

CFP BOARD

ETHICS CE: CFP BOARD'S REVISED CODE AND STANDARDS

PART OF KITCES IAR CE DAY
AUGUST 24, 2023

3

Disclaimer

CFP BOARD

The content of this program is based on CFP Board's *Code of Ethics and Standards of Conduct* (*Code and Standards*), which became effective on October 1, 2019.

CFP Board created and provided this slide deck to the CE Sponsor for presentation. The presenter's opinions do not necessarily represent those of CFP Board.

All material associated with this program is the property of CFP Board and may not be resold, republished or copied without the prior written consent of CFP Board.

Copyright® 2020 Certified Financial Planner Board of Standards, Inc. All rights reserved. Reproduced with permission.

5

5

LEARNING OBJECTIVES

CFP BOARD

1. Understand the structure and content of the revised *Code and Standards*, including significant changes from prior rules.
2. Describe CFP Board's Fiduciary Duty.
3. Identify Material Conflicts of Interest and How to Avoid, or Fully Disclose, Obtain Informed Consent, and Manage Them.
4. Understand the Duty to Report to CFP Board and the Duty to Cooperate.
5. Identify the *Practice Standards* When Providing Financial Advice that Requires Financial Planning or Financial Planning.
6. Understand the Duty to Provide Information to Clients When Providing Financial Advice and/or Financial Planning.

CFP BOARD

LEARNING OBJECTIVE 1

**UNDERSTAND THE STRUCTURE AND CONTENT
OF THE REVISED *CODE AND STANDARDS*, INCLUDING
SIGNIFICANT CHANGES FROM PRIOR RULES.**

The Revised *Code and Standards*

CFP BOARD

- New Structure and Organization
- Overview of the Duties of a CFP® Professional
- Introduction to Significant Changes to Content
 - Fiduciary Duty
 - Conflicts of Interest
 - Duty to Report and Duty to Cooperate

Preamble to the *Code and Standards*

CFP BOARD

CFP Board's *Code of Ethics and Standards of Conduct* reflects the commitment that all CFP® professionals make to high standards of competency and ethics. CFP Board's *Code and Standards* benefits and protects the public, provides standards for delivering financial planning, and advances financial planning as a distinct and valuable profession. Compliance with the *Code and Standards* is a requirement of CFP® certification that is critical to the integrity of the CFP® marks. Violations of the *Code and Standards* may subject a CFP® professional to discipline.

Code of Ethics

CFP BOARD

A CFP® professional must:

Act with honesty, integrity, competence, and diligence.

Act in the client's best interests.

Exercise due care.

Avoid or disclose and manage conflicts of interest.

Maintain the confidentiality and protect the privacy of client information.

Act in a manner that reflects positively on the financial planning profession and CFP® certification.

Standards of Conduct – Six Sections

CFP BOARD

A.
Duties Owed to Clients

D.
Duties Owed to Firms and Subordinates

B.
Financial Planning and Application of the Practice Standards for the Financial Planning Process

E.
Duties Owed to CFP Board

C.
Practice Standards for the Financial Planning Process

F.
Prohibition on Circumvention

The Practice Standards for the Financial Planning Process

CFP BOARD



Definition:

Financial Planning is a collaborative process that helps maximize a Client's potential for meeting life goals through Financial Advice that integrates relevant elements of the Client's personal and financial circumstances.

12

12

Glossary

CFP BOARD

GLOSSARY

CFP® Professional's Firm(s). Any entity on behalf of which a CFP® professional provides Professional Services to a Client, and that has the authority to exercise control over the CFP® professional's activities, including the CFP® professional's employer, broker-dealer, registered investment adviser, insurance company, and insurance agency.

Client. Any person, including a natural person, business organization, or legal entity, to whom the CFP® professional provides or agrees to provide Professional Services pursuant to an Engagement.

Conflict of Interest.

- When a CFP® professional's interests (including the interests of the CFP® Professional's Firm) are adverse to the CFP® professional's duties to a Client, or
- When a CFP® professional has duties to one Client that are adverse to another Client.

Control. The power, directly or indirectly, to direct the management or policies of the entity at the relevant time, through ownership, by contract, or otherwise.

Control Person. A person who has Control.

Engagement. An oral or written agreement, arrangement, or understanding.

14

KITCES

13

13

STANDARD A.1: FIDUCIARY DUTY

**STANDARD A.5: CONFLICTS OF
INTEREST**

STANDARD E.3: DUTY TO REPORT

DUTIES of a CFP® Professional

Duties of a CFP® Professional

CFP BOARD

CFP Board's *Code of Ethics and Standards of Conduct* reflects the commitment that all CFP® professionals make to high standards of competency and ethics.

	To Clients	To Firms and Subordinates	To CFP Board
At All Times	<ul style="list-style-type: none"> Integrity Competence Diligence Sound and Objective Professional Judgment Professionalism Comply with the Law Confidentiality and Privacy Duties When Communicating with a Client Duties When Representing Compensation Method Duties When Selecting, Using, and Recommending Technology Refrain from Borrowing or Lending Money and Commingling Financial Assets 	<ul style="list-style-type: none"> Use Reasonable Care When Supervising Comply with Lawful Objectives of CFP® Professional's Firm Provide Notice of Public Discipline 	<ul style="list-style-type: none"> Refrain from Adverse Conduct Reporting Provide Narrative Statement Cooperation Compliance with Terms and Conditions of Certification and Trademark License
Financial Advice	<ul style="list-style-type: none"> The Duties That Apply At All Times (see above) Fiduciary Duty Disclose and Manage Conflicts of Interest Provide Information to a Client Duties When Recommending, Engaging, and Working with Additional Parties 		
Financial Planning	<ul style="list-style-type: none"> The Duties That Apply When Providing Financial Advice (see above) The Practice Standards for the Financial Planning Process Information to a Client in Writing 		



Duties of a CFP® Professional: To Clients

CFP BOARD



	To Clients
At All Times	<ul style="list-style-type: none"> Integrity Competence Diligence Sound and Objective Professional Judgment Professionalism Comply with the Law Confidentiality and Privacy Duties When Communicating with a Client Duties When Representing Compensation Method Duties When Selecting, Using, and Recommending Technology Refrain from Borrowing or Lending Money and Commingling Financial Assets

Duties: Representing Compensation

CFP BOARD

To Clients	
At All Times	<ul style="list-style-type: none"> • Integrity • Competence • Diligence • Sound and Objective Professional Judgment • Professionalism • Comply with the Law • Confidentiality and Privacy • Duties When Communicating with a Client • Duties When Representing Compensation Method • Duties When Selecting, Using, and Recommending Technology • Refrain from Borrowing or Lending Money and Commingling Financial Assets

Are you
Fee Only?

L.O.1: REQUIRED EXERCISE 2: CASE STUDY

CFP BOARD

A CFP® Professional Firm's Sales-Related Compensation

Mildred is a CFP® professional employed by Alpha Advisory Services, Inc. ("Alpha"), a registered investment adviser. Mildred tells Thomas, a client of Alpha, that her compensation method is "fee-only." Thomas asks Mildred for investment recommendations.

Mildred gathers the information that she needs, conducts an appropriate analysis, and recommends that Thomas invest in an Alpha-approved family of mutual funds after making the required disclosures.

Thomas is pleased with Mildred's recommendation and directs her to make the investment. The only compensation that Mildred receives is a salary from Alpha. Mildred does not receive any additional compensation when Thomas invests in the mutual fund.

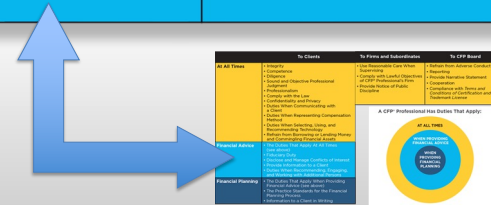
Although her firm discloses the information to Clients, Mildred does not realize that Alpha receives revenue sharing payments from the mutual funds she recommends, including the Alpha-approved family of mutual funds in which Thomas has invested.

Has Mildred complied with the Duties when representing her compensation method?

- A. Yes. Mildred accurately informed Thomas that she is “fee only” because her only source of compensation is her salary and she does not receive any additional compensation when Thomas invests in the mutual fund.
- B. No. Mildred may not refer to her compensation method as “fee only” because her firm, Alpha, receives revenue sharing payments from mutual funds.
- C. Yes. Mildred may refer to her compensation method as “fee only” because she is not aware that Alpha receives revenue sharing payments from mutual funds, and thus she has no incentive to recommend the mutual funds to Clients.

Financial Advice

- The Duties That Apply At All Times (see above)
- Fiduciary Duty
- Disclose and Manage Conflicts of Interest
- Provide Information to a Client
- Duties When Recommending, Engaging, and Working with Additional Persons



CFP BOARD

DETAILS OF SIGNIFICANT CHANGES

LEARNING OBJECTIVES 2 TO 4

25

CFP BOARD

LEARNING OBJECTIVE 2

DESCRIBE CFP BOARD'S FIDUCIARY DUTY

26

26

Fiduciary Duty

CFP BOARD

The cornerstone of the *Code and Standards* is the Fiduciary Duty. At all times when providing Financial Advice to a Client, a CFP® professional must act as a fiduciary and, therefore, act in the best interests of the Client.

What does it mean to act as a fiduciary and, therefore, act in the best interests of the Client? A CFP® professional must fulfill the following duties:

FIDUCIARY DUTY

= Duty of Loyalty + Duty of Care + Duty to Follow Client Instructions

L.O.2 REQUIRED EXERCISE 2: CASE STUDY

CFP BOARD

Apply the Fiduciary Duty to Client Instructions that Conflict with the Duty of Care

Holly, a CFP® professional, has an Engagement with Pat to provide Financial Advice addressing long-term investing for retirement and other needs later in life.

Pat indicates that he is socially conscious and would be interested in investing in companies that are consistent with his views. Holly tells Pat that there are environmental, social, and corporate governance ("ESG") mutual funds that are consistent with Pat's goals. Pat responds that he would like to see what those look like.

Holly collects information about Pat's goals, risk tolerance, objectives, and financial and personal circumstances. She then develops an appropriate asset allocation and begins reviewing ESG investments that would fill the allocations for the asset classes.

As she does that work, Holly discovers that, in two of the asset classes, while ESG funds are available, the ESG funds for those asset classes are not funds that Holly, based on her analysis, believes are the best available options for Pat.

What should Holly do to fulfill her Fiduciary Duty?

- A. Recommend ESG funds for those two asset classes because Pat had indicated that he was interested in ESG funds.
- B. Review her conclusions with Pat, explain the reasons why she would not recommend the funds, and ask Pat whether he would be interested in considering non-ESG investments.
- C. Inform Pat that she cannot proceed with the Engagement because the only ESG funds that are available in the relevant asset classes are ESG funds that she normally would not recommend.

The Fiduciary Duty and an A Share Class Recommendation

John, a CFP® professional, works at NestEgg, a broker-dealer. John receives commissions as well as a bonus if he meets his quarterly sales goals. His Client, Emily, recently received a \$75,000 inheritance. She asks John for investment recommendations. After gathering information, John determines that Emily does not need to use the funds for at least 15 years, when she expects to make a down payment on a retirement home.

John recommends that Emily invest in a portfolio of mutual funds. John explains to Emily that he recommends only mutual funds that charge a sales load or bear some other type of sales charge, such as a 12b-1 distribution or marketing fee, which compensate him (and his firm) for his services. Emily tells John that she understands she will be paying such a fee in working with him.

John recommends that Emily invest in a mix of equity and bond funds from a family of mutual funds that John believes are the best match for Emily from among those available for him to recommend. Each fund has two different classes of

shares that offer Sales-Related Compensation. Each class offers the identical investment experience except for the fees that investors will directly (sales load) or indirectly (12b-1 fees) bear:

- The A share class has a 4% sales load and a 0.25% 12b-1 fee.
- The C share class has no sales load but a 1% 12b-1 fee that will last as long as Emily holds the fund.

John recognizes that he and his firm have Material Conflicts of Interest because the more fees Emily pays (including the sales load and any 12b-1 fees), the greater his and his firm's compensation will be.

Because Emily intends to hold the funds for at least 15 years, the A shares likely would be the lower cost alternative. John determines that the A share class would be the better option. John recommends the A share class to Emily. There are no other professional services that John provides to Emily.

When John recommended the A share class, did John fulfill his Fiduciary Duty with regard to the consideration of costs?

- A. Yes
- B. No

LEARNING OBJECTIVE 3

IDENTIFY MATERIAL CONFLICTS OF INTEREST AND HOW TO AVOID, OR FULLY DISCLOSE, OBTAIN INFORMED CONSENT, AND MANAGE THEM.

Conflicts of Interest

CFP BOARD

A CFP® professional must avoid or disclose, obtain informed consent and manage material conflicts of interest.

- Material:
 - When a reasonable Client or prospective Client would consider the Conflict of Interest important in making a decision

A “Conflict of Interest” arises when:

- A CFP® professional’s interests (including the interests of the CFP® Professional’s Firm) are adverse to the CFP® professional’s duties to a Client; or
- A CFP® professional has duties to one Client that are adverse to another Client.

Examples of Conflicts of Interest

CFP BOARD

- Compensation and Incentives
- Acting for Multiple Clients
- 401k Rollover
- Affiliate Products
 - Higher commission

L.O.3 REQUIRED EXERCISE 1: CASE STUDY

CFP BOARD

The Duty to Disclose and Manage Material Conflicts of Interest Involving Proprietary Products

Frank, a CFP® professional, has a Client, Margaret, a single parent of two young children who is in her early 30s and works full time. Margaret became Frank's Client after they met while serving together on the Board of Trustees at the school their children attend.

Margaret tells Frank that she needs life insurance to protect her children and that she wants advice on how to save for retirement and her children's college education. Frank agrees to provide Financial Advice on these issues.

Frank is an insurance agent for Old Jersey Life who only is licensed to sell life insurance and fixed annuity products. Under his agent agreement with Old Jersey, Frank is required only to offer Old Jersey products. Old Jersey offers a variety of life insurance products, including term and permanent life insurance. Permanent life insurance accumulates cash value over time that the policy owner may use to fund a lifetime death benefit or for other

purposes, such as supplemental retirement income. Term insurance provides a death benefit only for a defined period. Premiums usually are higher for permanent life insurance than for term insurance.

Frank receives commissions and certain employment benefits from Old Jersey. Frank earns commissions from selling insurance products that are based on a percentage of the premium that the Client pays. Frank receives a commission that is a higher percentage of the premium that the Client pays for some Old Jersey products than other Old Jersey products.

Frank conducts a careful analysis of the Client's needs and the available Old Jersey products and recommends a product that is in Margaret's best interests. Assume that Frank fulfilled his Duty of Care and Duty of Loyalty in making his recommendation.

L.O.3 REQUIRED EXERCISE 1: Case Study Question 1

CFP BOARD

Which of the following are not *Material Conflicts of Interest* under the *Code and Standards*?

- A. Frank's contract with Old Jersey requires Frank exclusively to offer Old Jersey products to his Clients.
- B. Frank and Margaret met while serving on the Board of Trustees of their children's school.
- C. Frank receives compensation only for providing Financial Advice on the sale of insurance products.
- D. The premiums of permanent life insurance are higher than the premiums for term insurance, which means that Frank receives more compensation when he sells a Client permanent life insurance than when he sells a Client term life insurance.

L.O.3 REQUIRED EXERCISE 1: Case Study Question 2

CFP BOARD

What must Frank do to address these Material Conflicts of Interest?

- A. Frank must disclose his Material Conflicts of Interest to Margaret, obtain her informed consent, and manage the conflicts in Margaret's best interests.
- B. Frank must obtain Margaret's informed consent to any Material Conflicts of Interest in writing.

L.O.3 REQUIRED EXERCISE 1: Case Study Question 3

CFP BOARD

Which of the following is the best statement with respect to Frank's management of the Material Conflicts of Interest?

- A. Frank is required to eliminate Material Conflicts of Interest from his planning process.
- B. Frank satisfies his duty when he discloses his Material Conflicts of Interest to Clients and they provide their informed consent.
- C. In addition to disclosing Material Conflicts of Interest and obtaining the Client's informed consent, Frank must adopt and follow business practices reasonably designed to prevent Material Conflicts of Interest from compromising his ability to act in the Client's best interests.

**The Duty to Disclose Material Conflicts of Interest
When Recommending a Product Issued by an Affiliate**

Olivia, a CFP® professional, identifies three single premium annuities that will best meet the needs of her Client, Michael. One of the three annuities Olivia identified is issued by a life insurance company (DEF Mutual, Inc.) that is affiliated with Olivia's firm (DEF Advisers, Inc.).

While Olivia will receive the same compensation if Michael purchases any of the three annuities, her firm and her firm's affiliate will receive an additional economic benefit if Michael purchases the DEF Mutual annuity.

How should Olivia proceed?

- A. Olivia should disclose to Michael that one of the insurance companies is affiliated with her firm and that if Michael purchases an annuity from that insurance company, Olivia's firm and an affiliate of Olivia's firm will receive an additional economic benefit on that transaction.
- B. Olivia should assume that, because the insurance company and Olivia's firm have the same name, Michael recognizes that they are affiliated and that Olivia's firm or the affiliate will receive an additional economic benefit, with the result that no further disclosure is required.
- C. Olivia should avoid recommending annuity contracts that are issued by the affiliated company.

**The Duty to Disclose Material Conflicts of Interest
When Responding to a Client's Investment Inquiry**

Emma, a CFP® professional, receives a call from her Client, David, who is approaching retirement age. David asks Emma whether he should invest in a real estate investment trust (REIT) to fund his retirement income.

To invest in the REIT, David would need to liquidate a portion of the assets held in his investment account, which Emma manages, and purchase the REIT through another account.

Emma conducts her analysis and concludes that investing in the REIT is a bad idea because, among other reasons, the account

she is managing likely will achieve better returns than an investment in the REIT.

Emma analyzes David's investment time horizon and concludes that the commission she would receive on the purchase of a REIT investment would be less than the management fee she would earn if the assets remained in David's investment account.

The account that would hold the REIT would not pay Emma a management fee.

What should Emma do?

- A. Explain to David that, in her professional judgment, he should not invest in the REIT.
- B. Fully disclose to David her Material Conflict of Interest, obtain informed consent to the conflict, and provide David with her advice.
- C. Explain to David that she must decline to provide David the advice he is seeking. Emma has a Material Conflict of Interest because she will earn more compensation if David keeps the assets in the investment account than if David invests in the REIT, and Emma cannot provide disinterested Financial Advice.

**The Duty to Disclose Material Conflicts of Interest
When Making a Rollover Recommendation**

Bruce, a CFP® professional, is a representative of XYZ Advisors, Inc., a registered investment adviser. XYZ does not permit its investment adviser representatives to charge a fee for managing assets in a 401(k) plan.

Bruce is engaged by Heather, who is retiring, to provide Financial Planning. After obtaining information about and understanding Heather's personal and financial circumstances, Bruce helps Heather develop a goal of having adequate income during her retirement. Bruce analyzes Heather's existing account in the 401(k) plan and the plan's investment options, fees and expenses, services, and other features. Bruce concludes that the management fees

Heather will pay if she rolls over the assets into an individual retirement account ("IRA") will be higher than if she leaves the assets in her account in the 401(k) plan.

Nevertheless, based on his review of Heather's circumstances and analysis of the relevant factors, Bruce determines that such a rollover is in Heather's best interest. Bruce presents that recommendation to Heather and tells Heather that he would receive an ongoing fee for managing the assets in the IRA. Bruce does not tell Heather that she would not have to pay Bruce a fee if she continues to invest her assets in the account in the 401(k) plan, as he would not be advising on those assets.

With respect to Bruce's Duty to Disclose Conflicts of Interest, which of the following is the best response?

- A. Bruce has no Material Conflict of Interest because Heather understands that Bruce will be paid for his services.
- B. Bruce satisfied his disclosure obligation when he disclosed his fee for managing the IRA.
- C. Bruce did not fully disclose to Heather the Material Conflict of Interest that his recommendation presented.
- D. Since Bruce sincerely believed that his recommendation was in Heather's best interest, he was excused from making full disclosure to Heather.

How to Handle Conflicts of Interest

CFP BOARD

For Material Conflicts that are not avoided:

- Provide Full Disclosure;
- Obtain Client's Informed Consent; and
- Properly Manage the Conflict.

Full Disclosure and Informed Consent

CFP BOARD

■ Disclose “Sufficiently Specific Facts”

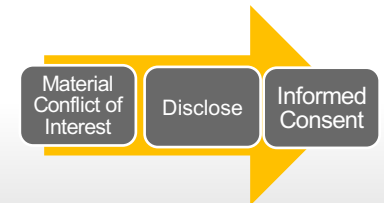
- Would a reasonable Client understand the conflict and how it could affect the advice?
- Ambiguity interpreted in favor of the Client

■ Delivery

- Written disclosure is not required
- Oral disclosure weighed as CFP Board deems appropriate

■ Obtain Informed Consent

- Written consent is not required
- When will consent be inferred?

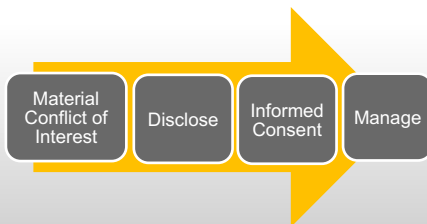


Must Also Manage Conflicts

CFP BOARD

Management of Conflicts

- Must adopt and follow business practices reasonably designed to prevent Material Conflicts from compromising the CFP® professional's ability to act in the Client's best interests



Let's Take a Five-Minute Break

CFP BOARD

Time for us take a break.

THANK YOU!

LEARNING OBJECTIVE 4

UNDERSTAND THE DUTY TO REPORT TO CFP BOARD AND
THE DUTY TO COOPERATE.

57

57

Importance

- The Duty to Report and the Duty to Cooperate are key elements of an enforcement program that seeks to detect potential misconduct. A significant component of the value of CFP® certification is derived from the fact that CFP Board enforces the *Code and Standards*.
- A CFP® professional's failure to report the required information to CFP Board constitutes a violation of the *Code and Standards*, even if the matter that the CFP® professional was required to report does not reveal misconduct.
- Effective January 2024, the sanction guideline for a violation of the Duty to Report will be a public censure.



58

58

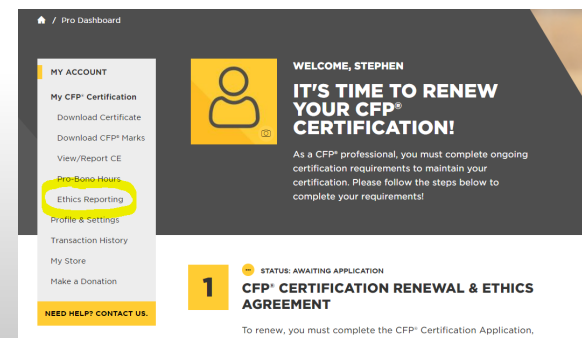
Duty to Report

CFP BOARD

- Applies at the initiation and the conclusion of the reportable matter.
- The information must be reported within 30 days.
- Must include a narrative statement that describes the material facts and the outcome or status of the reportable matter.
- Online reporting form that is located at [CFP.net/ethics/reporting](https://www.cfp.net/ethics/reporting).
- Contact CFP Board if you have questions. You may seek guidance on the Duty to Report at compliance@cfpboard.org.

SELF REPORTING

CFP BOARD



- Easily accessible from Dashboard
- Always available
- Reports stored in permanent record

You Are Required to Report:

CFP BOARD

Felonies & Misdemeanors	Been charged with, convicted of, or admitted into a program that defers or withholds the entry of a judgment or conviction for, a Felony or Relevant Misdemeanor .
Initiation of Regulatory Investigations/Actions	Been named as a subject of, or whose conduct is mentioned adversely in, a Regulatory Investigation or Regulatory Action alleging failure to comply with the laws, rules, or regulations governing Professional Services .
Findings in Regulatory Action	Had conduct mentioned adversely in a Finding in a Regulatory Action involving failure to comply with the laws, rules, or regulations governing Professional Services (except a Regulatory Action involving a Minor Rule Violation in a Regulatory Action brought by a self-regulatory organization).
Initiation of a Lawsuit or Arbitration Alleging Professional Misconduct	Had conduct mentioned adversely in a Civil Action alleging failure to comply with the laws, rules, or regulations governing Professional Services .

You Are Required to Report

CFP BOARD

Resolutions of Lawsuit or Arbitration Alleging Professional Misconduct	Become aware of an adverse arbitration award or civil judgment, or a settlement agreement, in a Civil Action alleging failure to comply with the laws, rules, or regulations governing Professional Services , where the conduct of the CFP® professional, or an entity over which the CFP® professional was a Control Person , was mentioned adversely, other than a settlement for an amount less than \$15,000.
Initiation of Lawsuit or Arbitration Alleging Dishonest Conduct	Had conduct mentioned adversely in a Civil Action alleging fraud, theft, misrepresentation, or other dishonest conduct.
Findings of Dishonest Conduct	Been the subject of a Finding of fraud, theft, misrepresentation, or other dishonest conduct in a Regulatory Action or Civil Action .
Adverse Award or Judgment	Become aware of an adverse arbitration award or civil judgment, or a settlement agreement in a Civil Action alleging fraud, theft, misrepresentation, or other dishonest conduct, where the conduct of the CFP® professional, or an entity over which the CFP® professional was a Control Person , was mentioned adversely.

You Are Required to Report

CFP BOARD

Adverse impact on License, Certification or Membership	Had a professional license, certification, or membership suspended, revoked, or materially restricted because of a violation of rules or standards of conduct.
Termination	Been terminated for cause from employment or permitted to resign in lieu of termination when the cause of the termination or resignation involved allegations of dishonesty, unethical conduct, or compliance failures.
Customer Complaint	Been named as the subject of, or been identified as the broker/adviser of record in, any written, customer-initiated complaint that alleged the CFP® professional was involved in: i. Forgery, theft, misappropriation, or conversion of Financial Assets ; ii. Sales practice violations and contained a claim for compensation of \$5,000 or more; or iii. Sales practice violations and settled for an amount of \$15,000 or more.

You Are Required to Report

CFP BOARD

Bankruptcy	Filed for or been the subject of a personal bankruptcy or business bankruptcy where the CFP® professional was a Control Person .
Federal Tax Lien	Received notice of a federal tax lien on property owned by the CFP® professional.
Non- Federal Tax Lien, Judgment Lien or Civil Judgment	Failed to satisfy a non-federal tax lien, judgment lien, or civil judgment within one year of its date of entry, unless payment arrangements have been agreed upon by all parties.

Duty to Cooperate

CFP BOARD

The *Code and Standards* (Standard E.5.) also expands upon a CFP® professional's Duty to Cooperate.

- A CFP® professional may not make false or misleading representations to CFP Board or obstruct CFP Board in the performance of its duties.
- A CFP® professional also must cooperate fully with CFP Board's requests, investigations, disciplinary proceedings, and disciplinary decisions.
- As described more fully in CFP Board's *Procedural Rules* (Article 1.3), cooperation includes providing documents and information, admitting or denying facts, appearing for oral examination, and using reasonable efforts to obtain documents, information, and witness appearances from third parties.

CFP BOARD

LEARNING OBJECTIVE 5

IDENTIFY THE *PRACTICE STANDARDS* WHEN PROVIDING
FINANCIAL ADVICE THAT REQUIRES
FINANCIAL PLANNING OR FINANCIAL PLANNING

Application Of The *Practice Standards*

CFP BOARD

The *Practice Standards* Apply When:

- The CFP® professional:
 - agrees to provide or provides Financial Planning
 - agrees to provide or provides Financial Advice that requires integration of relevant elements to act in Client's best interests
- The Client has a reasonable basis to believe the CFP® professional will provide or has provided Financial Planning



68

Clients Who Do Not Want Financial Planning

CFP BOARD

If a CFP® professional otherwise must comply with the *Practice Standards*, but the Client does not agree to engage for Financial Planning, a CFP® professional must either:

- Not enter into the Engagement
- Limit the scope to services that do not require Financial Planning
- Provide the requested service but explain how Financial Planning will benefit the Client and how not providing Financial Planning will limit the Financial Advice
- Terminate the Engagement

CFP BOARD

71

A Review of the Seven Steps

When to Document:

A CFP® professional must act prudently in documenting information, as the facts and circumstances require, taking into account:

- The significance of the information;
- The need to preserve the information in writing;
- The obligation to act in the Client's best interest; and
- The Firm's policies and procedures.

Acceptable Documentation:

- CRM software;
- Handwritten notes; or
- Emails

WHEN IN DOUBT, DOCUMENT

**Interpreting the Practice Standard
for Identifying and Selecting Goals**

Tania (age 43) and Bonnie (age 45) engage with Scott, a CFP® professional, for Financial Planning. In accordance with step 1 of the Practice Standards for the Financial Planning Process, Scott obtains and analyzes the qualitative and quantitative information necessary to fulfill the Scope of the Engagement and assess Tania and Bonnie's personal and financial circumstances.

Tania and Bonnie rent an apartment, have modest savings in low-yielding savings accounts (\$50,000) and retirement assets (\$100,000), are cash flow positive with moderate expenses, and are carrying high interest credit card debt (\$15,000).

For the last 11 years, Tania and Bonnie have invested for retirement in conservative Financial Assets, with most of their retirement assets allocated to fixed income and cash equivalent investments. They sold their more growth-oriented portfolio at market lows.

Tania and Bonnie indicate their two primary goals are (1) to save the funds that they will need in approximately 5 years to make a 20% down payment (\$70,000) on the purchase of a \$350,000 small beach condo on the South Carolina coast that they will use for vacations while working and then in retirement, and (2) to retire at age 65 with a net retirement income of \$75,000 in today's dollars.

What actions must Scott take to address Tania and Bonnie's goals, in accordance with step 2 of the Practice Standards for the Financial Planning Process?

- A. Scott must assist Tania and Bonnie in planning to accomplish their stated goals, without considering how they may impact other potential goals.
- B. Scott must help Tania and Bonnie identify their goals, and the impact that a particular goal may have on other goals. Scott also must help Tania and Bonnie select and prioritize goals.
- C. Scott must provide Tania and Bonnie with Financial Advice concerning the goals to include in their financial plan without regard to their expressed goals.

Interpreting the Practice Standard for Implementing the Financial Planning Recommendation(s)

Rick, a CFP® professional, has presented his Financial Planning recommendations to his Clients Mike and Sofia. He previously informed the Clients of his Material Conflicts of Interest, explained how he will manage the conflicts, and obtained the Clients' informed consent.

His Financial Planning recommendations include obtaining additional term life insurance and reallocating their retirement savings to investment products that are designed to maximize their potential to meet long-term goals.

Rick explains to his Clients that he implements recommendations relating to investment products, for which he charges an ongoing management fee. For the implementation of other recommendations, Rick communicates with his Clients their responsibility and the responsibilities of any third-party.

What should Rick do next to comply with the Practice Standards for the Financial Planning Process?

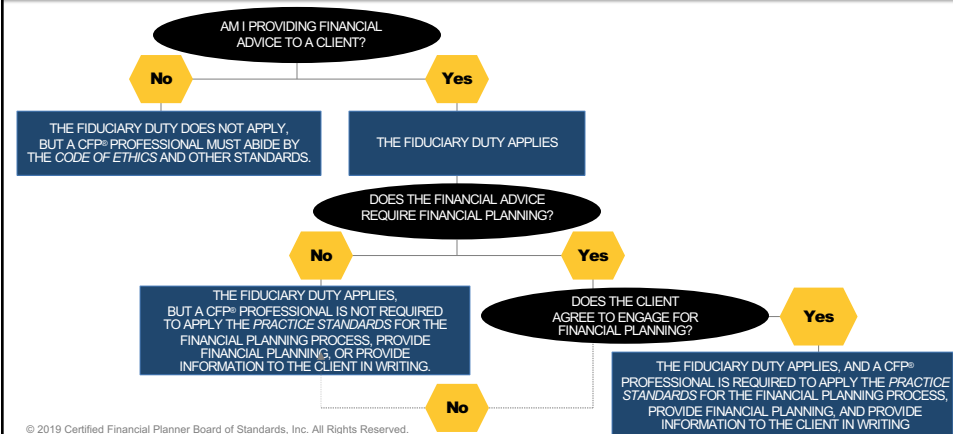
- A. Instruct his clients to complete an online account application to begin implementing the recommendations.
- B. Provide his clients with the historical track record of his investment recommendations to establish that he is competent to recommend investment products.
- C. Discuss with his clients the basis for selecting an action, product, or service, and the timing and priority of implementing the action, product, or service.
- D. Recommend an insurance agent from a referral network that provides Rick with referral compensation.

LEARNING OBJECTIVE 6

UNDERSTAND THE DUTY TO PROVIDE INFORMATION TO CLIENTS WHEN PROVIDING FINANCIAL ADVICE AND/OR FINANCIAL PLANNING.

86

The Financial Advice Framework



Am I Providing Financial Advice?

CFP BOARD

WHAT IS FINANCIAL ADVICE?

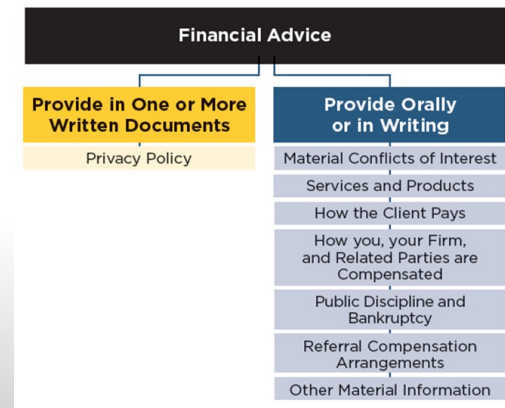
- A communication that, based on its content, context, and presentation, would reasonably be viewed as a recommendation that the Client take or refrain from taking a particular course of action with respect to:
 - The development or implementation of a Financial Plan;
 - The value of or the advisability of investing in, purchasing, holding, gifting, or selling Financial Assets;
 - Investment policies or strategies, portfolio composition, the management of Financial Assets, or other financial matters; or
 - The selection and retention of other persons to provide financial or Professional Services to the Client; or
- The exercise of discretionary authority over the Financial Assets of a Client.

WHAT IS NOT FINANCIAL ADVICE?

- A communication that, based on its content, context, and presentation, would not reasonably be viewed as a recommendation;
- Responses to directed orders; and
- The following, if a reasonable CFP® professional would not view it as Financial Advice:
 - Marketing Materials;
 - General Financial Education; and
 - General Financial Communications.

Duty to Provide Information- Financial Advice

CFP BOARD



**The Delivery of Firm Research
Does Constitute Financial Advice**

Meghan is a CFP® professional who is a registered representative of a broker-dealer.

Ted, a longtime Client, asks Meghan for information regarding a specific stock he is considering purchasing.

Meghan provides Ted a research report on the stock that her firm prepared. The research report states that the stock is undervalued.

Meghan tells Ted that she has not analyzed whether the stock is a good investment for him.

Ted reviews the research report and then directs Meghan to purchase the stock for him.

Which of the following best describes Meghan's duty?

- A. Meghan does not have a Fiduciary Duty because Ted identified the specific stock at issue.
- B. Meghan does not have a Fiduciary Duty because she did not provide Financial Advice when she communicated with Ted regarding the advisability of purchasing the stock.
- C. Meghan has a Fiduciary Duty because Meghan effected the transaction for Ted.

CFP BOARD

CFP Board has drafted a [checklist version of its Financial Advice Engagements Compliance Guide](#) designed to help CFP® professionals evaluate whether they are providing information and services in accordance with CFP Board's [Code of Ethics and Standards of Conduct](#) when they are providing Financial Advice.

[illegible]**CFP BOARD**

☐ YES ☐ NO

☐ YES ☐ NO☐ YES ☐ NO

- The number of relevant elements of the Client's personal and financial circumstances that the Financial Advice may affect;
- The portion and amount of the Client's Financial Assets that the Financial Advice may affect;
- The length of time the Client's personal and financial circumstances may be affected by the Financial Advice;
- The effect on the Client's overall exposure to risk if the Client implements the Financial Advice; and
- The barriers to modifying the actions taken to implement the Financial Advice.

CFP BOARD**CFP BOARD**

98

Timing, Delivery, and Updating

CFP BOARD

- **Timing** - The required information must be provided prior to or at the time of the Engagement.
- **Delivery** - Does not require the information be provided to the Client in writing when the CFP® professional is only providing Financial Advice. However, a CFP® professional must document the fact that the information was provided to the Client.
- **Updating** A CFP® professional has an ongoing obligation to provide to the Client any information that is a Material change or update to the information required to be provided to the Client.

REVIEW

CFP BOARD

CASE STUDY VIDEOS

Many resources related to the Ethics CE program can be found at: <https://www.cfp.net/ethics/compliance-resources>

Additionally, more general information about the CFP Board *Code of Ethics* and *Standards of Conduct* can be found on this page: <https://www.cfp.net/ethics/our-commitment>

THANK YOU.