

CFP BOARD

ETHICS CE:
CFP Board's Revised Code and Standards
Hosted by:
Broker Educational Sales & Training, Inc.

The presentation will begin shortly...

CFP BOARD

**ETHICS CE: CFP BOARD'S REVISED
CODE AND STANDARDS**

ETHICAL PRACTICES FOR CFP® PROFESSIONALS
INSTRUCTOR
EDWARD J. BARRETT
CFP®, ChFC®, CLU®, RPA®, CEBS®, CRPC®,
CRPS®, CPFA®, CEPA®, AIF®

Approved Provider **CFP BOARD**

- ☐ Broker Educational Sales & Training, Inc. (B.E.S.T.)
 - CFP® Provider # 2155
 - Course Approval Code: 277681
- ☐ Instructor: Edward J. Barrett
 - Founder, CEO & President of Broker Educational Sales & Training, Inc. (B.E.S.T.)
 - CFP® certification (1987)
- ☐ Questions
 - Question Box
 - AskEd@brokered.net
 - 800-345-5669



CFP®, ChFC®, CLU®, RPA®,
CEBS®, CRPC®, CRPS®,
CPFA®, CEPA®, AIF®

Conditions For Earning CE Credit **CFP BOARD**

- Each attendee must sign-in using their own log-in
- Attendee must be logged-in at the start of the webinar and remain logged in to the end of the program.
- Attendee must actively participate in all of the Case Study Polling Questions.
 - Polling Question #1

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 June 30, 2020.
- CFP Board created and provided this slide deck to the CE Sponsor for presentation. Any comments that I may make during the presentation are my own and they do not necessarily represent those of the CFP Board.
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LEARNING OBJECTIVES **CFP BOARD**

- Identify the structure and content of the revised *Code and Standards*, including significant changes and how the changes affect CFP® professionals.
- Act in accordance with CFP Board's new fiduciary duty.
- Identify Material Conflicts of Interest and How to Avoid, or Fully Disclose, Obtain Informed Consent, and Manage Them.
- Understand the Duty to Report to CFP Board and the Duty to Cooperate.
- Identify the *Practice Standards* When Providing Financial Advice that Requires Financial Planning.
- Identify situations when you, as a CFP® professional must provide specific information to a client when providing Financial Advice and/or Financial Planning.

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LEARNING OBJECTIVE 1

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

7

The Revised *Code and Standards* **CFP BOARD**

- ❑ Significant Changes to the Content of the Code and Standards
- ❑ The New Structure and Organization
- ❑ Duties of a CFP® professional to:
 - Clients
 - Firms and Subordinates
 - CFP Board

8

The Structure Has Changed **CFP BOARD**

Old Standards	Revised Standards
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

9

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

- ❑ The Code of Ethics provides the commitment that all CFP® professionals make to high standards of competence and ethics. At all times, 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 CFP BOARD

- ❑ The Standards of conduct describe the duties, responsibilities, and the activities that a CFP professional must meet in order to serve in a competent, skilled and efficient manner.
 - Standard A: Duties Owed to Clients
 - Standard B: Financial Planning and Application of the Practice Standards for the Financial Planning Process
 - Standard C: Practice Standards for the Financial Planning Process
 - Standard D: Duties Owed to Firms and Subordinates
 - Standard E: Duties Owed to CFP Board
 - Standard F: Prohibition on Circumventions

Source: <https://www.cfp.net/ethics/code-of-ethics-and-standards-of-conduct>

Duties of a CFP® Professional CFP BOARD

	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 • Use Advice • Fiduciary Duty • Disclose and Manage Conflicts of Interest • Provide Information to a Client • Duties When Recommending, Engaging, and Working with Additional Persons 		
Financial Planning	<ul style="list-style-type: none"> • The Duties That Apply When Providing Financial Advice (see above) • The Broader Standards for the Financial Planning Process • Information to a Client in Writing 		

A CFP® Professional Has Duties That Apply:

13

Duties To Clients: At All Times 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

14

Duties To Clients At All Times CFP BOARD

- ☐ **Integrity (A.2)**
 - Demands honesty and candor that is not subordinated to personal gain or advantage
 - Integrity cannot co-exist with deceit or subordination of principle.
- ☐ **Competence (A.3)**
 - Relevant knowledge and skill
 - Gain competence, obtain assistance, limit or terminate engagement, and/or refer the Client
- ☐ **Diligence (A.4)**
 - Provide Professional Services, including responding to reasonable Client inquiries, in a timely and thorough manner.

15

Duties to Clients At All Times **CFP BOARD**

- ☐ **Sound and Objective Professional Judgment (A.6)**
 - Exercise professional judgment that is not subordinated to the interests of the CFP® professional or others.
 - Avoid considerations that could compromise objectivity.
- ☐ **Professionalism (A.7)**
 - Treat Clients and others with dignity, courtesy, and respect.
- ☐ **Comply With the Law (A.8)**
 - Prohibits a CFP® professional from intentionally or recklessly participating or assisting another person's violation of these standards or the laws, rules, or regulations governing professional services

16

Duties To Clients At All Times **CFP BOARD**

- ☐ **Confidentiality and Privacy (A.9)**
 - Must keep confidential and may not disclose any non-public personal information (NPP) about any prospective, current, or former client
 - Exceptions for ordinary business with Client's consent and for legal/enforcement
 - Must protect security and adopt, implement, and provide written notice of policies
 - Safe Harbor for Reg S-P (or equivalent)
- ☐ **Duties When Communicating With A Client (A.11)**
 - Provide accurate information in an understandable manner and format.

17

Duties To Clients At All Times **CFP BOARD**

- ☐ **Duties When Recommending, Engaging, And Working with Additional Persons (A.13):**
 - Develop reasonable basis for the recommendation or engagement based on the person's reputation, experience and qualifications;
 - Disclose compensation arrangements at time of recommendation or prior to engagement if someone other than the client will compensate the CFP® professional or his/her firm, or a Related Party;
 - Exercise reasonable care to protect the client's interest; and
 - Communicate about services and responsibilities and inform client if the other provider did not perform or uphold responsibilities

18

Duties To Clients At All Times **CFP BOARD**

□ Duties When Selecting, Using and Recommending Technology (A.14)

- Use reasonable care in selecting, using and recommending any software, digital advice tool, or other technology while providing professional services to a client.
- Have a reasonable understanding of assumptions and outcomes of the technology employed.
- Have a reasonable basis for believing the technology produces reliable, objective, and appropriate outcomes.

19

Duties To Clients At All Times **CFP BOARD**

□ Refrain From Borrowing Or Lending Money and Commingling Financial Assets (A.15)

- A CFP® Professional may not, directly or indirectly, borrow money from or lend money to a client unless:
 - The Client is a Family member of the CFP® professional's family; or
 - The lender is a business organization or legal entity in the business of lending money.
- A CFP® Professional may not commingle a client's financial assets with the financial assets of the CFP® Professional or the CFP® Professional's Firm.

20

Duties: Representing Compensation (A.12) **CFP BOARD**

Fee-Only	Fee-Based	Sales-Related Compensation
Addresses whose compensation the standards will consider Can only be used when these two conditions are met: • Neither the CFP professional nor his/her firm receive any sales-related compensation • Related parties receive no sales-related compensation in connection with any professional services the CFP professional or his/her firm provides to Clients	Used when the CFP professional receives compensation in the form of fees and sales-related compensation. Cannot be used in any way that suggests the CFP professional (or his/her) firm is fee-only Must be made clear to Client that either the CFP professional (or his/her firm): • Earns fees and commissions, or • Is not fee only	This term is broad, referring to commissions, trailing commissions, 12b-1 fees, spreads, revenue sharing, solicitor fees or similar consideration. It is more than a de minimis amount and can be used when Client purchases or sells financial assets for purposes other than receiving financial advice.

21

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Understanding the Term “Fee Based”

<https://www.cfp.net/ethics/compliance-resources/2019/02/understanding-the-term-fee-based>

Time 1:28 (min: sec)

22

Duties: Representing Compensation **CFP BOARD**

Other Key Terms Related to Compensation

- **The CFP® professional’s firm** – any entity on behalf of which a CFP® professional provides professional services to a Client and has the authority to exercise control over a CFP professional’s activities. Includes the CFP® professional’s employer, broker-dealer, registered investment adviser, insurance company, and insurance agency.
- **A related party** – a person or business entity whose receipt of sales-related compensation would be viewed as benefiting the CFP® professional or his or her firm. Sales-Related Compensation received by a related party is “in connection with any Professional Services” if it results, directly or indirectly, from Client transactions referred or facilitated by the CFP® professional or the CFP® professional’s firm.

23

Duties: Representing Compensation **CFP BOARD**

Safe Harbor for Related Parties

- Sales-related compensation received by a related party is not “in connection with any professional services” if the CFP® professional or his or her firm implements policies and procedures to prevent the CFP® professional or his or her firm from recommending that any Client purchase financial assets from or through, or refer any Clients to, the related party.

24

Case Study 1 **CFP BOARD**

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.

25

Question? **CFP BOARD**

Has Mildred complied with the Duties When Representing Compensation Method to Thomas?

26

Response Options **CFP BOARD**

- 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 payment from mutual funds, and thus she has no incentive to recommend the mutual funds to Client.

27

Response A

CFP BOARD

Response A is not the best response

- Mildred may not represent her compensation method as "fee-only."
- While Mildred does not receive any additional compensation when her Clients invest in the mutual funds, her personal compensation is only one factor that she must consider in determining whether she may represent her compensation method as "fee-only".
- Mildred also must consider the compensation that her firm and any Related Parties receive. Because her firm receives Sales-Related Compensation in the form of revenue sharing payments, Mildred may not refer to her compensation method as "fee-only."

25

Response C

CFP BOARD

Response C is Not the Best Response

- Mildred's duty when representing her compensation method depends upon the objective facts, not her subjective understanding of the facts.
- A CFP® professional who decides to represent his or her compensation method as "fee-only" has a duty to know the objective facts and make truthful and non-misleading representations about those facts.

26

Response B

CFP BOARD

Response B is the best response.

- This case involves the Duties When Representing Compensation Method (A.12).
- Here the revenue sharing payments are Sales Related Compensation because they are more than a *de minimis* economic benefit that results from the Client purchasing an investment in the mutual fund.
- Mildred may not refer to her compensation method as "fee-only" because her firm will receive Sales-Related Compensation.
- Mildred is responsible for knowing whether she or her firm receives Sales-Related Compensation, and whether any Related Parties receive Sales-Related Compensation in connection with any Professional Services she or her firm provides to Clients.

27

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LEARNING OBJECTIVE 2

DESCRIBE CFP BOARD'S FIDUCIARY DUTY

31

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The Fiduciary Duty (A.1)

- Fiduciary duties that must be fulfilled to act in the clients' best interests.
- Define Financial Advice
- Define Who is a Client

32

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Fiduciary Duty (A.1)

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:

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@ G x w | r i O r | d o w |

G x w | r i F d u h

G x w | w r I r o r z
F o h q w I q v w x f w i r q v

33

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THE FIDUCIARY OBLIGATION

- <https://www.cfp.net/ethics/compliance-resources/2018/12/the-fiduciary-obligation>
- Time 1:50 (min:sec)

34

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Define: 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, or selling Financial Assets
- Investment policies or strategies, portfolio composition, or asset management
- The selection and retention of other persons to provide financial or Professional Services to the Client, or
- The exercise of discretionary authority over Financial Assets.

The more individually tailored the communication is to the client, the more likely the communication will be viewed as financial advice.

35

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Define: 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.

The determination of whether Financial Advice has been provided is an objective rather than subjective inquiry.

36

Define: Who Is A Client? **CFP BOARD**

- **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.”**
 - An “*engagement*” is an “oral or written agreement, arrangement or understanding.”
 - Therefore, unless there is an agreement, arrangement or understanding that the CFP® profession will be providing professional services, the person receiving the information is not a “client,” and the CFP® professional does not have a fiduciary duty to that person.

37

Cryptocurrency **CFP BOARD**

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NOTICE TO CFP® PROFESSIONALS REGARDING FINANCIAL ADVICE ABOUT CRYPTOCURRENCY-RELATED ASSETS

- The Code and Standards Applies to Financial Advice About Cryptocurrency-Related Assets
- Cryptocurrency-related assets are financial products that fall within CFP Board’s definition of Financial Assets.
- A CFP® professional does not violate the Code and Standards when the CFP® professional does not provide Financial Advice about cryptocurrency-related assets.
- The Code and Standards does not prohibit a CFP® professional from providing Financial Advice about cryptocurrency-related assets
- Fiduciary Duty (Duty of Care) and the Duty of Competence, Duty to Follow Client Instructions, Duty to follow the Law, and the Duties when Selecting, Recommending, and Using Technology

38

Case Study 2 **CFP BOARD**

- **Applying the Code and Standards’ Fiduciary Duty to Rollover Recommendations**
 - Sarah, a CFP® professional, is engaged by Betty, who is retiring soon, to provide Financial Advice. Betty has most of her retirement funds invested in her employer’s 401(k) plan.
 - Sarah does not obtain any information about the 401(k) plan because she assumes that there are more investment options available in an individual retirement account (“IRA”) than in Betty’s 401(k) plan. Based on this, Sarah believes Betty’s portfolio would be better off in an IRA.
 - Sarah properly discloses her Material Conflicts of Interest to Betty. Sarah then recommends that Betty take a distribution from her 401(k) plan and roll the assets into an IRA, which Sarah would manage.
 - Sarah intends to analyze and recommend an investment strategy for the IRA after the funds have been distributed to the IRA.

39

Question? **CFP BOARD**

Did Sarah satisfy her fiduciary duty?

Response Options **CFP BOARD**

A. Yes. Sarah satisfied her Fiduciary Duty in recommending the distribution and rollover.

B. No. Sarah did not satisfy her Fiduciary Duty in recommending the distribution and rollover.

Response A **CFP BOARD**

Response A is not the best response.

- Sarah did not satisfy her Fiduciary Duty (more particularly, her Duty of Care) in recommending the distribution and rollover.

Response B

CFP BOARD

Response B is the best response.

- This case involves the Fiduciary Duty (A-1) and the definitions of Client and Financial Advice.
- This case study focuses on the Duty of Care, which requires a CFP® professional to act with the care, skill, prudence, and diligence that a prudent professional would exercise in light of the Client's goals, risk tolerance, objectives, and financial and personal circumstances.
- To satisfy the Duty of Care, Sarah should act in light of Betty's goals, risk tolerance, objectives, and financial and personal circumstances. Sarah should compare the features of the 401(k) plan and the potential IRA when making her recommendation to Betty. Sarah should apply the factors that a prudent CFP® professional would determine are relevant, including the relative features and options of the 401(k)-plan compared to a rollover IRA, and determine which choice is best for Betty given her goals, risk tolerance, objectives, and financial and personal circumstances.
 - FINRA has identified a non-exhaustive list of factors that are relevant to this analysis, such as the fees and expenses, investment options, services, availability of penalty-free withdrawals, protection from creditors and legal judgments, required minimum distributions, and issues related to investments in employer stock.
- Sarah did not act with the care, skill, prudence and diligence that the Duty of Care requires because she recommended the distribution and rollover without analyzing how the features and options of the 401(k)-plan compared to the potential IRA. Sarah also should have consulted her firm's policies and procedures, which may specifically address potential rollovers of 401(k) plan assets.

43

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LEARNING OBJECTIVE 3

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

44

Conflicts of Interest (A.5)

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CFP® professionals who provide financial advice must avoid any material conflict of interest that could affect a Client relationship.

- Conflict(s) must be "material":
 - Client would consider the conflict of interest important in making a decision.
- Material conflicts of interest typically arise when:
 - A CFP professional's interests (including the interest of his or her 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.

45

Full Disclosure of Conflicts of Interest **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?
- ❑ **Manage Conflicts**
 - Adopt and follow business practices reasonably designed to prevent Material Conflicts from compromising your ability to act in the Client’s best interests

45

Management of Conflicts **CFP BOARD**

CFP BOARD

GUIDE TO MANAGING MATERIAL CONFLICTS OF INTEREST

CFP BOARD’S CODE OF ETHICS AND STANDARDS OF CONDUCT

- ❑ **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**

<http://www.cfp.net/-/media/files/cfp-board/standards-and-ethics/compliance-resources/guide-to-managing-conflicts.pdf?rev=81ba8a1155774d274e1085c5c411e0df99a316>

47

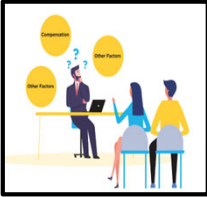
The Three-Step Process **CFP BOARD**

- ❑ **In developing and adopting business practices for conflicts management, a CFP® professional should follow a three-step process:**
 - **Step 1: Identify Material Conflicts of Interest.** Develop (and periodically review and update) a comprehensive list of the Material Conflicts of Interest that may arise in the CFP® professional’s practice.
 - **Step 2: Review & Evaluate Existing Practices for Management of Conflicts.** Review the CFP® professional’s Firm’s conflict management or mitigation practices and any additional conflict management practices that the CFP® professional follows.
 - **Step 3: Implement Any Additional Conflict Management Practices.** Consider any additional steps the CFP® professional needs to take to properly manage conflicts under the Code and Standards and implement any such practices.

48

Examples of Conflicts of Interest **CFP BOARD**

- Compensation and Incentives
- Rollovers from an Employer Plan to an IRA
- Using Assets to Invest Versus Paying off Debt
- Recommending an Asset Allocation Strategy



In each of these circumstances, a CFP® professional can manage the Material Conflict of Interest by relying on a prudent process to determine which alternative is in the best interests of the Client based on the Client's goals, risk tolerance, objectives, and financial and personal circumstances.

CASE STUDY 3 **CFP BOARD**

- 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.

Question? **CFP BOARD**

- How Should Olivia Proceed?**
- Response Options:**
 - A. Olivia should disclose to Michael that one of the insurance companies is affiliated with her firm and if Michael purchases an annuity from that insurance company, Olivia's firm will receive an economical benefit on that transaction.
 - B. Olivia should assume that because the affiliated company and the insurance company 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

Response B

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Response B is not the best response

- It is not reasonable to assume that Michael understands the conflict solely from the fact that the names of the firm and the affiliate are similar.

Response C

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Response C is not the best response.

- If DEF Advisers' affiliation with DEF Mutual, and the additional economic benefit, are fully disclosed and informed consent is obtained, Olivia may manage the conflict through business practices reasonably designed to prevent the Material Conflict of Interest from compromising her ability to act in the Client's best interests.
- Here, for example, Olivia has analyzed the annuities that are available to Michael, and she may recommend the annuity issued by DEF Mutual if she concludes that the annuity is in Michael's best interests.

Response A

CFP BOARD

Response A is the best response

- This case involves the Duty to Disclose and Manage Conflicts of Interest (Standard A.5.) and the definitions of Material Conflict of Interests.
- In this case, the affiliation between Olivia's firm and the insurance company that issued the annuity, and the fact that Olivia's firm and an affiliate of Olivia's firm will receive an additional economic benefit if Michael purchases an annuity from that insurance company, are Material Conflicts of Interest.
- As a result, Olivia must make full disclosure of the potential additional economic benefit that will result if Michael purchases the annuity from the affiliate and obtain Michael's informed consent to the Material Conflict of Interest before or when recommending the annuity issued by the affiliate.

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LEARNING OBJECTIVE 4

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

55

Importance of Duties to Report and Cooperate **CFP BOARD**

□ **The Duty to Report (E.3) and the Duty to Cooperate (E.5) 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.

56

Duty to Report **CFP BOARD**

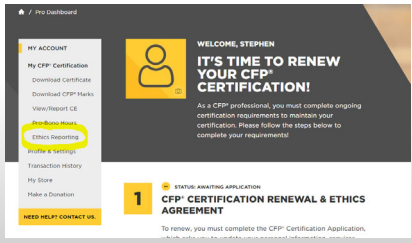
CFP BOARD

DUTY TO REPORT INFORMATION TO CFP BOARD AND DUTY TO COOPERATE WITH CFP BOARD INVESTIGATIONS
CODE OF ETHICS AND STANDARDS OF CONDUCT

- Applies at the initiation and the conclusion of the reportable matter.
- Within 30 days.
- A narrative statement that accurately and completely 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).
- Can seek guidance on the Duty to Report at compliance@cfpboard.org.

57

SELF REPORTING **CFP BOARD**



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

<https://www.cfp.net/ethics/compliance-resources>

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Document	Compliance Resources Location
DUTY TO REPORT INFORMATION TO CFP BOARD AND DUTY TO COOPERATE WITH CFP BOARD INVESTIGATIONS	Page Link: https://www.cfp.net/ethics/compliance-resources/2020/06/duty-to-report-information-to-cfp-board-and-duty-to-cooperate-with-cfp-board-investigations Document PDF Link: https://www.cfp.net/-/media/files/cfp-board/standards-and-ethics/cfp-board-duty-to-report-and-cooperate.pdf

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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 .

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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.

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Duty to Cooperate **CFP BOARD**

□ The Code and Standards (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.

62

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PROPOSED REVISED SANCTION GUIDELINES

ISSUED FOR PUBLIC COMMENT ON SEPTEMBER 5, 2023

CFP BOARD

PROPOSED REVISED FITNESS STANDARDS FOR CANDIDATES FOR CFP® CERTIFICATION AND FORMER CFP® PROFESSIONALS SEEKING REINSTATEMENT

ISSUED FOR PUBLIC COMMENT ON SEPTEMBER 5, 2023

63

CFP BOARD

CFP BOARD

**PROPOSED
REVISED
SANCTION
GUIDELINES**

ISSUED FOR PUBLIC COMMENT ON SEPTEMBER 5, 2023

CFP BOARD

**PROPOSED REVISED
FITNESS STANDARDS
FOR CANDIDATES FOR
CFP® CERTIFICATION
AND FORMER
CFP® PROFESSIONALS
SEEKING REINSTATEMENT**

ISSUED FOR PUBLIC COMMENT ON SEPTEMBER 5, 2023

64

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LEARNING OBJECTIVE 5

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

65

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Updated Practice Standards

- The new definition of Financial Planning
- The Revised Standard for Determining Whether the Practice Standards Apply
- The Integration Factors in determining whether a CFP® professional has agreed to provide or provided Financial Advice that Requires Financial Planning
- Options When Required to Comply with the Practice Standards but the Client Does Not Want Financial Planning
- Documentation standard that applies when financial planning is required
- Updates to the Steps (seven) in the Financial Planning Process

66

An Updated Financial Planning Definition (B.1) CFP BOARD

Old Standards	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>

67

Application of the Practice Standards (B.3) CFP BOARD

- **The Practice Standards set forth the Financial Planning Process. A CFP professional must comply with the Practice Standards when:**
 - The CFP® professional agrees to provide or provides:
 - Financial Planning; or
 - Financial Advice that requires integration of relevant elements of the Client’s personal and/or financial circumstances in order to act in the Client’s best interests (“Financial Advice that requires Financial Planning”); or
 - The Client has a reasonable basis to believe the CFP® professional will provide or has provided Financial Planning.

<https://www.cfp.net/media/files/cfp-board/standards-and-ethics/compliance-resources/guide-to-financial-planning-process.pdf?e=an&hash=A8FV2CC2451B8E07E4FB66DE09A64F68>

68

Integration Factors (B.4) CFP BOARD

- **Among the factors that CFP Board will weigh in determining whether a CFP® professional has agreed to provide or provided Financial Advice that Requires Financial Planning are:**
 - 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 exposure to risk if the Client implements the Financial Advice; and;
 - The barriers to modifying the actions taken to implement the Financial Advice.

69

CFP Board Evaluation (B.5) **CFP BOARD**

❑ In a disciplinary proceeding in which a CFP® professional denies CFP Board’s allegation that the CFP® professional was required to comply with the Practice Standards, the CFP® professional must demonstrate that compliance with the Practice Standards was not required.

Clients Who Do Not Want Financial Planning **CFP BOARD**

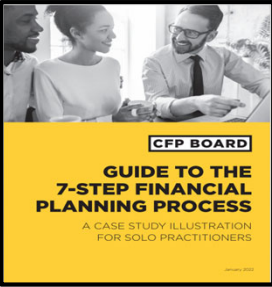
- ❑ If a CFP® professional otherwise must comply with the Practice Standards, but the Client does not agree to engage for Financial Planning, a CFP® professional must either:**
- Not enter into the Engagement;
 - Limit the scope of services that do not require Financial Planning;
 - Provide the requested service but explain how Financial Planning will benefit the Client and how not providing Financial Planning will limit the Financial Advice; or
 - Terminate the Engagement.

Practice Standards Documentation **CFP BOARD**


- ❑ 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
 - E-mails

WHEN IN DOUBT, DOCUMENT

Seven Steps: The Financial Planning Process **CFP BOARD**



GUIDE TO THE 7-STEP FINANCIAL PLANNING PROCESS
A CASE STUDY ILLUSTRATION FOR SOLO PRACTITIONERS



73

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Video	Compliance Resources Location
THE FIRST THREE STEPS OF THE FINANCIAL PLANNING PROCESS	https://www.cfp.net/ethics/compliance-resources/2019/08/the-first-three-steps-of-the-financial-planning-process Time: 1:39

74

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Video	Compliance Resources Location
THE FOURTH AND FIFTH STEPS OF THE FINANCIAL PLANNING PROCESS	https://www.cfp.net/ethics/compliance-resources/2019/08/the-fourth-and-fifth-steps-of-the-financial-planning-process Time: 1:16

75

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Video	Compliance Resources Location
THE SIXTH AND SEVENTH STEPS OF THE FINANCIAL PLANNING PROCESS	https://www.cfp.net/ethics/compliance-resources/2019/09/the-sixth-and-seventh-steps-of-the-financial-planning-process Time: 2:30

75

Case Study 4 **CFP BOARD**

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.

77

Question? **CFP BOARD**

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

78

Response Options

CFP BOARD

- 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.

Response A

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- Response A is not the best response.**
 - Rick must first 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.
 - After those discussions, Rick may instruct the Clients to complete an online account application to begin implementing the recommendations.

Response B

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- Response B is not the best response.**
 - The Practice Standards does not require providing to a Client the CFP® professional's track record for investment recommendations. In fact, in isolation only showing past performance may be misleading.

Response D **CFP BOARD**

Response D is not the best response.

- Rick is not required to provide the Clients with an insurance agent recommendation.
- However, when providing a recommendation, Rick must have a reasonable basis for the recommendation based on the agent's reputation, experience, and qualifications.
- Rick must also disclose to the Clients any arrangement by which Rick would receive any additional compensation.
- Rick should also check his firm's policies and procedures which could require that Rick provide to the Clients the names of at least several qualified insurance agents.

Response C **CFP BOARD**

Response C is the best response.

- This case involves the Practices Standards for the Financial Planning Process, Implementing the Financial Planning Recommendations (C.6).
- In this case, Rick has already disclosed his Material Conflicts of Interest and how he will manage those conflicts. Therefore, the next step is for Rick to 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.

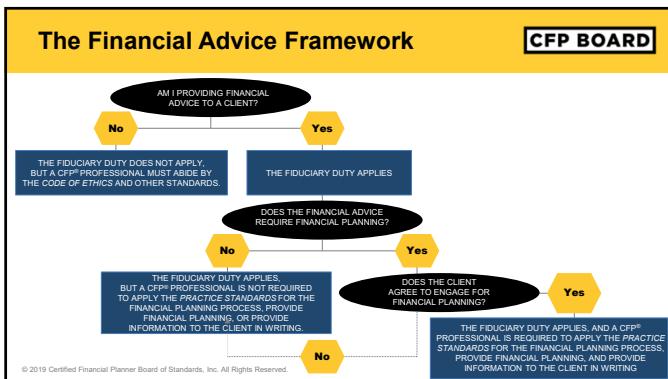
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LEARNING OBJECTIVE 6

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

A Closer Look at Financial Advice CFP BOARD	
What is Financial Advice?	Examples
<ul style="list-style-type: none"> A communication that, based on its content, context, and presentation, would reasonably be viewed as a recommendation for a course of action that a Client should or refrain from taking. It can also involve the exercise of discretionary authority over a Client's financial assets. 	<ul style="list-style-type: none"> 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. The selection and retention of other persons to provide financial services to the Client

What Is Not Financial Advice? CFP BOARD
<ul style="list-style-type: none"> 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: <ul style="list-style-type: none"> Marketing Materials; General Financial Education; and General Financial Communications.



Duty to Provide Information- Financial Advice **CFP BOARD**

Financial Advice

<p>Provide in One or More Written Documents</p> <p>Privacy Policy</p>	<p>Provide Orally or in Writing</p> <p>Material Conflicts of Interest</p> <p>Services and Products</p> <p>How the Client Pays</p> <p>How you, your Firm, and Related Parties are Compensated</p> <p>Public Discipline and Bankruptcy</p> <p>Referral Compensation Arrangements</p> <p>Other Material Information</p>
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85

Financial Advice Engagement Checklist **CFP BOARD**

CFP BOARD CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

FINANCIAL ADVICE ENGAGEMENTS COMPLIANCE CHECKLIST

Section A - Financial Advice

Section B - Financial Planning Engagement

Section C - Marketing

Section D - Marketing Information to a Client

Compliance Resources Location

Document PDF Link:
<https://www.cfp.net/-/media/files/cfp-board/standards-and-ethics/Compliance-Resources/CFP-Board-Guidance-FA-Checklist.pdf>

89

Am I Providing Financial Planning? **CFP BOARD**

Have I agreed to provide or have I provided Financial Planning?
 \HV QR

Does the Financial Advice I agreed to provide require integration of relevant elements of the Client's personal and/or financial circumstances in order to act in the Client's best interests, taking into account the Integration Factors set forth to the right?
 \HV QR

Does the Client have a reasonable basis to believe that I will provide or have provided Financial Planning?
 \HV QR

Integration Factors:

- 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.

90

Duty to Provide Information- Financial Planning **CFP BOARD**

Financial Planning	
Provide in One or More Written Documents	Provide Orally or in Writing
Privacy Policy	Material Conflicts of Interest
Services and Products	
How the Client Pays	
How you, your Firm, and Related Parties are Compensated	
Public Discipline and Bankruptcy	
Referral Compensation Arrangements	
Terms of Engagement (Implementing, Monitoring, and Updating Is Required Unless Explicitly Excluded)	
Other Material Information	

91

Financial Planning Engagement Checklist **CFP BOARD**

<p>CFP BOARD CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.</p> <p>FINANCIAL PLANNING ENGAGEMENTS COMPLIANCE CHECKLIST</p> <p><small>This document is intended to provide a general overview of the requirements of the CFP® Board's Standards of Professional Practice. It is not intended to be a substitute for the full text of the Standards of Professional Practice. For more information, please refer to the full text of the Standards of Professional Practice.</small></p>		<p>Compliance Resources Location</p> <p>Document PDF Link: https://www.cfp.net/-/media/files/cfp-board/standards-and-ethics/Compliance-Resources/CFP-Board-Guidance-FP-Checklist.pdf</p>
<p>Section 1: Pre-Engagement</p> <p>1.1 Determine the client's needs and objectives.</p> <p>1.2 Determine the client's financial situation.</p> <p>1.3 Determine the client's risk tolerance.</p> <p>1.4 Determine the client's investment objectives.</p> <p>1.5 Determine the client's time horizon.</p> <p>1.6 Determine the client's liquidity needs.</p> <p>1.7 Determine the client's tax situation.</p> <p>1.8 Determine the client's estate planning needs.</p> <p>1.9 Determine the client's retirement needs.</p> <p>1.10 Determine the client's insurance needs.</p> <p>1.11 Determine the client's charitable giving needs.</p> <p>1.12 Determine the client's other financial goals.</p>	<p>Section 2: Engagement Process</p> <p>2.1 Obtain the client's informed consent.</p> <p>2.2 Determine the scope of the engagement.</p> <p>2.3 Determine the fee structure.</p> <p>2.4 Determine the terms of the engagement.</p> <p>2.5 Determine the client's understanding of the engagement.</p> <p>2.6 Determine the client's understanding of the fee structure.</p> <p>2.7 Determine the client's understanding of the terms of the engagement.</p> <p>2.8 Determine the client's understanding of the scope of the engagement.</p> <p>2.9 Determine the client's understanding of the fee structure.</p> <p>2.10 Determine the client's understanding of the terms of the engagement.</p> <p>2.11 Determine the client's understanding of the scope of the engagement.</p> <p>2.12 Determine the client's understanding of the fee structure.</p>	

92

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

- Timing (A.10.a)** -The required information must be provided prior to or at the time of the Engagement.
- Delivery (A.10.b)** - 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.10.d)**: 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.

93

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THE END!

94

Resources **CFP BOARD**

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>

B.E.S.T. Continuing Education on-line at: www.best-cfp.com

95

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Reporting of CE Credit Hours

- B.E.S.T. will report your CE Ethics credits to the CFP Board within 48 hours of this webinar (meeting CE requirements).
 - CFP Board will forward you a confirmation
- You will receive a Certificate of Completion within 7 – 10 business days of the webinar participation.

96

DON'T FORGET....

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✓ Importance of the Program Evaluation Form:

The CFP Board Ethics CE Curriculum is designed to ensure all CFP® professionals receive value for their time and perceive the content delivered as meaningful to their daily experiences. The Participant evaluation process is a critical component to ensuring the CFP Board meets this goal.

Go to Chat Box:

Click on link to be redirected to the Evaluation Form.

Complete then submit the Evaluation Form.

(<https://surveymonkey.com/r/P9TGFNZ>)

97

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THANK YOU
