

B. FINANCIAL PLANNING AND APPLICATION OF THE PRACTICE STANDARDS FOR THE FINANCIAL PLANNING PROCESS, 4. INTEGRATION FACTORS:

2: WHEN FINANCIAL ADVICE DOES NOT REQUIRE FINANCIAL PLANNING

Juan, a CFP® professional, receives a call from prospective clients Cristabella and Miguel. They are expecting their first child and want to begin to save for the child's education. Juan sends Cristabella and Miguel a questionnaire, which they complete and return to Juan, requesting personal information such as their names, ages, net worth, income, and risk profile. Juan schedules a meeting to better understand their personal and financial circumstances. After the meeting, Juan uses his education funding calculator to prepare an education funding analysis applying a balanced risk tolerance that is consistent with Cristabella and Miguel's answers on the questionnaire. Juan agrees to examine in-state and out-of-state college costs and determine the monthly amount they would need to save to fund the education goal for either an in-state or out-of-state educational institution.

QUESTION 1:

Is Juan required to provide Financial Planning to Cristabella and Miguel?

RESPONSE OPTIONS:

- A. Yes, Juan is required to provide Financial Planning to Cristabella and Miguel.
- B. No, Juan is not required to provide Financial Planning to Cristabella and Miguel.

Best Response: Response B is the best response. This question involves the Application of the Practice Standards for the Seven-Step Financial Planning Process (Standard B.3.) ("Practice Standards"), the Integration Factors (Standard B.4.), and the Duty to Provide Information to a Client (Standard A.10.).

A CFP® professional must comply with the Practice Standards, and therefore, provide Financial Planning, when:

- a. The CFP® professional agrees to provide or provides:
 - i. Financial Planning; or
 - ii. 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
- b. The Client has a reasonable basis to believe the CFP® professional will provide or has provided Financial Planning.

In this circumstance, there is no explicit agreement for Juan to provide Financial Planning to Cristabella and Miguel. In addition, Cristabella and Miguel do not have a reasonable basis to believe Juan will provide or has provided Financial Planning. Therefore, the issue is whether Juan's Financial Advice requires integration of relevant elements of Cristabella and Miguel's personal and/or financial circumstances in order to act in Cristabella and Miguel's best interests, such that Juan is required to provide Financial Planning to Cristabella and Miguel. CFP Board has established the following "Integration Factors" that CFP Board will weigh in making that determination:

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

In this circumstance, Cristabella and Miguel have requested education planning. CFP Board would weigh the Integration Factors as follows:

- Juan's Financial Advice will not affect many relevant elements of Cristabella's and Miguel's personal and financial circumstances. Cristabella and Miguel have not asked Juan to help them manage assets and liabilities, identify and manage risks, preserve or increase wealth, prepare for retirement, or address other long-term goals. Moreover, the Financial Advice that Juan provided was limited. Juan was able to provide Financial Advice using an education funding calculator that enabled him to determine the amount of money Cristabella and Miguel would need to save each month to fund their education goal. This factor weighs against a finding that Financial Planning is required.

- The portion and amount of Cristabella and Miguel's Financial Assets that may be affected by Juan's Financial Advice is limited, given that Juan only would be providing Finance Advice on a saving strategy for the account (such as a 529 savings plan) that they will use to meet their education goal. Therefore, this factor also weighs against a finding that Financial Planning is required.
- Cristabella's and Miguel's personal and financial circumstances may be affected for a lengthy period of time, given that the education goal will span a 22-year time frame (i.e., 18 years of saving prior to college plus 4 years of spending during college). This weighs in favor of a finding that Financial Planning is required.
- The effect on Cristabella and Miguel's overall exposure to risk should be limited since they will be adding money on a monthly basis in a balanced portfolio. This factor weighs against a finding that Financial Planning is required.
- The barriers to modifying the actions taken to implement Financial Advice to fund a 529 plan weigh in favor of a finding that Financial Planning is required because there are barriers to taking funds out of a 529 savings plan. If Cristabella and Miguel need to access the money in the 529 savings plan for something other than for qualified education expenses, then they may have to pay taxes and a penalty.

Based upon a weighing of the Integration Factors, Juan is not providing Cristabella and Miguel with Financial Advice that requires Financial Planning. Therefore, Juan is not responsible for providing Financial Planning, complying with the Practice Standards, or providing the additional information that the Duty to Provide Information to a Client requires a CFP® professional to provide to a Client when providing or required to provide Financial Planning. Nevertheless, Juan is required to comply with the Fiduciary Duty that applies when providing Financial Advice to a Client as well as the Duties that apply at all times, such as the Duties of Integrity, Competence, and Diligence.

QUESTION 2:

Would Juan be required to provide Financial Planning to Cristabella and Miguel if they requested Financial Advice with respect to both education and retirement savings?

RESPONSE OPTIONS:

- A. Yes, Juan may be required to provide Financial Planning to Cristabella and Miguel.
- B. No, Juan will not be required to provide Financial Planning to Cristabella and Miguel.

Best Response: Response A is the best response. This question involves the same standards that applied to Question 1.

In this circumstance, Juan may be required to provide Financial Planning if Cristabella and Miguel request additional Financial Advice beyond the education analysis that they already requested.

CFP Board would weigh the Integration Factors in this case as follows:

- Juan is addressing several additional relevant elements of Miguel and Cristabella's personal and financial circumstances, including their need for or desire to manage cash flow in order to provide for retirement needs, insurance needs, and educational needs, which weighs in favor of a finding that Financial Planning is required.
- The Financial Advice will affect most, if not all, of Miguel's and Cristabella's Financial Assets, which also weighs in favor of a finding that Financial Planning is required.
- Since Juan will be providing Cristabella and Miguel with retirement projections for their life expectancy, an insurance need analysis to life expectancy, and a 22-year education analysis, the Financial Advice may affect Cristabella's and Miguel's personal and financial circumstances for a long time. This weighs in favor of a finding that Financial Planning is required.
- Cristabella's and Miguel's overall exposure to risk may increase because Juan will be reviewing all of their Financial Assets, including their 401k plans and insurance policies, and may recommend changes to their retirement contributions, asset allocation, and insurance coverage. This also weighs in favor of a finding that Financial Planning is required.
- The barriers to modifying the actions taken to implement the Financial Advice also may increase. Juan may recommend changes to life insurance coverage that may be difficult to modify if Cristabella and Miguel's health changes or as they age. In addition, Juan may provide Financial Advice regarding a Roth IRA conversion, the purchase of a deferred annuity, and maximizing 401k plan contributions. Each of these actions may be difficult to modify in the future, and thus would weigh in favor of a finding that Financial Planning is required.

Based upon a weighing of the Integration Factors, Juan would be providing Miguel and Cristabella with Financial Advice that requires Financial Planning. Most significantly, Juan's Financial Advice likely will: (a) affect several relevant elements of Cristabella's and Miguel's personal and financial circumstances; (b) affect Cristabella's and Miguel's personal and financial circumstances for a long time; and (c) be difficult to modify, if implemented. Therefore, Juan would be required to provide Financial Planning to Cristabella and Miguel.

Because Juan is required to provide Financial Planning, Juan has additional duties to Cristabella and Miguel. Juan is required to comply with the Practice Standards. In addition, under the Duty to Provide Information to a Client, most of the information that Juan may have provided to Miguel and Cristabella orally (or in writing) when providing Financial Advice now must be delivered to them in writing, in one or more written documents. This includes the following information, which must be provided prior to or at the time of Engagement:

- 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 that the Client may incur;
- How the CFP® professional, the CFP® Professional's Firm's, and any Related Party are compensated for providing the products and services;
- The existence of any public discipline and bankruptcy, and the locations of the webpages of certain public websites that sets for the CFP® professionals' public disciplinary history or any personal or business bankruptcy when the CFP® professional was a Control Person;
- Full disclosure of all Material Conflicts of Interest with the CFP® professional's Client that could affect the professional relationship, including sufficiently specific facts so that a reasonable Client would be able to understand the CFP professional's Material Conflicts of Interest and the business practices that give rise to the conflicts, and give informed consent to such conflicts or reject them;
- A written notice at the time of the Engagement identifying policies regarding the protection, handling, and sharing of a client's non-public personal information that were adopted and implemented by the CFP® professional's Firm, and thereafter not less than annually except under certain enumerated circumstances.
- Any arrangement by which someone who is not the Client will compensate or provide some other material economic benefit to the CFP® professional, the CFP® Professional's Firm, or a Related Party for engaging or recommending the selection or retention of additional persons to provide financial or Professional Services for a Client; and
- Any other information about the CFP® professional or the CFP® Professionals' Firm that is Material to a Client's decision to engage or continue to engage the CFP® professional or the CFP® Professional's Firm.

Juan also must provide to Cristabella and Miguel the terms of the Engagement, including the Scope of Engagement and any limitations, the periods during which the services will be provided, and Cristabella and Miguel's responsibilities. Juan is responsible for implementing, monitoring, and updating the Financial Planning recommendation(s) unless specifically excluded from the Scope of Engagement.

QUESTION 3:

If Juan determines that it is in Cristabella and Miguel's best interests to deliver Financial Planning to Cristabella and Miguel, but Cristabella and Miguel confirm that they do not want Financial Planning, is Juan still required to comply with the Practice Standards?

RESPONSE OPTIONS:

- A. Yes, Juan is required to comply with the Practice Standards if Cristabella and Miguel do not want Financial Planning.
- B. No, Juan is not required to comply with the Practice Standards if Cristabella and Miguel do not want Financial Planning.

Best Response: Response B is the best response. This question involves the standard "No Client Agreement to Engage for Financial Planning" (Standard B.6.).

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

- a. Not enter into the Engagement;
- b. Limit the Scope of Engagement to services that do not require application of the Practice Standards, and describe to the Client the services the Client requests that the CFP® professional will not be performing;
- c. Provide the requested services after informing the Client how Financial Planning would benefit the Client and how the decision not to engage the CFP® professional to provide Financial Planning may limit the CFP® professional's Financial Advice, in which case the CFP® professional is not required to comply with the Practice Standards; or
- d. Terminate the Engagement.

In this circumstance, Juan is not required to comply with the Practice Standards. Although Juan believes it is in Cristabella's and Miguel's best interests to engage in Financial Planning, Cristabella and Miguel decide they only want Financial Advice on education funding and retirement savings. Therefore, Juan and the Clients agree that Juan will provide them only educational and retirement planning, after Juan informs Cristabella and Miguel how Financial Planning would benefit them and how the decision to not engage him to provide Financial Planning may limit his Financial Advice.

Consequently, because Juan is not providing Financial Planning to Cristabella and Miguel, Juan is not required to comply with the Practice Standards. Juan also is not required to comply with the additional requirements set forth in the Duty to Provide Information to a Client that apply when a CFP® professional is providing or required to provide Financial Planning in accordance with the Practice Standards, nor is he required to provide the terms of their Engagement in writing. Nevertheless, Juan is required to comply with the Fiduciary Duty that applies when providing Financial Advice to a Client as well as the Duties that apply at all times, such as the Duties of Integrity, Competence, and Diligence.

Relevant Standards and Definitions: Application of Practice Standards (Standard B.3.); Integration Factors (Standard B.4.); No Client Agreement to Engage for Financial Planning (Standard B.6.); Duty to Provide Information to a Client (Standard A.10.).