

ETHICS RULE

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

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

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

218 This ETHICS RULE is divided into three sections: Conduct, Management, and Confidentiality
219 which apply to all appraisal practice.

220 Conduct:

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

223 **An appraiser:**

- 224 • **must not perform an assignment with bias;**
- 225 • **must not advocate the cause or interest of any party or issue;**
- 226 • **must not accept an assignment that includes the reporting of predetermined opinions and**
227 **conclusions;**
- 228 • **must not misrepresent his or her role when providing valuation services that are outside of**
229 **appraisal practice;¹¹**
- 230 • **must not communicate assignment results with the intent to mislead or to defraud;**
- 231 • **must not use or communicate a report that is known by the appraiser to be misleading or**
232 **fraudulent;**
- 233 • **must not knowingly permit an employee or other person to communicate a misleading or**
234 **fraudulent report;**
- 235 • **must not use or rely on unsupported conclusions relating to characteristics such as race, color,**
236 **religion, national origin, gender, marital status, familial status, age, receipt of public assistance**
237 **income, handicap, or an unsupported conclusion that homogeneity of such characteristics is**
238 **necessary to maximize value;**
- 239 • **must not engage in criminal conduct;**
- 240 • **must not willfully or knowingly violate the requirements of the RECORD KEEPING RULE; and**
- 241 • **must not perform an assignment in a grossly negligent manner.**

242 Comment: Development standards (1-1, 3-1, 6-1, 7-1 and 9-1) address the requirement that
243 “an appraiser must not render appraisal services in a careless or negligent manner.” The
244 above requirement deals with an appraiser being grossly negligent in performing an
245 assignment which would be a violation of the Conduct section of the ETHICS RULE.

¹¹ See Advisory Opinion 21, *USPAP Compliance*.

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

- 248 • **any current or prospective interest in the subject property or parties involved; and**
- 249 • **any services regarding the subject property performed by the appraiser within the three year**
 250 **period immediately preceding acceptance of the assignment, as an appraiser or in any other**
 251 **capacity.**

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

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

259 **Management:**

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

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

266 **An appraiser must not accept an assignment, or have a compensation arrangement for an assignment,**
 267 **that is contingent on any of the following:**

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

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

276 **An appraiser must affix, or authorize the use of, his or her signature to certify recognition and**
 277 **acceptance of his or her USPAP responsibilities in an appraisal or appraisal review assignment (see**
 278 **Standards Rules 2-3, 3-6, 6-9, 8-3, and 10-3). An appraiser may authorize the use of his or her signature**
 279 **only on an assignment-by-assignment basis.**

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

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

ETHICS RULE

283 **Confidentiality:**

284 **An appraiser must protect the confidential nature of the appraiser-client relationship.¹²**

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

287 **An appraiser must be aware of, and comply with, all confidentiality and privacy laws and regulations**
288 **applicable in an assignment.¹³**

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

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

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

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

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

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

¹² See Advisory Opinion 27, *Appraising the Same Property for a New Client*.

¹³ For example, pursuant to the passage of the Gramm-Leach-Bliley Act in November 1999, some public agencies have adopted privacy regulations that affect appraisers. The Federal Trade Commission (FTC) issued two rules. The first rule (16 CFR 313) focuses on the protection of "non-public personal information" provided by consumers to those involved in financial activities "found to be closely related to banking or usual in connection with the transaction of banking." These activities include "appraising real or personal property." See GLB-Privacy. The second rule (16 CFR 314) requires appraisers to safeguard customer non-public personal information. See GLB-Safeguards-Rule. Significant liability exists for appraisers should they fail to comply with these FTC rules.

308 RECORD KEEPING RULE

309 An appraiser must prepare a workfile for each appraisal or appraisal review assignment. A workfile
310 must be in existence prior to the issuance of any report. A written summary of an oral report must be
311 added to the workfile within a reasonable time after the issuance of the oral report.

312 The workfile must include:

- 313 • the name of the client and the identity, by name or type, of any other intended users;
- 314 • true copies of all written reports, documented on any type of media. (A true copy is a replica of
315 the report transmitted to the client. A photocopy or an electronic copy of the entire report
316 transmitted to the client satisfies the requirement of a true copy.);
- 317 • summaries of all oral reports or testimony, or a transcript of testimony, including the
318 appraiser’s signed and dated certification;
- 319 • all other data, information, and documentation necessary to support the appraiser’s opinions
320 and conclusions and to show compliance with USPAP, or references to the location(s) of such
321 other data, information, and documentation; and
- 322 • a workfile in support of a Restricted Appraisal Report must be sufficient for the appraiser to
323 produce an Appraisal Report.

324 An appraiser must retain the workfile for a period of at least five years after preparation or at least two
325 years after final disposition of any judicial proceeding in which the appraiser provided testimony related
326 to the assignment, whichever period expires last.

327 An appraiser must have custody of the workfile, or make appropriate workfile retention, access, and
328 retrieval arrangements with the party having custody of the workfile. This includes ensuring that a
329 workfile is stored in a medium that is retrievable by the appraiser throughout the prescribed record
330 retention period.

331 An appraiser having custody of a workfile must allow other appraisers with workfile obligations related
332 to an assignment appropriate access and retrieval for the purpose of:

- 333 • submission to state appraiser regulatory agencies;
- 334 • compliance with due process of law;
- 335 • submission to a duly authorized professional peer review committee; or
- 336 • compliance with retrieval arrangements.

337 Comment: A workfile must be made available by the appraiser when required by a state appraiser
338 regulatory agency or due process of law.

339 An appraiser who willfully or knowingly fails to comply with the obligations of this RECORD KEEPING
340 RULE is in violation of the ETHICS RULE.

COMPETENCY RULE

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342 **An appraiser must: (1) be competent to perform the assignment; (2) acquire the necessary competency to**
343 **perform the assignment; or (3) decline or withdraw from the assignment. In all cases, the appraiser must**
344 **perform competently when completing the assignment.**

345 Being Competent

346 **The appraiser must determine, prior to accepting an assignment, that he or she can perform the**
347 **assignment competently. Competency requires:**

- 348 **1. the ability to properly identify the problem to be addressed;**
- 349 **2. the knowledge and experience to complete the assignment competently; and**
- 350 **3. recognition of, and compliance with, laws and regulations that apply to the appraiser or to the**
351 **assignment.**

352 Comment: Competency may apply to factors such as, but not limited to, an appraiser's
353 familiarity with a specific type of property or asset, a market, a geographic area, an intended
354 use, specific laws and regulations, or an analytical method. If such a factor is necessary for an
355 appraiser to develop credible assignment results, the appraiser is responsible for having the
356 competency to address that factor or for following the steps outlined below to satisfy this
357 COMPETENCY RULE.

358 For assignments with retrospective opinions and conclusions, the appraiser must meet the
359 requirements of this COMPETENCY RULE at the time of the assignment, rather than the
360 effective date.

361 Acquiring Competency

362 **If an appraiser determines he or she is not competent prior to accepting an assignment, the appraiser**
363 **must:**

- 364 **1. disclose the lack of knowledge and/or experience to the client before accepting the assignment;**
- 365 **2. take all steps necessary or appropriate to complete the assignment competently; and**
- 366 **3. describe, in the report, the lack of knowledge and/or experience and the steps taken to complete**
367 **the assignment competently.**

368 Comment: Competency can be acquired in various ways, including, but not limited to,
369 personal study by the appraiser, association with an appraiser reasonably believed to have the
370 necessary knowledge and/or experience, or retention of others who possess the necessary
371 knowledge and/or experience.

372 In an assignment where geographic competency is necessary, an appraiser who is not familiar
373 with the relevant market characteristics must acquire an understanding necessary to produce
374 credible assignment results for the specific property type and market involved.

375 **When facts or conditions are discovered during the course of an assignment that cause an appraiser to**
376 **determine, at that time, that he or she lacks the required knowledge and experience to complete the**
377 **assignment competently, the appraiser must:**

- 378 **1. notify the client;**
- 379 **2. take all steps necessary or appropriate to complete the assignment competently; and**

380 **3. describe, in the report, the lack of knowledge and/or experience and the steps taken to complete**
381 **the assignment competently.**

382 **Lack of Competency**

383 If the assignment cannot be completed competently, the appraiser must decline or withdraw from the
384 assignment.

SCOPE OF WORK RULE

385 SCOPE OF WORK RULE¹⁴

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

- 387 **1. identify the problem to be solved;**
388 **2. determine and perform the scope of work necessary to develop credible assignment results; and**
389 **3. disclose the scope of work in the report.**

390 **An appraiser must properly identify the problem to be solved in order to determine the appropriate**
391 **scope of work. The appraiser must be prepared to demonstrate that the scope of work is sufficient to**
392 **produce credible assignment results.**

393 Comment: Scope of work includes, but is not limited to:

- 394 • the extent to which the property is identified;
395 • the extent to which tangible property is inspected;
396 • the type and extent of data researched; and
397 • the type and extent of analyses applied to arrive at opinions or conclusions.

398 Appraisers have broad flexibility and significant responsibility in determining the appropriate
399 scope of work for an appraisal or appraisal review assignment.

400 Credible assignment results require support by relevant evidence and logic. The credibility of
401 assignment results is always measured in the context of the intended use.

402 **Problem Identification**

403 **An appraiser must gather and analyze information about those assignment elements that are necessary to**
404 **properly identify the appraisal or appraisal review problem to be solved.**

405 Comment: The assignment elements necessary for problem identification are addressed in the
406 applicable Standards Rules (i.e., SR 1-2, SR 3-2, SR 6-2, SR 7-2, and SR 9-2). In an appraisal
407 assignment, for example, identification of the problem to be solved requires the appraiser to
408 identify the following assignment elements:

- 409 • client and any other intended users;
410 • intended use of the appraiser's opinions and conclusions;
411 • type and definition of value;
412 • effective date of the appraiser's opinions and conclusions;
413 • subject of the assignment and its relevant characteristics; and
414 • assignment conditions.

415 This information provides the appraiser with the basis for determining the type and extent of
416 research and analyses to include in the development of an appraisal. Similar information is
417 necessary for problem identification in appraisal review assignments.

418 Communication with the client is required to establish most of the information necessary for
419 problem identification. However, the identification of relevant characteristics is a judgment
420 made by the appraiser that requires competency in that type of assignment.

¹⁴ See Advisory Opinion 28, *Scope of Work Decision, Performance, and Disclosure* and Advisory Opinion 29, *An Acceptable Scope of Work*.

421 Assignment conditions include assumptions, extraordinary assumptions, hypothetical
422 conditions, laws and regulations, jurisdictional exceptions, and other conditions that affect the
423 scope of work. Laws include constitutions, legislative and court-made law, administrative
424 rules, and ordinances. Regulations include rules or orders, having legal force, issued by an
425 administrative agency.

426 **Scope of Work Acceptability**¹⁵

427 **The scope of work must include the research and analyses that are necessary to develop credible**
428 **assignment results.**

429 Comment: The scope of work is acceptable when it meets or exceeds:

- 430 • the expectations of parties who are regularly intended users for similar assignments;
- 431 and
- 432 • what an appraiser’s peers’ actions would be in performing the same or a similar
- 433 assignment.

434 Determining the scope of work is an ongoing process in an assignment. Information or
435 conditions discovered during the course of an assignment might cause the appraiser to
436 reconsider the scope of work.

437 An appraiser must be prepared to support the decision to exclude any investigation,
438 information, method, or technique that would appear relevant to the client, another intended
439 user, or the appraiser’s peers.

440 **An appraiser must not allow assignment conditions to limit the scope of work to such a degree that the**
441 **assignment results are not credible in the context of the intended use.**

442 Comment: If relevant information is not available because of assignment conditions that limit
443 research opportunities (such as conditions that place limitations on inspection or information
444 gathering), an appraiser must withdraw from the assignment unless the appraiser can:

- 445 • modify the assignment conditions to expand the scope of work to include gathering
- 446 the information; or
- 447 • use an extraordinary assumption about such information, if credible assignment
- 448 results can still be developed.

449 **An appraiser must not allow the intended use of an assignment or a client’s objectives to cause the**
450 **assignment results to be biased.**

451 **Disclosure Obligations**

452 **The report must contain sufficient information to allow intended users to understand the scope of work**
453 **performed.**

454 Comment: Proper disclosure is required because clients and other intended users rely on the
455 assignment results. Sufficient information includes disclosure of research and analyses
456 performed and might also include disclosure of research and analyses not performed.

¹⁵ See Advisory Opinion 29, *An Acceptable Scope of Work*.

JURISDICTIONAL EXCEPTION RULE

457 **JURISDICTIONAL EXCEPTION RULE**

458 **If any applicable law or regulation precludes compliance with any part of USPAP, only that part of**
459 **USPAP becomes void for that assignment.**

460 Comment: When compliance with USPAP is required by federal law or regulation, no part of
461 USPAP can be voided by a law or regulation of a state or local jurisdiction.

462 **In an assignment involving a jurisdictional exception, an appraiser must:**

- 463 **1. identify the law or regulation that precludes compliance with USPAP;**
- 464 **2. comply with that law or regulation;**
- 465 **3. clearly and conspicuously disclose in the report the part of USPAP that is voided by that law**
466 **or regulation; and**
- 467 **4. cite in the report the law or regulation requiring this exception to USPAP compliance.**

468 Comment: The JURISDICTIONAL EXCEPTION RULE provides a saving or severability
469 clause intended to preserve the balance of USPAP if compliance with one or more of its parts
470 is precluded by the law or regulation of a jurisdiction. When an appraiser properly follows
471 this Rule in disregarding a part of USPAP, there is no violation of USPAP.

472 Law includes constitutions, legislative and court-made law, and administrative rules and
473 ordinances. Regulations include rules or orders having legal force, issued by an
474 administrative agency. Instructions from a client or attorney do not establish a jurisdictional
475 exception.