

## Arizona Department of Financial Institutions

# SUBSTANTIVE POLICY STATEMENT

**Section: Real Estate Appraisal**

**February 6, 2018**

**Subject: Procedures for Hearings and Disciplinary Proceedings**

**Policy Statement #REA-1**

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under A.R.S. § 41-1033 for a review of the statement.

### STATEMENT OF PURPOSE AND SCOPE

Senate Bill 1480, 2015 Leg., 52<sup>nd</sup> Reg. Sess. (Az. 2015), repealed the State Board of Appraisal (“Board”) and all authority of the Board was moved to the Superintendent and the Arizona Department of Financial Institutions (“Department”), which succeeded to the authority, powers, duties and responsibilities of the Board.

This Substantive Policy is intended to inform the regulated real estate appraisers industry (including trainees, appraisers, property tax agents and appraisal management companies) of the Department’s opinion and approach to the requirements of currently existing real estate appraisal statutes and rules, pending further legislative changes and rulemaking. Specifically, this Substantive Policy Statement is intended to inform the regulated real estate appraisers industry of the stages and steps associated with the complaint resolution process and the administrative procedures for hearings and disciplinary proceedings, in light of the consolidation of the Board and the Department.

### UPDATED PROCEDURES FOR COMPLAINT REVIEW AND DISCIPLINARY PROCESS

1. INITIAL REVIEW AND INVESTIGATION: The Department will screen all complaints to ensure each complaint meets the minimum information criteria and any jurisdictional requirements. See [A.R.S. § 6-124](#), [A.R.S. § 32-3605](#), and [A.A.C. R4-46-301\(A\)\(1\)](#). If the complaint meets the minimum and jurisdictional requirements, the Department will notify the Respondent within 14 days of receipt of the complaint and initiate an investigation. The Department will provide the Respondent with a copy of the complaint and require the Respondent to submit within 30 days, a written response and copy of the appraisal report, appraisal review, consulting assignment, or property tax appeal at issue, along with the corresponding work file. In the process of its investigation, the Department may contact the Complainant, Respondent or third parties, or request additional information. The Department may also provide the Complainant with a copy of the Respondent’s written response to the complaint.

The Department may decide that the investigation requires a qualified investigator to prepare an investigative report. In addition, Policy Statement 7 from the Appraisal Subcommittee

requires the Department to analyze each complaint to determine whether additional violations, especially those related to USPAP, should be added to the complaint. At the conclusion of its investigation, the Department (i) may find that the Respondent is in compliance and no violations have occurred, in which case the Department will close the complaint and dismiss any pending matters; or (ii) may decide to proceed with further administrative action.

2. CONTINUED INVESTIGATION/SETTLEMENT DISCUSSIONS: If the Department finds that a violation of a law or regulation has occurred, the Department may disclose to the Respondent its investigative findings and provide the Respondent with an opportunity to respond to the investigative report in writing and/or through a courtesy meeting. At this stage, the Department may also conduct further investigation. If the Department still finds that a violation has occurred, it may elect to issue an Order, proceed directly to a hearing or informally settle the matter by consent with the Respondent.

The Department may resolve a matter at any point by settlement in which the Respondent agrees to accept disciplinary or remedial action by consent in lieu of a hearing. Actions may include a letter of remedial action (education), or consent agreement which may include one or more of the following: payment of a civil penalty; probation; mentorship; education; restriction on the nature and scope of practice; suspension; or revocation.

For less serious matters, the Department may also issue a letter of concern (warning).

3. FORMAL ADMINISTRATIVE ACTIONS: If the Department finds that a violation of a law or regulation has occurred and does not settle the matter informally by consent, the Department may issue an Order against the Respondent or file a Notice of Hearing at the Office of Administrative Hearings setting forth its findings of fact, conclusions of law and relief sought from the court.

All hearings, appealable agency actions and contested cases are governed by Title 41, Chapter 6, Article 10. For any matter that proceeds to a hearing, an administrative law judge will hear the case and issue a recommended decision as prescribed in [A.R.S. § 41-1092.08](#), which the Superintendent may then accept, reject, or modify, before issuing a final administrative decision.

The Department may initiate administrative action by issuing an Order or Notice of Hearing at any time it has determined a violation of law or regulation has occurred.

4. COMPLIANCE FILE REVIEW: If the final disposition of the matter includes the imposition of education, mentorship, suspension or the like, the Department will conduct compliance reviews. The Department may direct further investigation, initiate administrative action or open a complaint for noncompliance.

Authority: 2015 Ariz. Legis. Serv. Ch. 19 (S.B. 1480), A.R.S. § 32-3601 *et seq.*, A.R.S. §6-101 *et seq.*

Effective Date: February 6, 2018

This policy updates the REA-1 policy of July 3, 2015