

## 195 ETHICS RULE

196 **To promote and preserve the public trust inherent in professional appraisal practice, an appraiser must**  
197 **observe the highest standards of professional ethics.** This ETHICS RULE is divided into four sections:  
198 **Conduct, Management, Confidentiality, and Record Keeping.** The first three sections apply to all  
199 appraisal practice, and all four sections apply to appraisal practice performed under STANDARDS 1  
200 through 10.

201 Comment: This Rule specifies the personal obligations and responsibilities of the individual  
202 appraiser. However, it should also be noted that groups and organizations engaged in appraisal  
203 practice share the same ethical obligations.

204 **Compliance with USPAP is required when either the service or the appraiser is obligated by law or**  
205 **regulation, or by agreement with the client or intended users, to comply. In addition to these**  
206 **requirements, an individual should comply any time that individual represents that he or she is**  
207 **performing the service as an appraiser.**

208 **An appraiser must not misrepresent his or her role when providing valuation services that are outside of**  
209 **appraisal practice.<sup>2</sup>**

210 Comment: Honesty, impartiality, and professional competency are required of all appraisers  
211 under these *Uniform Standards of Professional Appraisal Practice* (USPAP). To document  
212 recognition and acceptance of his or her USPAP-related responsibilities in communicating an  
213 appraisal, appraisal review, or appraisal consulting assignment completed under USPAP, an  
214 appraiser is required to certify compliance with USPAP. (See Standards Rules 2-3, 3-3, 5-3, 6-  
215 9, 8-3, and 10-3.)

216 **Conduct:**

217 **An appraiser must perform assignments ethically and competently, in accordance with USPAP.**

218 **An appraiser must not engage in criminal conduct.**

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

221 **An appraiser must not advocate the cause or interest of any party or issue.**

222 **An appraiser must not accept an assignment that includes the reporting of predetermined opinions and**  
223 **conclusions.**

224 **An appraiser must not communicate assignment results in a misleading or fraudulent manner. An**  
225 **appraiser must not use or communicate a misleading or fraudulent report or knowingly permit an**  
226 **employee or other person to communicate a misleading or fraudulent report.**

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

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<sup>2</sup> See Advisory Opinion 21, *USPAP Compliance*.

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231 Comment: An individual appraiser employed by a group or organization that conducts itself in  
232 a manner that does not conform to these Standards should take steps that are appropriate  
233 under the circumstances to ensure compliance with the Standards.

234 **Management:**

235 **The payment of undisclosed fees, commissions, or things of value in connection with the procurement of**  
236 **an assignment is unethical.**

237 Comment: Disclosure of fees, commissions, or things of value connected to the procurement  
238 of an assignment must appear in the certification and in any transmittal letter in which  
239 conclusions are stated. In groups or organizations engaged in appraisal practice, intra-  
240 company payments to employees for business development are not considered unethical.  
241 Competency, rather than financial incentives, should be the primary basis for awarding an  
242 assignment.

243 **It is unethical for an appraiser to accept an assignment, or to have a compensation arrangement for an**  
244 **assignment, that is contingent on any of the following:**

- 245 **1. the reporting of a predetermined result (e.g., opinion of value);**
- 246 **2. a direction in assignment results that favors the cause of the client;**
- 247 **3. the amount of a value opinion;**
- 248 **4. the attainment of a stipulated result; or**
- 249 **5. the occurrence of a subsequent event directly related to the appraiser's opinions and specific to**  
250 **the assignment's purpose.**

251 **Advertising for or soliciting assignments in a manner that is false, misleading, or exaggerated is**  
252 **unethical.**

253 Comment: In groups or organizations engaged in appraisal practice, decisions concerning  
254 finder or referral fees, contingent compensation, and advertising may not be the responsibility  
255 of an individual appraiser, but for a particular assignment, it is the responsibility of the  
256 individual appraiser to ascertain that there has been no breach of ethics, that the assignment is  
257 prepared in accordance with these Standards, and that the report can be properly certified  
258 when required by Standards Rules 2-3, 3-3, 5-3, 6-9, 8-3, or 10-3.

259 **Confidentiality:**

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

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

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

265 **An appraiser must not disclose confidential information or assignment results prepared for a client to**  
266 **anyone other than the client and persons specifically authorized by the client; state enforcement agencies**  
267 **and such third parties as may be authorized by due process of law; and a duly authorized professional**  
268 **peer review committee except when such disclosure to a committee would violate applicable law or**  
269 **regulation. It is unethical for a member of a duly authorized professional peer review committee to**  
270 **disclose confidential information presented to the committee.**

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

274 \*NOTICE: Pursuant to the passage of the Gramm-Leach-Bliley Act in 1999, numerous agencies have adopted  
275 new privacy regulations. Such regulations are focused on the protection of information provided by consumers  
276 to those involved in financial activities “found to be closely related to banking or usual in connection with the  
277 transaction of banking.” These activities have been deemed to include “appraising real or personal property.”  
278 (Quotations are from the Federal Trade Commission, Privacy of Consumer Financial Information; Final Rule,  
279 16 CFR Part 313.)

#### 280 **Record Keeping:**

281 **An appraiser must prepare a workfile for each appraisal, appraisal review, or appraisal consulting**  
282 **assignment. The workfile must include:**

- 283 • **the name of the client and the identity, by name or type, of any other intended users;**
- 284 • **true copies of any written reports, documented on any type of media;**
- 285 • **summaries of any oral reports or testimony, or a transcript of testimony, including the**  
286 **appraiser’s signed and dated certification; and**
- 287 • **all other data, information, and documentation necessary to support the appraiser’s opinions**  
288 **and conclusions and to show compliance with this Rule and all other applicable Standards, or**  
289 **references to the location(s) of such other documentation.**

290 **An appraiser must retain the workfile for a period of at least five (5) years after preparation or at least**  
291 **two (2) years after final disposition of any judicial proceeding in which the appraiser provided testimony**  
292 **related to the assignment, whichever period expires last.**

293 **An appraiser must have custody of his or her workfile, or make appropriate workfile retention, access,**  
294 **and retrieval arrangements with the party having custody of the workfile.**

295 Comment: A workfile preserves evidence of the appraiser’s consideration of all applicable  
296 data and statements required by USPAP and other information as may be required to support  
297 the appraiser’s opinions, conclusions, and recommendations.

298 A photocopy or an electronic copy of the entire actual written appraisal, appraisal review, or  
299 appraisal consulting report sent or delivered to a client satisfies the requirement of a true copy. As an  
300 example, a photocopy or electronic copy of the Self-Contained Appraisal Report, Summary  
301 Appraisal Report, or Restricted Use Appraisal Report actually issued by an appraiser for a real  
302 property appraisal assignment satisfies the true copy requirement for that assignment.

303 Care should be exercised in the selection of the form, style, and type of medium for written  
304 records, which may be handwritten and informal, to ensure that they are retrievable by the  
305 appraiser throughout the prescribed record retention period.

306 A workfile must be in existence prior to and contemporaneous with the issuance of a written  
307 or oral report. A written summary of an oral report must be added to the workfile within a  
308 reasonable time after the issuance of the oral report.

309 A workfile must be made available by the appraiser when required by state enforcement  
310 agencies or due process of law. In addition, a workfile in support of a Restricted Use

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311 Appraisal Report must be sufficient for the appraiser to produce a Summary Appraisal Report  
312 (for assignments under STANDARDS 2 and 8) or an Appraisal Report (for assignments under  
313 STANDARD 10), and must be available for inspection by the client in accordance with the  
314 Comment to Standards Rules 2-2(c)(viii), 8-2(c)(viii), and 10-2(b)(ix).