A·C·C·E

A Center For Continuing Education

CFP Board Ethics and Professional Responsibility, Rules of Conduct and Financial Planning Practice Standards

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Course Introduction and Objectives

The CFP® *"Standards of Professional Conduct*" were adopted by the Certified Financial Planner Board of Standards, Inc. (CFP Board) to provide principles and rules for candidates pursuing CFP Board designation as well as registrants and certificants. The purpose of the *Standards of Professional Conduct* is to ensure all those pursuing, or those who have already attained a CFP® certification recognize their responsibilities in upholding the strict standards required of CFP® professionals.

A critical component of CFP® certification includes continuing education (CE). A minimum of 30 hours of CE are required to maintain an active CFP® certification. Of the 30 required hours, a minimum of two hours are required to address the *Standards of Professional Conduct.*

Upon completion of this comprehensive course, certificants should be able to:

- Define elements of the fiduciary standard.
- Determine when the fiduciary standard applies in a variety of financial planning contexts and scenarios.
- Determine if a CFP® professional is providing financial planning services or material elements of financial planning services.
- Explain CFP Board's compensation disclosure requirements to clients and prospective clients Note: This objective would require two disclosures: one at the beginning of the client engagement providing a general description of how the client would pay for all of the services of the CFP® professional; and one at the time the CFP® professional makes specific recommendations to the client/prospective client.
- Communicate any potential conflicts of interest to a client at the initiation of client engagement. Note: This would require two disclosures – one given at the beginning of the client engagement providing a general description of the CFP® professional's conflicts of interest; and a second disclosure provided if a new conflict arises.

Terminology

Definitions and Terminology

The following definitions and terminology are used within the Code and in this course. They are necessary to understand the Principles and Rules discussed.

These definitions are taken from the Code.

"CFP Board" denotes Certified Financial Planner Board of Standards, Inc.

"Candidates for CFP® Certification" denotes candidates who have applied for the CFP® certification but have not completed all the necessary steps to receive it as required by CFP Board.

"Certificant" denotes individuals who are currently certified by CFP Board.

"Certificant's Employer" denotes any person or entity that employs a certificant or registrant to provide services to a third party on behalf of the employer, including certificants and registrants who are retained as independent contractors or agents.

"Client" denotes a person, persons, or entity who engages a certificant and for whom professional services are rendered. Where the services of the certificant are provided to an entity (corporation, trust, partnership, estate, etc.), the client is the entity acting through its legally authorized representative.

"Commission" denotes the compensation generated from a transaction involving a product or service and received by an agent or broker, usually calculated as a percentage on the amount of his or her sales or purchase transactions. This includes 12(b)1 fees, trailing commissions, surrender charges and contingent deferred sales charges.

"Compensation" is any non-trivial economic benefit, whether monetary or non-monetary, that a certificant or related party receives or is entitled to receive for providing professional activities.

A ***"conflict of interest"*** exists when a certificant's financial, business, property and/or personal interests, relationships or circumstances reasonably may impair his/her ability to offer objective advice, recommendations or services.

"Fees-only." A certificant may describe his or her practice as "fee-only" if, and only if, all of the certificant's compensation from all of his or her client work comes exclusively from the clients in the form of fixed, flat, hourly, percentage or performance-based fees.

"Fiduciary." One who acts in utmost good faith, in a manner he or she reasonably believes to be in the best interest of the client.

A ***"financial planning engagement"*** exists when a certificant performs any type of mutually agreed upon financial planning service for a client.

A ***"financial planning practitioner"*** *is a person who engages in financial planning using the financial planning process in working with clients.*

"Personal financial planning" *or* ***"financial planning"*** denotes the process of determining whether and how an individual can meet life goals through the proper management of financial resources. Financial planning integrates the financial planning process with the financial planning subject areas. In determining whether the certificant is providing financial planning or material elements of the financial planning process, issues that may be considered include but are not limited to:

- The client's understanding and intent in engaging the certificant.
- The degree to which multiple financial planning subject areas are involved.
- The comprehensiveness of the data gathering.
- The breadth and depth of the recommendations.

Financial planning may occur even if the elements are not provided to a client simultaneously, are delivered over a period of time, or are delivered as distinct subject areas. It is not necessary to provide a written financial plan to engage in financial planning.

"Personal financial planning process" *or* ***"financial planning process*"** denotes the process which typically includes, but is not limited to, some or all of these six elements:

- Establishing and defining the client-planner relationship,
- Gathering client data including goals,
- Analyzing and evaluating the client's current financial status,
- Developing and presenting recommendations and/or alternatives,
- Implementing the recommendations, and
- Monitoring the recommendations.

"Personal financial planning subject areas" or **"financial planning subject areas"** denotes the basic subject fields covered in the financial planning process which typically include, but are not limited to:

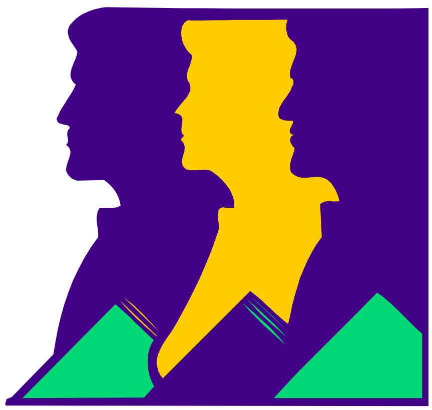
- Financial statement preparation and analysis (including cash flow analysis/planning and budgeting),
- Investment planning (including portfolio design, i.e., asset allocation and portfolio management),
- Income tax planning,

- Education planning,
- Risk management,
- Retirement planning, and
- Estate planning.

"Registrant" denotes individuals who are not currently certified but have been certified by CFP Board in the past and have an entitlement, direct or indirect, to potentially use the CFP® marks. This includes individuals who have relinquished their certification and who are eligible for reinstatement without being required to pass the current CFP® Certification Examination. The Rules of Conduct apply to registrants when the conduct at issue occurred at a time when the registrant was certified; CFP Board has jurisdiction to investigate such conduct.

Chapter 1: Code of Ethics and Professional Responsibility

This chapter examines the Professional responsibility and Code of Ethics all CFP® Certification must adhere to. Earning the prestigious CFP® Certification is recognition of an individual's willingness and ability to conduct themselves in a professional, ethical manner. Clients, individuals and others in the financial planning industry have come to expect the highest levels of knowledge and professionalism from certificants.



To help define what it means to meet the exacting standards required of certficants, CFP Board has defined seven distinct principles by which registrants must comply.

The Seven Principles of Ethics

Principle 1 – Integrity

Provide professional services with integrity.

Integrity demands honesty and candor which must not be subordinated to personal gain and advantage. Certificants are placed in positions of trust by clients, and the ultimate source of that trust is the certificant's personal integrity. Allowance can be made for innocent error and legitimate differences of opinion, but integrity cannot co-exist with deceit or subordination of one's principles.

Further Clarification
Integrity includes the qualities of honesty, forthrightness, absence of deceit and adherence to one's principles. It precludes false or misleading advertising and misrepresentation of information and requires careful recordkeeping and professional handling of client property. Essentially, acting in the best interests of the client or prospective client, irregardless of personal or professional gain is the ideal all CFP® professionals must strive toward.

Principle 2 – Objectivity

Provide professional services objectively.

Objectivity requires intellectual honesty and impartiality. Regardless of the particular service rendered or the capacity in which a certificant functions, certificants should protect the integrity of their work, maintain objectivity and avoid subordination of their judgment.

Further Clarification
The Principle of Objectivity includes impartiality and intellectual honesty. Each decision made must be based on sound reason and judgment. This often requires the certificant to figuratively take a step back as they interact with clients and initiate the financial planning process.

Principle 3 – Competence

Maintain the knowledge and skill necessary to provide professional services competently.

Competence means attaining and maintaining an adequate level of knowledge and skill, and application of that knowledge and skill in providing services to clients. Competence also includes the wisdom to recognize the limitations of that knowledge and when consultation with other professionals is appropriate or *referral to other professionals necessary. Certificants make a continuing commitment to learning and professional improvement.*

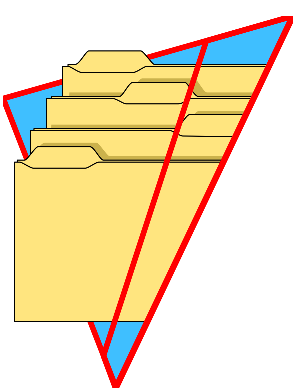
Further Clarification
A certificant is required to work within the scope of his or her competency, as well as to maintain the skills and knowledge needed to effectively continue in the services and programs already offered to clients. The CFP® Certification is recognized by consumers and industry professionals as held by those with an in-depth knowledge of the entire financial planning process. However, an important aspect of the principle of competence is to recognize areas that require additional training and education. It is incumbent upon the certificant to continually learn and stay abreast of current trends in a constantly changing industry.

Principle 4 – Fairness

Be fair and reasonable in all professional relationships. Disclose conflicts of interest.

Fairness requires impartiality, intellectual honesty and disclosure of material conflicts of interest. It involves a subordination of one's own feelings, prejudices and desires so as to achieve a proper balance of conflicting interests. Fairness is treating others in the same fashion that you would want to be treated.

Further Clarification
Fairness in providing sufficient disclosures, designing compensation arrangements, giving reasonable service to employers, partners or co-owners and acting justly in all business transactions falls under the scope of this Principle.



Principle 5 – Confidentiality

Protect the confidentiality of all client information.

Confidentiality means ensuring that information is accessible only to those authorized to have access. A *relationship of trust and confidence with the client can only be built upon the understanding that the client's information will remain confidential.*

A breaking of confidence can seriously harm the relationship of trust between the financial professional and the client. This is particularly crucial as trust is one the cornerstones of the financial planning relationship. The CFP® Certification must "safeguard" the client's confidential information. Records should be kept in a safe place, not accessible to those outside the client relationship, and private information should not be discussed with others outside the client relationship.

Principle 6 – Professionalism

Act in a manner that demonstrates exemplary professional conduct.

Professionalism requires behaving with dignity and courtesy to clients, fellow professionals, and others in business-related activities. Certificants cooperate with fellow certificants to enhance and maintain the profession's public image and improve the quality of services.

One of the aims of CFP Board is to further the reputation of the CFP® Certification as a whole. The Principle of Professionalism is very important not just to the clients of certificants, but also to the certificants themselves. Lack of professionalism by a certificant can cast a shadow on the entire profession.

Principle 7 – Diligence

Provide professional services diligently.

Diligence is the provision of services in a reasonably prompt and thorough manner, including the proper planning for, and supervision of, the rendering of professional services.

Diligence infers a constant watch and a disciplined approach to the business. It includes thorough and prompt handling of a client's transactions and in the completion of services rendered.

Chapter One Review Questions

1. CFP Board has identified __________ Principles of Ethics.

2. Disclosing conflicts of interest fall under which of the Principles of Ethics?
   a. Fairness
   b. Professionalism
   c. Objectivity
   d. None of the above

3. The first Principle of Ethics as defined by CFP Board is ____________

Answers to Chapter Quiz

1. Seven
2. A – Fairness
3. Integrity

Chapter 2: Rules of Conduct

Six Categories of Rules

The Rules of Conduct differ from the Code of Ethics in that they are not broad ideals, but rather specific standards that stem from the Principles that govern the activities of all certificants. While ethics are dependent on an individual's morals and principles, conduct refers to more specific, tangible actions or procedures. The Rules are organized into six categories:

1. **Defining the Relationship With the Prospective Client or Client**
2. **Information Disclosed to Prospective Clients and Clients**
3. **Prospective Client and Client Information and Property**
4. **Obligations to Prospective Clients and Clients**
5. **Obligations to Employers**
6. **Obligations to CFP Board**

Following are the specific Rules that fall under each of these categories, along with explanations and specific examples to better define The Board's definitions of Rules of Conduct.

Category 1. Defining the Relationship with the Prospective Client or Client

The following rules outline the relationship between a certificant and a client. Such a relationship requires a foundation of trust, and hinges upon the openness and honesty of the certificant.

1.1 The certificant and the prospective client or client shall mutually agree upon the services to be provided by the certificant.

Under the Principle of Integrity, a certificant must act honestly and candidly in the best interest of his or her client. This can apply to any decisions regarding the services rendered by the certificant, which must be approved not only by the certificant, but by the client as well. If a certificant misstates his available offerings or coerces a client into purchasing certain of her services, the certificant's position of trust with the client will have been compromised.

The Principle of Objectivity requires impartiality on the part of the certificant. The certificant may suggest services that could be of benefit to the client, but cannot use undue pressure or lack of disclosure to force a client to accept services not needed or not agreed to. The client must freely agree with the certificant in the determination of what services the certificant will provide to that client.

1.2 *If the certificant's services include financial planning or material elements of the financial planning process, prior to entering into an agreement, the certificant shall provide written information and/or discuss with the prospective client or client the following:*

> *a. The obligations and responsibilities of each party under the agreement with respect to:*
>
> > *i. Defining goals, needs and objectives,*
> > *ii. Gathering and providing appropriate data,*
> > *iii. Examining the result of the current course of action without changes,*
> > *iv. The formulation of any recommended actions,*
> > *v. Implementation responsibilities, and*
> > *vi. Monitoring responsibilities.*
>
> *b. Compensation that any party to the agreement or any legal affiliate to a party to the agreement will or could receive under the terms of the agreement; and factors or terms that determine costs, how decisions benefit the certificant and the relative benefit to the certificant.*

c. Terms under which the agreement permits the certificant to offer proprietary products.

d. Terms under which the certificant will use other entities to meet any of the agreement's obligations.

If the certificant provides the above information in writing, the certificant shall encourage the prospective client or client to review the information and offer to answer any questions that the prospective client or client may have.

This Rule requires that a certificant be candid in all aspects of a financial planning agreement with a client. This includes explaining obligations and responsibilities, the policy of compensation, cost determination and benefits that the certificant and the client each receive. It also includes providing the client with the agreement terms relating to proprietary products and terms under which any other entities will be used to meet obligations under the agreement.

1.3 *If the services include financial planning or material elements of the financial planning process, the certificant or the certificant's employer shall enter into a written agreement governing the financial planning services ("Agreement"). The Agreement shall specify:*

a. The parties to the Agreement,
b. The date of the Agreement and its duration,
c. How and on what terms each party can terminate the Agreement, and
d. The services to be provided as part of the Agreement.

The Agreement may consist of multiple written documents. Written documentation that includes the elements above and is used by a certificant or certificant's employer in compliance with state and/or federal law, or the rules or regulations *of any applicable self-regulatory organization, such as a Form ADV or other disclosure, shall satisfy the requirements of this Rule.*

This Rule requires the establishment of a written financial planning "Agreement" with a client. The Agreement may be entered into either by a certificant or the employer of a certificant.

This Rule is also satisfied by written documentation such as a Form ADV, which is a form that investment advisers must file to register with the SEC and/or the states. The form contains information about an investment adviser and its business operations and contains a disclosure about disciplinary actions involving the adviser and its key personnel.

1.4 *A certificant shall at all times place the interest of the client ahead of his or her own. When the certificant provides financial planning or material elements of the financial planning process, the certificant owes to the client the duty of care of a fiduciary as defined by CFP Board.*

According to CFP Board's definition, a fiduciary is "One who acts in utmost good faith, in a manner he or she reasonably believes to be in the best interest of the client." This Rule requires that advice given, services rendered, products recommended and all activities performed for or relating to a client by a financial planning practitioner must be provided in accordance with the fiduciary standard.

If a CFP® professional is not offering financial planning services, he or she is still subject to the baseline standard stated at the beginning of Rule 1.4 of "placing the client's interest ahead of the CFP® professional's". This means that no certificant is removed from the responsibility of placing a client's interests ahead of his or her own, regardless of their specific responsibilities.

When delivering financial planning services, the fiduciary standard must be met. The key aspects of the fiduciary standard can be understood by considering its elements. These include:

- Placing the client's interest first
- Acting in utmost good faith
- Acting subject to a reasonable belief that the client's best interest is being served
- Acting in the best interest of the client

It is important for the certificant to exercise extreme due-diligence to insure that the aspects of the fiduciary standard are met. This includes, but is not limited to, researching the immediate and far-reaching consequences of actions that the certificant is suggesting that the client should implement. The certificant should seek the opinion of other professionals if necessary, while not disclosing confidential client information. For instance, the certificant might need to consult with a CPA or the IRS, before suggesting a particular tax strategy to a client.

Category 2. Information Disclosed To Prospective Clients and Clients

The following rules relate to information disclosure. All misleading information is strictly prohibited, as is any information that is not rendered as a complete disclosure.

2.1 *A certificant shall not communicate, directly or indirectly, to clients or prospective clients any false or misleading information directly or indirectly related to the certificant's professional qualifications or services. A certificant shall not mislead any parties about the potential benefits of the certificant's service. A certificant shall not fail to disclose or otherwise omit facts where that disclosure is necessary to avoid misleading clients. It is the certificant's responsibility to point out unrealistic expectations that the client or prospective client may express.*

This Rule has its foundation in the Principle of Integrity. A certificant must be honest in all his or her relations with a client.

2.2 *A certificant shall disclose to a prospective client or client the following information:*

a. An accurate and understandable description of the compensation arrangements being offered. At the beginning of the client engagement, this description should provide a general description of how the client would pay for certificant's professional services. Disclosure should be provided again at the time that certificant makes specific recommendations to the client or prospective client. This description must include:

I. Information related to costs and compensation that the certificant and/or the certificant's employer receives or is entitled to receive from a client or prospective client for providing professional activities. Information about compensation that the certificant receives or is entitled to receive from related parties, such as the certificant's employer or other sources, for providing professional activities. (The CFP Board considers as "non-trivial economic benefit," any and all consideration received in exchange for provision of professional activities. This includes consideration received by a certificant for providing a recommendation to a professional or related party.)

II. Terms under which the certificant and/or the certificant's employer may receive any other sources of compensation, and if so, what the sources of these payments are and on what they are based.

b. A general summary of likely conflicts of interest between the client and the certificant, the certificant's employer or any affiliates or third parties, including, but not limited to, information about any familial, contractual or agency relationship of the certificant or the certificant's employer that has a potential to materially affect the relationship. This summary should be presented to the client at the time client engages certificant's services, and again continually throughout the client/certificant relationship if new conflicts arise.

c. Any information about the certificant or the certificant's employer that could reasonably be expected to materially affect the client's decision to engage the certificant that the client might reasonably want to know in establishing the scope and nature of the relationship, including but not limited to information about the certificant's areas of expertise.

d. Contact information for the certificant and, if applicable, the certificant's employer.

e. If the services include financial planning or material elements of the financial planning process, these disclosures must be in writing. The written disclosures may consist of multiple written documents. Written disclosures used by a certificant or cetificant's employer that includes the elements listed above, and are used in compliance with state or federal laws, or the Rules or requirements of any applicable self-regulatory organization, such as a Form ADV or other disclosure documents, shall satisfy the requirements of this Rule.

The certificant shall timely disclose to the client any material changes to the above information.

This Rule requires the certificant to provide the client with a description of compensation arrangements, a summary of conflicts of interest in any party to the agreement, any information that could materially affect the client's decision to engage the certificant, and necessary contact information.

This Rule has its foundation in the Principle of Fairness. This Principle requires that a certificant act impartially and with intellectual honesty. It also requires that all material conflicts of interest be disclosed. The client needs to know of conflict(s) of interest(s) and relationships that may compromise the certificant's objectivity so that he or she can appropriately evaluate a certificant's advice, or can opt not to do business with the certificant, at least in the area regarding the conflict of interest. As long as the conflict(s) of interest(s) or potentially compromising relationships are disclosed, the certificant may work with the client, if the client so desires.

Category 3. Prospective Client and Client Information and Property

These rules relate to the special care that a certificant must have over a client's personal information and privacy. These rules stress the importance of a certificant's integrity and professionalism, and the importance of the Principle of Confidentiality.

3.1 *A certificant shall treat information as confidential except as required in response to proper legal process; as necessitated by obligations to a certificant's employer or partners; to defend against charges of wrongdoing; in connection with a civil dispute; or as needed to perform the services.*

The Principle of Confidentiality requires that a certificant protect the confidentiality of all client information. The understanding between the certificant and the client that the client's information will remain confidential is essential to a relationship of trust built between the two.

3.2 *A certificant shall take prudent steps to protect the security of information and property, including the security of stored information, whether physically or electronically, that is within the certificant's control.*

A certificant handles such client information and property as securities, legal documents, tax records and the like, all of which contain sensitive personal information. As such, the information and property must be properly secured and protected to ensure its safety.

3.3 *A certificant shall obtain the information necessary to fulfill his or her obligations. If a certificant cannot obtain the necessary information, the certificant shall inform the prospective client or client of any and all material deficiencies.*

The Principle of Competency requires that certificants maintain the knowledge and skill to provide professional services competently. There are certain instances when, although a certificant is working within the scope of his or her competency, certain information simply cannot be obtained. In this case, it is the certificant's duty to inform the client of this, so that it can be determined whether another certificant should be brought in to provide the necessary information, or whether the client should be referred to other experts.

3.4 *A certificant shall clearly identify the assets, if any, over which the certificant will take custody, exercise investment discretion, or exercise supervision.*

If a certificant is to properly serve his clients, he must have an absolutely clear understanding of which assets he is taking custody of or which assets he has investment discretion or supervision over. The client, in turn, must be made fully aware of which assets the certificant will exercise control over as well.

3.5 *A certificant shall identify and keep complete records of all funds or other property of a client in the custody, or under the discretionary authority, of the certificant.*

A certificant is to keep records of any client funds and property, such as securities, legal documents, tax records, etc., of which the certificant takes custody.

3.6 A certificant shall not borrow money from a client. Exceptions to this Rule include:

> *a. The client is a member of the certificant's immediate family, or*
>
> *b. The client is an institution in the business of lending money and the borrowing is unrelated to the professional services performed by the certificant.*

The loaning of money by a client to a certificant is strictly prohibited. The only exceptions to this Rule are if a client is an immediate family member, or if the client is employed by an institution in the business of lending money. In the latter case, the loan must not be related to the professional services the certificant performs.

3.*7 A certificant shall not lend money to a client. Exceptions to this Rule include:*

a. The client is a member of the certificant's immediate family, or

b. The certificant is an employee of an institution in the business of lending money and the money lent is that of the institution, not the certificant.

This Rule is the inverse of Rule 3.6. Just as the loaning of money by a client to a certificant is prohibited, so the loaning of money by a certificant to a client is also prohibited. The same exceptions to Rule 3.6 also apply to this Rule.

3.8 *A certificant shall not commingle a client's property with the property of the certificant or the certificant's employer unless the commingling is permitted by law or is explicitly authorized and defined in a written agreement between the parties.*

Like security regulatory organization Rules and many state insurance regulations surrounding client funds, the Code requires that a certificant not commingle client property with the certificant's own property.

3.9 *A certificant shall not commingle a client's property with other clients' property unless the commingling is permitted by law or the certificant has both explicit written authorization to do so from each client involved and sufficient record-keeping to track each client's assets accurately.*

Commingling of client property requires special care. A certificant may only commingle property if law permits such commingling, or if the certificant has explicit written authorization from each client involved. Sufficient record-keeping is also required to ensure that each client's assets are tracked correctly.

3.10 *A certificant shall return a client's property to the client upon request as soon as practicable or consistent with a time frame specified in an agreement with the client.*

Copies of records must be kept in compliance with securities and insurance regulations and to comply with Principles such as Diligence, but a client should be given his or her copies upon request.

Category 4. Obligations to Prospective Clients and Clients

The obligations the following rules set forth range from those tying to ideas of fairness and integrity to specific requirements of disclosures.

4.1 *A certificant shall treat prospective clients and clients fairly and provide professional services with integrity and objectivity.*

This Rule is very broad in scope and incorporates the Principles of Integrity, Objectivity, Competency, Fairness, Professionalism and Diligence.

4.2 *A certificant shall offer advice only in those areas in which he or she is competent to do so and shall maintain competence in all areas in which he or she is engaged to provide professional services.*

This Rule deals specifically with competency. A certificant must not overstep the bounds of his or her competency in any advice given.

4.3 *A certificant shall be in compliance with applicable regulatory requirements governing professional services provided to the client.*

A certificant must comply with the law and applicable regulations pertaining to his or her professional activities.

4.4 *A certificant shall exercise reasonable and prudent professional judgment in providing professional services to clients.*

This Rule relates to the Principle of Diligence, which requires that certificants maintain proper planning for, and supervision of, the rendering of professional services. It also relates to the Principle of Competence that requires the wisdom to recognize limitations of knowledge and when to bring in another professional to help a client.

4.5 *In addition to the requirements of Rule 1.4, a certificant shall make and/or implement only recommendations that are suitable for the client.*

Rule 4.5 requires that a certificant place the interest of the client ahead of his or her own. This Rule expands that requirement to require that a certificant's recommendations not only be in the best interest of the client, but be suitable for the client. Suitability involves assessing a client's needs, carefully fulfilling the planning process, understanding the client's risk tolerance, knowing his or her goals and the time-frames in which the goals are to be met, as well as giving clients the ability to make decisions during the process through explanation and disclosure. Placing clients in unsuitable investments is a serious violation of the Code.

4.6 *A certificant shall provide reasonable and prudent professional supervision or direction to any subordinate or third party to whom the certificant assigns responsibility for any client services.*

If a certificant is in a supervisory position, he or she must not accept behavior by subordinates which is in violation of the Code.

4.*7 A certificant shall advise his or her current clients of any certification suspension or revocation he or she receives from CFP Board.*

A certificant must not withhold information that pertains to any CFP Board suspension or revocation from his or her clients.

Category 5. Obligations To Employers

A certificant's obligation to his or her employers is just as vital as the obligation to a client. The following rules set forth those obligations.

5.1 A certificant who is an employee/agent shall perform professional services with dedication to the lawful objectives of the employer/principle and in accordance with CFP Board's Code of Ethics.

A certificant is to work within his or her legal authority and the Rules and Principles of the Code.

5.2 *A certificant who is an employee/agent shall advise his or her current employer/principle of any certification suspension or revocation he or she receives from CFP Board.*

Similar to the requirement of Rule 4.7 that applies to a certificant's responsibilities towards clients, a certificant must not withhold information that pertains to any CFP Board suspension or revocation from his or her employer/principle.

Category 6. Obligations to CFP Board

A certificant, as a party to an agreement with CFP Board, has specific obligations to that Board, such as the meeting and maintenance of certain requirements.

6.1 *A certificant shall abide by the terms of all agreements with CFP® Board, including, but not limited to, using the CFP® marks properly and cooperating fully with CFP Board's trademark and professional review operations and requirements.*

This Rule makes clear that the use of marks by all certificants must be in compliance with the Code and that a certificant must comply with all professional review procedures and obligations.

6.2 *A certificant shall meet all CFP Board requirements, including continuing education requirements, to retain the right to use the CFP® marks.*

This Rule lays out the requirement that a CFP Board certificant must complete continuing education requirements. Currently, this requirement is 30 units of continuing education, including 2 units under the Code of Ethics.

6.3 *A certificant shall notify CFP Board of changes to contact information, including, but not limited to, e-mail address, telephone number(s) and physical address, within forty-five (45) days.*

Rule 6.3 is similar to Rule 2.2, which requires that a certificant timely disclose to the client any material changes to contact information. However, this Rule is more specific in its requirement in that it places a 45-day limit on such disclosure.

6.4 *A certificant shall notify CFP Board in writing of any conviction of a crime, except misdemeanor traffic offenses or traffic ordinance violations unless such offense involves the use of alcohol or drugs, or of any professional suspension or bar within ten (10) calendar days after the date on which the certificant is notified of the conviction, suspension or bar.*

Actions that reflect negatively on the Ethics and Standards of Conduct as expressed CFP Board include those beyond the scope of engaging in financial planning services. The manner in which a certificant conducts themselves personally and professionally reflects on the certificant and by extension, the CFP® designation.

6.5 *A certificant shall not engage in conduct which reflects adversely on his or her integrity or fitness as a certificant, upon the CFP® marks, or upon the profession.*

Tied closely to the Principle of Professionalism, this Rule makes plain the responsibility a certificant bears to meet a high standard of conduct.

Chapter Two Review Questions

1. Of the six Rules of Conduct, the first requires certificants to define a mutually agreed upon services provided. True or False.

2. A certificant is required to obtain all the information necessary to fulfill their obligations as a financial planning professional. If they are unable to do so, they:
   a. Must let the client know they are unable to assist them.
   b. Can provide financial planning services, but must continue trying to get the necessary information.
   c. Must inform the client of any and all information deficiencies
   d. Make a note for the client file

3. If a certificant has their CFP® certification suspended or revoked, they must inform:
   a. Their client and employer
   b. Their employer only
   c. Their client only
   d. No one until the suspension is deemed final

Chapter Review Answers

1. True
2. C
3. A

Chapter 3: Financial Planning Practice Standards

One of CFP Board's primary missions is to uphold the rigid standards set forth since its inception in 1985. One of the key components of the Board's responsibilities is to monitor the actions or inactions of certificants, maintain the high standards expected of CFP® Certification and mete out disciplinary action when warranted.

In their effort to apply and maintain financial planning standards, the Board formed CFP Board of Practice Standards in 1995 as a means of ensuring certificants adhered to the Code's requirements. The Board of Practice Standards, in conjunction with CFP® Certification, was able to identify several common violations or areas of concern. Though violations are often the result of misinterpretations of The Code, they are nevertheless a concern as any violation is a risk to clients and potential clients, as well as to what the CFP® Certification represents in the financial planning community.

An important component in adhering to the Code's requirements is understanding the financial planning process, when financial planning actually occurs and the fiduciary duties of the certificant.

Recognizing when financial planning occurs is crucial for the CFP® Certification. First, if it is determined that financial planning has occurred it becomes mandatory to adhere to the rules and regulations of financial planning as determined by CFP Board. Just as importantly, if and when a financial planning engagement ensues certificant's are obligated to put the terms of the engagement in writing, use the applicable disclosures and take on a fiduciary responsibility when working with the financial planning client.

Definition of the Financial Planning Process

CFP Board has summarized the definition of the financial planning process as:

- The process of determining whether and how an individual can meet life financial goals via the proper management of financial resources; and
- Integrate the financial planning process with defined financial planning subject areas.

The financial planning process as conducted by CFP® professionals, goes well beyond that of transactional oriented investment professionals. True financial planning requires the development of a trusting relationship with clients and prospective clients. The CFP® professional is viewed as a valuable partner in an extremely important aspect of a consumer's life; the attainment of their financial objectives. This requires a unique individual willing and able to act as a counselor, advisor and trusted partner in support of their client's financial goals.

The Financial Planning Process

Over the course of many years, CFP Board has developed a series of critical elements of the financial planning process. CFP® professionals employ either all or some of these key aspects of financial planning as they work with their clients and prospective clients. The process consists of six key areas:

- Establishing and defining the client/planner relationship; and
- Gathering client data; and
- Analyzing and evaluating the client's financial status; and
- Developing and presenting financial planning recommendations; and
- Implementing the financial planning recommendations; and
- Monitoring results.

When Does The Financial Planning Relationship Occur?

Determining when financial planning or the material elements of the financial planning process occurs defines the manner in which the CFP® professional must engage the client relationship. CFP Board suggests certificants examine two areas:

- The entirety of the certificant/client relationship; and
- The degree of integration between the financial planning process (as defined) and the key subject areas.

If the scope of the engagement is narrowly defined, the writing of a will for example by an attorney who is also a certificant, it is likely this would not qualify as financial planning.

However if the will is merely one piece of an overall estate planning strategy, one that is integrated with additional aspects of the client's overall financial objectives, this would likely constitute financial planning and the certificant must adhere to CFP Board's Financial Planning Practice Standards. These include a written working agreement, proper written disclosures and adhering to strict fiduciary standards. This is the case even if the material elements of financial planning do not occur simultaneously, but over the course of time.

CFP Board reviews the following factors to determine when the financial planning process takes place. These include:

- The client's understanding and intention in engaging the CFP® professional; and
- The number of financial planning subject areas involved in the relationship; and
- The depth of the data gathering process; and
- The depth and extensiveness of recommendations.

The more steps implemented in the financial planning process the more likely a financial planning engagement has occurred. But perhaps the overriding determination of what should or should not be considered a financial planning relationship is dependent on the client's perspective. How do they view the relationship? If the certificant is looked upon by the client as an advisor, rather than simply a person implementing a third party recommendation or single transaction, CFP Board is likely to deem this a financial planning relationship.

Examples of When Financial Planning Occurs

**The following are examples of when the material elements of financial planning occur or do not occur, respectively. It is not intended to be all-inclusive, but rather provide certificant's with some of the more common scenarios.

<u>Financial Planning Does Occur</u>

- Comprehensive data gathering takes place.
- Two or more of the 6 elements of the financial planning process occurs.
- The CFP® professional provides multiple and comprehensive recommendations.
- Recommending and/or implementing a financial plan that requires in-depth knowledge and expertise.
- Providing state or federally-defined investment advisory services.
- A definition of the scope of the relationship has been provided to the client, giving the client an impression he/she is engaging the certificant in a financial planning capacity.

<u>Financial Planning Does Not Occur</u>

- The opening of a single account or completion of an application.
- The completion of minimal fact-finding to meet suitability requirements.
- Reviewing suitability requirements for a single transaction.

- Completing individual services, such as a mortgage transaction or tax returns only.
- Teaching a financial planning class or CE course.
- Providing securities or insurance brokerage services only.

The following are the key aspects of the financial planning process and are described in further detail. The scope of the financial planning relationship will determine which of these areas are applicable, but it is critical that CFP® professionals are familiar with the entire financial planning process.

1. Establishing and Defining the Client/Planner Relationship

Prior to the initiation of the financial planning process, both the certificant and the client will establish a clear, written mutual understanding of what the engagement entails. These include:

- Identifying the service(s) to be provided;
- Disclosing the practitioner's material conflict(s) of interest;
- Disclosing the practitioner's compensation arrangement(s);
- Determining the client's and the practitioner's responsibilities;
- Establishing the duration of the engagement; and
- Providing any additional information necessary to define or limit the scope.

It is important to recognize that the scope of the financial planning engagement may or may not include all of these subject areas. The critical point is that the client and certificant have come to a mutually agreed upon working relationship, even if the relationship is confined to specific areas. Recognizing the relationship may change over time, and the gaining of another, updated mutual understanding may be required.

CFP Board Practice Standards do not require that non-financial planning client/planner relationships be in writing. Though, there may be written disclosures required dependent upon the services rendered.

2. Gathering Client Data

Garnering pertinent information regarding the client's personal and financial objectives, relevant needs and their priorities is required prior to making a specific or general recommendation by the CFP® professional.

Accomplishing this extremely important aspect of the financial planning process requires an understanding of the client's values, time horizons and expectations. As with defining and establishing the client/planner relationship, the gathering of client data requires a mutual definition from all parties involved in the process.

Clearly defined, actionable and purposeful goals help provide clients with a realistic focus. The more focused clients are in reaching their objectives, the more apt they will be to follow through with the steps necessary to reach their goals. It is a responsibility of the certificant to assist clients in setting realistic goals and priorities for those goals.

In addition to gathering client data such as priorities, financial planning objectives and ascertaining client values the CFP® professional must obtain all relevant documentation and data specific to the engagement prior to making a recommendation. It is also incumbent on the certificant to ensure the documentation and additional quantitative information is sufficient prior to making any recommendation.

It is also important to share with the client or prospective client the necessity of complete and accurate data. Inaccurate or incomplete data can result in inappropriate recommendations and ultimately impact the client's financial planning objectives. In instances when the certificant is unable, or the client is unwilling, to ascertain the requisite documentation and information, the certificant must either:

- Restrict the scope of the engagement to those matters for which sufficient and relevant information is available; or

- Terminate the engagement.

The responsibility of communicating to the client or prospective client what, if any, limitations result from a lack of documentation and information fall on the CFP® professional.

3. Analyzing and Evaluating the Client's Information

Upon receipt of client information, including quantitative, subjective and all documentation, the certificant must then analyze and evaluate the data to determine the extent the certificant can meet the client's objectives utilizing the resources available.

Using the mutually agreed upon assumptions resulting from the client/certificant interaction, both the financial and personal objectives must be taken into account prior to a recommendation being made. The assumptions may include:

- Personal assumptions such as retirement age, projected life expectancy, income requirements, risk tolerance and time horizons; and
- Economic assumptions including impact of inflation, tax liability and expected investment returns.

This step in the financial planning process is critical to the success of the client/certificant relationship, and by extension upholds the high expectation consumers have of CFP® professionals. As this particular aspect of the process is clarified adaptations to the initial, mutually agreed upon client/financial planner engagement may be necessary.

4. Developing and Presenting the Financial Planning Recommendations

While at the heart of the financial planning process, developing and presenting the recommendations can only be arrived at through the completion of the prior steps. While not the end of the process by any means, this is the culmination of the mutually agreed upon rules of engagement, the collecting and then detailed analysis of client data.

There are three phases to this aspect of the financial planning process as defined by CFP Board, they require:

- Determining what is possible; and
- What is recommended; and
- How it is presented.

The initial phase of this step in the process is to identify and evaluate the many alternatives available to determine the appropriateness of each based on client needs, objectives and tolerances. Arriving at the alternative most suited to the client's needs often requires independent research or consulting with other financial planning professionals.

Completion of this analysis may result in a multiple alternatives, and be at odds with the alternatives other financial planning professionals arrive at. However, the practice of financial planning is one that requires independent, professional judgment which may or may not result in a consensus.

Once the many alternatives have been identified and evaluated, the certificant then develops the recommendations with the reasonable expectation these will meet the client's objective. The recommendations are impacted by:

- Mutually-defined scope of the engagement;
- Mutually-defined client goals, needs and priorities;
- Quantitative data provided by the client;
- Personal and economic assumptions;
- Practitioner's analysis and evaluation of client's current situation; and
- Alternative(s) selected by the practitioner.

Of course, CFP Board Ethics as established by CFP Board of Standards recognizes that upon completion of a detailed analysis, the appropriate recommendation may be to do nothing at all. If it is in the best interest of the client, ethics and the Rules of Conduct dictate CFP® professionals are required to share that with the client.

Presenting the financial planning recommendations requires the certificant to do in such a way the client understands the products or services and why they are appropriate based on their objectives. This is the only way the client will then be in a position to make an informed decision. It is important to not convey recommendations as fact, but rather suggestions by a knowledgeable professional based upon a thorough understanding of all the information available.

The certificant must share with the client what makes the recommendations appropriate for their specific goals and objectives. These can include:

Personal and economic assumptions;
Interdependence of recommendations;
Advantages and disadvantages;
Risks; and/or
Time sensitivity.

It will also behoove the certificant to share that any recommendations made may or may not be appropriate in the future should changes occur. These can include changes in financial situation, marital status, the birth or adoption of a child or any number of material changes that will impact the appropriateness of a recommendation.

5. Implementing the Recommendations
Once mutual agreement to the recommendations have been made, a review of the original engagement agreement may be necessary, as the scope of the recommendations may have required the certificant to go beyond the original agreement. The implementation of recommendations can take many forms, beyond simply the completion of documentation. The responsibilities of the CFP® certificant can include any or all of the following:

- Identifying activities necessary for implementation;
- Determining division of activities between the practitioner and the client;
- Referring to other professionals;
- Coordinating with other professionals;
- Sharing of information as authorized; and
- Selecting and securing products and/or services.

Though the products or services selected by the certificant may differ than those of an associate or other financial planner, it is crucial these were arrived at based on the completion of the steps leading up to this point in the financial planning process.

6. Monitoring

If the mutually agreed upon engagement includes on-going service and the monitoring of recommendation results or other on-going services, this should be clarified at this point in the process. Monitoring should be based upon the expectations of the client, as these can and will change depending on the individual. Clearly defining what is expected will help ensure there is alignment between the client and CFP® professional, alleviating possible misunderstandings in future interactions.

Summary of Additional Responsibilities When Financial Planning Occurs

When financial planning occurs the certificant must adhere to the additional requirements as determined by CFP Board. These include written disclosures, a written agreement detailing the working relationship with the client, and taking on fiduciary responsibilities.

If there are doubts as to a specific engagement's scope, the CFP® professional will be better served assuming a financial planning engagement and acting accordingly. If questions remain certificants can contact CFP Board for further clarification at standards@CFPBoard.org.

Written Disclosures

As alluded to in the Rules of Conduct, the following obligations of both the certificant and the client must be discussed or offered in writing prior to providing a written agreement. It is good business practice to include all the items below in writing whether a financial planning relationship ensues or not. These disclosures include:

- Defining goals and objectives; and
- Gathering data; and
- Comparing or examining the results of not implementing changes; and
- Determining appropriate recommendations; and
- Implementation of recommendations; and
- Monitoring results; and
- Compensation that anyone involved in the arrangements may receive; and
- How the decisions or recommendations will benefit the client; and
- The terms when offering any proprietary products; and
- The use of third party entities, if applicable, and the terms in which they will be utilized.

When proceeding with a financial planning relationship, an easy to understand and accurate compensation description must be provided in writing. This written disclosure includes all costs and methods of compensation incurred by the client for both the CFP® professional and his/her employer. These include items such as:

- Incentives from the company providing the product; and
- Current and future (trailing) commissions; and
- 12(b)1 fees if applicable; and
- Asset management or administrative fees if these will impact the client.

Additionally, written disclosures must be provided which include the terms of any other agreements that would compensate either the CFP® certificant or his/her employer in the future. Any potential conflicts of interest or other information about the certificant or employer that may affect the client must also be disclosed in writing.

Samples of approved disclosures are included in the Appendix. If a firm or company provides state or federally approved disclosures these can be used in lieu of CFP Board approved disclosures.

The forms attached are the Financial Planning Disclosure Document and Agreement (FPDA) which satisfies the obligation for disclosure and the written agreement. The Financial Planning Disclosure Document (FPD) used when a certificant engages in financial planning, or the material elements of financial planning. And the third is the Other Than Financial Planning Services (OPS) to meet the disclosure obligation required when a certificant provides non-financial planning related services.

Written Agreement

Also alluded to in the Rules of Conduct is the requirement of the CFP® professional to provide the client with a written agreement detailing the financial planning engagement, in addition to the disclosures. At a minimum, the agreement should include the following:

- All parties to the agreement; and
- The date and length of the agreement; and
- The process and terms in which to terminate the agreement; and
- A detailed description of the services provided.

Fiduciary Duty

If and when the certificant engages in a financial planning relationship he or she takes on the responsibility of acting as a fiduciary. CFP Board defines a fiduciary as

"*One who acts in utmost good faith, in a manner he or she reasonably believes to be in the best interest of the client*."

Acting as a fiduciary mandates a certificant know their client. This includes gaining an understanding of a client's goals and current situation first and foremost, and subsequently making informed recommendations based on that information and the certificant's expertise. As the Rules of Conduct set forth by CFP Board state:

"*A certificant shall at all times place the interest of the client ahead of his or her own. When the certificant provides financial planning or material elements of the financial planning process, the certificant owes to the client the duty of care of a fiduciary as defined by CFP Board.*"

A distinction for certificant's is CFP Board's updating of the fiduciary definition from the prior *Standards of Professional Conduct* in 2008. Then, fiduciary duty was described as acting in a reasonable and prudent manner. Now the definition has been amended to include acting in the *utmost good faith*; an even higher standard to better align with the public's perception of a CFP® professional.

Acting in the best interest of the client as required by CFP Board's definition of a fiduciary, requires the certificant to *not* take into account the benefit of a recommended course of action on themselves. Putting the interests of the certificant ahead of those of their clients is directly opposed to what it means to implement one's fiduciary duty.

Chapter Three Review Questions

1. As defined by CFP Board, there are __________ aspects to the financial planning process.
2. To be considered a true financial planning relationship, the certificant must incorporate each of the steps in the financial planning process with all clients.
True or False
3. The mutually defined scope of the client relationship must be adhered to as agreed:
   a. Throughout the certificant/client relationship without deviation
   b. Until such time that circumstances warrant updating or changing of the working relationship agreement
   c. But may altered up to three times without notifying the certificant's employer
   d. Unless time does not allow for an agreement to be reached.
4. The updated definition of Fiduciary Duty includes ____________ unlike CFP Board's definition from 2008' s *Standards of Professional Conduct*.
   a. Utmost good faith.
   b. Acting in the bests interests of the client.
   c. Conducting due diligence.
   d. Full and fair disclosure.

Chapter Review Answers

1. Six
2. False. Some financial planning relationships will not require implementing all of the steps.
3. B. As each step in the financial planning process is completed, additional information is obtained and analyzed. Often this information will mandate a change to the original agreement. This should be discussed with the client and the agreement amended as needed.
4. Utmost Good Faith.