

Proposed Rule Amendment
March 25, 2020

R162-2g-311. Scope of Authority.

(1) Trainees.

(a) An individual who has properly qualified as a trainee pursuant to Subsection R162-2g-302 may perform appraisal-related duties within the competence and scope of authority of the state-certified supervisory appraiser as follows:

(i) participating in property inspections;

(ii) measuring or assisting in the measurement of properties;

(iii) performing appraisal-related calculations;

(iv) participating in the selection of comparable properties for an appraisal assignment;

(v) making adjustments to comparable properties; and

(vi) drafting or assisting in the drafting of an appraisal report.

(b) The trainee may have more than one supervisory appraiser.

(c) The supervising appraiser shall be responsible to determine the point at which a trainee is competent to participate in each of the activities identified in this Subsection (1)(a), within the following limitations:

(i) As to a minimum of the trainee's first 35 inspections of residential properties:

(A) the trainee shall be accompanied and supervised by a state-certified appraiser;

(B) both the interior and the exterior of the properties shall be inspected; and

(C) the appraisal report shall comply with the requirements of Subsection R162-2g-502a(1)(g).

(ii) After the trainee's first 35 inspections, the supervising appraiser shall determine whether the trainee has demonstrated sufficient competency to continue making inspections of residential properties without being accompanied by the supervising appraiser.

(iii) As to the trainee's first 20 inspections of non-residential properties:

(A) the trainee shall be accompanied and supervised by a state-certified general appraiser;

(B) both the interior and the exterior of the properties shall be inspected; and

(C) the appraisal report shall comply with the requirements of Subsection R162-2g-502a(1)(g).

(d) A trainee may not:

(i) solicit or accept an assignment on behalf of anyone

other than:

- (A) the trainee's supervisor; or
- (B) the supervisor's appraisal firm;
- (ii) ~~sign an appraisal report or~~ discuss an appraisal assignment with anyone other than:
 - (A) the supervisory appraiser responsible for the assignment;
 - (B) state enforcement agencies;
 - (C) third parties as may be authorized by due process of law; and
 - (D) a duly authorized professional peer review committee.
- (e) The following are not subject to the scope of authority limitations of this Subsection (1):
 - (i) full-time elected county assessors; and
 - (ii) any person performing an appraisal for the purposes of establishing the fair market value of real estate for the assessment roll.
- (2) State-licensed appraisers. In a federally-related transaction, state-licensed appraisers may appraise:
 - (a) non-complex one- to four-residential units having a transaction value of less than \$1,000,000;
 - (b) complex one- to four- residential units having a transaction value of less than \$250,000; and
 - (c) vacant or unimproved land that is utilized for one- to four-family purposes, or for which the highest and best use is one- to four-family purposes, so long as net income capitalization analysis is not required by the terms of the assignment.
- (3) State-licensed appraisers and state-certified residential appraisers may not perform appraisals of the following:
 - (a) subdivisions for which:
 - (i) a development analysis/appraisal is necessary; or
 - (ii) a discounted cash flow analysis is required by the terms of the assignment; ~~and~~
 - (b) vacant land if the highest and best use of the land is for five or more one- to four-family units ~~[-];~~
 - (c) commercial real property; or
 - (d) vacant land if the highest and best use of the vacant land is commercial use.

R162-2g-502a. Standards of Conduct and Practice.

- (1) Affirmative duties in general. A person registered, licensed, or certified by the division shall:
 - (a) if employing an unlicensed assistant who is not registered as a trainee pursuant to Subsection R162-2g-302:
 - (i) actively supervise the unlicensed assistant; and
 - (ii) ensure that the assistant performs only clerical

duties, including:

(A) typing research notes or reports completed by a trainee or an appraiser;

(B) taking photographs of properties; and

(C) obtaining copies of public records;

(b) except as provided in Subsection (2):

(i) comply with the current edition of USPAP; and

(ii) observe the advisory opinions of USPAP;

(c) in order to authorize another individual to sign an appraisal report on behalf of the individual who completes the report:

(i) grant authority to the signer in writing;

(ii) limit the signing authority to a specific property address;

(iii) explicitly disclose within the appraisal report that the signer is authorized by the appraiser to sign the report on the appraiser's behalf;

(iv) attach a copy of the written permission required pursuant to this Subsection (1)(c)(i) to the report; and

(v) ensure that the signer signs the appraiser's name, followed by the word "by," and then followed by the signer's own name;

(d) if using a digital signature in place of a handwritten signature, ensure that:

(i) the software program that generates the digital signature has a security feature; and

(ii) no one other than the appraiser has control of the signature;

(e) retain a photocopy or other exact copy of each report as it is provided to the client, including the appraiser's signature;

(f) analyze and report the sales and listing history of the subject property for the three years preceding the appraisal if such information is available to the appraiser from a multiple listing service, listing agent(s), property owner, or other verifiable source(s);

(g)(i) include in each appraisal report a statement indicating whether or not the subject property was inspected as part of the appraisal process; and

(ii) if any inspections were done, include the following information concerning each inspection:

(A) the names of all appraisers and trainees who participated in the inspection;

(B) whether the inspection was an exterior inspection only or both an exterior and an interior inspection; and

(C) the date that the inspection was performed; and

(h) unless Subsection (2)(b) applies, respond within ten business days to division notification:

(i) of a complaint against the individual; or
(ii) that information is needed from the individual; and~~[-]~~
(i) in an appraisal report prepared and signed by a state-licensed or certified appraiser state, immediately following the signature on the report, either:

(A) the credential type of State-Licensed Appraiser, State-Certified Residential Appraiser, or State-Certified General Appraiser; or

(B) the license or certification number assigned to the appraiser by the division.

(2) Exceptions.

(a) An individual is exempt from complying with all provisions of USPAP when acting in an official capacity as:

- (i) a division staff member or employee;
- (ii) a member of the experience review committee as appointed and approved by the board;
- (iii) a member of the technical review panel as appointed and approved by the board;
- (iv) a hearing officer;
- (v) a member of a county board of equalization;
- (vi) an administrative law judge;
- (vii) a member of the Utah State Tax Commission; or
- (viii) a member of the board.

(b) If a deadline for response under this Subsection (1)(h) falls on a day when the division is closed, the deadline shall be extended to the next business day.

(c) When performing an evaluation as defined in the Real Estate Appraiser and Certification Act, an appraiser trainee or a licensed or certified appraiser is exempt from complying with Standards 1 through 4~~[3]~~ of USPAP.

(3) A trainee shall:

(a) using forms provided by the division, maintain a separate log of experience hours for each supervising appraiser with whom the trainee works; and

(b) include in each log the following information for each appraisal:

- (i) file number;
- (ii) report date;
- (iii) subject address;
- (iv) client name;
- (v) type of property;
- (vi) report form number or type;
- (vii) number of work hours;
- (viii) description of work performed by the trainee; and
- (ix) scope of the review and supervision of the supervising appraiser.

(4) Unless there is a client assignment condition

prohibiting an appraiser trainee from signing an appraisal report, when an appraiser trainee performs significant appraisal assistance on an appraisal, the trainee may sign the appraisal report if the appraisal report is also signed by the trainee's supervisory appraiser. The appraiser trainee shall state, immediately following the trainee's signature in the report, "Appraiser Trainee" and include the registration number assigned to the appraiser trainee by the division

(5) (a) [~~(4) (a)~~] A supervisory appraiser shall delegate to a trainee only such duties as the trainee is authorized to perform under Subsection R162-2g-311(1).

(b) A supervisory appraiser shall directly train and supervise the trainee in the performance of assigned duties by:

(i) critically observing and directing all aspects of the appraisal process;

(ii) accepting full responsibility for the appraisal and the contents of the appraisal report by signing and certifying the appraisal complies with USPAP; and

(iii) reviewing and signing the trainee appraisal reports.

(c) A supervisory appraiser shall personally inspect:

(i) each property that is appraised with a trainee until the supervisory appraiser determines the trainee is competent to inspect the property in accordance with the competency rule of USPAP for the property type, and the trainee has performed at least:

(A) 35 residential inspections as provided in Subsection R162-2g-311(1)(c)(i); and

(B) 20 non-residential inspections as provided in Subsection R162-2g-311(1)(b)(ii); and

(ii) any property for which the appraisal report scope of work or certification requires appraiser inspection.

(d) A supervisory appraiser shall be state-certified and in good standing with the division for a period of at least three years prior to being eligible to become a supervisory appraiser.

(e) An appraiser may not act as a supervisory appraiser if the appraiser has been subject to a disciplinary action in any jurisdiction:

(i) within the three year period preceding the date on which the appraiser proposes to act as a supervisor; and

(ii) where the supervisory appraiser's legal eligibility to engage in the appraisal practice was impacted or impaired.

(f) A supervisory appraiser subject to a disciplinary action will be considered to be in good standing three years after the successful completion or termination of the sanction imposed against the appraiser.

(g) A supervisory appraiser shall comply with the competency rule of USPAP for the property type and geographic location for

which the trainee appraiser is being supervised.

(h) Although a trainee is permitted to have more than one supervisory appraiser, a supervisory appraiser may not supervise more than three trainees at one time, unless a division program provides for progress monitoring, supervisory certified appraiser qualifications, and supervision and oversight requirements for supervisory appraisers.

(i) An appraisal experience log shall be maintained jointly by the supervisory appraiser and the trainee. It is the responsibility of both the supervisory appraiser and the trainee to ensure the experience log is accurate, current, and complies with division requirements.

(6) ~~(5)~~ A school or continuing education provider shall:

(a) maintain a record of each student's attendance for a minimum of five years after the student enrolls;

(b) display the certification number of all continuing education courses in advertising and marketing;

(c) upload course completion information as to each student who provides the school or continuing education provider the student's name according to division records and the student's license number:

(i) within 10 days after the end of a course offering; and

(ii) to the database specified by the division;

(d) upon request of the division, substantiate any claim made in advertising or marketing;

(e) within 15 calendar days of any material change in the information outlined in R162-2g-307b(1), provide to the division written notice of the change;

(f) with regard to the criminal history disclosure required under R162-2g-307b(2)(c)(iii):

(i) obtain each student's signature before allowing the student to participate in course instruction;

(ii) retain each signed criminal history disclosure for a minimum of two years; and

(iii) make any signed criminal history disclosure available to the division upon request;

(g) maintain a high quality of instruction;

(h) adhere to all state laws and administrative rules regarding school and instructor certification;

(i) provide the instructor(s) for each course with the required course content outline;

(j) require instructors to adhere to the approved course content;

(k) comply with a division request for information within 10 business days of the date of the request; and

(l) verify that the material is current in any course taught on:

- (i) Utah statutes;
- (ii) Utah administrative rules;
- (iii) Federal laws; and
- (iv) Federal regulations.

(7) [(6)] An instructor shall adhere to the approved outline for any course taught.

(8) When performing an inspection of property for an appraisal assignment, only an individual who is registered as a trainee, or is licensed or certified as an appraiser, may include in the inspection report appraisal assignment results, including appraiser analyses, opinions, or conclusions, and may also report on the physical characteristics of the property. An individual who is not registered, licensed, or certified may not report appraisal assignment results but is limited to reporting on the physical characteristics of the property.