

CFP BOARD

ETHICS CE: CFP BOARD'S REVISED CODE AND STANDARDS

ENHANCING YOUR ETHICAL INTELLIGENCE
SEA CHANGE FINANCIAL EDUCATION
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About Your Instructor **CFP BOARD**

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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 is effective on October 1, 2019.

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Learning Objectives

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1. Identify the structure and content of the revised *Code and Standards*, including significant changes and how the changes affect CFP® professionals.
2. Act in accordance with CFP Board's fiduciary duty.
3. Apply the Practice Standards when providing Financial Planning.
4. Recognize situations when specific information must be provided to a Client.
5. Recognize and avoid, or fully disclose and manage, Material Conflicts of Interest.

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STRUCTURE, CONTENT AND SIGNIFICANT CHANGES

LEARNING OBJECTIVE 1

The Revised *Code and Standards*

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- Significant Changes to Content
- The New Structure and Organization
- Duties to:
 - Clients
 - Firms and Subordinates
 - CFP Board

Most Significant Changes to Content **CFP BOARD**

- Expanded Application of Fiduciary Duty
- Updated Duties to Clients
- Revised Definition of Financial Planning
- Modernized Practice Standards
- New Process for Bankruptcy
- Enhanced Requirements for Reporting

The Structure Has Changed **CFP BOARD**

Current Standards <small>(Effective Until September 30, 2019)</small>	Revised Standards <small>(Effective October 1, 2019)</small>
Introduction	Preamble
Code of Ethics and Professional Responsibility	Code of Ethics
Rules of Conduct	Standards of Conduct
Financial Planning Practice Standards	Practice Standards for the Financial Planning Process
Terminology	Glossary

Code of Ethics **CFP BOARD**

- A CFP® professional must:
1. Act with honesty, integrity, competence, and diligence.
 2. Act in the client's best interests.
 3. Exercise due care.
 4. Avoid or disclose and manage conflicts of interest.
 5. Maintain the confidentiality and protect the privacy of client information.
 6. Act in a manner that reflects positively on the financial planning profession and CFP® certification.

Standards of Conduct – Six Sections **CFP BOARD**

Duties Owed to Clients	Financial Planning and Application of Practice Standards
Practice Standards	Circumvention
Duties Owed to Firms and Subordinates	Duties Owed to CFP Board

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Integrity, Competence, Diligence **CFP BOARD**

Integrity

- Honesty and candor that is not subordinated to personal gain or advantage
- Standard anti-fraud language

Competence

- Relevant knowledge and skill
- Gain competence, obtain assistance, limit or terminate engagement, and/or refer the Client

Diligence

- Timely and thorough

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Objectivity, Professionalism, Communications **CFP BOARD**

Sound and Objective Professional Judgment

- Exercise professional judgment that is not subordinated.
- Avoid considerations that could compromise objectivity.

Professionalism

- Treat Clients and others with dignity, courtesy, and respect.

Client Communications

- Provide accurate information in an understandable manner and format.

Comply With the Law

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Confidentiality/Privacy and Technology **CFP BOARD**

Confidentiality/Privacy

- Applies to non-public personal information (NPPI)
- Exceptions for ordinary business (four) and legal/enforcement (seven)
- Can't benefit from NPPI
- Must protect security and adopt, implement, and share written policies
- Safe Harbor for Reg S-P (or equivalent)

Technology

- Use reasonable care in selecting, using and recommending
- Have a reasonable understanding of assumptions and outcomes
- Have a reasonable basis for believing outcomes will be reliable, objective, and appropriate

Refrain from Borrowing, Lending, and Commingling Financial Assets

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Representation of Compensation Method **CFP BOARD**

Key Terms and Concepts:

- Fee-Only and Fee-Based
- Sales-Related Compensation
- Related Party Compensation
- Representations by a CFP® Professional's Firm

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Fee-Only Application **CFP BOARD**



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Working With Additional Persons **CFP BOARD**

Duties When Engaging or Recommending

- Develop reasonable basis
- Disclose compensation arrangements

Duties When Engaging

- Exercise reasonable care

Duties When Working With

- Communicate about services and responsibilities
- Inform client if the other provider did not perform or uphold responsibilities

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Duties Owed to Firms and Subordinates **CFP BOARD**

- Use Reasonable Care When Supervising
- Comply with Lawful Objectives of Firm
- Provide Notice of Public Discipline

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Duties Owed to CFP Board **CFP BOARD**

- Avoid Adverse Conduct
- Report Incidents of Apparent Adverse Conduct Within Thirty Days
- Provide a Narrative Statement
- Cooperate with CFP Board
- Comply with the *Terms and Conditions of Certification and License*

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Quick Review

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- ✓ New **Structure and Organization**
- ✓ Duties to:
 - **Clients**
 - **Firms and Subordinates**
 - **CFP Board**

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Apply the New *Code & Standard*

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Duties When Representing Fee-Only Compensation Method

- A. She may use fee-only because she collects no Sales-Related Compensation (SRC) from any source.
- B. She may use fee-only because the SRC earned by Related Parties is not "in connection with" her professional services.
- C. She may not use fee-only because the SRC earned by her firm is "in connection with" her professional services.
- D. She may not use fee-only because even though she collects no SRC from any source, her firm collects SRC.

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CFP BOARD'S FIDUCIARY DUTY

LEARNING OBJECTIVE 2

The Fiduciary Duty

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- Includes a Duty of Loyalty, a Duty of Care, and a Duty to Follow Client Instructions
- Applies to all Financial Advice to a Client
- Defines Financial Advice Broadly

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Fiduciary: Act in the Client's Best Interests

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Duty of Loyalty

- Place Client's interests ahead of your own
- Conflicts: avoid or fully disclose, obtain consent, & properly manage
- Act without regard to interests of others

Duty of Care

- Act with care, skill, prudence, and diligence
- Consider Client's goals, risk tolerance, objectives, and circumstances

Duty to Follow Client's Instructions

- Comply with Terms of Engagement
- Follow Client's reasonable and lawful directions

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Applies to All Financial Advice

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Application

- "At all times when providing Financial Advice to a Client"
- More expansive than when providing Financial Planning

Who is a "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"

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Financial Advice Broadly Defined

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Financial Advice:

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

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Quick Review

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- ✓ Duty of **Loyalty**
- ✓ Duty of **Care**
- ✓ Duty to **Follow Client Instructions**
- ✓ Fiduciary Duty Applies to **All Financial Advice**
- ✓ Financial Advice **Broadly Defined**

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Apply the New Code & Standard

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Financial Advice

- A. She does not owe Peter fiduciary duty (FD) because he selected the stock
- B. She owes (FD) because she provided Financial Advice
- C. She does not owe (FD) because Peter directed her to purchase the stock
- D. She owes Peter FD because she purchased the stock for Peter

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APPLYING THE PRACTICE STANDARDS

LEARNING OBJECTIVE 3

Updated Practice Standards **CFP BOARD**

- Updated Financial Planning Definition
- A Revised Standard for Determining Whether the Practice Standards Apply
- Options When Required to Comply with the Practice Standards but the Client Does Not Want Financial Planning
- Documentation
- Updates to Steps in the Financial Planning Process

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An Updated Financial Planning Definition **CFP BOARD**

Current Standards (Effective Until September 30, 2019)	Revised Standards (Effective October 1, 2019)
<p>"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.</p>	<p>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.</p>

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Application of the Practice Standards **CFP BOARD**

The Practice Standards Apply When:

- The CFP® professional agrees to provide or provides Financial Planning
- The CFP® professional 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

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When Integration Is Required **CFP BOARD**

The Integration Factors:

- Number of relevant elements
- Portion and amount of the Client's assets affected
- Length of time the Client's circumstances may be affected
- Effect on exposure to risk
- Barriers to modification of Financial Advice

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CFP Board Evaluation **CFP BOARD**

- If CFP Board alleges a Practice Standards violation
- And the CFP® professional denies the allegations
- Then the CFP® professional has the burden of demonstrating that Financial Planning was not required

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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 the benefits of Financial Planning and limitations on services
- Terminate the Engagement

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Documentation Requirement **CFP BOARD**

If required to comply with the Practice Standards, a CFP® professional must act prudently in documenting information, 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 interests and
- The CFP® Professional's Firm's policies and procedures

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Current Practice Standards (Effective Until September 30, 2019)	New Practice Standards (Effective October 1, 2019)
1. Establishing and Defining the Relationship with the Client	Moved to Section A.10: Provide Information to a Client
2. Gathering Client Data	1. Understanding the Client's Personal and Financial Circumstances 2. Identifying and Selecting Goals
3. Analyzing and Evaluating the Client's Financial Status	3. Analyzing the Client's Current Course of Action and Potential Alternative Course(s) of Action
4. Developing and Presenting the Financial Planning Recommendations (Identifying and Evaluating Alternatives)	4. Developing the Financial Planning Recommendation(s)
4. Developing and Presenting Financial Planning Recommendations (Developing Recommendations)	5. Presenting the Financial Planning Recommendation(s)
4. Developing and Presenting Financial Planning Recommendations (Presenting Recommendations)	6. Implementing the Financial Planning Recommendation(s)
5. Implementing the Financial Planning Recommendations	7. Monitoring Progress and Updating
6. Monitoring	

Steps 1-3: Circumstances, Goals, Options **CFP BOARD**

Step 1: Understanding Personal and Financial Circumstances

- Obtaining Qualitative and Quantitative Information
- Analyzing Information
- Addressing Incomplete Information

Step 2: Identifying and Selecting Goals

- Identifying Potential Goals
- Selecting and Prioritizing Goals

Step 3: Analyzing the Client's Current and Potential Alternative Course(s) of Action

- Analyzing Current Course of Action
- Analyzing Potential Alternative Course(s) of Action

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Steps 4-5: Developing and Presenting **CFP BOARD**

Step 4: Developing the Financial Planning Recommendation(s)

- Select recommendation(s) to maximize Client potential for meeting goals
- For each recommendation, consider:
 - Assumptions and Estimates
 - Basis for Recommendation
 - Timing/Priority
 - Interdependency of Recommendation

Step 5: Presenting the Financial Planning Recommendation(s)

- Present recommendations
- Present information considered in developing the recommendation(s)

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Steps 6-7: Implementing and Monitoring **CFP BOARD**

Step 6: Implementing the Financial Planning Recommendation(s)

- Address implementation responsibilities
- Identify, analyze and select actions, products and services
- Recommend actions, products, and services for implementation
- Select and implement

Step 7: Monitoring Progress and Updating

- Monitoring and updating responsibilities
- Monitor the Client's progress
- Obtain current qualitative and quantitative information
- Update goals, recommendations or implementation decisions

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Quick Review

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- ✓ Updated Definition - Financial Planning
- ✓ Revised Standard - Determining Whether the Practice Standards Apply
- ✓ Updated Steps - Financial Planning Process

Apply the New Code & Standards

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Financial Advice that Requires Financial Planning

- A. She is not providing Financial Advice (FA) that requires Financial Planning (FP) because her recommendations are limited to investment advice
- B. She is providing FA that requires FP because of several relevant elements involved and management of a large portion of Bob's assets
- C. She is providing material elements of FP by collecting data
- D. She is not required to provide FP because she did not enter into an agreement to provide Financial Planning

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INFORMATION THAT MUST BE PROVIDED TO THE CLIENT

LEARNING OBJECTIVE 4

Providing Information to a Client **CFP BOARD**

- Timing, delivery, and updating requirements
- Eight categories of information must be provided
- Additional requirements when providing Financial Planning

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Timing, Delivery, and Updating **CFP BOARD**

Timing:

- Prior to or at the time of the Engagement

Delivery:

- Financial Advice: No written requirement, but must document
- Financial Planning: Provide in one or more written documents
- Conflicts of Interest: Not required to be provided in writing, but evidence of oral disclosure will be given such weight

Updating:

- Ongoing duty to provide Client with a Material change or update
- Updates to disciplinary history or bankruptcies within 90 days

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The Information That Must Be Provided **CFP BOARD**

A description of the services and products to be provided
How the Client pays for the products and services, and a description of the additional types of costs the Client may incur
How the CFP® professional, the CFP® Professional's Firm, and any Related Party are compensated for providing the products and services
Relevant websites that have information about disciplinary actions and bankruptcies
Other information that is Material to a Client's decision to engage or continue to engage
Full disclosure of all Material Conflicts of Interest
Policies regarding the protection, handling, and sharing of non-public personal information
Information required under the Engagement and in response to reasonable Client requests

Terms of Engagement **CFP BOARD**

When Providing Financial Planning: The Terms of the Engagement include:

- (a) the Scope of the Engagement and any limitations,
- (b) when the services will be provided, and
- (c) the Client's Responsibilities

Quick Review **CFP BOARD**

- ✓ Information provided to Clients
- ✓ **Timing, Delivery, and Updating**

Apply the New Code & Standard **CFP BOARD**

Provide Information to a Client

- A. He has provided the required information.
- B. He has not provided the required information because he can't say that a client is responsible for implementation.
- C. He has not provided the required information because the agreement does not include Material Conflicts of Interest.
- D. He has not provided all required information because he did not give the location of where to find disciplinary or bankruptcy information.

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RECOGNIZE AND AVOID OR DISCLOSE AND MANAGE CONFLICTS

LEARNING OBJECTIVE 5

Conflict of Interest Obligations **CFP BOARD**

- Avoid Material Conflicts of Interest
- For Material Conflicts that are not avoided:
 - Provide Full Disclosure
 - Obtain Informed Consent
 - Manage the Conflict in the Client's Best Interests

Duty to Fully Disclose Material Conflicts **CFP BOARD**

Disclosure Obligation:

- Fully disclose all Material Conflicts of Interest that could affect the professional relationship

Conflict of Interest Defined:

- When interests of CFP® professional (and firm) are adverse to the CFP® professional's duties to the Client, or
- When CFP® professional has duties to one Client that are adverse to another Client

Material:

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

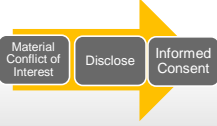
Full Disclosure and Informed Consent **CFP BOARD**

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

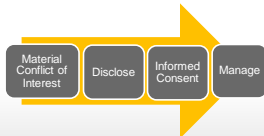
- Written consent is not required
- When will consent be inferred?

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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



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Quick Review **CFP BOARD**

- ✓ **Disclose** Material Conflicts of Interest
- ✓ **Obtain** Informed Consent
- ✓ **Manage** the Conflicts

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Apply the New Code & Standard

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Real Estate Sale

- A. She should ask him what price he wants for the home and meet that price
- B. She should decide what she thinks is fair and offer him no less
- C. She should inform him that she cannot purchase the home unless he obtains independent advice with respect to the sale of the home
- D. She should terminate her relationship with him as his financial planner and then purchase the home.

Recommended Resources

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Go to www.CFP.net

- Full version new *Code and Standards*
- Commentary on the new *Code and Standards*

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THANK YOU
