

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 46. BOARD OF APPRAISAL

Editor's Note: The following Notice of Proposed Rulemaking was exempt from Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 1341.)

[R14-85]

PREAMBLE

<u>1. Articles, Parts, and Sections Affected (as applicable)</u>	<u>Rulemaking Action</u>
R4-46-101	Amend
R4-46-102	Amend
R4-46-103	Amend
R4-46-106	Amend
R4-46-107	New Section
R4-46-301	Amend
R4-46-302	Amend
R4-46-303	Amend
R4-46-304	Amend
R4-46-305	Amend
R4-46-306	Amend
R4-46-307	New Section
Article 4	Repeal
Article 4	New Article
R4-46-401	Repeal
R4-46-401	New Section
R4-46-402	New Section
R4-46-403	New Section
R4-46-404	New Section
R4-46-405	New Section
R4-46-406	New Section
R4-46-407	New Section
R4-46-408	New Section
R4-46-501	Amend
R4-46-502	New Section
R4-46-503	Repeal
R4-46-503	New Section
R4-46-504	New Section
R4-46-505	New Section
R4-46-506	New Section
R4-46-507	New Section
R4-46-508	New Section
R4-46-509	New Section
R4-46-510	New Section
R4-46-511	New Section
R4-46-601	Amend
R4-46-602	Repeal

2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the imple-

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menting statute (specific):

Authorizing statute: A.R.S. §§ 32-3605(A), 32-3655, 32-3680

Implementing statute: A.R.S. §§ 32-3601, 32-3605(B), 32-3610, 32-3625, 32-3631, 32-3651 through 32-3653, 32-3654, and 32-3661 through 32-3679

3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:

Notice of Rulemaking Docket Opening: 20 A.A.R. 1334 (*in this issue*)

4. The agency's contact person who can answer questions about the rulemaking:

Name: Debra J. Rudd, Executive Director

Address: Board of Appraisal
15 S. 15th Ave., Suite 103A
Phoenix, AZ 85007

Telephone: (602) 542-1593

Fax: (602) 542-1598

E-mail: debra1@azboa.gov

Web site: <https://boa.az.gov>

5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

In addition to making changes identified as needed in a Five-Year Review Report approved by the Council on April 7, 2009, the Board is making the rules consistent with recent statutory changes and changes in the real property appraiser qualification criteria issued by the Appraisal Foundation for implementation on January 1, 2015.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Board did not review and does not rely on any study relevant to the rules.

7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

The rules will have minimal economic impact on those involved in real property appraisal in Arizona because most of the economic impact results from state and federal law. The rules simply provide guidance regarding the law.

9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:

Name: Debra J. Rudd, Executive Director

Address: Board of Appraisal
15 S. 15th Ave., Suite 103A
Phoenix, AZ 85007

Telephone: (602) 542-1593

Fax: (602) 542-1598

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10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

An oral proceeding regarding the proposed rules will be held as follows:

Date: Wednesday, July 30, 2014

Time: 9:00 a.m.

Location: 15 S. 15th Ave., Suite 103A
Phoenix, AZ 85007

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond

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to the following questions:

None

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The following are general permits: the registration required under R4-46-401; the renewal registration required under R4-46-403; and the approval required under R4-46-501.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

On July 21, 2010, the Dodd-Frank Wall Street Reform and Consumer Protection Act became law. The Act amends Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 regarding federally related transactions. A federally related transaction includes an appraisal completed for FHA or loans that may be sold to Fannie Mae or Freddie Mac, or those completed for lenders with FDIC insurance or under the control of the Office of the Comptroller of the Currency.

The Act mandates that real estate appraisals be performed in accordance with generally accepted appraisal standards as evidenced by the standards made by the Appraisal Standards Board of the Appraisal Foundation. In Laws 2013, Chapter 184, the legislature significantly amended the organic statutes of the Board of Appraisal to conform to the Act. This rulemaking implements these laws. The rules are not more stringent than federal law.

c. Whether a person submitted an analysis to the agency that compares the rule's impact on the competitiveness of business in this state to the impact on business in other states:

No analysis was submitted.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 46. BOARD OF APPRAISAL

ARTICLE 1. GENERAL PROVISIONS

Section

- R4-46-101. Definitions
- R4-46-102. Powers of Board
- R4-46-103. Board Records; Public Access; Copying Fees
- R4-46-106. Fees
- R4-46-107. Procedures for Processing Applications

ARTICLE 3. HEARINGS AND DISCIPLINARY PROCEEDINGS

Section

- R4-46-301. Complaints; Investigations; Informal Proceedings; Summary Suspensions; Refusal to Appear
- R4-46-302. Formal Hearing Procedures
- R4-46-303. Rehearing or Review of the Board's Decisions
- R4-46-304. Conviction and Judgment Judgment Disclosure
- R4-46-305. Terms and Conditions of Reapplication After after Revocation
- R4-46-306. Complaint Information Availability
- R4-46-307. Hearing on Denial of a Registration, License, Certificate, Designation, or Course Approval

ARTICLE 4. STANDARDS OF PRACTICE APPRAISAL MANAGEMENT COMPANIES

Section

- R4-46-401. Standards of Appraisal Practice Application for Initial Registration
- R4-46-402. Bond Required
- R4-46-403. Change in Controlling Person or Agent for Service of Process
- R4-46-404. Application for Renewal Registration
- R4-46-405. Annual Certifications

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- R4-46-406. Appeal for Waiver
- R4-46-407. Training Required
- R4-46-408. Voluntarily Relinquishing Registration

ARTICLE 5. COURSE APPROVAL

Section

- R4-46-501. Course Approval ~~Required~~
- R4-46-502. ~~Expired Approval of Distance Learning Delivery Mechanism~~
- R4-46-503. ~~Hearing on Denial of Course Approval~~ Course Owners
- R4-46-504. Application for Course Approval
- R4-46-505. Course Approval without Application
- R4-46-506. Minimum Standards for Course Approval
- R4-46-507. Secondary Providers
- R4-46-508. Compliance Audit of Approved Courses
- R4-46-509. Changes to an Approved Course
- R4-46-510. Renewal of Course Approval
- R4-46-511. Transfer of an Approved Course

ARTICLE 6. PROPERTY TAX AGENTS

Section

- R4-46-601. Standards of Practice
- R4-46-602. ~~Disciplinary Proceedings; Board Action; Notice Requirements~~ Repealed

ARTICLE 1. GENERAL PROVISIONS

R4-46-101. Definitions

The definitions in A.R.S. §§ 32-3601, 32-3651, and 32-3661 apply to this Chapter. In these rules Additionally, unless the context otherwise requires, in this Chapter:

“Arizona or State Certified General Appraiser” means a person classified by the Board as a State Certified General Real Estate Appraiser in accordance with A.R.S. § 32-3612(A)(1).

“Arizona or State Certified Residential Appraiser” means a person classified by the Board as a State Certified Residential Real Estate Appraiser in accordance with A.R.S. § 32-3612(A)(2).

“Arizona or State Licensed Appraiser” means a person classified by the Board as a State Licensed Real Estate Appraiser in accordance with A.R.S. § 32-3612(A)(3).

“Appraisal Foundation” means the educational organization, defined in A.R.S. § 32-3601(3), which is the parent organization of the Appraiser Qualifications Board and the Appraisal Standards Board.

“Accredited” means approved by an accrediting agency recognized by the Council for Higher Education Accreditation or the U.S. Secretary of Education.

“AMC” means appraisal management company as defined at A.R.S. § 32-3661.

“Appraisal practice” means valuation services performed by an individual acting as an appraiser, including but not limited to an appraisal or appraisal review.

“Appraiser” means ~~a person~~ an individual, other than a property tax agent as defined at A.R.S. § 32-3651, registered, licensed, or certified by the Board to complete real estate appraisals or appraisal consulting valuation assignments in accordance with A.R.S. § 32-3612(A)(1), (2), and (3) regarding real estate competently in a manner that is independent, impartial, and objective.

“AOB” means the Appraisal Qualifications Board as defined at A.R.S. § 32-3601.

“Assignment” means the valuation service that an appraiser provides as a consequence of an agreement between the appraiser and a client.

“Board” means the Arizona Board of Appraisal established by A.R.S. § 32-3604.

“Board counsel” means the assistant attorney general who provides legal advice to the Board.

“Board staff” means the executive director and ~~the executive director’s designees~~ other Board employees.

“Classroom education” means appraisal education delivered in a setting where there is no geographical separation between the instructor and student.

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“Complaint” means a written communication to or by the Board that ~~meets the minimum criteria established in R4-46-301(A)(1) and alleges violations~~ a violation of A.R.S. Title 32, Chapter 36 or this Chapter.

“Consent agreement” means a written agreement between the Board and a respondent that concerns disciplinary or remedial action.

~~“Consulting assignment” means a real estate appraisal advisory engagement, the purpose of which is to develop, without advocacy, an analysis, recommendation, or opinion where at least one opinion of value is a component of the analysis leading to the assignment results.~~

“Conviction” means a judgment by any state or federal court of competent jurisdiction in a criminal case, regardless of whether an appeal is pending or could be taken, and includes any judgment or order based ~~upon~~ on a plea of no contest.

~~“Course provider” means any organization or individual that offers qualifying or continuing education courses approved by the Board.~~

“Course owner” means a person or a combination of persons that own the propriety rights to a course. A course owner may have developed the course or may have purchased the propriety rights to the course.

“Direct supervision” means that a ~~supervising~~ designated supervisory appraiser of a registered trainee appraiser is directing and overseeing the production of each appraisal assignment and is personally and physically present during the entire inspection of each appraised property.

“Disciplinary action” means any regulatory sanction imposed by the Board, including a letter of due diligence, a ~~consent~~ settlement agreement, probation, suspension, revocation, or an acceptance of surrender of a license or certificate.

~~“Dismissal” means termination of a complaint without further hearing when the Board finds there is no unprofessional conduct.~~

~~“Distance education” means any educational process based on the geographical separation of learner and instructor (for example, CD-ROM, on-line learning, correspondence courses, video conferencing). appraisal education delivered in a setting in which the learner and instructor are geographically separated. For qualifying education, distance education must provide interaction between learner and instructor and include testing.~~

“Due diligence” means the diligence reasonably expected from, and ordinarily exercised by, a person regulated by the Board, in accordance with A.R.S. Title 32, Chapter 36 and this Chapter.

“Formal complaint” means a notice of allegations issued by the Board under R4-46-302.

“Formal hearing” means an adjudication of a disputed matter, conducted by the Office of Administrative Hearings (OAH) or the Board, under R4-46-302.

“Informal hearing” means a voluntary hearing before the Board in which a respondent is asked to respond to a complaint under R4-46-301(D).

~~“Informational interview” means a voluntary appearance by a respondent at a public meeting before the Board to discuss a complaint that has been filed against the respondent.~~

“Initial review” means the Board’s first review of a complaint, the response to the complaint, if any, the relevant appraisal report or other work product, ~~and~~ work file, and investigative summary, if any.

“Investigation” means a fact-finding process initiated by when the Board receives a complaint concerning the appraisal practice and professional conduct of a named respondent.

“Investigator” means an ~~appraiser or property tax agent operating~~ individual who is a Board employee or operates under a contract with the Board to carry out independent investigations of alleged violations.

“Jurisdictional criteria” means the statutory standards used by the Board to determine whether a complaint falls within the Board’s jurisdiction.

“Letter of concern” means a ~~nondisciplinary~~ non-disciplinary advisory letter to notify a respondent that the ~~action that is the basis of a complaint~~ finding of the Board does not warrant disciplinary action, but is nonetheless cause for concern on the part of the Board and that its continuation may result in disciplinary action.

“Letter of due diligence” means a disciplinary letter of agreement between the Board and a respondent that may or may not include remedial action when minor violations of A.R.S. Title 32, Chapter 36 or ~~Articles 1, 2, or 3 of this Chapter~~ have been are found.

“Letter of remedial action” means a ~~nondisciplinary~~ non-disciplinary letter issued by the Board that requires a respondent to take remedial action when any minor violation of A.R.S. Title 32, Chapter 36 or ~~Articles 1, 2, or 3 of this Chapter~~ has been is found.

“Mentor” means a certified appraiser authorized by the Board to supervise the work product of an appraiser who is subject to disciplinary action by the Board.

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“Order” means an administrative order that contains findings of fact, conclusions of law, and disciplinary action, issued by the Board after a formal hearing or by consent.

“Party” means each person or agency named or admitted as a party or properly seeking and entitled to participate in any proceeding before the Board. ~~“Practicing appraiser” means a state licensed or certified appraiser who is actively engaged in performing appraisal assignments.~~

“Probation” means a term of oversight by the Board, imposed upon a respondent as part of a disciplinary action, which may include submission of logs, working under the supervision of a mentor, or other conditions intended to protect the public and educate the respondent.

~~“Property tax agent” has the meaning in A.R.S. § 32-3651.~~

“Remedial action” means any corrective remedy ordered by the Board that is designed to assist the respondent in improving the respondent’s professional practice.

“Respondent” means an appraiser, course provider owner, or property tax agent, or appraisal management company against whom a complaint has been filed; or any other party responding to a motion or a proceeding before the Board.

~~“Rules” means the requirements established under A.R.S. Title 32, Chapter 36, and found in the Arizona Administrative Code, Title 4, Chapter 46.~~

“Secondary provider” means a person that purchases or otherwise lawfully acquires the right to provide a course independently of the course owner that retains proprietary rights to the course.

“Summary suspension” means an immediate suspension of a license, certificate, ~~or~~ registration or designation by the Board based on a finding that the public health, safety, or welfare imperatively requires emergency action.

~~“Supervising appraiser” means a state certified appraiser in good standing with a minimum of four years of experience within the last four years as a practicing appraiser who engages in direct supervision of a trainee pursuing a state license or certificate and provides training for work included within the supervising appraiser’s classification.~~

~~“Trainee” means an individual who is being taught to become a state licensed or certified appraiser under the direct supervision of a supervising appraiser.~~

“USPAP” means the Uniform Standards of Professional Appraisal Practice, issued and updated by The Appraisal Foundation and ~~incorporated by reference in the rules of the Board~~ made state law under A.R.S. § 32-3610.

~~“Workfile Work file” means the documentation necessary to support the analysis, opinions, and conclusions of an appraisal, a consulting assignment, or a tax appeal.~~

R4-46-102. Powers of Board

- A.** The Board may appoint advisory committees as the Board deems appropriate. The committees shall make advisory recommendations to the Board. The Board, in its discretion, may accept, reject, or modify the advisory recommendations.
- B.** Under the authority provided by A.R.S. § 32-3605(B), the Board may designate, train, and supervise volunteer licensees to conduct compliance audits of approved courses under R4-46-508.

R4-46-103. Board Records; Public Access; Copying Fees

- A.** The Board shall keep all ~~records~~ documents and information reasonably necessary or appropriate to maintain an accurate ~~knowledge record~~ record of its official activities including, but not limited to: ~~applications~~
 - 1. Applications for an ~~initial original registration, license, or certificate, designation, or course approval; renewal~~
 - 2. Renewal applications; examination
 - 3. Examination results; documents
 - 4. Documents, transcripts, and pleadings relating to disciplinary proceedings and to hearings on the denial of a registration, license, or certificate, designation, or course approval; investigative
 - 5. Investigative reports; staff
 - 6. Staff memoranda; and general
 - 7. General correspondence between any person and the Board; and any person, including a member of the Board’s staff, and between members of the Board; or staff members.
- B.** A person shall not remove Board records from the office of the Board unless the records are in the custody and control of a Board member, a member of the Board’s staff, or the Board’s attorney. The Executive Director may designate a staff member to observe and monitor any examination of Board records.
- C.** The Board shall provide copies of all non-confidential records available for public inspection and copying according to the procedures described in A.R.S. Title 39, Chapter 1, Article 2.

R4-46-106. Fees

- A.** Under the specific authority provided by A.R.S. §§ 32-3607, 3619, and 3667, the Board establishes and shall collect the following fees:
 - 1. Application for original license or certificate: \$400

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2. Application for registration as a trainee appraiser: \$300
3. Examination: The amount established by the AQB-approved examination provider
4. Biennial renewal of a license or certificate: \$425
5. Renewal of registration as a trainee appraiser: \$300
6. Delinquent renewal (in addition to the renewal fee): \$25
7. Biennial national registry: The amount established by the appraisal subcommittee
8. Application for license or certificate by reciprocity: \$400
9. Application for non-resident temporary license or certificate: \$150
10. Course approval:
 - a. Core-curriculum qualifying education
 - i. Initial course approval: ~~\$400~~ \$200
 - ii. Renewal of course approval: ~~\$100~~ \$200
 - iii. ~~Renewal of course approval to change instructor:~~ \$50
 - b. Continuing education
 - i. Initial course approval: \$200
 - ii. Renewal of course approval: ~~\$100~~ \$200
 - iii. ~~Renewal of course approval to change instructor:~~ \$50
11. Application for initial registration as an appraisal management company: \$2,500
12. Biennial renewal of registration as an appraisal management company: \$2,500
- B. The fees established in subsection (A) and those specified in A.R.S. § 32-3652 are not refundable unless the provisions of A.R.S. § 41-1077 apply.
- C. A person shall pay fees by cash or credit or debit card, or by certified or cashier's check or money order payable to the Arizona Board of Appraisal. If a person pays a fee by credit or debit card, the Board shall, as authorized by A.R.S. § 32-3607(C), impose a convenience fee in the amount established under state contract in addition to the amount specified in subsection (A) or A.R.S. § 32-3652.

R4-46-107. Procedures for Processing Applications

- A. To comply with A.R.S. Title 41, Chapter 6, Article 7.1, the Board establishes the following time-frames for processing applications for registration, licensure, certification, and designation, including renewal applications:**
1. The Board shall notify the applicant within 45 days after receipt of the application that it is either administratively complete or incomplete. If the application is incomplete, the Board shall specify in the notice what information is missing.
 2. The Board shall not substantively review an application until the applicant has fully complied with the requirements in statute or this Chapter. The Board shall render a final decision not later than 45 days after the applicant successfully completes all requirements in statute or this Chapter.
 3. The overall time-frame for Board action is 90 days, 45 days for administrative completeness review and 45 days for substantive review.
- B. The Board shall place an application for course approval on the agenda of the next Board meeting scheduled following submission of a complete application, as described under R4-46-504.**
- C. If the Board denies registration, licensure, certification, designation, or course approval to an applicant, the Board shall send the applicant written notice explaining:**
1. The reason for denial, with citations to supporting statutes or rules;
 2. The applicant's right to seek a hearing, as described in R4-46-307, to appeal the denial; and
 3. The time for appealing the denial.

ARTICLE 3. HEARINGS AND DISCIPLINARY PROCEEDINGS

R4-46-301. Complaints; Investigations; Informal Proceedings; Summary Suspensions; Refusal to Appear

- A. Complaints,**
1. The Board shall investigate a written complaint, including an anonymous complaint or a complaint made on the Board's own motion, alleging violations of A.R.S. Title 32, Chapter 36, or this Chapter, if the complaint provides information that meets the minimum criteria. Minimum criteria for a complaint include but are not limited to:
 - a. The name of the respondent against whom allegations are being made;
 - b. The action that is the basis of the complaint;
 - c. The approximate time-frame in which the action occurred;
 - d. ~~Each violation alleged to have been committed by the respondent;~~ and
 - e. ~~A copy of the report, if~~ If the complaint includes allegations concerning an appraisal, ~~consulting~~ assignment, or property tax appeal, a copy of the report if available.
 2. A complaint form, which the Board shall make available at the Board's office and on the Board's web site, may be used by a complainant to submit the written complaint required under subsection (A).

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2.3. Upon receipt of Opportunity to respond to a complaint:

- a. ~~Board staff shall review the complaint and determine, in consultation with Board counsel if necessary, whether the complaint meets jurisdictional criteria and if so, which edition of USPAP is applicable.~~
- b. ~~a.~~ Within 14 days after receipt of ~~a~~ the complaint, the Board shall ~~notify~~ provide the respondent with written notice, as prescribed in A.R.S. § 41-1092.04, of the complaint and ~~the requirement~~ request that the respondent file a written response within 30 days from the date on the notice. The Board shall provide a copy of the complaint with the notice and request that the respondent address the issues in the complaint. ~~In the notice~~ To facilitate the Board's review of the complaint, the Board shall include in the notice ~~require~~ that the respondent additionally is required to provide all of the following to the Board: the appraisal report, appraisal review, ~~consulting assignment~~, or property tax appeal at issue; and the ~~workfile~~ work file.
- e. ~~b.~~ If the respondent requests more time to respond, ~~the~~ Board staff shall grant a single extension of time that does not exceed 30 days.

B. Initial Review and Investigation investigation and review.

- 1. ~~Within 75 days after~~ After receipt of a response or expiration of the time for response, the Board shall conduct an ~~initial review of the matter to determine whether further investigation is necessary of the matters alleged in the complaint. If the Board determines further investigation is necessary, the~~ The Board may employ an investigator or investigators and shall ~~notify~~ provide the respondent with written notice of the pending investigation.
- 2. The Board shall schedule the complaint for an initial review. ~~If~~ When a respondent's name is placed on a public meeting agenda for an initial review of the complaint against the respondent, the Board shall mail a letter to the respondent not less than seven days before the ~~scheduled~~ meeting, providing and provide the respondent with a copy of the posted notice of the public meeting.
- 3. If the respondent is present at the initial review, the Board may request that the respondent ~~participate in an informational interview~~ answer questions from Board members. A respondent may refuse to ~~participate in an informational interview~~ answer questions. The Board may use any information presented at the ~~informational interview~~ initial review in other proceedings related to the complaint.
- 4. At the initial review, the Board shall consider the complaint; any response; investigative summary, the appraisal report, appraisal review, consulting assignment, or property tax appeal; and ~~the workfile~~ work file. The Board may dismiss the ~~matter~~ complaint, request or subpoena additional information, order a ~~limited or full~~ additional investigation, or invite the respondent to an informal hearing, based on the information reviewed.
- 5. The Board shall ensure that every investigation is conducted by an individual who is qualified to assess the allegations in the complaint. Board staff shall assign each investigator according to the investigator's experience, expertise, contract terms, and availability. The Board shall instruct staff shall to:
 - a. ~~select~~ Select an investigator who does not have a business or familial relationship with the respondent;
 - b. Select an investigator whose previous work product for the Board, if any, was of sufficient quality to facilitate the Board's resolution of the matter investigated; and
 - c. Assign an investigator based on the investigator's experience, expertise, contract terms, and availability. ~~Each~~
- 6. The Board shall not accept an investigative report shall contain unless it contains the signed certification specified in subsection ~~(B)(6)~~ (B)(7). An investigator's draft report is considered work product and is, therefore, confidential. The Board may ask for clarification or additional information after review of a draft report. ~~Upon~~ After acceptance by the Board, an investigative report is considered final. The Board may adopt any or all of the findings in the final report at a public meeting and may consider any additional, relevant information that is discovered before the matter is resolved. ~~The investigative report becomes nonconfidential upon resolution of the complaint involved.~~
- 6.7. The following certification shall be included An investigator preparing a report on behalf of the Board shall sign the report and include a certification statement that complies with the requirements of USPAP, in every investigative report prepared for the Board and signed by the investigator; I certify that, to the best of my knowledge and belief:
 - a. ~~The statements of fact contained in this report are true and correct.~~
 - b. ~~The reported analyses, opinions, and conclusions are limited only by the reported assumptions and limiting conditions, and they are my personal, impartial and unbiased professional analyses, opinions, conclusions, and recommendations.~~
 - e. ~~I have no present or prospective interest in the property that is the subject of this investigation, and I have no personal interest with respect to the parties involved in this investigation.~~
 - d. ~~I have no bias with respect to any property that is the subject of this investigation or to the parties involved in this investigation.~~
 - e. ~~My engagement for this investigation was not contingent upon on developing or reporting any predetermined result or outcome.~~
 - f. ~~My compensation for this investigation is not contingent upon on developing or reporting any predetermined result or outcome, nor have I been instructed as to any predetermined result or outcome by the Board, the Board staff, or other parties.~~
 - g. ~~I have (or have not) made a personal inspection of the property that is the subject of this investigation.~~

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- C. Settlement. Any time after a complaint ~~has been~~ is filed against a respondent, the matter may be resolved by a settlement in which the respondent ~~agrees consents~~ to accept disciplinary or remedial action ~~by consent~~. If the Board determines that the proposed settlement will adequately protect the public, the Board may enter into a ~~consent settlement~~ agreement with the respondent. A statement made for the purpose of settlement is not admissible in a formal hearing.
- D. Informal ~~Hearing hearing~~; ~~Disciplinary Action disciplinary action~~.
1. If, based on the initial review ~~or its review of the investigative report~~, the Board determines that the respondent is or may be in violation of the Board's statutes or rules, the Board may request a voluntary informal hearing with the respondent. The Board shall provide the respondent with a copy of any final investigative report in the matter, any supporting documentation, and notice of the date, time, and location of the informal hearing, as prescribed in A.R.S. § 41-1092.04, at least 30 days before the informal hearing. The Board shall include the following in the notice of informal hearing shall include all of the following:
 - a. A statement of the matters asserted and issues involved;
 - b. Any request for additional information needed by the Board to prepare for the hearing;
 - c. An explanation of the respondent's right to appear voluntarily with or without legal counsel; and
 - d. An explanation of the respondent's right to a formal hearing under R4-46-302.
 2. The Board shall provide the respondent with a copy of the informational ~~material document~~ "Introduction to Informal Hearing," which explains the rights and responsibilities of the Board and respondent during the informal hearing. (A copy is also available at the Board office).
 3. A respondent may refuse a request to appear at an informal hearing. If the respondent refuses to appear or does not appear, the Board may proceed with the informal hearing or schedule the matter for a formal hearing.
 - ~~3-4.~~ The respondent may request and the Board ~~staff~~ may grant a continuance upon a showing of good cause. During the informal hearing the Board shall swear witnesses, question the respondent and witnesses, and deliberate. The respondent may respond to the Board's questions, present witnesses, and ask questions of the Board and all witnesses regarding the matter before it.
 - ~~4-5.~~ If the Board finds a violation of the statutes or rules, but the violation is not of sufficient seriousness to merit suspension or revocation, ~~it~~ the Board may take one or more of the following actions:
 - a. Issue a letter of concern;
 - b. Issue a letter of remedial action;
 - c. Offer a letter of due diligence, which may or may not include remedial action;
 - d. Offer ~~a consent~~ an agreement including an order of discipline that sets a ~~time~~ period and terms of probation sufficient to protect the public welfare and safety and educate the respondent. The Board may require one or more of the following as terms of probation:
 - i. Training or education;
 - ii. Supervision or mentor review;
 - iii. Restriction on the nature and scope of the respondent's practice; or
 - iv. Other reasonable measures designed to protect the public and educate the respondent.
 - ~~5-6.~~ For any Board action other than a letter of concern or a letter of remedial action, the Board shall request that the respondent ~~sign a consent~~ enter into an agreement, which may include findings of fact and conclusions of law, depending on the severity of the violation, but shall identify ~~and explain~~ each violation found. If the respondent is aggrieved by the Board's decision to issue a letter of concern or letter of remedial action, the respondent may request a formal hearing in writing, within 30 days from the date the written notice of the outcome of the informal hearing is received.
 - ~~6-7.~~ In resolving a complaint ~~If the Board finds that a respondent violated statute or this Chapter,~~ the Board shall consider mitigating and aggravating circumstances, including but not limited to the following, when resolving the complaint:
 - a. Whether a violation ~~is was~~ intentional;
 - b. Whether the respondent has ~~a prior disciplinary history been previously disciplined;~~
 - c. The time that ~~has elapsed since~~ between the current violation; and any prior violation;
 - d. Whether any prior violation ~~is was~~ similar to the present violation;
 - e. The complexity of the assignment;
 - f. Whether the assignment was outside the respondent's competence; and
 - g. Whether the respondent has taken courses after a violation to prevent future violations.
- E. Summary ~~Suspension suspension~~. If the Board finds that the public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, the Board may order a summary suspension pending proceedings for revocation or other action. If an order of summary suspension is issued, the Board shall serve the respondent with a written notice of summary suspension and formal hearing, listing the charges against the respondent and setting the date for the formal hearing as soon as is reasonably possible, but ~~in no event~~ more than 60 days from service of the written notice.
- F. Refusal to Appear. ~~A respondent may refuse a request to appear at an informal hearing. If the respondent refuses to appear or does not appear, the Board may schedule the matter for a formal hearing.~~

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- ~~G.~~ ~~12-Month Review~~ month review. If a matter complaint is not resolved within 12 months from receipt of the response complaint, the Board shall schedule the matter complaint for review at each regularly scheduled Board meeting to determine whether good cause exists to continue the investigation. If, after completing its investigation, the Board finds that further action against the respondent is not warranted, the Board shall dismiss the matter complaint.

R4-46-302. Formal Hearing Procedures

- A. The Board shall issue a notice of hearing and formal complaint for formal disciplinary proceedings if:
- ~~1.~~ The respondent refuses to participate in an informal hearing and requests a formal hearing;
 - ~~1-2.~~ After an informal hearing, the Board determines that suspension or revocation may be warranted;
 - ~~2-3.~~ After an informal hearing, the respondent refuses to sign a letter of due diligence or consent agreement offered by the Board;
 - ~~3-4.~~ The respondent is aggrieved by the Board's decision in an informal hearing; or
 - ~~4-5.~~ After completing its investigation, the Board finds that suspension or revocation may be warranted.
- B. Except as provided in R4-46-301(E), the Board shall provide notice of a formal hearing to a respondent at least 30 days before the date set for the hearing. The Board shall notify the respondent by certified mail or personal service at the respondent's ~~last known~~ address of record. Unless otherwise specified, any notice provided for in these rules is complete ~~upon deposit when deposited~~ in the U.S. mail or by service as permitted under A.R.S. § 41-1092.04.
- C. On its own motion or the motion of a party, the Board may hear a case or have the case heard by an administrative law judge through the Office of Administrative Hearings. The Board may accept, reject, or modify the administrative law judge's recommended decision as prescribed by A.R.S. § 41-1092.08, and shall issue a final order.
- D. Board Hearings ~~Formal hearings~~.
1. The Board may conduct a formal hearing without adherence to the rules of evidence used in civil proceedings. The Board shall include the respondent's application and disciplinary records as evidence in the hearing record.
 2. In all hearings required or permitted by statute, order of the Board, or these rules, the party ~~seeking relief that~~ has the burden of proof, as specified in A.R.S. § 41-1092.07(G), ~~and~~ will present evidence first.
 3. The Board shall conduct ~~each a~~ formal hearing according to A.R.S. Title 41, Chapter 6, Article 10.
- E. If a party fails to appear for a formal hearing without good cause, the Board shall act upon the evidence without further notice.
- F. The Board shall make and keep a record of the hearing and, in the case of disciplinary hearings or if requested by a party or ordered by the Board, a transcript shall be prepared and filed with the Board. If the transcript is prepared at the request of a party, the party making the request shall pay ~~for~~ the cost of the transcript, unless the Board, for good cause, ~~shown~~ waives assessment of this cost.
- G. A party may request and the Board may grant a continuance of a hearing date or any other deadline imposed ~~by R4-46-302 upon~~ under this Section on a showing of good cause.

R4-46-303. Rehearing or Review of the Board's Decisions

- A. ~~Any party in a contested case or appealable agency action before the Board may file a motion for rehearing or review within 30 days after service of the final administrative decision. Service is complete upon personal service or five days after the date the decision is mailed by certified mail to the party's last known address of record. The party shall attach a full supporting memorandum specifying the grounds for the motion. The Board shall provide for a rehearing or review of its decisions under A.R.S. Title 41, Chapter 6, Article 10 and the rules established by the Office of Administrative Hearings.~~
- B. ~~The opposing party may file a response within 15 days after service of the motion for rehearing or review, or by a date ordered by the Board, whichever is later. The party shall support the response with a memorandum discussing legal and factual issues. Except as provided in subsection (I), a party is required to file a motion for rehearing or review of a Board decision to exhaust the party's administrative remedies.~~
- C. ~~When a motion for rehearing or review is based on affidavits, they shall be served with the motion. An opposing party may, within 15 days after service, serve opposing affidavits.~~
- ~~C-D.~~ Either party may request or the Board may order oral argument. A party may amend a motion for rehearing or review at any time before the Board rules on the motion.
- ~~D-E.~~ The Board may grant rehearing or review for any of the following ~~causes~~ reasons materially affecting a party's rights:
1. Irregularity in the administrative proceedings ~~of the Board~~ or any ~~other~~ abuse of discretion ~~which that~~ deprived the moving party of a fair hearing;
 2. Misconduct of the Board, its staff, an administrative law judge, or any party;
 3. Accident or surprise ~~which that~~ could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence ~~which that~~ could not, with reasonable diligence, have been discovered and produced at the ~~original~~ hearing;
 5. Excessive or insufficient sanction;
 6. Error in the admission or rejection of evidence or other errors of law at the ~~administrative~~ hearing or during the prog-

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ress of the proceedings or;

7. Unjustified decision based ~~upon~~ on the evidence, or ~~a~~ the decision ~~that~~ is contrary to law.

~~E.F.~~ The Board may affirm or modify the decision or grant a rehearing to any party on all or part of the issues for any of the reasons ~~set forth~~ in subsection ~~(D)~~ (E). An order modifying a decision or granting a rehearing shall specify with particularity the grounds for the order. The rehearing, if granted, shall be limited to matters specified by the Board.

~~F.G.~~ Not later than 30 days after a decision is rendered, the Board may order a rehearing or review on its own initiative, for any reason ~~which~~ it might have granted relief on motion of a party.

~~H.~~ If a rehearing is granted, the Board shall hold the rehearing within 60 days after the date on the order granting the rehearing.

~~G.I.~~ When a motion for rehearing or review is based upon affidavits, they shall be served with the motion. An opposing party may submit opposing affidavits with the response. Reply affidavits may be permitted. If the Board makes a specific finding that a particular decision needs to be effective immediately to preserve the public peace, health, or safety and that a review or rehearing of the decision is impracticable, unnecessary, or contrary to the public interest, the Board shall issue the decision as a final decision without an opportunity for rehearing or review.

~~J.~~ A party that has exhausted the party's administrative remedies may appeal a final order of the Board under A.R.S. Title 12, Chapter 7, Article 6.

~~K.~~ A person who files a complaint with the Board:

1. Is not a party to:

a. A Board administrative action, decision, or proceeding; or

b. A court proceeding for judicial review of a Board decision under A.R.S. §§ 12-901 through 12-914; and

2. Is not entitled to seek rehearing or review of a Board action or decision under this Section.

R4-46-304. Conviction and Judgment Disclosure

A. When an appraiser, ~~or~~ property tax agent, or controlling person of an AMC is convicted of any act ~~which that~~ is or would be punishable as a felony, crime involving moral turpitude, or any crime ~~which that~~ is substantially related to the respective qualifications, functions, and duties of an appraiser, ~~or~~ property tax agent, or controlling person of an AMC, the convicted person shall notify the Board within 20 days of entry of a plea of guilty or conviction.

B. When a civil judgment based on fraud, misrepresentation, or deceit in the making of any appraisal is entered against an appraiser, ~~or~~ property tax agent, or controlling person of an AMC, the person against whom the judgment entered shall notify the board within 20 days of entry of judgment.

R4-46-305. Terms and Conditions of Reapplication ~~After~~ after Revocation

A. ~~An applicant who~~ A person that reappplies after revocation of a registration, license, certificate, or course approval, shall submit an application for registration, license, certificate, or course approval consistent with ~~these rules~~ this Chapter. The applicant shall attach substantial evidence to the application that ~~the~~ issuance of a registration, license, certificate, or course approval will ~~no longer~~ not constitute a threat to the public welfare ~~and~~ or safety.

B. The Board shall make a determination ~~of~~ regarding each application that is consistent with ~~the~~ public safety and welfare.

R4-46-306. Complaint Information Availability

A. Every six months, the Board shall generate a report for publication on the Board's web site or in a newsletter that indicates for that period the number of:

1. Complaints received,

2. Complaints dismissed, and

3. ~~Complaints referred for investigation, and~~ Complaints resolved

4. ~~Complaints referred for informal or formal hearing.~~

B. In preparing the report under subsection (A), the Board shall include the severity level of violations with reference to the Board Complaint Resolution Chart (a copy is available at the Board office); the ~~actual complaint~~ resolution implemented by the Board; and any other information ~~that~~ the Board deems useful to appraisers, property tax agents, AMCs, and the public.

R4-46-307. Hearing on Denial of a Registration, License, Certificate, Designation, or Course Approval

If the Board denies a registration, license, certificate, designation, or course approval to an applicant, the applicant may file with the Board a written request for hearing under A.R.S. § 41-1092.03. The Board or the Office of Administrative Hearings shall conduct a hearing under the formal hearing procedures prescribed in R4-46-302; A.R.S. Title 41, Chapter 6, Article 10; and 2 A.A.C. 19.

ARTICLE 4. ~~STANDARDS OF PRACTICE~~ APPRAISAL MANAGEMENT COMPANIES

R4-46-401. ~~Standards of Appraisal Practice~~ Application for Initial Registration

Every appraiser, in performing the acts and services of an appraiser, shall comply with the Uniform Standards of Professional Appraisal Practice (USPAP), 2012-2013 edition, published by The Appraisal Foundation, which is incorporated by reference

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and on file with the Board. This incorporation by reference contains no future editions or amendments. A copy of the USPAP 2012-2013 edition may be obtained from The Appraisal Foundation, 1155 15th St., NW, Suite 1111, Washington, DC 20005; (202) 347-7722; fax (202) 347-7727; or web site www.appraisalfoundation.org.

- A.** Unless exempt under A.R.S. § 32-3663, a person shall not engage in business as an AMC and shall not provide any appraisal management services unless registered with the Board.
- B.** To register under subsection (A), a person shall submit:
1. A registration application form, which is available from the Board office and on its web site, and provide the information and certifications required under A.R.S. § 32-3662(B);
 2. The name and contact information of the controlling person who will be the main contact for all communication between the Board and the AMC;
 3. For the controlling person and each individual who owns 10 percent or more of the AMC:
 - a. Fingerprints that meet the criteria of the Federal Bureau of Investigation and are taken by a law enforcement agency or other qualified entity;
 - b. The certification required under A.R.S. § 32-3668(B)(3) or 32-3669(B)(1), as applicable; and
 - c. The charge established by the Department of Public Safety for processing fingerprints.
 4. Proof of the surety bond required under A.R.S. § 32-3667 and R4-46-402; and
 5. The fee required under R4-46-106.
- C.** If an AMC operates in Arizona under more than one name, other than a DBA, the controlling person of the AMC shall ensure that a complete application, as described in subsection (B), is submitted in each name under which the AMC will operate. However, if an individual previously submitted fingerprints under subsection (B), the individual is not required to submit fingerprints again.

R4-46-402. Bond Required

- A.** The surety bond required under A.R.S. § 32-3667 shall be in the amount of \$20,000 and shall be issued by a surety company authorized to do business in Arizona.
- B.** The controlling person of a registered AMC shall ensure that the surety bond required under A.R.S. § 32-3667 requires the issuing surety company to provide written notice to the Board by registered or certified mail at least 30 days before the surety company cancels the bond and within 30 days after the surety company pays a loss under the bond.
- C.** The surety bond required under A.R.S. § 32-3667 is to be used exclusively to ensure that a registered AMC pays:
1. All amounts owed to persons that perform real estate appraisal services for the AMC; and
 2. All amounts adjudged against the AMC as a result of negligent or improper real property appraisal services or appraisal management services or breach of contract in performing real property appraisal services or appraisal management services.
- D.** The controlling person of a registered AMC shall ensure that the required surety bond is:
1. Maintained in the amount of \$20,000;
 2. Funded to \$20,000 within seven days after being drawn down; and
 3. Maintained for at least one year after the AMC's registration expires, is revoked or surrendered, or otherwise ends.
- E.** If the Board receives notice from the surety company of intent to cancel the required bond, the Board shall notify the controlling person of the AMC and require that the controlling person submit proof of a replacement bond before the existing bond is cancelled. Under A.R.S. § 32-3678, failure to maintain the required bond is grounds for disciplinary action.
- F.** If a registered AMC operates in Arizona under more than one name, other than a DBA, the controlling person shall ensure that a separate surety bond in the amount of \$20,000 is maintained in each name.
- G.** If the name of a registered AMC is changed, the controlling person of the registered AMC shall ensure that a surety bond in the amount of \$20,000 is:
1. Maintained in the former name for one year after the name is changed; and
 2. Obtained in the registered AMC's new name.
- H.** A person damaged by a registered AMC's failure to pay an obligation listed in subsection (C) has a right of action against the surety bond. The damaged person shall begin the action against the bond in a court of competent jurisdiction within one year after the AMC failed to pay the amount owed or the amount adjudged against the AMC.
- I.** If the surety bond required under A.R.S. § 32-3667 is cancelled, liability of the issuing surety company is not limited or cancelled regarding any claim against the surety bond started before cancellation of the bond.

R4-46-403. Change in Controlling Person or Agent for Service of Process

- A.** If any of the information submitted under R4-46-401(B)(2) changes, the controlling person of the registered AMC shall provide to the Board written notice of the change within 10 business days.
- B.** If an individual becomes the controlling person of a registered AMC and the information required under R4-46-401(B)(3) was not previously submitted for the individual, the new controlling person shall ensure that the required information is submitted to the Board within 10 business days after the change in controlling person.
- C.** If a registered AMC is required under A.R.S. § 32-3662(B)(4) to provide the name and contact information for an agent

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for service of process in this state, the controlling person of the AMC shall provide to Board written notice of any change in the information within 10 business days.

R4-46-404. Application for Renewal Registration

- A.** Under A.R.S. § 32-3665, an initial registration for an AMC expires one year after the date of issuance. A renewal registration for an AMC expires two years after the date of issuance.
- B.** To renew registration for an AMC, the controlling person of the registered AMC shall, at least 60 days before expiration, submit:
 - 1. A renewal registration application form, which is available from the Board office and on its web site;
 - 2. The certifications required under A.R.S. § 32-3662(B);
 - 3. Proof of the surety bond required under A.R.S. § 32-3667 and R4-46-402; and
 - 4. The renewal fee specified in R4-46-106.
- C.** If the controlling person of a registered AMC fails to comply with subsection (B) and the registration expires, the controlling person shall ensure that the AMC immediately ceases providing all appraisal management services.

R4-46-405. Certifications

- A.** Under A.R.S. § 32-3672, the controlling person of a registered AMC is required to make certain certifications to the Board at the time the AMC's registration is renewed.
- B.** To make the certifications required under A.R.S. § 32-3672, the controlling person of a registered AMC shall use a form that is available from the Board office and on its web site.
- C.** The controlling person of a registered AMC shall make available to the Board on request evidence that the annual certifications are true and that the systems, processes, and records certified are effective in protecting the public.
- D.** Under A.R.S. § 32-3678, failure to comply with this Section is grounds for disciplinary action.

R4-46-406. Appeal for Waiver

- A.** Under A.R.S. §§ 32-3668 and 32-3669, an AMC for which registration is sought under R4-46-401 may not have an owner, controlling person, officer, or other individual with a 10 percent or greater financial interest in the AMC who has ever had a financial, real estate, or mortgage lending industry license or certificate refused, denied, canceled, revoked, or voluntarily surrendered in any state.
- B.** The requirement in subsection (A) may be waived, at the discretion of the Board, when an appeal is made by the individual who has had a financial, real estate, or mortgage lending industry license or certificate refused, denied, canceled, revoked, or voluntarily surrendered.
- C.** To make an appeal for waiver under subsection (B), the individual who has had a financial, real estate, or mortgage lending industry license or certificate refused, denied, canceled, revoked, or voluntarily surrendered shall submit to the Board an appeal for waiver form, which is available from the Board office and on its web site.
- D.** The Board shall consider an appeal for waiver at a regularly scheduled meeting. The Board shall provide at least 14-days' written notice to the appellant of the Board meeting at which the appeal for waiver will be considered. The appellant shall attend the Board meeting at which the appeal is considered and answer questions from the Board.
- E.** In deciding whether to waive the requirement under subsection (A), the Board shall consider the following factors:
 - 1. Whether the refusal, denial, cancellation, revocation, or voluntary surrender of a license or certificate was based on a finding of fraud, dishonesty, misrepresentation, or deceit on the part of the appellant;
 - 2. The amount of time that has elapsed since the refusal, denial, cancellation, revocation, or voluntary surrender of a license or certificate;
 - 3. Whether the act leading to the refusal, denial, cancellation, revocation, or voluntary surrender of a license or certificate was an isolated occurrence or part of a pattern of conduct;
 - 4. Whether the act leading to the refusal, denial, cancellation, revocation, or voluntary surrender of a license or certificate appears to have been done for a self-serving purpose;
 - 5. The harm caused to victims, if any;
 - 6. Efforts at rehabilitation, if any, undertaken by the appellant and evidence regarding whether the rehabilitation efforts were successful;
 - 7. Restitution made by the appellant to victims, if any; and
 - 8. Other factors in mitigation or aggravation that the Board determines are relevant.

R4-46-407. Training Required

- A.** The controlling person of a registered AMC shall ensure that all employees and other individuals who work on behalf of the AMC and are responsible for selecting independent appraisers to perform real property appraisal services receive sufficient training to be qualified to comply with federal and state law regarding appraisal management services.
- B.** The controlling person of a registered AMC shall ensure that the training required under subsection (A) includes at least the following:
 - 1. Overview of the USPAP.

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2. Federal and state law applicable to real property appraisal services.
 3. Appraiser classifications and the scope of work for each classification.
 4. Factors that influence the complexity of an appraisal assignment, and
 5. Maintaining the independence of an appraiser.
- C.** The controlling person of a registered AMC shall maintain a record of all training provided to an individual described under subsection (A) for one year beyond the termination of that individual's employment by or work on behalf of the AMC.
- D.** The controlling person of a registered AMC shall make available to the Board on request a copy of all materials used to provide the training required under this Section and the records maintained under subsection (C).

R4-46-408. Voluntarily Relinquishing Registration

- A.** The controlling person of a registered AMC may voluntarily relinquish the AMC's registration if:
1. No complaint is currently pending against the AMC;
 2. All amounts owed under R4-46-402(C) have been paid; and
 3. The AMC is in good standing with the Board.
- B.** To voluntarily relinquish an AMC's registration, the controlling person of the AMC shall enter into an agreement with the Board that provides the AMC shall:
1. Cease engaging in business as an AMC and cease providing appraisal management services immediately; and
 2. Maintain the surety bond required under A.R.S. § 32-3667 for one year after the agreement is entered.

ARTICLE 5. COURSE APPROVAL

R4-46-501. Course Approval Required

- A.** Under A.R.S. §§ 32-3601(11) and 32-3625, the Board is required to approve a course, including a course presented by distance education, before the course is offered in Arizona. The Board shall be approved under these rules approve a course as either qualifying or continuing education. In order to be approved as qualifying or continuing education, the
- B.** When approving a course must be found to satisfy all as either qualifying or continuing education, the Board shall determine whether the course satisfies the respective criteria set forth specified in the real property appraiser qualification criteria and interpretations of the criteria material incorporated by reference in R4-46-201(A)(B), except:
1. The 15-hour National USPAP Course or its AQB-approved equivalent approved through the AQB Course Approval Program shall not be in the form of distance education; and
 2. Only continuing education courses of at least three hours shall be considered for approval approved.
- C.** A course owner shall ensure that the course is not offered as either qualifying or continuing education until the course owner receives notice that the course has been approved by the Board unless the course owner includes notice in the offering materials that course approval by the Board is pending and no credit may be claimed for participating in the course until approval is received.
- D.** Each The Board shall include in the notice of course approval referenced in subsection (C):
1. An index number for the approved course, shall be assigned an index number and shall be assigned a
 2. The maximum number of hours of instruction (including examination time if applicable) that may be claimed for participating in the approved course, and
 3. Whether the course is approved as qualifying or continuing education.
- E.** Upon receipt A course owner shall ensure that the course is not advertised or represented as Board approved until after receipt of the notice referenced in subsection (D). After receiving notice of course approval, the course provider owner may represent in any materials that the course is a Board approved course. If the number of hours approved by the Board are less than the number of scheduled hours, the number of approved hours must be clearly indicated.
- D.** Any school, organization, person or other entity that owns the proprietary rights to a course is eligible to apply for course approval as a course provider. All applications for course approval shall be submitted by a course provider. For the purposes of these rules, the following are considered to be a course provider:
1. An entity that owns a course and that conducts the course directly or through affiliated entities.
 2. An affiliated entity of a course provider having Board approval where such affiliated entity conducts the same course.
 3. An entity that has purchased or otherwise lawfully acquired from the course provider of a Board approved course, the course materials for such course and that has the right to independently conduct a course using such acquired course materials.
- E.** Course approval granted to a course provider shall apply to any affiliated entity subject to the following conditions:
1. The course provider required the affiliated entity to conduct the course:
 - a. Utilizing the course provider's course materials (including textbook and examinations, if any);
 - b. Allowing the same number of approved hours as the course provider;
 - c. The instructor is approved by the Board;
 - d. In accordance with the course provider's policies relating to student attendance, course scheduling and course prerequisites (if applicable).

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2. The course provider assumes full responsibility in the event the affiliated entity violates any provisions of these rules.
- ~~F.~~ Course approval commences on the date initial approval is granted by the Board. Course approval by the Board shall not be granted for courses which have been offered by the course provider prior to the Board's review of the course approval application.
- ~~G.~~ A course provider seeking course approval shall apply to the Board on the applicable form and pay the appropriate fee. Once the application has been filed, fees are nonrefundable. An application must be complete before it will be placed on an agenda for approval.
- ~~H.~~ A course provider shall not misrepresent Board approval status in advertising.
- ~~I.~~ The course provider shall submit with the application an outline and other written materials. In order to be approved, the course must be found to satisfy the following requirements:
 1. ~~Course description:~~ the course materials must include a course description which clearly describes the content of the course.
 2. ~~Summary outline:~~ the course materials shall include a summary outline of major topics and the number of classroom hours devoted to each.
 3. ~~Learning objectives:~~ the course materials shall include specific learning objectives which:
 - a. ~~Clearly state the specific knowledge and/or skills students are expected to acquire by completing the course;~~
 - b. ~~Are consistent with the course description;~~
 - c. ~~Are consistent with the instructional materials;~~
 - d. ~~Are reasonably achievable within the number of classroom hours allotted for the course;~~
 - e. ~~For qualifying education courses, shall clearly identify the required core curriculum, the module subtopic, and the number of course hours; and~~
 - f. ~~For continuing education courses, shall clearly identify the appraisal topic and the number of course hours.~~
 4. ~~Instructional materials:~~ instructional materials to be used by students in the course shall:
 - a. ~~Cover the subject matter in sufficient depth to achieve the stated course learning objectives;~~
 - b. ~~Provide appropriately balanced coverage of the subject matter in view of the stated course learning objectives;~~
 - c. ~~Reflect current knowledge and practice;~~
 - d. ~~Contain no significant errors;~~
 - e. ~~Reflect correct grammatical usage and spelling;~~
 - f. ~~Effectively communicate and explain the information presented;~~
 - g. ~~Be suitable in layout and format; and~~
 - h. ~~Be suitably bound/packaged and be produced in a quality manner.~~
 5. ~~Examinations for qualifying education:~~ course examinations shall consist either of a series of examinations or a comprehensive final examination or both. The course examination(s) shall comply with the following requirements:
 - a. ~~Contain a sufficient number of questions to adequately test the subject matter covered in the course;~~
 - b. ~~The amount of time devoted to the examination(s) is appropriate for the course;~~
 - c. ~~The examination questions, individually and collectively, test at a difficulty level appropriate to measure student achievement of the stated course learning objectives;~~
 - d. ~~The subject matter tested by examination questions is adequately addressed in the course instructional materials;~~
 - e. ~~The examination questions are written in a clear and unambiguous manner; and~~
 - f. ~~The examination questions are accurate and the intended correct answer is clearly the best answer choice.~~
 6. ~~Prerequisites:~~ the course provider must have established appropriate prerequisites for any course other than an introductory course on basic real estate appraisal principles and practices or a course on appraisal standards and ethics.
 7. ~~Instructor qualifications:~~ an instructor must be approved by the Board to teach a specific Board-approved course. An instructor must meet one or more of the following qualifications:
 - a. ~~A baccalaureate degree in any field and three years of experience directly related to the subject matter to be taught; or~~
 - b. ~~A masters degree in any field and two years of experience directly related to the subject matter to be taught; or~~
 - c. ~~A baccalaureate degree in a field that is directly related to the subject matter to be taught and one year of experience directly related to the subject matter to be taught; or~~
 - d. ~~An associate degree in a field that is directly related to the subject matter to be taught and three years of experience directly related to the subject matter to be taught; or~~
 - e. ~~A masters or higher degree in a field that is directly related to the subject matter to be taught; or~~
 - f. ~~Five years of real estate appraisal teaching experience directly related to the subject matter to be taught; or~~
 - g. ~~Seven years of real estate appraisal experience directly related to the subject matter to be taught.~~
 - h. ~~The national USPAP courses must be taught by an AQB-certified USPAP instructor and equivalent USPAP courses must be taught by an instructor approved by the AQB.~~
 8. ~~Current classroom offering:~~ conduct the course in a setting physically suitable to the educational activity of the course. Courses presented by distance education must comply with the criteria adopted in these rules;
 9. ~~Attendance policy:~~ the course provider must have a written attendance policy that requires student attendance to be

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verified. Policy must:

- a. Stipulate that the student must be present for the entire course;
 - b. Include on the attendance records form the name of the instructor(s);
 - c. Provide that nonmembers of the course provider's association or organization may apply for the course without membership in the association or organization;
 - d. Provide for retention of attendance records for a minimum of five years.
10. Course scheduling policy: the course provider shall have an established policy on course scheduling that provides a maximum of nine classroom hours of instruction in any given day and appropriate breaks during each class session.
11. Course completion certificate policy: the course provider shall have an established policy assuring prompt issuance of signed course completion certificates to attendees which shall include all information required on the form of certification provided by the Board.
12. Audit policy: the course provider shall permit the executive director or the executive director's representative to audit the course at no cost to the Board in order to evaluate the instruction. The course provider shall permit the executive director or the executive director's representative to review records appropriate to selected course offerings.
13. Instructor change: if a course provider wishes to use an instructor other than the instructor approved by the Board as part of the initial course approval, the course provider must apply to the Board for approval of any new or substitute instructor and pay the applicable fee. Any new or substitute instructor must meet the instructor qualifications set out in this Section.
- J.** Course approval is valid for a period of one year, expiring at the end of the month in which approval was granted if there have been no substantive changes to the materials to be addressed in the course, including but not limited to changes in the course outline, text, or other written material. No later than 30 days prior to the expiration date, a course provider may apply for renewal of the course approval and pay the appropriate fee. If there have been substantive changes in the materials to be addressed in the course, including but not limited to changes in the course outline, text, or other written material, the course shall be considered as a new course and the course provider shall file an application for course approval meeting all the requirements of this Section and pay the appropriate fee.
- K.** A course approved for credit hours at a community college, college or university in this state need not be approved by the Board if the course is substantially the same as required by the criteria. The applicant for licensure, certification or renewal shall submit documentation prepared by the course provider identifying the required core curriculum, the module subtopic and the number of course hours for qualifying education or the appraisal topic and the number of course hours for continuing education.
- L.** If a course is offered outside of Arizona, the course has been approved by the licensure/certification board in the state in which the course is offered, and the course is substantially the same as required by the criteria, the Board will accept the course. However, the course shall not be in the form of distance education taught before May 3, 2005. The applicant for licensure, certification or renewal must submit documentation to show approval.
- M.** The Board shall investigate and may deny, revoke, or suspend course approval for any of the following acts or omissions:
1. Failure to comply with or meet any requirements set forth in this Section.
 2. Failure to use an instructor approved by the Board as part of the course approval application or otherwise.
 3. Failure to instruct in a manner consistent with the outline and materials previously approved by the Board.
- N.** If the Board finds that the public welfare or safety requires emergency action and incorporates a finding to that effect in its order, the Board shall order a summary suspension of course approval pending proceedings for revocation or other action. If an order of summary suspension is issued, the Board shall serve the course provider with a written notice of summary suspension and formal hearing, listing the charges against the course provider and setting a formal hearing within 30 days.

R4-46-502. Expired Approval of Distance-Learning Delivery Mechanism

If a course is to be delivered by distance education, the course owner shall obtain approval of the course-delivery mechanism from one of the following sources:

1. An AQB-approved organization that provides approval of course design and delivery;
2. An accredited institution of higher education that approves the content of the course and offers and awards academic credit for the distance-education course; or
3. An accredited institution of higher education approves the content of the course and a distance-education approval organization approves the course design and delivery, which includes interactivity.

R4-46-503. Hearing on Denial of Course Approval Course Owners

Any applicant or course provider denied course approval or any course provider whose course approval is revoked or suspended may file a written request for a hearing within 30 days after service of the notice of denial. The Board shall process all hearings and disciplinary matters involving course approval in a manner consistent with the formal hearing procedures prescribed in Article 3.

- A.** Board approval of a course granted to the course owner extends to a secondary provider. However, for a course delivered by distance education:

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1. A course owner's approval of the course-delivery mechanism, as required under R4-46-502, does not extend to a secondary provider; and
2. Both the course owner and secondary provider shall apply for and obtain approval of the course-delivery mechanism from a source listed in R4-46-502.
- B.** If a course owner allows a Board-approved course to be offered by a secondary provider, the course owner shall ensure that the secondary provider:
 1. Uses the course owner's materials, including the same textbook and examination, if any;
 2. Allows only the number of hours specified by the Board under R4-46-501(D);
 3. Uses an instructor who is qualified under the standards specified in R4-46-506(7); and
 4. Adheres to the course owner's policies regarding student attendance, course scheduling, and prerequisites, if any.
- C.** Before allowing a Board-approved course to be offered by a secondary provider using distance education, the course owner shall comply with subsection (B) and:
 1. Ensure that the secondary provider has obtained approval of the course-delivery mechanism from a source listed in R4-46-502; and
 2. Provide to the Board evidence that the secondary provider has obtained approval of the course-delivery mechanism for the Board-approved course.
- D.** The Board shall hold a course owner responsible if a secondary provider authorized by the course owner under subsection (B) or (C) violates any provision of this Chapter.

R4-46-504. Application for Course Approval

- A.** Only a course owner may apply for course approval. To apply for course approval, a course owner shall submit to the Board:
 1. An application for course approval, which is available from the Board office and on its web site;
 2. Materials and other documents that demonstrate the course meets the minimum standards specified in R4-46-506;
 3. If the course will be offered using distance education, evidence of approval of the course-delivery mechanism from a source listed in R4-46-502; and
 4. The fee specified under R4-46-106.
- B.** After a course owner fully complies with subsection (A), the Board shall place the application for course approval on the agenda of the Board's next available meeting.

R4-46-505. Course Approval Without Application

The Board approves without application the following:

1. A course approved through the AQB's voluntary Course Approval Program;
2. The 15-Hour National USPAP Course or its AQB-approved equivalent if the course is taught by at least one AQB-certified USPAP instructor who is also a state certified appraiser in good standing; and
3. The 7-Hour National USPAP Update Course or its AQB-approved equivalent if the course is taught by at least one AQB-certified USPAP instructor who is also a state certified appraiser in good standing.

R4-46-506. Minimum Standards for Course Approval

The Board shall approve a course only if the course owner submits the following materials and documents with the application for approval required under R4-46-504(A) and demonstrates the course, including a course presented by distance education, meets the following minimum standards:

1. Course description. Clearly describe the subject matter content of the course.
2. Summary outline. Identify major topics and the number of classroom hours devoted to each.
3. Prerequisites. Specify necessary prerequisites for any course other than a course on:
 - a. Introductory real estate appraisal principles and practices; and
 - b. Appraisal standards and ethics.
4. Learning objectives. Specific learning objectives shall:
 - a. State clearly the specific knowledge and skills students are expected to acquire by completing the course;
 - b. Be consistent with the course description required under subsection (1);
 - c. Be consistent with the instructional materials described in subsection (5);
 - d. Be achievable in the number of hours allotted for the course;
 - e. If for qualifying education, specify the required core curriculum, module subtopic, and number of course hours; and
 - f. If for continuing education, specify the appraisal topic and number of course hours.
5. Instructional materials. Instructional materials used by students shall:
 - a. Cover the subject matter in sufficient depth to achieve the learning objectives specified in subsection (4);
 - b. Reflect current knowledge and practice in the field of appraisal;
 - c. Contain no significant errors;
 - d. Use correct grammar and spelling;

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- e. Be written in a clear, concise, and understandable manner;
- f. Be in a format that facilitates learning; and
- g. Be bound or packaged and produced in a quality manner.
- 6. Examinations for qualifying education courses. Qualifying education courses shall include a series of examinations, a comprehensive final examination, or both. A course examination shall:
 - a. Contain enough questions to assess adequately whether a student acquired knowledge of the subject matter covered by the course;
 - b. Contain questions directed towards assessing whether students achieved the learning objectives specified in subsection (4);
 - c. Be allotted sufficient time for students to complete;
 - d. Contain questions on information adequately addressed in the instructional material required under subsection (5);
 - e. Contain questions that are written in a clear, accurate, and unambiguous manner;
 - f. Contain questions for which the intended answer is clearly the best answer choice;
 - g. Be proctored and close-book; and
 - h. Have a criterion for passing that is announced before the examination is given.
- 7. Instructor qualifications policy. The course owner has a written policy that requires use of instructors who meet at least one of the following:
 - a. Has a baccalaureate degree in any field and at least three years of experience directly related to the subject matter to be taught;
 - b. Has a master's degree in any field and one year of experience directly related to the subject matter to be taught;
 - c. Has a master's or higher degree in a field directly related to the subject matter to be taught;
 - d. Has at least five years of real estate appraisal teaching experience directly related to the subject matter to be taught; or
 - e. Has at least seven years of real estate appraisal experience directly related to the subject matter to be taught.
- 8. Required policies. The course owner shall have the following written policies:
 - a. Attendance policy that ensures student attendance is verified.
 - i. Stipulate that to receive credit, a student must be present for the entire course.
 - ii. Include the instructor's name on the attendance record, and
 - iii. Maintain attendance records for five years;
 - b. Scheduling policy.
 - i. Provide that a student may participate in a maximum of eight hours of instruction in a day, and
 - ii. Provide that appropriate breaks are included during each class session;
 - c. Completion certificate policy.
 - i. Require that a signed and dated completion certificate be issued promptly to all students who complete a course; and
 - ii. Require that a completion certificate contain all information required on the form of certification provided by the Board.

R4-46-507. Secondary Providers

The Board shall hold a course owner responsible for the activities of a secondary provider who conducts the course owner's Board-approved course in Arizona. To protect the integrity of the Board's approval, a course owner shall have a written agreement with a secondary provider that requires the secondary provider to:

- 1. Use the materials required under R4-46-506(5) and the examination required under R4-46-506(6) without change;
- 2. Conduct the course in accordance with the policies required under R4-46-506(7) and (8);
- 3. Clearly state in advertising materials that the course has been lawfully acquired from the course owner and that Board approval was provided to the course owner and not to the secondary provider;
- 4. Cease using the materials and examination when the course approval expires under R4-46-510; and
- 5. If the course is to be delivered by distance learning, obtain approval of the course-delivery mechanism from a source listed in R4-46-502.

R4-46-508. Compliance Audit of Approved Courses

A. To improve the quality of education available to appraisers in this state, the Board shall regularly audit approved courses for compliance with this Chapter.

B. The Board's executive director shall identify approved courses for audit using the following to establish the priority of audits:

- 1. Approved courses about which a complaint has been received.
- 2. Approved courses of a course owner that is new to this state, and
- 3. Approved courses that have not been audited in the last five years.

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- C. On request from the Board's executive director, the course owner of an approved course shall provide the dates, times, and locations at which the approved course will be taught and the name of the instructor who will teach each presentation of the approved course.
- D. The audit of an approved course shall be conducted by a volunteer auditor trained by the Board.
- E. The course owner of an approved course shall allow an auditor described under subsection (D) to attend the approved course at no charge.
- F. The auditor shall be identified to the instructor before the approved course starts.
- G. On request from the auditor, the course owner shall allow the auditor to examine records, materials, and other documents relevant to the approved course audited.
- H. After review by the Board, the Board shall provide a copy of the audit report to the course owner. If the audit identifies ways in which the approved course fails to comply with this Chapter, the Board shall:
 1. Work with the course owner to establish a correction plan to bring the course into compliance;
 2. Establish a time within which the course owner is required to complete the correction plan and bring the course into compliance; and
 3. Inform the course owner of the manner in which to report the approved course is in compliance with this Chapter.
- I. Failure of a course owner to comply with this Chapter may lead to revocation of course approval.

R4-46-509. Changes to an Approved Course

The Board encourages revisions and updates that improve and keep an approved course current. However, if any of the information provided under R4-46-506(1), (2), (4), or (5) changes so substantially as to alter the scope of the approved course, the course owner of the approved course shall submit a new application for approval under R4-46-504.

R4-46-510. Renewal of Course Approval

- A. Course approval expires a maximum of two years after approval is granted. Approval of a distance education course expires in two years or when the distance education delivery-mechanism approval required under R4-46-502 expires, whichever is less.
- B. The Board shall renew the approval of a course only:
 1. Once after initial approval; and
 2. If the information provided under R4-46-506(1), (2), (4), and (5) has not changed substantially.
- C. If an approved course meets the standard in subsection (B), the course owner may apply for renewal of course approval no later than 30 days before the course approval expires.
- D. To apply for renewal of course approval, a course owner shall submit a renewal application, which is available from the Board office and on its web site, and pay the renewal fee specified in R4-46-106(A)(1).

R4-46-511. Transfer of an Approved Course

- A. A course owner that transfers the proprietary rights to a Board-approved course shall provide written notice of the transfer to the Board. The course owner shall include in the notice the name of and contact information for the new course owner and the date of the transfer.
- B. The new course owner to which the proprietary rights to a Board-approved course are transferred shall attach to the notice required under subsection (A) a certification, using a form available from the Board and on its web site, that the new course owner:
 1. Will adhere to the requirements in this Article, and
 2. Will be responsible for the actions of all secondary providers who have an agreement under R4-46-507.
- C. If proprietary rights to a Board-approved course are transferred under this Section, the expiration date of the course approval does not change.

ARTICLE 6. PROPERTY TAX AGENTS

R4-46-601. Standards of Practice

The Board may revoke or suspend ~~an~~ a property tax agent's registration or otherwise discipline a property tax agent to the extent permitted by A.R.S. § 32-3654 for any of the following acts or omissions:

1. Engaging in an activity that leads to a conviction for a crime involving the tax profession;
2. Operating beyond the boundaries of an agreed relationship with an employer or a client;
3. Inferring or implying representation of a person or firm that the agent does not represent, or filing a document on behalf of a taxpayer without specific authorization of the taxpayer;
4. Violating the confidential nature of the property tax agent-client relationship, except as required by law;
5. Inappropriately offering or accepting anything of value with the intent of inducing or in return for a specific action;
6. Assigning, accepting, or performing a tax assignment that is contingent upon producing a predetermined analysis or conclusion;
7. Issuing an appraisal analysis or opinion, in the performance of a tax assignment, that fails to disclose bias or the accommodation of a personal interest;

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8. Willfully furnishing inaccurate, deceitful, or misleading information, or willfully concealing material information in the performance of a tax assignment;
9. Preparing or using, in any manner, a resume or statement of professional qualifications that is misleading or false;
10. Promoting a tax agent practice ~~and~~ or soliciting assignments by using misleading or false advertising;
11. Soliciting a tax assignment by assuring a specific result or by stating a conclusion regarding that assignment without ~~prior~~ analysis of the facts; or
12. Performing an appraisal, as defined by A.R.S. § 32-3601, unless licensed or certified by the Board as an appraiser.

R4-46-602. Disciplinary Proceedings; Board Action; Notice Requirements Repealed

~~The Board shall process all hearings and disciplinary matters involving property tax agents in a manner consistent with the formal hearing procedures prescribed by Article 3 and consistent with A.R.S. § 32-3654.~~