



THE APPRAISAL FOUNDATION

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

Voluntary Disciplinary Action Matrix

(Based on the 2020-21 edition of USPAP)

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*****This is voluntary guidance intended to assist state appraiser regulatory agencies in enforcement cases*****

The Appraisal Foundation

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PURPOSE AND NATURE OF SANCTIONS

The purpose of appraiser discipline is to protect the public from appraisers who have not or will not ethically and competently perform their duties to their clients. The ultimate disposition of appraiser discipline should be public in cases of revocation, suspension and reprimand. Only in cases of minor misconduct should private discipline be imposed.

SANCTIONS

Revocation

Revocation terminates a person's status as a credentialed appraiser. Generally considered permanent, some states and jurisdictions may allow individuals with revoked credentials to reapply at some point in the future.

Suspension

The temporary removal of an appraiser's credential for a specified period of time.

- Short suspension: up to two months
- Medium suspension up to one year
- Significant suspension: more than one year

Formal Reprimand or Censure

A form of public discipline which declares the conduct of the appraiser improper, but does not limit the appraiser's right to work.

Letter of Warning

Also called an admonition or a private reprimand. It is a form of non-public discipline which informs the appraiser that the conduct was improper, not warranted or otherwise unacceptable. It does not limit the appraiser's right to work.

Fines; Assessment of costs; Restitution

Some states may allow fines or assessment of costs to be imposed as a form of sanction. Generally, the fines/costs are sent to the state. Restitution is typically provided to the harmed party or parties.

- Fine: A sum of money required to be paid as a penalty for a violation.
Small, Moderate and Large
- Costs of enforcement activities.
- Restitution is payment to those harmed by the appraiser's actions

Corrective or remedial education

Education aimed to correct or improve deficient skills in a specific area.

Probation

A period of time during which the appraiser and/or the appraiser's work may be more closely scrutinized.

- short probation: up to six months
- medium probation: up to one year
- significant probation: more than one year

Monitoring

A period of time in which an appraiser's work is subject to additional review by the State Appraiser Regulatory Agency.

Restriction on scope of practice

A period of time in which an appraiser is prohibited from performing certain types of appraisal assignments. The discipline could also include a restriction on supervising other appraisers.

Levels of Sanctions

LEVEL	VIOLATION	SANCTION
I	Minor violations that do not involve the Ethics Rule or Competency Rule.	Letter of warning or equivalent; censure; corrective education (CE or QE); small fine; or any combination of above.
II	Technical errors or carelessness where appraiser would benefit from education and that do not involve the Ethics Rule or Competency Rule.	Formal Reprimand or equivalent; corrective education (CE or QE that cannot be used for CE for renewal); short probation; monitoring; small to moderate fine; or any combination of above.
III	Minor violations of the Ethics Rule and/or Competency Rule. Other violations that rise to the level of affecting the creditability of an assignment.	Formal Reprimand or equivalent; corrective education (QE that cannot be used for CE for renewal); short suspension; medium probation; monitoring; restriction on scope of practice, area of practice or ability to supervise; moderate fine; payment of restitution and/or costs; or any combination of above.
IV	Significant violations, including violations of the Ethics Rule and/or Competency Rule.	Formal Reprimand or equivalent; significant amount of corrective education (QE that cannot be used for CE for renewal); significant suspension; significant probation; monitoring; restriction on scope of practice, area of practice or ability to supervise; large fine; down grade of credential; successful completion of national exam; payment of restitution and/or costs; or any combination of above.
V	Significant Ethics Rule and/or Competency Rule violations or willful violations.	Revocation or Voluntary Surrender in lieu of disciplinary action with or without large fine, payment of restitution and/or costs.

NOTES:

- *This chart is intended to be used in conjunction with the attached Aggravating and Mitigating Circumstances.*
- *The potential Sanction in the chart is an average sanction where aggravating and mitigating circumstances balance each other.*
- *Where aggravating circumstances outweigh mitigating circumstances, the level of sanction will increase, and vice versa.*

AGGRAVATING AND MITIGATING CIRCUMSTANCES

AGGRAVATING CIRCUMSTANCES

An aggravating circumstance is any factual information or evidence regarding the appraiser or the violation that might result in an increased sanction. Aggravating circumstances include:

- Prior disciplinary history
- Number of appraisals involved in the case
- Number of total violations involved in the case
- Pattern of similar violations
- Significant financial harm to a lending institution, a consumer or others
- Refusal to reissue a corrected appraisal report when warranted
- Evidence that the violation was willful or intentional
- Evidence that the violation was grossly negligent
- Failure to exercise due diligence in the supervision of others
- Refusal to acknowledge violation
- Lack of cooperation with investigation
- Submission of false statements or evidence, or other deceptive practices (e.g., creating or adding to work file after complaint filed)
- Intimidation of or threats to witnesses or others involved with the investigation

MITIGATING CIRCUMSTANCES

A mitigating circumstance is any information or evidence regarding the appraiser or the violation that might result in a decreased sanction. Mitigating circumstances include:

- Length of time since the date of violation
- No prior disciplinary history
- No other complaints currently pending against licensee
- No pattern of similar offenses
- No evidence that the violation was willful or intentional
- No evidence that the violation was grossly negligent
- License level at the time of violation
- Licensee was under the supervision of another appraiser at the time (e.g., trainees)
- Additional education taken and/or experience gained after violation occurred
- Cooperation with investigation
- Little or no financial harm to consumer or others

- Timely mitigation of financial loss
- Reissuance of a corrected appraisal report before the complaint was filed
- Understanding and acknowledgement of violation
- Personal problems such as physical, mental or emotional problems at the time of the violation that have since been addressed

EXAMPLE OF THE APPLICATION OF LEVELS AND AGGRAVATING AND MITIGATING CIRCUMSTANCES

The following are generic examples of how to apply sanction levels and aggravating and mitigating circumstances.

When determining an appropriate sanction, the highest level of sanction should be considered unless substantial mitigating circumstances exist.

Example 1:

An appraiser accepted an appraisal assignment in an area where he is not geographically competent, failed to notify the client that he was not geographically competent and failed to take the necessary steps to become competent. As a result, he produced an appraisal that was not supported by market data.

With no aggravating or mitigating circumstances, the sanction would be Level III.

Example 1A:

Assume in the above scenario that there are no aggravating circumstances and that the following **mitigating** circumstances exist:

- a. The appraisal was done 3 years ago and the appraiser now has achieved competency in that market and others.
- b. The appraiser has no prior disciplinary history.
- c. The appraiser cooperated with the investigation.
- d. Since the appraisal was completed, the appraiser has taken additional education that will help him avoid this issue in the future.

Based on these circumstances, the sanction would be Level I or Level II.

Example 1B:

Assume in the above scenario that there are no mitigating circumstances and that the following **aggravating** circumstances exist:

- a. The appraiser has been disciplined for similar conduct in the past.
- b. The appraiser had already taken education designed to address this issue before he did the appraisal in question.
- c. As a result of the violation, there was significant financial harm to the lender and the consumer.

Based on these circumstances, the sanction would be Level IV or Level V.

Example 2:

An appraiser performs an appraisal where she used inappropriate comparable sales with inadequate and unsupported adjustments, resulting in an inflated opinion of value. This is one of several appraisals she has performed for a lender where all properties were sold by the same investor.

With no aggravating or mitigating circumstances, the sanction would be Level IV.

Example 2A:

Assume in the above scenario that there are no aggravating circumstances and that the following **mitigating** circumstances exist:

- a. The appraiser was under severe emotional stress at the time the appraisals were performed due to the illness of a child.
- b. The appraiser had been licensed for only 8 months when she did the assignments.

Based on these circumstances, the sanction would be Level II or Level III.

Example 2B:

Assume in the above scenario that there are no mitigating circumstances and that the following **aggravating** circumstances exist:

- a. There are 10 appraisals involved in this case.
- b. The appraiser altered the engagement letters in her work files before sending them the state regulatory agency by removing the “value needed” from them.
- c. The appraiser did not cooperate with the investigation, refusing to meet with the investigator or to provide more information when requested.

Based on these circumstances, the sanction would be Level V.

Example 3:

An appraiser states in his certification on an appraisal that he inspected the interior and exterior of the subject property, when in fact he only drove by the property. As a result, he stated that the subject property was in average condition when it was actually in poor condition and essentially uninhabitable. He did not use any extraordinary assumptions or hypothetical conditions in the assignment. He knew that the lender required an interior inspection.

With no aggravating or mitigating circumstances, the sanction would be Level IV.

Example 3A:

Assume in the above scenario that there are no aggravating circumstances and that the following **mitigating** circumstances exist:

- a. The appraiser took the 15-hour National USPAP course after the appraisal was done but before the complaint was received.
- b. The appraiser cooperated with investigation and acknowledged his error.
- c. The loan never went through, so there was little or no financial harm to the consumer or others.

Based on these circumstances, the sanction would be Level III.

Example 3B:

Assume in the above scenario that there are no mitigating circumstances and that the following **aggravating** circumstances exist:

- a. The violation was intentional.
- b. The appraiser has been licensed since 1991.
- c. When confronted with the issue by the lender, the appraiser refused to inspect the subject property and reissue a new appraisal report.

Based on these circumstances, the sanction would be Level V.

Example 3C:

Assume in the above scenario that there are **both** the mitigating circumstances in Example 3A and the aggravating circumstances in Example 3B. The sanction, therefore, would be anywhere from Level III to Level V.

Based on these circumstances, it would appear that the aggravating circumstances are more serious and outweigh the mitigating circumstances, thus the sanction would be Level IV or Level V.

Example 4:

An appraiser values the subject property at \$120,000. Among the findings:

- The subject had sold one month prior to the effective date of the appraisal for \$80,000, but the appraisal stated that the property had not sold within the past 36 months.
- The appraisal states that the subject property contains 2400 square feet of gross living area when it actually has only 1200 square feet of finished area and an unfinished, below grade basement.
- The appraiser used comparable sales that contained 2300 – 2800 square feet, which resulted in an inflated appraised value.
- The photographs of the subject property in the appraisal report were of a ranch with a fully finished basement. The appraiser states that his trainee sent the wrong photos with the appraisal.
- Although the trainee did most of the work on the assignment, the appraiser did not mention the trainee's assistance in the report.
- The workfile, which was kept electronically, contained only a copy of the engagement letter and the invoice. The appraiser could not find the appraisal or any of the supporting documentation.

Discussion:

In this scenario, there are several violations of the Ethics Rule, such as conduct and record keeping, and violations of Standards 1 and 2. In determining an appropriate sanction, one would start at the lowest level violation (Level II for record keeping) and consider the highest level violation (Level V for preparing a fraudulent appraisal or communicating results in a misleading or fraudulent manner).

Example 4A:

Assume in the above scenario that there are no aggravating circumstances and that the following **mitigating** circumstances exist:

- a. There are no other complaints pending or previous disciplinary actions against the appraiser and there is no indication that there has been a pattern of similar offenses.
- b. It appears that the trainee altered the report after the appraiser signed it. It also appears that the trainee deleted the appraisal and supporting documentation for the assignment from the work file.
- c. The appraiser acknowledged that he failed to supervise his trainee.

Based on these circumstances, the sanction would be Level IV or possibly even Level III.

Example 4B:

Assume in the above scenario that there are no mitigating circumstances and that the following **aggravating** circumstances exist:

- a. There were several violations in the case.
- b. The loan was made and went into foreclosure. The lender subsequently sold the property for \$65,000.
- c. His failure to supervise his trainee was grossly negligent as he knew his trainee had altered his reports in the past.

Based on these circumstances, the sanction would be Level V.