:** Pendergast, Catherine  
**Subject:** FW: License appraisal limits - Leonard Delcourt

---

**From:** Leonard Delcourt <lrdappraisalservices@gmail.com>  
**Sent:** Tuesday, May 23, 2023 9:39 AM  
**To:** board, rlestateappr <rlestateappr.board@maine.gov>  
**Subject:** License appraisal limits

**EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

I've been running into lenders/AMC's sending work that has potential market value over 1M in value. There is a question of what is meant by "transaction value". I have always understood that to mean "market value", whereas, the lender or AMC is understanding "transaction value" as "loan value". Can you help me sort this out so that I understand what is meant from the state's legal position? Also what constitutes a "complex" assignment.

Lenny  
Leonard R Delcourt  
Residential Appraiser  
LRD Appraisal Services LLC  
133 Bridgton Rd  
Westbrook, ME 04092  
Phone: 207 415-1702  
[www.lrdappraisalservices.com](http://www.lrdappraisalservices.com)

## Pendergast, Catherine

---

**From:** Cynthia Somes <cindys.pinetree@gmail.com>  
**Sent:** Monday, July 24, 2023 9:48 PM  
**To:** Pendergast, Catherine  
**Subject:** Maine's position on Hybrid Appraisals

**EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.**

Hello,

I have received a bid for a Hybrid appraisal. Over the weekend I took a McKissock class on Hybrids to gain knowledge. I am wondering if the State has any requirements and/or constraints about appraisal practices for hybrid appraisals involving property data gathered by non-appraiser professionals.

Cynthia

--

Cynthia Somes  
Licensed Residential Appraiser  
Pine Tree Appraisals  
207-318-0825

To: Board Members  
From: Catherine E. Pendergast  
Date: July 25, 2023  
Subject: Application - Experience Requirement not met

---

An application was received from a trainee real property appraiser to upgrade to a residential real property appraiser license. Staff randomly chose 4 appraisals from the applicant's monthly logs for review. Applicant was unable to produce all of the information requested because some requested samples were orders that applicant assisted with and documented for hours, yet did not sign and complete with the supervisor.

Further review of the logs and communication with the applicant and supervisor revealed that some appraisals on the logs were assignments for appraisers in the office who were not the applicant's supervisor. Hours logged for appraisals not signed by the supervisor are not eligible for experience credit.

Applicant does not meet the requirement of 1,000 hours of experience to qualify for the licensed residential real property appraiser. Applicant would like to re-apply after completing the required experience hours.

May the applicant withdraw the pending application?

To: Board Members  
From: Catherine E. Pendergast  
Date: July 24, 2023  
Subject: Communications Regarding Licensing Process

---

The following communications were received by Board staff regarding the licensing process:

1. Communication from Robert Strong
2. Letter from the Maine Credit Union League, Maine Bankers Association, Maine Association of Mortgage Professionals and CUSO Home Lending.
3. Letter from the Maine Association of Realtors.

The following information is also provided for review/discussion:

- Number of active appraisers by license type (7/24/2023)
- Maine requirements for licensure exceeding the Appraiser Qualification Board (AQB) minimum Real Property Appraiser Qualification Criteria as shown on the Interagency Task Force on Property Appraisal and Valuation Equity (PAVE) dashboard.
- ASC Policy Statement #4 Application Process

How would the Board like staff to respond?



## Asks:

1. Most important ask: industry participants\* strongly recommend removing the specific requirement for “complex” sample assignments for Certified Appraiser applications. This is not an AQB requirement and it’s extremely prohibitive for aspiring and otherwise qualified licensed appraisers.
2. Be consistent with the number of sample assignments the Board requires with applications and make the requirements detailed and public facing for the benefit of public trust.
3. Do not require applicants seeking Reciprocity or Licensure by Endorsement to submit sample appraisals. This is not an AQB requirement.
4. Pursuant to Federal Law, the Reviewer for the State Board should meet the guidelines established in Federal Register Vol. 83, No. 43 (page 9153): “Persons analyzing work product for USPAP compliance must be knowledgeable about appraisal practice and USPAP, and States must be able to document how such persons are so qualified.” These qualifications should be public facing for the benefit of public trust.
5. Maine Revised Statutes Title 32 Chapter 124 §14011, Section 7 states that Board Reviewers and Complaint Officers are exempt from Standard 3 (USPAP Version 2011). That is an outdated version of USPAP, so it is implied that Reviewers and Complaint Officers are exempt from Standards 3 and 4 (USPAP 2021). Reviewers and Complaint Officers are not exempt from USPAP according to any federal law. If by employing the Jurisdictional Exception Rule, state Reviewers and Complaint Officers can only be exempt from Standards 3 and 4 (USPAP Version 2021), not USPAP in its entirety. State Reviewers and Complaint Officers must adhere to the same principles and guidelines for which they are in place to enforce. This is critical to ensure public trust.
6. Be proactive in establishing a PAREA training program.
7. Update the Board’s review forms to be compliant with the most recent version of USPAP (2021).
8. Pursuant to federal guidelines, applications should be completed in 90 days. Any delay in the processing of the applications is required to be sufficiently documented in the file to explain the delay.

\*MBA,MCUL,MAMP,MEREDA

\*We’re still waiting on MAR’s official position. They’re meeting this week (5/30/23)

**Explanation for #1:** According to the Appraisal Subcommittee (ASC), Certified Appraisers represent the smallest contingent of credentialed appraisers in the State of Maine. Maine is **the only** state in the country that can claim that imbalance. The ratio of certified appraisers to total appraisers in Maine is 24.8%, second lowest in the country. The average ratio for the other 49 states is 44.1%. In other words, the percentage of certified appraisers across the country is 20% higher than Maine. More telling, Maine has by a significant margin the highest ratio of licensed appraisers in the entire country, 34%. The average ratio for the other 49 states is a mere 7.8%. Clearly Maine has a pool of licensed appraisers who are ready to advance to the certified level but haven't been able to do so because of the hurdle of "complex" appraisal assignments.

Why do we need more Certified Residential appraisers? The Department of Housing and Urban Development (HUD) requires Certified Appraisers for FHA financing. The rural counties of Maine are home to some of the lowest average income levels in the state. These consumers rely on low money down financing options to buy homes. We've been made aware of numerous instances whereby a mortgage company, local bank or credit union was unable to serve the needs of a customer/member because they couldn't find a certified appraiser to complete the appraisal assignment.

Also, federal regulations require that any transaction over \$1 million (transaction value) be completed by a certified appraiser. In these times of rapidly rising values, more properties are crossing that threshold every day.

**Explanation for #2:** From our peers we have heard that this number is not consistent – mostly four, but sometimes three and as many as seven. We feel that there should be a fixed number, whatever the Boards thinks is reasonable. If more or less than the fixed number is requested, an explanation to the licensee should be provided. In situations where an appraiser is not a signing appraiser but only providing professional assistance, those appraisals should be excluded from the sample list because the applicant is not taking responsibility for the work product.

**Explanation for #3:** Provided the licensee is applying from a jurisdiction (i.e. another State) that has an acceptable rating from the Appraisal Subcommittee, the AQB requires no additional requirement. We urge the board to align themselves with the AQB in this regard. There have been licensees certified in NH who have applied for Reciprocity in Maine but were turned down because their samples weren't deemed "complex enough" by the Reviewer.

**Explanation for #4:** Having a license is not in itself qualifying. Reviewers and Complaint Officers should have practical experience appraising properties that align with the property type being reviewed (e.g., residential vs commercial). The word practical may need to be defined by the Board for transparency's sake. They should also have access to the most up-to-date market information; in Maine we only have one primary source – Maine MLS. Appraisers that are employed by lending institutions who don't complete "for fee" appraisal assignments do not meet the participation policy for Maine Listings access. If the Reviewer is relying on data provided by another appraiser and it is not on a "for fee" basis, that is considered a "major

violation” by Maine Listings. The current Reviewer is employed by a lending institution and does not have access to the MLS. This raises a big caution flag on a few fronts that warrants an internal discussion by the Board.

**Explanation for #5:** Work performed by Reviewers and Complaint Officers should be performed in accordance with USPAP with exception to Standards Rule 3 and 4 (USPAP Version 2021). More specifically, they must comply with the Ethics Rule, the Record-Keeping Rule, the Competency Rule, the Scope of Work Rule, and the Jurisdictional Exception Rule, as well as Standards 1 and 2. The interim AAG has confirmed to a licensee in writing that the Reviewer is exempt from USPAP in its entirety. Absent a local or federal statute (or regulation) that is unbeknownst to those in our industry, our peers consider this to be an unsettling misunderstanding by the Board. If that is the case, the most recent Reviewer and Complaint Officer have been operating in violation of USPAP for several years.

**Explanation for #6:** Provided that Maine is one of, if not the, most challenging states in the country to obtain an appraisal, we should be leading the way in this endeavor. We’ve been eagerly awaiting action from the Board. We understand the challenges, but very little discussion has taken place in public forums. If we remove the “Complex” requirement for Certified Appraisers, we may not need this program. If we see a high conversion rate of APs to CRs, we will have more qualified appraisers to accept and train aspiring appraisers.

**Explanation for #7:** The form is outdated, perhaps even back to 2011. For the sake of public trust and credibility, the Reviewer’s report should be reflective of the most current edition of USPAP (2021). For all decisions requiring a vote from the Board, the date of the vote should be included for transparency’s sake. It’s important for the public trust to know that no unilateral decisions are being made on matters that require a vote from the Board.

**Explanation for #8:** Explanations for documented delays should be shared with the licensee. Safeguards should be put in place to address what steps should be taken when a certain threshold is met (e.g., 120 days). There have been instances where appraisers have waited 5-6 months with no explanation.

It is appreciated that this group of professionals are serving on a voluntary basis and tasked with a workload that exceeds their capacity. They work extremely hard and collectively have the best interests of the profession and the public in mind. We, as industry professionals, simply ask for more transparency and more detail on policies that appear to have been vague and/or unwritten in the past. While we remind ourselves that the Board is in place to protect public trust, we must keep in mind that the public are also consumers. The purchasing power of consumers in Maine is adversely impacted by a policy that could be changed with relative ease. It is my hope that the Board will consider this change.

So grateful for your time today. Thank-you!

June 5, 2023

**Maine Board of Real Estate Appraisers**

35 State House Station  
Augusta, ME 04333-0035

Dear Members of the Maine Board of Real Estate Appraisers,

The appraiser shortage is a national problem. Since the rise in homebuying during the historically low interest rates of the pandemic, appraisers nationwide have been on the decline and are likely to decline further. More than 70% of appraisers are over the age of 50, with more than 20% over the age of 65<sup>1</sup>. Most financial institutions have only one or two appraisers available, and should those individuals retire, the financial institutions would need to find other options, most of which are inferior or don't exist. Already because of this crisis, more financial institutions have turned to Automated Valuation Models (AVM), or remote appraisals. However, AVMs are not permitted for all types of transactions, and are typically less accurate in rural areas, which is especially problematic for Maine<sup>2</sup>. We desperately need appraisers and are unable to find enough.

This reality is represented in statistics and stories. Maine has nearly half as many appraisers per active listing as the national average. This shortage has driven up the cost of appraisals as well as the length of time they take. Maine's problem is especially acute with regard to the number of certified appraisers available for complex or FHA appraisals. Fewer than 60% of Maine's appraisers have this certification level, a full 18% points lower than the next worst state, Oklahoma<sup>3</sup>. **The ratio of certified appraisers in Maine to active listings per year is 1:19, compared to a national average of 1:6.** This discrepancy is a direct representation of the challenges of gaining certification in Maine, the requirements of which are set by this Board.

Financial institutions in Maine report appraisals for FHA loans costing just shy of \$900 (before travel fees are added). The VA maximum cap allows single family appraisals in Aroostook County to cost up to \$1,000. This is compared to \$800 in the other counties in Maine and just \$600 to \$625 in other New England states such as Connecticut and Massachusetts<sup>4</sup>. Some financial institutions have turned to Appraisal Management Companies (AMCs) which provide the benefit of not needing in house management but come at an additional cost to the consumer. Even a basic drive-by appraisal can cost \$800-\$900 and take 5 weeks in some counties.

<sup>1</sup> [file.aspx \(appraisalinstitute.org\)](file.aspx (appraisalinstitute.org))

<sup>2</sup> [About Automated Valuation Models \(corelogic.com\)](About Automated Valuation Models (corelogic.com))

<sup>3</sup> [https://www.asc.gov/?state=me&state\\_id=38](https://www.asc.gov/?state=me&state_id=38)

<sup>4</sup> <VA Appraisal Fee Schedules and Timeliness Requirements - VA Home Loans>



Maine Credit Union League



Maine  
Association  
of Mortgage  
Professionals



Maine is one of the states with the highest turnaround timeframe (along with Vermont and North Dakota), with 15 business days being the minimum, compared to a national average hovering around 7 business days<sup>5</sup>. Financial institutions in urban counties like Cumberland and York expect appraisals to take 3 weeks, while those in more northern counties report seeing wait times of 3-4 weeks in the winter and **2 months in the summer**. For homeowners who need an equity line of credit within a certain timeframe, small financial institutions that require an appraisal often lose business to larger institutions that are more insulated from risk and less dependent on appraisals.

It is our understanding that the role of the Maine Board of Real Estate Appraisers is to protect the public, but these wait times and high costs are hurting Maine consumers, especially first-time home buyers. First time homebuyers often rely on FHA and USDA loans, and the lack of certified appraisers available means those appraisals are more expensive. FHA and USDA loans allow for lower credit scores and minimal down payments, meaning the price of these high-cost appraisals is borne by those who can least afford it. Additionally, consumers who need less complex appraisals are often forced to pay for “more appraisal than they need,” as the shortage has meant that appraisers can decide not to do lower-level appraisals, which would be cheaper for prospective homebuyers. or equity loan consumers

Furthermore, the delay in appraisals may mean that loans cannot be processed in a timely manner, making it more difficult for a first-time homebuyer to find a seller to accept their offer. Thus this population is being disenfranchised from homeownership; creating a situation that is exacerbating income inequality and stymying the building of wealth and financial resiliency. Smaller financial institutions, which are often most responsive to consumers and the primary source of financing for small businesses, are often shut out of providing loans because of this crisis.

Due to the high cost and lack of availability, many financial institutions have turned to other products. Community banks and credit unions are using a combination of AVMs, drive-by appraisals, broker’s opinions, commercial evaluations, or even appraisal waivers. However, this lack of reliable data has changed the level of risk involved with making these loans, as the loan-to-value amount has become uncertain. Depending on the loan, a lack of an appraisal may mean a loan cannot be made. This harms the ability of credit unions and banks to invest in the local economy and spur economic growth.

Providing commercial loans is even more of a challenge. Those institutions who are lucky enough to find an appraiser willing to do a commercial loan face a **minimum turnaround time of 100 days, and costs ranging from \$2,500 to \$10,000**. In Aroostook County, there is only one individual available to do agricultural loans, but all his work is done with the Farm Services Administration, so small financial institutions serving our most rural parts of the state are not able to provide agricultural loans.

Appraisers need independence and to be a trusted partner in the homebuying process. Overvaluation of homes in 2007-2008 contributed to the housing crisis<sup>6</sup>. However, the lack of appraisers in the current market may have a similar effect, as lending institutions cannot

---

<sup>5</sup> [Appraisal Performance Index: 2022 Insights \(reggora.com\)](https://reggora.com/appraisal-performance-index-2022-insights/)

<sup>6</sup> [Home appraisals are increasingly done remotely rather than in person : NPR](#)

accurately guarantee the value of loans when they are relying on substandard products like AVMs.

There is a housing crisis in Maine. Lengthening the time it takes to get people into homes for the sake of opaque credentialing requirements that are not listed in Maine statute or adopted rules only hurts Maine people. Inventory availability continues to be a challenge, and housing prices may continue to go up. As that happens, the need for certified appraisers qualified to appraise properties over \$1 million will rise. Should inventory increase, interest rates decline, and the refinance market rebound, Maine's financial institutions and appraisal market would be unable to cope with the demand. The Board needs to develop additional opportunities and pathways to certification now.

Based on Maine's outlier status in terms of the proportion of certified appraisers, it is our belief that the requirements above what the federal Appraisal Qualifications Board (AQB) suggests are hurting Maine's consumers and exacerbating gatekeeping within the industry, worsening our already acute appraisal shortage. Blocking the licensing of certified appraisers means fewer appraisers are qualified to train new appraisers and Maine's appraiser shortage will continue to grow.

We encourage the Board to align licensing requirements to federal minimums as set by the AQB. The requirements for certification, especially complexity and number of assignments, should be made transparent and equitable so prospective appraisers can gain certification within the timeframe set by the Board. We know this will only be a start, and that long-term solutions like developing the PAREA program will be needed in the future. Without additional pathways to certification, this crisis will only continue to worsen, impacting Maine's consumers, financial institutions, and economy. It is incumbent upon the Board to act now to solve these problems.

Sincerely,

Maine Credit Union League

Maine Bankers Association

Maine Association of Mortgage Professionals

CUSO Home Lending

cc:

Commissioner Anne Head,

Honorable Troy Jackson, Senate President

Honorable Harold Stewart III, Senate Minority Leader

Honorable Rachel Talbot Ross, Speaker of the House

Honorable Billy Bob Faulkingham, House Minority Leader



July 20, 2023

Maine Board of Real Estate Appraisers  
35 State House Station  
Augusta, ME 04333-0035

Dear Members of the Maine Board of Real Estate Appraisers,

The Maine Association of REALTORS® is a professional trade association established in 1936 with over 6,500 members statewide. REALTORS® grow Maine's economy and build Maine communities.

Our members represent buyers and sellers involved in both residential and commercial real estate transactions. Our membership also includes industry affiliates with related real estate interests, such as lenders, closing agents, title agents, appraisers, building inspectors, surveyors, and others.

On behalf of our membership, I am writing to ask you to consider and implement policy changes that could result in an increase in the number of appraisers in Maine, and specifically the number of Certified Appraisers. Our clients most impacted by the shortage of Certified Appraisers are those:

- 1) households eligible for FHA financing (low-income, low downpayment mortgages),
- 2) households financing a purchase of more than \$1 million, and
- 3) households in rural Maine where the lack of appraiser availability leads to high costs for consumers.

We encourage policy changes at the Maine Board of Real Estate Appraisers to align licensure requirements with that of the Appraisal Qualifications Board (AQB). Of note, we respectfully request the removal of Maine's license requirement for "complex" sample assignments for Certified Appraiser applications.

Across the country, states are establishing Practical Applications of Real Estate Appraisal (PAREA) programs to provide an alternative to the traditional supervisor/trainee model to meet the experience requirements for different tiers of appraiser licensure, and so should Maine. Our Association believes that appraisal license laws and regulations must reflect the practical demands and dynamics of appraisal practice and business operation and reflect the impact and availability of current technologies.

Please reach out if the Maine Association of REALTORS® or our membership can be of assistance to you. Thank you for the important work that you do for Maine's real estate industry.

Sincerely,

Carmen McPhail  
2023 President



SELECTION FILE SUMMARY

STATE OF MAINE - DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

OFFICE OF PROFESSIONAL AND OCCUPATIONAL REGULATION - BOARD OF REAL ESTATE APPRAISERS

Selection File Name: ALL ACTIVE

SUMMARY BY LICENSE PREFIX

|                                      |     |     |
|--------------------------------------|-----|-----|
| AP - REAL ESTATE APPRAISER           |     |     |
| A - Active                           | 180 |     |
| SUBTOTAL:                            |     | 180 |
| CG - CERTIFIED GENERAL APPRAISER     |     |     |
| A - Active                           | 237 |     |
| SUBTOTAL:                            |     | 237 |
| CR - CERTIFIED RESIDENTIAL APPRAISER |     |     |
| A - Active                           | 178 |     |
| SUBTOTAL:                            |     | 178 |
| RA - REGISTERED APPRAISER TRAINEE    |     |     |
| A - Active                           | 40  |     |
| SUBTOTAL:                            |     | 40  |

SUMMARY BY LICENSE STATUS

|                     |     |     |
|---------------------|-----|-----|
| A - Active          | 635 |     |
| TOTAL ALL LICENSES: |     | 635 |



# Reduce Barriers to the Appraisal Profession

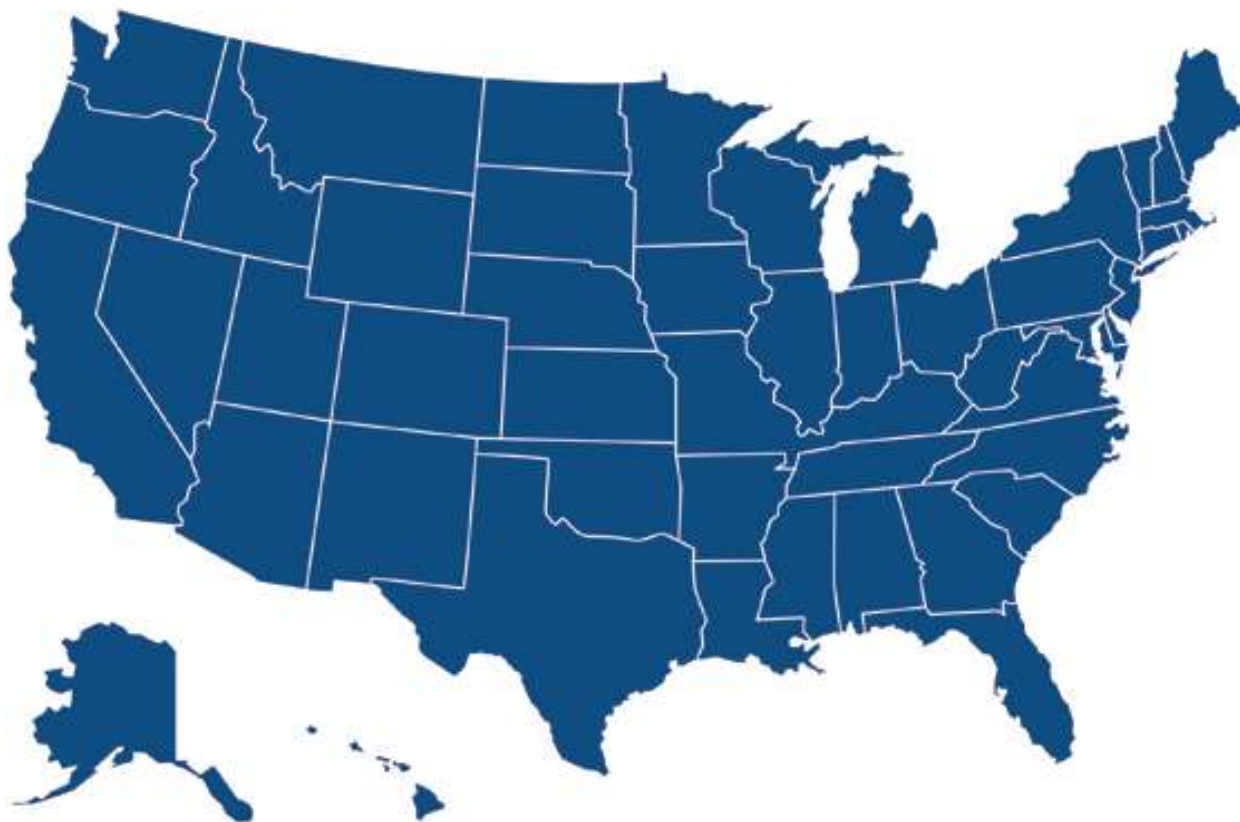
Understand the barriers to entry to the appraisal profession, view state appraiser credentialing standards, and take action to reduce barriers to entry to the appraisal profession.

The [PAVE Action Plan](#) highlighted the barriers to entry to the appraisal profession, which can include multiple levels of licensing and certification, as many as 3,000 hours of often unpaid training experience, and a four-year college degree. Based on these criteria, it can take an individual several years to become a Certified General Appraiser, a longer timeline than is required in many other professional fields. These requirements contribute to appraiser shortages, especially in rural areas, and make it more difficult for underrepresented groups—including people of color and women—to access the profession. According to the Department of Labor's (DOL) Bureau of Labor Statistics (BLS), the appraiser/assessor profession is 92.4 percent white, and women comprise only 45.5 percent of the workforce, making appraisers perhaps one of the least diverse professions in the country.

The Appraisal Foundation (TAF) has an important role in the appraisal industry, particularly through its Appraiser Qualifications Board (AQB), which is responsible for setting the minimum Real Property Appraiser Qualification Criteria (Criteria). The PAVE Action Plan identified several specific barriers to entry to the appraisal profession and proposed several strategies for transforming the Criteria such as eliminating burdensome experience requirements, reassessing the requirement of a college degree or college level coursework, and developing a comprehensive examination as an alternative pathway to credentialing aspiring appraisers. These proposed strategies will reduce the barriers while ensuring a high-quality workforce.

States have the discretion to codify standards above and beyond the baseline established by the AQB—and many do. The below dashboard shows instances in which States (States, territories, and the District of Columbia) have imposed additional requirements for credentialing aspiring appraisers. The PAVE Task Force encourages States to review the dashboard and assess whether there are opportunities to revise these additional requirements to reduce barriers to entry to the appraiser profession while ensuring demonstrated practice competencies to protect the public. Many states are already taking key statutory and/or regulatory steps to revise these additional requirements. This dashboard will continue to be updated as new information and data is provided.

Note: This state-level dashboard was last updated on June 1, 2023.



Click on the map or select your state for more information:

Select your state or territory ▼

---

### AQB Minimum Qualifying Education

---

Click on the map or select your state for more information: Maine

## Maine

### AQB Minimum Qualifying Education

|   |   |
|---|---|
| Requires more than the AQB minimum qualifying education hours (i.e., 150 hours, 200 hours, and 300 hours) | N |
| Requires a high school diploma or college education for a state licensed residential appraiser            | Y |
| Requires classroom (in person) qualifying education   | N |

### AQB Minimum Qualifying Experience

|  |   |
|--|---|
| Requires more than the AQB minimum experience hours (i.e., 1000, 1500, and 3000 hours) | N |
| Requires more than the AQB minimum experience months (i.e., 6, 12, and 18 months)      | N |
| Excludes or limits AQB allowable experience  | N |

### AQB-Approved Qualifying Examination

|   |   |
|---|---|
| Limits the AQB allowed time to pass the examination           | N |
| Limits the number of times allowed to take the examination    | N |
| Limits the examination validity period to less than two years | N |

### AQB Minimum Supervisory/Trainee Appraiser requirements

|  |   |
|--|---|
| Requirements for Supervisory Appraiser exceed AQB requirements | N |
| Requirements for Trainee Appraisers exceed AQB requirements    | N |

### Other

|  |   |
|--|---|
| Does not issue a state licensed residential credential | N |
|--|---|

### Legend

|                       |   |
|-----------------------|---|
| Meets AQB Standards   | N |
| Exceeds AQB Standards | Y |

## ***POLICY STATEMENT 4***

### ***Application Process***

AQB Criteria sets forth the minimum education, experience and examination requirements applicable to all States for credentialing of real property appraisers (certified, licensed, trainee and supervisory). In the application process, States must, at a minimum, employ a reliable means of validating both education and experience credit claimed by applicants for credentialing.<sup>47</sup> Effective January 1, 2017, AQB Criteria also requires States to assess whether an applicant for a real property appraiser credential possesses a background that would not call into question public trust. The basis for such assessment shall be a matter left to the individual States, and must, at a minimum, be documented to the file.

#### ***A. Processing of Applications***

States must process applications in a consistent, equitable and well-documented manner. Applications for credentialing should be timely processed by State agencies (within 90 calendar days after receipt of a completed application). Any delay in the processing of applications must be sufficiently documented in the file to explain the delay. States must ensure appraiser credential applications submitted for processing do not contain invalid examinations as established by AQB Criteria.

States must obtain and maintain sufficient relevant documentation pertaining to an application for issuance, upgrade and renewal of a credential so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations.

Documentation must include:

1. Application receipt date;
2. Education;

---

<sup>47</sup> Includes applications for credentialing of trainee, licensed, certified residential or certified general classifications.

3. Experience;
4. Examination;
5. Continuing education; and
6. Any administrative or disciplinary action taken in connection with the application process, including results of any continuing education audit.

## ***B. Qualifying Education for Initial or Upgrade Applications***

States must verify that:

- (1) the applicant's claimed education courses are acceptable under AQB Criteria; and
- (2) the applicant has successfully completed courses consistent with AQB Criteria for the appraiser credential sought.

States may not accept an affidavit for claimed qualifying education from applicants for any federally recognized credential.<sup>48</sup> States must maintain adequate documentation to support verification of education claimed by applicants.

## ***C. Continuing Education for Reinstatement and Renewal Applications***

### ***1. Reinstatement Applications***

States must verify that:

- (1) the applicant's claimed continuing education courses are acceptable under AQB Criteria; and
- (2) the applicant has successfully completed all continuing education consistent with AQB Criteria for reinstatement of the appraiser credential sought.

---

<sup>48</sup> If a State accepts education-related affidavits from applicants for initial licensure in any non-certified classification, upon the appraiser's application to upgrade to a certified classification, the State must require documentation to support the appraiser's educational qualification for the certified classification, not just the incremental amount of education required to move from the non-certified to the certified classification. This requirement applies to all federally recognized credentials.

States may not accept an affidavit for continuing education claimed from applicants for reinstatement. Applicants for reinstatement must submit documentation to support claimed continuing education and States must maintain adequate documentation to support verification of claimed education.

## ***2. Renewal Applications***

States must ensure that continuing education courses for renewal of an appraiser credential are consistent with AQB Criteria and that continuing education hours required for renewal of an appraiser credential were completed consistent with AQB Criteria. States may accept affidavits for continuing education credit claimed for credential renewal so long as the State implements a reliable validation procedure that adheres to the following objectives and requirements:

### *a. Validation objectives*

The State's validation procedures must be structured to permit acceptable projections of the sample results to the entire population of subject appraisers. Therefore, the sample must include an adequate number of affidavits selected from each federally recognized credential level to have a reasonable chance of identifying appraisers who fail to comply with AQB Criteria, and the sample must include a statistically relevant representation of the appraiser population being sampled.

### *b. Minimum Standards*

- 1) Validation must include a prompt post-approval audit. Each audit of an affidavit for continuing education credit claimed must be completed within 60 business days from the date the credential is scheduled for renewal (based on the credential's expiration date). To ensure the audit is a statistically relevant representation, a sampling of credentials that were renewed after the scheduled expiration date and/or beyond the date the sample was selected, must also be audited to ensure that a credential holder may not avoid being selected for a continuing education audit by renewing early or late.

- 2) States must audit the continuing education-related affidavit for each credentialed appraiser selected in the sampling procedure.
- 3) States must determine that education courses claimed conform to AQB Criteria and that the appraiser successfully completed each course.
- 4) When a State determines that an appraiser's continuing education does not meet AQB Criteria, and the appraiser has failed to complete any remedial action offered, the State must take appropriate action to suspend the appraiser's eligibility to perform appraisals in federally related transactions until such time that the requisite continuing education has been completed. The State must notify the ASC within five (5) business days after taking such action in order for the appraiser's record on the Appraiser Registry to be updated appropriately.
- 5) If a State determines that a renewal applicant knowingly falsely attested to completing the continuing education required by AQB Criteria, the State must take appropriate administrative and/or disciplinary action and report such action, if deemed to be discipline, to the ASC within five (5) business days.
- 6) If more than ten percent of the audited appraisers fail to meet the AQB Criteria, the State must take remedial action<sup>49</sup> to address the apparent weakness of its affidavit process. The ASC will determine on a case-by-case basis whether remedial actions are effective and acceptable.
- 7) In the case of a renewal being processed after the credential's expiration date, but within the State's allowed grace period for a late renewal, the

---

<sup>49</sup> For example:

- (1) a State may conduct an additional audit using a higher percentage of audited appraisers; or
- (2) a State may publicly post action taken to sanction non-compliant appraisers to increase awareness in the appraiser community of the importance of compliance with continuing education requirements.



State must establish a reliable process to audit affidavits for continuing education (e.g., requiring documentation of all continuing education).

*c. Documentation*

States must maintain adequate documentation to support its affidavit renewal and audit procedures and actions.

*d. List of Education Courses*

To promote accountability, the ASC encourages States accepting affidavits for continuing education credit claimed for credential renewal to require that the appraiser provide a list of courses to support the affidavit.

## ***D. Experience for Initial or Upgrade Applications***

States must ensure that appraiser experience logs conform to AQB Criteria. States may not accept an affidavit for experience credit claimed by applicants for any federally recognized credential.<sup>50</sup>

### ***1. Validation Required***

States must implement a reliable validation procedure to verify that each applicant's experience meets AQB Criteria, including but not limited to, being USPAP compliant and containing the required number of hours and months.

### ***2. Validation Procedures, Objectives and Requirements***

#### *a. Experience Hours Validation*

States must determine the hours and time period claimed on the experience log are accurate. Appraiser Program staff or State board members must select

---

<sup>50</sup> See Policy Statement 1D and E for discussion of "federally recognized credential" and "non-federally recognized credential." If prior to July 1, 2013, a State accepted experience-related affidavits from applicants for initial licensure in any non-certified classification, upon the appraiser's application to upgrade to a certified classification, the State must require experience documentation to support the appraiser's qualification for the certified classification, not just the incremental amount of experience required to move from the non-certified to the certified classification. For example, if a State accepted an experience affidavit from an appraiser to support the appraiser's initial hours to qualify for the licensed classification, and subsequently that appraiser applies to upgrade to the certified residential classification, the State must require documentation to support the full experience hours required for the certified residential classification, not just the difference in hours between the two classifications.

the work product to validate the experience hours claimed; applicants may not have any role in this selection process.

*b. USPAP Compliance*

States must analyze a representative sample of the applicant's work product for compliance with USPAP. For appraisal experience to be acceptable under AQB Criteria, it must be USPAP compliant. States must exercise due diligence in determining whether submitted documentation of experience or work product demonstrates compliance with USPAP. Persons analyzing work product for USPAP compliance must be knowledgeable about appraisal practice and USPAP, and States must be able to document how such persons are so qualified.

*c. Determination of Experience Time Periods*

Experience time periods must conform to requirements set forth in the AQB Criteria for the credential sought.

*d. Supporting Documentation*

States must maintain adequate documentation to support validation methods. The applicant's file, either electronic or paper, must include the information necessary to identify each appraisal assignment selected to validate the experience hours claimed and each appraisal assignment analyzed by the State for USPAP compliance, notes, letters and/or reports prepared by the official(s) evaluating the report for USPAP compliance, and any correspondence exchanged with the applicant regarding the appraisals submitted. This supporting documentation may be discarded upon the completion of the first ASC Compliance Review performed after the credential issuance or denial for that applicant.

***E. Examination***

States must ensure that an appropriate AQB-approved qualifying examination is administered for each of the federally recognized appraiser classifications requiring an examination.

## ***F. Summary of Requirements***

### ***Processing of Applications***

1. States must process applications in a consistent, equitable and well-documented manner.<sup>51</sup>
2. States must ensure appraiser credential applications submitted for processing do not contain invalid examinations as established by AQB Criteria.<sup>52</sup>
3. States must obtain and maintain sufficient relevant documentation pertaining to an application for issuance, upgrade or renewal of a credential so as to enable understanding of the facts and determinations in the matter and the reasons for those determinations.<sup>53</sup>

### ***Education***

1. States must verify that the applicant's claimed education courses are acceptable under AQB Criteria, whether for initial credentialing, renewal, upgrade or reinstatement.<sup>54</sup>
2. States must verify that the applicant has successfully completed courses consistent with AQB Criteria for the appraiser credential sought, whether for initial credentialing, renewal, upgrade or reinstatement.<sup>55</sup>
3. States must maintain adequate documentation to support verification.<sup>56</sup>
4. States may not accept an affidavit for education claimed from applicants for any federally recognized credential.<sup>57</sup>
5. States may not accept an affidavit for continuing education claimed from applicants for reinstatement.<sup>58</sup>
6. States may accept affidavits for continuing education credit claimed for credential renewal so long as the State implements a reliable validation procedure.<sup>59</sup>
7. Audits of affidavits for continuing education credit claimed must be completed

---

<sup>51</sup> Title XI § 1118 (a), 12 U.S.C. § 3347.

<sup>52</sup> Title XI § 1118 (a), 12 U.S.C. § 3347; AQB *Real Property Appraiser Qualification Criteria*.

<sup>53</sup> Title XI § 1118 (a), 12 U.S.C. § 3347.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> Title XI § 1118 (a), 12 U.S.C. § 3347.

<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> Title XI § 1118 (a), 12 U.S.C. § 3347; AQB *Real Property Appraiser Qualification Criteria*.

within sixty (60) business days from the date the credential is scheduled for renewal (based on the credential's expiration date).<sup>60</sup>

8. In the case of a renewal being processed after the credential's expiration date, but within the State's allowed grace period for a late renewal, the State must establish a reliable process to audit affidavits for continuing education (*e.g.*, requiring documentation of all continuing education).<sup>61</sup>
9. States are required to take remedial action when it is determined that more than ten percent of audited appraiser's affidavits for continuing education credit claimed fail to meet the minimum AQB Criteria.<sup>62</sup>
10. States are required to take appropriate administrative and/or disciplinary action when it is determined that an applicant knowingly falsely attested to completing continuing education.<sup>63</sup>
11. When a State determines that an appraiser's continuing education does not meet AQB Criteria, and the appraiser has failed to complete any remedial action offered, the State must take appropriate action to suspend the appraiser's eligibility to perform appraisals in federally related transactions until such time that the requisite continuing education has been completed. The State must notify the ASC within five (5) business days after taking such action in order for the appraiser's record on the Appraiser Registry to be updated appropriately.<sup>64</sup>

### ***Experience***

1. States may not accept an affidavit for experience credit claimed from applicants for any federally recognized credential.<sup>65</sup>
2. States must ensure that appraiser experience logs conform to AQB Criteria.<sup>66</sup>
3. States must use a reliable means of validating appraiser experience claims on all

---

<sup>60</sup> Title XI § 1118 (a), 12 U.S.C. § 3347.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> Title XI § 1118 (a), 12 U.S.C. § 3347; AQB *Real Property Appraiser Qualification Criteria*.

initial or upgrade applications for appraiser credentialing.<sup>67</sup>

4. States must select the work product to validate the experience hours claimed on all initial or upgrade applications for appraiser credentialing.<sup>68</sup>
5. States must analyze a representative sample of the applicant's work product for compliance with USPAP on all initial or upgrade applications for appraiser credentialing.<sup>69</sup>
6. States must exercise due diligence in determining whether submitted documentation of experience or work product demonstrates compliance with USPAP on all initial or upgrade applications for appraiser credentialing.<sup>70</sup>
7. Persons analyzing work product for USPAP compliance must be knowledgeable about appraisal practice and USPAP, and States must be able to document how such persons are so qualified.<sup>71</sup>
8. Experience time periods must conform to requirements set forth in the AQB Criteria for the credential sought.<sup>72</sup>

### ***Examination***

1. States must ensure that an appropriate AQB-approved qualifying examination is administered for each of the federally recognized credentials requiring an examination.<sup>73</sup>

---

<sup>67</sup> Title XI § 1118 (a), 12 U.S.C. § 3347.

<sup>68</sup> Title XI § 1118 (a), 12 U.S.C. § 3347.

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> Title XI § 1118 (a), 12 U.S.C. § 3347; AQB *Real Property Appraiser Qualification Criteria*.

<sup>73</sup> *Id.*