

Section:

Comment:

Proposed Response:

Board Action:

<p>R4-46-101 Definition of "Investigator" (Conde) 7/30/2014</p>	<p>The Commentator offered that the definition of "Investigator" should require that the Investigator hold a license or appraisal certificate at a level equal to or greater than the appraiser being investigated. The Investigator should also have equal or greater experience than the person being investigated. The Board should not be allowed to determine who is qualified to do an investigation.</p>	<p>Investigations are not limited to appraisers, thus to change this definition to only appraisers would not be prudent. The Board has the ultimate authority for decisions to be made related to all complaints.</p>
<p>R4-46-101 Definition of "Party" (Conde) 7/30/2014</p>	<p>The Commentator objects to the Complainant not being a party to the complaint. {A person filing the complaint is not the party to the complaint.} The Commentator believes this does not protect the public. The complainant should have a right to be heard in a meeting, and whether they are heard should not be left to the Chair.</p>	<p>While the Board customarily allows complainants to speak at the meetings, the Chairman must run the meeting to accommodate all items on the agenda. The complainant is given every courtesy possible by being notified each time the case is on the agenda, and they are notified of the outcome. Conferring to a complainant the status of a "party" has far greater significance than being heard at a meeting. Legal precedent holds complainants are not "parties" to administrative actions.</p>
<p>R4-46-301 (A)(1-d & e) Criteria for opening complaints (Conde) 7/30/2014 & 8/18/2014</p>	<p>The criteria is too minimal to open a complaint. There should be more required for the complaint to be opened. Objects to the word "approximate" in the criteria of when the time-frame for the action when the complaint occurred.</p>	<p>The language was stricken to reflect the fact that the public would not be able to identify specific violations of USPAP or Statutes. The addition of the word "approximate" to the time-frame the action occurred was added to assist the public. Requiring the exact date an action occurred may be considered a barrier to the filing of a complaint, thus the word "approximate" was added.</p>

Section:

Comment:

Proposed Response:

Board Action:

<p>Article 3 Hearings and Disciplinary Right to see all evidence (Conde) 7/30/2014</p>	<p>There is nothing under Article 3 that guarantees the respondent the right to see all of the evidence used against them.</p>	<p>The process is fair, as the Board may not order any discipline unless a formal hearing is held and the Board prevails on the merits. Rules of Discovery do not apply to administrative proceedings. Additionally the Respondent may request a copy of his or her file at anytime.</p>
<p>R4-46-301 Notification to respondents regarding complaints (Conde) 7/30/2014 (Susko) 7/30/2014</p>	<p>Any notification regarding a complaint should be sent certified mail. Sending it by regular mail is no guarantee that it has been received. The commentators would also like additional words added to make email notifications a requirement.</p>	<p>It is cost prohibitive to send all notifications by certified mail. 4,298 pieces of mail were processed through the states mailroom in FY 2014 for the Board at a cost of \$4,246.08. If all mailings were certified, the cost would have been \$30,150.47 instead of \$4,246.08. The staff sends notices of informal and formal hearings by certified and regular mail, but other notices are sent by regular mail and email, if available.</p>
<p>R4-46-301 (Chappell) 8/15/2014</p>	<p>Would like to have a rule to disallow retaliatory complaints</p>	<p>This was not suggested during the 11 meetings held last year while the rules were being reviewed and revised. To change this now would be considered a substantive change, requiring the rulemaking process to start over. It could be addressed in a new rulemaking, perhaps next year.</p>
<p>R4-46-301 (A - 3) Removal of term related to Uniform Standards of Appraisal Practice (USPAP) (Susko) 7/30/2014 (Wicker)8/11/2014</p>	<p>Questions the removal of verbiage relating to complaints meeting judicial criteria and version of USPAP</p>	<p>The judicial criteria is covered in R4-46-301(A 1). The version of USPAP was removed, as it is now covered in A.R.S.§32-3610</p>

Section:

Comment:

Proposed Response:

Board Action:

<p>R4-46-301(A-5) Investigators qualifications (Sorenson) 8/4/2014</p>	<p>In Mr. Sorenson's opinion, additional qualifications, experience, and expertise should be required to qualify as an "investigator." Ideally, the investigator should be an experienced real estate appraiser, and, as a minimum, be knowledgeable regarding USPAP. Also, the use of an AZ licensed/certified appraiser in such a role would insure that the process and reporting complies with USPAP and specifically Standard 3.</p>	<p>The rule states that the Board has the obligation to assign the investigation to an individual who is qualified to assess the allegations and possess the experience and expertise to complete the assignment. Since all complaints involving an appraisal now require a Standard 3 review, the Investigator must be an appraiser and as such, is obligated to comply with USPAP.</p>
<p>R4-46-301(B - 4) Process to hear complaints (Susko) 7/30/2014</p>	<p>An appraiser should have all of the investigator's reports before coming to the initial meeting.</p>	<p>This would slow the process. The Board must have an opportunity to review the investigator's report first. To comply with the Open Meeting Law, they could not accept the investigator's report or discuss it until the initial review. They would then direct staff to provide the report to the respondent and invite them to attend another meeting. With 40% of the cases dismissed at the initial review this past year, the proposed action would cause the respondents additional time for their case to be resolved. It also adds to the cost of the complaint process, with an additional meeting required for all cases, when 40% could be resolved at the initial review.</p>

Section:

Comment:

Proposed Response:

Board Action:

<p>R4-46-301 (B-5) Investigator qualifications (Conde) 7/30/2014 (Morris) 7/30/2014 (Wicker) 8/11/2014 (Chappell) 8/15/2014</p>	<p>Objects to stricken language regarding experience, expertise, contract terms and availability of investigator. The commentator believes the investigator must be an appraiser of equal or greater experience with equal or greater license level, and that all investigator reports must comply with Standard 3 of USPAP. Additional language should be added to require that USPAP be followed and that the investigator not have a relationship with the complainant or any member of the Board. Item (B-7) is the only reference to USPAP. This does not assure that staff will select the most qualified to investigate the complaint. The investigator should be and act competently.</p>	<p>With the hiring of a staff investigator, and the change in the process of completing the investigation prior to the initial review, the language was revised. The Board has adopted the policy and procedure established in 2012 that all investigations involving an appraisal report are to be written in adherence to Standard 3 requirements of USPAP. The language relating to USPAP was removed as it was referencing an outdated edition, and with the language in statute that appraisal assignments (including Standard 3 review/ investigator reports) are to adhere to USPAP it was determined to be redundant. USPAP Standard 3 requires the investigator be competent and unbiased to perform the investigation.</p>
<p>R4-46-301(B-6) Transparency to public and Oversight of Board (Conde)7/30/2014 (Susko) 7/30/2014 (Morris) 7/30/14</p>	<p>The commentators object to all of the stricken language relating to the investigators report becoming non-confidential upon resolution of the complaint, as it inhibits transparency and protection of the public. There is no oversight to assure the report was done correctly and does not give the public an opportunity to object to the report. Commentator stated that the Board is entrusted to protect the public and to protect the respondent, the investigator's report should only be confidential until the matter is resolved.</p>	<p>With the requirement for all investigator reports relating to complaints on appraisal reports be written to comply with Standard 3 of USPAP, the investigator's report is deemed confidential. (A.R.S. 32-3609(3) states that appraisals and appraisal reviews are confidential, thus not subject to public inspections). Transparency to the public is not required. Oversight is the duty of the Board, the Attorney General, Auditor General, the Ombudsman, and the federal oversight Appraisal Sub-Committee. The "public" has no standing to object to the report.</p>
<p>R4-46-301 (B - 7) USPAP Compliant Investigations (Conde) 7/30/2014 (Susko) 7/30/2014</p>	<p>AAREA objects to the stricken language which required the investigator must be an appraiser. CoAA believes all of the stricken language would be required in the investigator's report. They must follow USPAP.</p>	<p>The language was substituted for a shorter description. All of the items shown in this original version are shown in Standard 3-6 of USPAP which the investigator must adhere to when investigating an appraisal report.</p>

Section:

Comment:

Proposed Response:

Board Action:

R4-46-303 (A) Complainants (Conde) 7/30/2014	An appeal should be allowed by the complainant within 30 days.	The complainant has no standing to file an appeal, as he or she is not a party to the complaint.	
R4-46-303(I) Rehearing or Review of the Board's Decisions (Conde) 7/30/2014 and 8/18/14	AAREA opposes all of the proposed revisions under this section. It believes the new language takes away the basic rights of the individual as guaranteed by Constitution of the United States. It also does not like the reference to Title 41 and believes Title 41 should be spelled out in this rule.	The revisions to this section do not impinge on a Respondent's due process rights; the revisions simply allow the Board to authorize that a decision become effective immediately to protect the public peace, health and safety and a rehearing or review is impracticable. This would occur only in certain limited circumstances. The respondent still has the right to go to Superior Court to have the action stayed and appeal the Board's decision. In reference to the verbiage regarding Title 41, it is not unusual to have statutes and/or rules refer to other statutes or administrative codes.	
R4-46-303(I) Rehearing or Review of the Board's Decisions (Susko) 7/30/2014	The term "Particular decision" should be defined.	The word "particular" lacks clarity.	The Board does or does not agree to remove the word "particular" for clarity.
R4-46-306 Removal of report categories related to complaints (Conde) 8/18/2014	AAREA opposes the removal of the number of complaints referred to investigation and those referred to informal hearings from the complaint statistic reports posted to the website or has been included in the meeting minutes of the regular board meetings.	All of the complaints are investigated either by the staff investigator or a contract investigator or are reviewed by the Board, thus the category related to "referred to investigation" is unnecessary to include in the report. Additionally, not all complaints are referred to informal or formal hearings. The inclusion of this category was deemed to be misleading, thus was removed from the reporting on complaints.	

Section:

Comment:

Proposed Response:

Board Action:

R4-46-401 Compliance with USPAP (Conde) 7/30/2014 and 8/18/2014	The commentator wants the language that was struck relating to adherence to the Uniform Standards of Professional Appraisal Practice (USPAP) 2012-13 edition, published by the Appraisal Foundation be reinserted. They believe every appraiser shall comply with USPAP. It would give immunity to the Board, there is no transparency,	The language regarding adherence to USPAP is in statute thus is not needed in rules as it would be redundant. Additionally, the language that was stricken refers to an outdated edition of USPAP.
Misunderstanding of comment made in Oral Proceeding (Roedl) 7/30/2014	Commented that CoAA said it generally agrees with what AAREA was saying but objected to the Assistant Atty. General's request for Ms. Susko to be more specific.	The comment was made by the AAG to allow a response to be drafted. Ms. Susko's comment was too general to be able to address sufficiently.
Notifications regarding the Oral Proceeding and comments made during Oral Proceeding (Conde) 7/30/2014	Ms. Conde asked Ms. Susko of CoAA if they objected to anything said by AAREA, the AAG informed the participants this is not the place for this type of comment. It was explained this was the time for comments to be made to the Board representation about the proposed rules only; not for one public member to question another member on her position on the rules. Ms. Conde stated she believed this was a stakeholder's meeting and said it had been listed as such on the Board's website. She further believes it is remiss of the Board for not posting on the website the time limit to accept comments.	The Board's website properly identified the Oral Proceeding, and clarified it was not a Board meeting. Eleven committee meetings were properly noticed and held from July 2013 through May 2014. Invitations for participation were made at appraiser organization meetings held last year and published in the December, April, and July newsletters sent to over 1,100 subscribers. The Notice of Rulemaking was properly filed with the Secretary of State and published in the Registry June 13, 2014. The Oral Proceeding was held 47 days later. Comments were extended by the Board until August 18th, to allow for additional public comment.
Request to have stakeholder's meeting 8/18/2014 (Helmer)	Mr. Helmer requested a stakeholder's meeting be held to require the members of the Board to adhere to USPAP.	The Board has properly followed the rulemaking procedures and allowed stakeholder comments throughout this process. The Board is not required to follow USPAP. A stakeholder's meeting is not warranted for this purpose.

Section:

Comment:

Proposed Response:

Board Action:

<p>General comments (Cogburn) 8/7/2014</p>	<p>ServiceLink has no objections to the proposed rules that were published in the Arizona Register on June 13, 2014. Additionally, they appreciated the Board's willingness to allow and encourage stakeholder and public participation in this lengthy rulemaking process. Allowing participation by teleconference made this time and cost effective for them.</p>
<p>General comments (Kelly) 8/07/2014</p>	<p>REVAA encourages its members to continue to support the promulgation of these regulations. They support the work the Board has accomplished in drafting responsible and fair regulations.</p>