

**ADOPTED REGULATION OF THE
COMMISSION OF APPRAISERS OF REAL ESTATE**

LCB File No. R119-00

Effective September 25, 2000

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-15, NRS 645C.210.

Section 1. Chapter 645C of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this regulation.

Sec. 2. *“Administrator” means the real estate administrator.*

Sec. 3. *“Advisory committee” means an advisory committee established pursuant to section 7 of this regulation.*

Sec. 4. *“Commission” means the commission of appraisers of real estate.*

Sec. 5. *“Distance education course” means a course of instruction in which the pupil receives instruction at a location at which the instructor is not physically present. Such a course may include, without limitation, instruction provided via CD-ROM, the Internet or videoconference.*

Sec. 6. *“Division” means the real estate division of the department of business and industry.*

Sec. 7. 1. *The commission may establish an advisory committee to assist the commission with any matter that the commission determines to be appropriate for submission to an advisory committee.*

2. The administrator may establish an advisory committee to assist the administrator in the review of a matter that is the subject of an investigation conducted pursuant to NAC 645C.445 if the appraiser who is the subject of the investigation agrees to participate in an informal review of the matter with the advisory committee.

3. The commission will create and maintain a list of persons who are approved by the commission to serve on an advisory committee. A person approved to serve on an advisory committee must meet the qualifications for appointment to the commission set forth in subsection 1 of NRS 645C.190.

4. If the administrator or the commission determines that an advisory committee should be formed, the administrator shall appoint three persons to serve on the advisory committee from the list of persons approved by the commission to serve on the advisory committee. At least one of the persons appointed must be a current or former member of the commission. The administrator shall appoint one member of the advisory committee who is a current or former member of the commission to serve as chairman of the advisory committee.

5. A member of an advisory committee:

(a) Serves at the pleasure of the commission and without compensation;

(b) Shall abstain from participating in any proceeding in which he would be prohibited from participating if he were a member of the commission; and

(c) Shall not testify before the commission on any substantive matter relating to an informal conference in which he has participated.

6. Each member of an advisory committee is entitled to receive a per diem allowance and travel expenses as provided for state officers and employees generally for the period during which the member was engaged in the discharge of his official duties.

Sec. 8. 1. An advisory committee which is established to assist the administrator with the review of a matter that is the subject of an investigation conducted pursuant to NAC 645C.445 shall:

(a) Review the written report submitted by an investigator pursuant to NAC 645C.445, if available, and any other information that is relevant to the matter to determine whether there is probable cause to show that the appraiser who is the subject of the investigation has violated a provision of chapter 645C of NRS or the regulations adopted pursuant thereto;

(b) Hold an informal conference in accordance with section 9 of this regulation;

(c) Work with the appraiser who is the subject of the investigation to attempt to arrive at a recommendation for resolution of the matter which is the subject of the investigation; and

(d) Submit a recommendation for resolution of the matter to the administrator or recommend that the matter be submitted to the commission.

2. If the administrator and the appraiser who is the subject of the investigation accept the advisory committee's recommendation for resolution of the matter, the administrator shall enter into a written agreement with the appraiser who is the subject of the investigation which must contain the terms of the resolution recommended by the advisory committee. If the agreement provides for disciplinary action that is authorized pursuant to NRS 645C.460, the administrator may impose the discipline on behalf of the commission.

3. If disciplinary action is taken pursuant to this section against an appraiser who is the subject of an investigation, the administrator shall file with the commission a written summary of the facts and disciplinary actions taken against the appraiser.

4. If the administrator or the appraiser who is the subject of the investigation does not accept the advisory committee's recommendation for resolution of the matter, the administrator shall:

(a) Schedule a hearing which must be conducted pursuant to NAC 645C.500; or

(b) Negotiate a resolution of the matter with the appraiser who is the subject of the investigation, which may include, without limitation, the disciplinary actions described in subsection 2 of NRS 645C.460. A resolution negotiated pursuant to this paragraph is subject to the approval of the commission.

Sec. 9. 1. *If an advisory committee is established to assist the administrator with the review of an investigation conducted pursuant to NAC 645C.445, the administrator shall schedule an informal conference between the advisory committee and the appraiser who is the subject of the investigation. The administrator shall provide written notice of the time and place of the conference to:*

(a) Each member of the advisory committee;

(b) The appraiser who is the subject of the investigation; and

(c) Each witness who has been requested to appear at the informal conference.

2. The advisory committee may request the attendance at an informal conference of any person whom the advisory committee believes to have information that is relevant to the matter.

3. When conducting an informal conference, an advisory committee:

(a) May consider all evidence that it deems relevant to the investigation;

(b) Shall rule on the admissibility of evidence;

(c) Is the controlling authority with regard to the admissibility of evidence; and

(d) Need not follow the rules of admissibility of evidence that a court must follow.

4. The chairman of an advisory committee shall file a written report with the administrator that explains the results of the informal conference within 30 days after the conclusion of the informal conference.

5. A report filed pursuant to subsection 3 of section 8 of this regulation, a report filed pursuant to subsection 4 and all proceedings before an advisory committee are and must remain confidential.

Sec. 10. NAC 645C.005 is hereby amended to read as follows:

645C.005 As used in this chapter, unless the context otherwise requires ~~§~~:

- ~~1. "Administrator" means the real estate administrator.~~
- ~~2. "Commission" means the commission of appraisers of real estate.~~
- ~~3. "Division" means the real estate division of the department of business and industry.]~~

the words and terms defined in sections 2 to 6, inclusive, of this regulation have the meanings ascribed to them in those sections.

Sec. 11. NAC 645C.215 is hereby amended to read as follows:

645C.215 1. A school which the commission has approved to give a course fulfilling the educational requirements for original licensing or certification shall require each student to attend the required number of hours of instruction and pass an examination in the course.

2. The school may certify only the number of hours for which the course has been approved by the commission.

3. The completion of a portion of a course is not acceptable to satisfy licensing or certification requirements.

4. ~~[The commission may approve courses offered by correspondence or extension services if they are equivalent to instruction received in the classroom.~~

~~—5.]~~ As used in this section, an “hour of instruction” means 50 minutes or more. Fifteen hours of instruction equal one semester credit.

Sec. 12. NAC 645C.300 is hereby amended to read as follows:

645C.300 1. To renew an active license or certificate, the licensee or holder of the certificate must provide the division with proof that he has met the requirements for continuing education, including, without limitation, at least 7 hours of instruction in the “Uniform Standards of Professional Appraisal Practice,” adopted by reference pursuant to NAC 645C.400.

2. To reinstate a license or certificate which has been placed on inactive status, a person must provide the division with proof that he has met the requirements for continuing education, including, without limitation, at least 7 hours of instruction in the “Uniform Standards of Professional Appraisal Practice,” adopted by reference pursuant to NAC 645C.400.

3. A licensee or holder of a certificate may petition the administrator for an extension of time in which to comply with the requirements for continuing education. The administrator may grant such an extension if he finds that the licensee or holder of the certificate has a severe hardship resulting from circumstances beyond his control which has prevented him from meeting the requirements.

4. Not more than 50 percent of the hours of continuing education required pursuant to NRS 645C.430 may be hours from distance education courses. The 7 hours of instruction in the Uniform Standards of Professional Appraisal Practice required pursuant to this section may not be taken through distance education courses.

Sec. 13. NAC 645C.315 is hereby amended to read as follows:

645C.315 1. An application for approval of a ~~correspondence~~ *distance education* course or a course given in Nevada for the continuing education of licensees or holders of certificates must be submitted to the division for review and presentation to the commission. The application must be made on a form provided by the division.

2. The commission will not give retroactive approval for such a course.

3. In determining whether to approve a course pursuant to this section, the commission will consider:

(a) Whether the course consists of at least 3 hours of instruction . ~~for resident classes, or 15 hours of instruction for correspondence courses.~~

(b) Whether the sponsor of the course is willing to certify to the attendance of licensees and holders of certificates at the course.

(c) Whether the sponsor is willing to maintain for 5 years a record of attendance which contains:

(1) The name of each licensee or holder of a certificate in attendance and the number of his license or certificate.

(2) The title and description of the course.

(3) The hours of instruction attended by the licensee or holder of a certificate and the dates of his attendance.

(4) A statement or indication whether the licensee or holder of a certificate passed or failed the course, if applicable.

(d) Whether the sponsor of the course is willing to assure that an approved instructor will preside throughout the course.

(e) In the case of ~~correspondence courses, whether the sponsor will:~~

~~— (1) Administer a closed-book final examination;~~

~~— (2) Administer at least one quiz or progress evaluation; and~~

~~— (3) Publish a policy for retaking examinations.]~~ *distance education courses:*

(1) Whether the licensee or holder of a certificate will be required to complete:

(I) A written examination proctored by an official approved by the commission; or

(II) If the course does not include such an examination, the course mechanisms

required by the commission for accreditation of the course; and

(2) Whether the course is presented by an accredited college or university, has received the approval for college credit from the American Council on Education's College Credit Recommendation Service or has been approved through the program of approval of the Appraisal Qualifications Board.

(f) In the case of presentations by videotape, whether the sponsor will provide an approved instructor at the site of the presentation to supplement and control instruction in the course.

(g) Any other criteria that the commission deems appropriate.

4. For all approved courses, the sponsor shall provide a certified copy of the record of completing the course to the licensee or holder of a certificate upon his completion of the course. The division shall accept the certificate as proof of the licensee's or holder's attendance for the purpose of renewing or reinstating his license or certificate. If the course is taken at a university or community college, the proof of attendance must be a certified transcript. The certificate of a sponsor must contain the:

(a) Name of the sponsor;

(b) Name of the licensee or holder of a certificate and his license number or certificate number;

- (c) Number of hours of instruction;
- (d) Dates of instruction;
- (e) Title of the course or seminar;
- (f) Sponsor's number assigned by the division; and
- (g) Signature of the person authorized to sign for the sponsor.

5. The commission may grant approval for courses of continuing education offered by a nationally recognized appraisal organization which is a member of the Appraisal Foundation or an organization approved by the commission, without considering a specific application.

Sec. 14. NAC 645C.317 is hereby amended to read as follows:

645C.317 1. Except as otherwise provided in NAC 645C.315 regarding ~~correspondence~~ *distance education* courses, an appraiser may apply to the commission for the approval of a course of continuing education which is provided out of state if the appraiser has:

- (a) Attended or will attend the course outside Nevada;
- (b) Taken or will take the course within the period prescribed by NRS 645C.430 for the renewal or reinstatement of his certificate or license; and
- (c) Submitted an application on a form supplied by the division accompanied by the applicable application fee for the annual approval of a course of instruction offered for continuing education.

2. Under appropriate circumstances, the commission may give retroactive approval for a course attended out of state.

3. Except as otherwise provided in subsection 5, approval of a course pursuant to this section applies only to the specific:

- (a) Course described in the application;

(b) Date on which the course was given; and

(c) Appraiser who submitted the application.

4. In determining whether to approve a course attended out of state, the commission will consider:

(a) Whether the course consists of at least 3 hours of instruction.

(b) Whether the course meets the standards set forth in NAC 645C.305 and is acceptable under the provisions of NAC 645C.310.

(c) Any available information regarding the qualifications of the instructor of the course.

(d) The sufficiency of the proof of attendance of the course by the applicant. To obtain credit for attendance of the course, the applicant must attend the required number of hours of instruction and take and pass any examination administered in the course.

(e) Any other criteria that the commission deems appropriate.

5. If the division approves a specific course based on an initial application by an appraiser pursuant to subsections 1 to 4, inclusive, it shall approve an application submitted subsequently by another appraiser who attended the same course if that appraiser submits:

(a) Proof of his attendance of the course; and

(b) The applicable application fee for the annual approval of a course of instruction offered for continuing education.

6. If the division approves a course pursuant to this section, the sponsor of the course:

(a) Is not required to comply with NAC 645C.325 and 645C.335.

(b) Shall not advertise that the course has been approved by the commission.

Sec. 15. NAC 645C.445 is hereby amended to read as follows:

645C.445 1. The division shall prepare and require a standard form or affidavit for use in making a citizen's complaint. This form may require any information the division considers pertinent.

2. If a citizen's complaint is made ~~[, the division shall]~~ *or the division requests an investigation of an appraiser, the administrator shall appoint a member of the staff of the division to* investigate any action *of an appraiser* which appears to violate a provision of chapter 119, 119A, 645, 645C or 645D of NRS or the regulations adopted pursuant thereto. ~~[and]~~ *An investigation that is initiated by a complaint* need not be limited to the matter in the complaint.

3. The division may accept written anonymous complaints. If an anonymous complaint includes sufficient information indicating that a violation of any provision of chapter 119, 119A, 645, 645C or 645D of NRS, or of any regulation adopted pursuant thereto, has likely occurred, the ~~[division]~~ *administrator shall appoint a member of the staff of the division to* investigate the complaint. Such an investigation is not limited to the matter in the complaint.

4. An appraiser or intern shall disclose all facts and documents pertinent to an investigation to members of the division's staff conducting the investigation.

5. ~~[If the division determines that sufficient evidence exists to establish a violation, it shall prepare and file a formal complaint with the commission. If insufficient evidence exists, the division may dismiss the matter without prejudice at any time.]~~ *A person appointed to investigate a matter pursuant to this section shall submit a written report to the administrator which describes the results of the investigation.*

6. *The administrator shall review a report submitted pursuant to subsection 5 and based upon the review shall:*

(a) Dismiss the matter that is the subject of the investigation;

(b) Negotiate a resolution of the matter that is the subject of the investigation;

(c) Create an advisory committee to review the matter that is the subject of the investigation pursuant to section 7 of this regulation, if the appraiser who is the subject of the investigation agrees to participate in an informal conference with an advisory committee; or

(d) Schedule a hearing that must be conducted pursuant to NAC 645C.500.

NOTICE OF ADOPTION OF REGULATION

On August 16, 2000, the State of Nevada, Department of Business and Industry, Real Estate Division, Commission of Appraisers of Real Estate, adopted a regulation assigned LCB File No. R119-00. The regulation creates and authorizes the use of an advisory committee to assist the Commission of Appraisers of Real Estate in reviewing allegations of professional misconduct against real estate appraisers and revises the standards for approval of distance education classes. A copy of the regulation as adopted is attached hereto.

INFORMATIONAL STATEMENT

LCB File No. R119-00

The following statement is submitted for adopted permanent regulations to Nevada Administrative Code (NAC) Chapter 645C.

1. A description of how public comment was solicited, a summary of the public response, and an explanation how other interested persons may obtain a copy of the summary.

On or about July 11, 2000, the Real Estate Division (Division) posted a Notice of Workshop to Solicit Comments on Proposed Regulation and a Notice of Intent to Act Upon a Regulation. A copy of a proposed regulation was attached to the notices. The Division held workshops in Carson City on August 1, 2000 and in Las Vegas on August 2, 2000.

A Notice of Intent to Act Upon a Regulation was posted at the locations listed on the Notice of Intent to Act Upon a Regulation, a copy of which is attached hereto. A public hearing to receive comments on the proposed regulation was held on August 16, 2000.

Several persons submitted written or oral comments on the operation of the proposed advisory committee. The major comments are summarized below:

- Appoint members of committee by geographic location and area of expertise.
- Create a period within which members of the committee must review a case submitted for their review.
- Require a case to be presented as a contested case to the full Commission of Appraisers of Real Estate (Commission) if the licensee refuses to accept the recommendations of the advisory committee.
- Address whether a member of the advisory committee would be required to testify at any subsequent hearing before the full Commission.
- Allow the committee the option of recommending that a case be presented to the full Commission.

- Require the committee to be chaired by a current or former member of the Commission.
- Require the Commission, not the administrator, to impose any discipline recommended by the committee.

The Commission incorporated many of these suggestions into the adopted regulation. Interested parties may obtain a copy of the written comments by contacting the Real Estate Division, 2501 E. Sahara Avenue, Suite 102, Las Vegas, Nevada 89104, (702) 684-4033.

2. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

See the response to item #1.

3. The number of persons who: (a) Attended each hearing; (b) Testified at each hearing; and (c) Submitted to the agency written statements.

Four persons attended the Carson City workshop. Four persons attended the public hearing on August 16, 2000 and one of those persons provided oral comments. The Division received written comments from three persons interested in the proposed regulation.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

N/A

5. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and in each case must include:

- (a) Both adverse and beneficial effects; and
- (b) Both immediate and long-term effects.

The estimated economic effect of the proposed regulation is as follows:

- (1) Regulated business: Members of the appraisal industry may save money in the short and long term as the result of having an informal, less expensive alternative to attendance at contested case hearings before the Commission to resolve complaints concerning their professional conduct.
- (2) Public: Although the proposed regulation should have no short-term or long-term affect on the public, the public may benefit as the result of more timely resolution of complaints regarding the professional conduct of real estate appraisers.

6. The estimated cost to the agency for enforcement of the proposed regulation.

The Real Estate Division will incur additional costs to pay the per diem expenses of persons volunteering to serve as members of the advisory committee as provided in Section 7(6) of the adopted regulation.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

The proposed regulation does not overlap or duplicate any regulations of other state, local or federal governmental agencies.

8. If the regulation includes provisions which are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

The adopted regulation does not include provisions which are more stringent than a federal regulation which regulates the same activity.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The adopted regulation does not provide a new fee or increase an existing fee.