

**CFP BOARD**

# **PROCEDURAL RULES**

PROPOSED 2026 REVISIONS

# ARTICLE 5: PETITIONS FOR FITNESS

CFP Board has adopted *Fitness Standards* that provide the standards against which CFP Board will evaluate the ethical fitness of Respondents who are candidates for CFP® certification and former CFP® professionals seeking reinstatement whose certification CFP Board has not suspended or temporarily barred.

## 5.1 ELIGIBILITY TO FILE PETITION FOR FITNESS

- a. If a Respondent has engaged in conduct that presents an Absolute Bar as set forth in the *Fitness Standards*, then Respondent may not file a Petition for Fitness and may not obtain CFP® certification.
- b. If a Respondent has engaged in conduct that renders a Respondent Currently Ineligible for CFP® certification as set forth in the *Fitness Standards*, then Respondent may not file a Petition for Fitness.
- c. If a Respondent has engaged in conduct that requires Respondent to file a Petition for Fitness as set forth in the *Fitness Standards*, then Respondent must (i) sign the *Pathway to CFP® Certification Agreement*, and (b) file a Petition for Fitness in which Respondent requests an order finding ethical fitness for CFP® certification.
- d. Enforcement Counsel must deliver to a Respondent who is required to file a Petition for Fitness, and contemporaneously file with the DEC, a Fitness Notice. The Fitness Notice must include numbered paragraphs setting forth with factual detail the reasons the Fitness Standards require Respondent to file a Petition for Fitness. Enforcement Counsel will use reasonable efforts to redact any exhibits to the Fitness Notice pursuant to Article 6.1. Enforcement Counsel may amend the Fitness Notice at any time.
- e. A former CFP® professional seeking reinstatement whose certification has been suspended or temporarily barred must file a Petition for Reinstatement Eligibility and is not eligible to file a Petition for Fitness.

## 5.2 PETITION FOR FITNESS

- a. Respondent must deliver to Enforcement Counsel and contemporaneously file with the DEC a written Petition within 30 calendar days of the delivery of the Fitness Notice, unless Enforcement Counsel delivers an Amended Fitness Notice. Respondent will use reasonable efforts to redact any exhibits to the Petition pursuant to Article 6.1. Respondent must deliver and contemporaneously file with the DEC a written Amended Petition for Fitness no later than 14 calendar days from the delivery of the Amended Fitness Notice or the date a Petition for Fitness was originally due. A Petition for Fitness must include:
  1. A detailed response to each numbered paragraph of the Fitness Notice that admits or denies each statement, or states that Respondent is unable to admit or deny due to lack of knowledge;
  2. Evidence of Respondent's fitness for CFP® certification in accordance with the *Fitness Standards*; and
  3. A statement indicating whether Respondent requests a hearing and the amount of hearing time Respondent requests for the hearing. If Respondent fails to provide the hearing time statement, Respondent waives the right to contest the amount of time allotted for the hearing.
- b. After Respondent files a Petition, DEC Counsel must deliver to the parties an initial scheduling order with case deadlines and events, including a range of projected hearing or review dates. The final hearing date will be set forth in a Notice of Hearing issued pursuant to these *Procedural Rules*.
- c. No later than 14 calendar days after Respondent files a Petition for Fitness, Enforcement Counsel must file with DEC Counsel a statement indicating the amount of hearing time Enforcement Counsel requests to respond to the Petition. If Enforcement Counsel fails to provide the hearing time statement, then Enforcement Counsel waives the right to contest the amount of time allotted for the hearing.

### 5.3 REQUEST FOR EXTENSION OF TIME

Respondent may request an extension of time to file the Petition for Fitness. Enforcement Counsel may grant the request for good cause shown and deliver to Respondent and file with DEC Counsel a notice of the extended deadline to file the Petition. If Enforcement Counsel denies the request, then Respondent may file with DEC Counsel a Motion for Extension of Time to File a Petition for Fitness. DEC Counsel must issue an order resolving the Motion for Extension of Time to File a Petition for Fitness.

### 5.4 FAILURE TO FILE PETITION FOR FITNESS

If Respondent fails to file Petition for Fitness in accordance with Article 5.2, then Enforcement Counsel must dismiss the investigation as not warranting further action and file with the DEC a Withdrawal of the Fitness Notice. CFP Board will deem Respondent's application for CFP® certification to be withdrawn, with the result that Respondent will need to file a new application if Respondent intends to pursue CFP® certification.

### 5.5 PETITIONS INVOLVING SINGLE BANKRUPTCY

If (a) Respondent or an entity over which Respondent was a Control Person (as defined in the *Code and Standards*) engaged in conduct that resulted in a single personal bankruptcy or business bankruptcy filing or adjudication (each a "Bankruptcy Matter"), (b) Respondent has no other Bankruptcy Matter or other conduct that requires Respondent to file a Petition for Fitness (excluding other conduct for which Enforcement Counsel may file a Joint Motion under Article 5.6), and (c) Respondent provides information sufficient for Enforcement Counsel to find (and Enforcement Counsel finds) no probable cause to believe that Respondent's current financial circumstances demonstrate an inability to manage responsibly Respondent's or Respondent's business's financial affairs, then, with Respondent's consent, Enforcement Counsel may deliver to Respondent, and contemporaneously file with DEC Counsel: a

- ~~i. A Joint Motion for Order Granting Petition with Caution if (1) Respondent's Bankruptcy Matter was filed 10 or more years prior to Respondent's application and Respondent was not providing Professional Services (as defined in the Code and Standards) at the time of the Bankruptcy Matter, or (2) Respondent's Bankruptcy Matter was filed 15 or more years prior to Respondent's application;~~
- ~~ii. A Joint Motion for Order Granting Petition with Public Notice if (1) Respondent's Bankruptcy Matter was filed less than 10 years prior to Respondent's application, or (2) Respondent's Bankruptcy Matter was filed more than 10 and less than 15 years prior to Respondent's application and Respondent was providing Professional Services (as defined in the Code and Standards) at the time of the Bankruptcy Matter.~~

~~In the case of (i) or (ii) above, DEC Counsel must grant the Motion and issue the Order, the DEC must not hold a hearing, and CFP Board must not charge Respondent the adjudication fee. CFP Board will publish an Order Granting Petition with a Public Notice in accordance with Article 17.7. The Order Granting Petition with Caution and the Order Granting Petition with a Public Notice are is not subject to appeal under Article 15. Enforcement Counsel's finding of no probable cause under Rule 5.5(c) is not admissible in any subsequent proceeding.~~

### 5.6 PETITIONS INVOLVING CERTAIN RELEVANT MISDEMEANOR CONVICTIONS

If Respondent has a Relevant Misdemeanor Conviction involving a second (or more) alcohol and/or drug-related offense and no other conduct that requires Respondent to file a Petition for Fitness (excluding other conduct for which Enforcement Counsel may file a Joint Motion under Article 5.5), and Enforcement Counsel would recommend that the DEC grant the Petition with a Public Notice, then with Respondent's consent, Enforcement Counsel may deliver to Respondent, and contemporaneously file with DEC Counsel, a Joint Motion for Order Granting Petition with Public Notice Caution if the most recent alcohol and/or drug-related offense was 7 or more years prior to Respondent's application. DEC Counsel must grant the Motion and issue the Order, the DEC must not hold a hearing, and CFP Board must not charge Respondent the adjudication fee. The Order Granting Petition with Caution is not subject to appeal under Article 15. CFP Board will publish an Order Granting Petition with a Public Notice in accordance with Article 17.7. The Order Granting Petition with a Public Notice is not subject to appeal under Article 15.

# ARTICLE 11: SANCTIONS, POST-SANCTION REQUIREMENTS, REINSTATEMENT, AND PROOF REQUIRED FOR REHABILITATION AND FITNESS

## 11.1 SANCTIONS

### a. Categories of Sanction

1. **Private Censure.** A private censure is an unpublished written reproach of Respondent that the DEC issues to a censured Respondent.
2. **Public Censure.** A public censure is a written reproach of Respondent that CFP Board publishes in accordance with Article 17.7.
3. **Private Notice:** A private notice is an unpublished written reproach of Respondent that the DEC issues when granting a Petition for Fitness.
4. **Public Notice:** A public notice is a written reproach of Respondent that CFP Board publishes in accordance with Article 17.7.
5. **Suspension.** A suspension is a period in which Respondent remains subject to the *Terms and Conditions* but is prohibited from using the CFP Board certification marks, stating or suggesting that Respondent is a CFP® professional, or holding out to the public as being certified by CFP Board. The DEC may issue a suspension for a specified period, not less than 90 calendar days or greater than five years. CFP Board publishes a suspension in accordance with Article 17.7.
6. **Interim Suspension.** An interim suspension is a suspension issued prior to a final order. An interim suspension may be in place for a period not greater than five years. CFP Board publishes an interim suspension in accordance with Article 17.7.
7. **Administrative Suspension.** An administrative suspension is a suspension imposed pursuant to Article 4. An administrative suspension will be in place until Respondent has been deemed eligible for reinstatement in accordance with Article 4.6. CFP Board publishes an administrative suspension in accordance with Article 17.7.
8. **Revocation.** A revocation is the termination of a Respondent's Certification and Trademark License. CFP Board publishes a revocation in accordance with Article 17.7. A Respondent whose Certification and Trademark License is revoked is permanently barred from applying for or obtaining CFP® certification.
9. **Administrative Revocation.** An administrative revocation is a revocation imposed pursuant to Article 4. CFP Board publishes an administrative revocation in accordance with Article 17.7. A Respondent whose Certification and Trademark License is revoked is permanently barred from applying for or obtaining CFP® certification.
10. **Temporary Bar.** A temporary bar is a period in which a Respondent who currently is not a CFP® professional is prohibited from applying for or obtaining CFP® certification. CFP Board publishes a temporary bar in accordance with Article 17.7.
11. **Administrative Temporary Bar.** An administrative temporary bar is a temporary bar imposed pursuant to Article 4. An administrative temporary bar will be in place until Respondent has been deemed eligible to apply for CFP® certification in accordance with Article 4.6. CFP Board publishes an administrative temporary bar in accordance with Article 17.7.
12. **Permanent Bar.** A permanent bar is a permanent prohibition on the ability of a Respondent who currently is not a CFP® professional to apply for or obtain CFP® certification. CFP Board publishes a permanent bar in accordance with Article 17.7. A Respondent who is subject to a permanent bar is permanently barred from applying for or obtaining CFP® certification.
13. **Administrative Permanent Bar.** An administrative permanent bar is a permanent bar imposed pursuant to Article 4. CFP Board publishes an administrative permanent bar in accordance with Article 17.7. A Respondent who is subject to an administrative permanent bar is permanently barred from applying for or obtaining CFP® certification.

14. **Continuing Education or Other Undertakings.** Continuing education that exceeds the minimum certification requirements or other undertakings that the DEC requires. If an Order imposes another sanction on Respondent that CFP Board publishes in accordance with Article 17.7, then CFP Board will include in that publication any requirement for Continuing Education or Other Undertakings.

**b. Applicable Sanctions**

1. If Respondent is a CFP® professional, then an Order issued pursuant to these *Procedural Rules* may impose one of the following sanctions on Respondent: Private Censure, Public Censure, Interim Suspension, Administrative Suspension, Suspension, Administrative Revocation, or Revocation. In addition to these sanctions, the Order may impose Continuing Education or Other Undertakings.
2. If Respondent is not a CFP® professional but is subject to sanction under either the *Terms and Conditions or the Pathway to CFP® Certification Agreement*, and the sanction is not the result of an Order resolving a Petition for Fitness, then an Order issued pursuant to these *Procedural Rules* may impose one of the following sanctions on Respondent: Private Censure, Public Censure, Administrative Temporary Bar, Temporary Bar, Administrative Permanent Bar, or Permanent Bar. In addition to these sanctions, the Order may impose Continuing Education or Other Undertakings, and CFP Board has the authority to sanction a Respondent in accordance with the *Pathway to CFP® Certification Agreement*.
3. If Respondent is not a CFP® professional, then an Order resolving a Petition for Fitness issued pursuant to these *Procedural Rules* may impose a Private Notice, Public Notice, Temporary Bar or Permanent Bar. In addition to these sanctions, the Order may impose Continuing Education or Other Undertakings.

**c. Use in Other CFP Board Proceedings**

CFP Board may consider in a subsequent proceeding any (i) Letter of Caution, (ii) Respondent's response to a Letter of Caution, (iii) DEC or Appeals Commission order.

**11.2 NOTICE TO RESPONDENT'S FIRM(S) AND CLIENTS REQUIRED AFTER ORDER OF PUBLIC SANCTION**

- a. A Respondent who is the subject of a public sanction (an Order of Public Censure, Public Notice, Suspension, Interim Suspension, Administrative Suspension, Revocation, Administrative Revocation, Temporary Bar, Administrative Temporary Bar, Permanent Bar, or Administrative Permanent Bar) that is not under appeal must deliver to Enforcement Counsel, within 45 calendar days of issuance of the order, written evidence that Respondent has:
  1. Advised Respondent's Firm(s), in writing, of the public sanction; and
  2. Advised all Clients of the public sanction and provided all Clients the location of CFP Board's website that sets forth Respondent's disciplinary history.
- b. Respondent shall advise Respondent's Firm(s) in the manner set forth in Standard D.3. of the *Code and Standards* and shall advise Clients in the manner set forth in Standard A.10 of the *Code and Standards*.

**11.3 PROHIBITION AGAINST USE OF CFP BOARD CERTIFICATION MARKS BY A RESPONDENT WHO IS SUBJECT TO A SUSPENSION, INTERIM SUSPENSION, ADMINISTRATIVE SUSPENSION, REVOCATION, ADMINISTRATIVE REVOCATION, TEMPORARY BAR, ADMINISTRATIVE TEMPORARY BAR, PERMANENT BAR, OR ADMINISTRATIVE PERMANENT BAR**

- a. **Continuing Obligation Not to Use CFP Board Certification Marks.** A Respondent who is subject to an Order of Suspension, Interim Suspension, Administrative Suspension, Revocation, Administrative Revocation, Temporary Bar, Administrative Temporary Bar, Permanent Bar, or Administrative Permanent Bar ("Order Prohibiting Use of CFP Board Certification Marks") must not use the CFP Board certification marks, state or suggest that Respondent is a CFP® professional, or hold out to the public as being certified by CFP Board.

- b. **Statement of Assurance and Proof of Compliance.** Within 45 calendar days of delivery of an Order Prohibiting Use of CFP Board Certification Marks that is not subject to a Petition to Vacate or Appeal, Respondent must stop using the CFP Board certification marks (if Respondent had been using the CFP Board certification marks), deliver to Enforcement Counsel Respondent's statement of assurance that Respondent will not use the CFP Board certification marks, and deliver to CFP Board Enforcement Counsel proof that Respondent is not using the CFP Board certification marks on any internet site or other tangible materials that Respondent exposes to the public. Respondent must submit screenshots of websites, including of Respondent's businesses, social media, and third party financial advisor listing website profiles Respondent controls, pictures of signage, and, when applicable, copies of Respondent's new interim business cards, letterhead, marketing, and promotional materials, as well as pictures of any other materials Respondent controls in which the CFP Board certification marks previously appeared publicly in reference to Respondent or Respondent's services.

#### **11.4 DEFAULT FOR FAILURE TO SATISFY THE REQUIREMENTS OF ARTICLES 11.2 OR 11.3**

If a Respondent fails to satisfy the requirements of Articles 11.2 or 11.3, then Enforcement Counsel may declare Respondent in default and move for an Administrative Order under Article 4.2.

#### **11.5 MOTION OR PETITION FOR REINSTATEMENT ELIGIBILITY AFTER SUSPENSION OR TEMPORARY BAR OF ONE YEAR OR LESS**

- a. A Respondent subject to a Suspension or Temporary Bar for one year or less may file with DEC Counsel and contemporaneously deliver to Enforcement Counsel a Motion for Reinstatement Eligibility no earlier than 30 days prior to the last day of the Suspension or Temporary Bar and no later than five years from the first day of the suspension or temporary bar. Within 30 days of the Motion for Reinstatement Eligibility, Enforcement Counsel must file with DEC Counsel a response to the Motion that provides Enforcement Counsel's position on whether Respondent is eligible for reinstatement. DEC Counsel may grant the Motion for Reinstatement Eligibility with an, effective date no earlier than the end of the Suspension or Temporary Bar period, if DEC Counsel determines that:
1. Respondent would be eligible for certification under Sections I.A. (Conduct that Presents an Absolute Bar) and I.B. (Conduct that Renders an Applicant Currently Ineligible) of the *Fitness Standards* if Respondent was an applicant for CFP® certification;
  2. Respondent has provided evidence of Respondent's rehabilitation and fitness for CFP® certification, as set forth in Article 11.8 of the *Procedural Rules*; and
  3. Enforcement Counsel has agreed that DEC Counsel should approve Respondent's motion for reinstatement eligibility.
- b. If DEC Counsel grants the Motion for Reinstatement Eligibility, then Respondent must timely satisfy any remaining CFP Board certification requirements before CFP Board will reinstate Respondent's Certification and Trademark License. If DEC Counsel does not determine that a Respondent is eligible for reinstatement, then Respondent may file a Petition for Reinstatement Eligibility in accordance with Article 14.
- c. If Respondent does not request reinstatement eligibility within five years of the first date of the Suspension or Temporary Bar, then Respondent has relinquished CFP® certification permanently, with no opportunity for reinstatement.

#### **11.6 REINSTATEMENT ELIGIBILITY AFTER SUSPENSION OR TEMPORARY BAR OF MORE THAN ONE YEAR**

A Respondent subject to a Suspension or Temporary Bar for more than one year may file a Petition for Reinstatement Eligibility in accordance with Article 14.

#### **11.7 NO REINSTATEMENT AFTER REVOCATION OR PERMANENT BAR**

Revocation or Permanent Bar is permanent. There will be no opportunity for reinstatement.

## 11.8 PROVING REHABILITATION AND FITNESS

Factors relevant to rehabilitation and fitness include:

- a. If Respondent was the subject of an Interim Suspension Order, whether in the matter that was the subject of the Interim Suspension Order, or in another matter that previously was unknown to CFP Board, Respondent violated CFP Board's *Code and Standards*;
- b. If Respondent is applying for reinstatement after the issuance of an order imposing a sanction, whether Respondent has violated CFP Board's *Code and Standards* since the issuance of the order, or engaged in a prior violation of CFP Board's *Code and Standards* that previously was unknown to CFP Board;
- c. Whether and how Respondent has taken actions that are designed to prevent the circumstances that required Respondent to file a Petition or Motion for Reinstatement Eligibility;
- d. Whether and how Respondent has integrated the *Code and Standards* in Respondent's practice;
- e. Whether Respondent has submitted positive letters of reference from current clients, supervisors, colleagues, other professionals concerning the circumstances that required Respondent to file a Petition or Motion for Reinstatement Eligibility or Respondent's character;
- f. Whether Respondent has provided sufficient evidence that Respondent has complied with the applicable requirements of these *Procedural Rules*, including Article 2.3 (Responsibilities of Respondent Following Interim Suspension Order); Article 4.5 (Responsibilities of Respondent Following Administrative Order); Article 11.2 (Notice to Respondent's Firm(s) and Clients Required after Public Sanction), and Article 11.3 (Prohibition Against Use of CFP Board Certification Marks By a Respondent Who is Subject to a Suspension, Interim Suspension, Administrative Suspension, Revocation, Administrative Revocation, Temporary Bar, Administrative Temporary Bar, Permanent Bar, or Administrative Permanent Bar);
- g. Whether Respondent has provided a written certification that Respondent has read, understands, and will comply with, the *Code and Standards*;
- h. Whether Respondent has provided a properly completed CFP Board Ethics Disclosure Questionnaire;
- i. Whether Respondent has complied with the terms of an applicable order that required Respondent to file a Petition or Motion for Reinstatement Eligibility; and
- j. Any other factors the DEC or DEC Counsel determines are relevant to Respondent's circumstances

## ARTICLE 14: RESOLUTION OF PETITIONS FOR REINSTATEMENT ELIGIBILITY FOLLOWING A SUSPENSION OR TEMPORARY BAR OF MORE THAN ONE YEAR

### 14.1 PETITION FOR REINSTATEMENT ELIGIBILITY

- a. A Respondent subject to a Suspension or Temporary Bar for a period longer than one year is not eligible for reinstatement unless (i) Respondent would be eligible for certification under Sections I.A. (Conduct that Presents an Absolute Bar) and I.B. (Conduct that Renders an Applicant Currently Ineligible) of the Fitness Standards if Respondent was an applicant for CFP® certification, (ii) Respondent has filed a written Petition for Reinstatement Eligibility with the DEC, and contemporaneously delivered the Petition to Enforcement Counsel, and (iii) the DEC (or if the DEC's decision is appealed to the Appeals Commission, then the Appeals Commission) has granted the Petition. Respondent must file a Petition no earlier than six months prior to the last day of the suspension or temporary bar and no later than five years after the first day of the suspension or temporary bar. Respondent will use reasonable efforts to redact any exhibits to the Petition pursuant to Article 6.1. Respondent's Petition must include:
  1. Evidence of Respondent's rehabilitation and fitness for CFP® certification, as set forth in Article 11.8 of the *Procedural Rules*; and

2. A statement indicating whether Respondent requests a hearing and the amount of hearing time Respondent requests for the hearing. If Respondent fails to provide the hearing time statement, Respondent waives the right to contest the amount of time allotted for the hearing.
- b. Upon receipt of Respondent's Petition, DEC Counsel must deliver to the parties notice of the name and employer of each potential member of the Hearing Panel and the DEC as required by Article 17.3.b.
- c. Enforcement Counsel must file with the DEC and contemporaneously deliver to Respondent its Response to the Petition within 30 calendar days of the date Respondent delivered the Petition to Enforcement Counsel. Enforcement Counsel's response must indicate whether Enforcement Counsel has a position on whether the DEC should grant Respondent's Petition, state whether Enforcement Counsel requests a hearing, and the amount of hearing time Enforcement Counsel requests for the hearing.
- d. If Respondent does not file a written Petition within five years of the first date of the suspension or temporary bar, then Respondent has relinquished CFP® certification permanently, with no opportunity for reinstatement.

## **14.2 BURDEN OF PROOF**

A Respondent seeking reinstatement eligibility following a Suspension or Temporary Bar of more than one year must prove by clear and convincing evidence the Respondent's rehabilitation, fitness for CFP® certification, and compliance with the terms of the DEC's order. Clear and convincing evidence is a standard of review that is higher than a preponderance of the evidence, and means "a high probability," i.e., evidence which shows that, as a whole, it is highly probable that the matter sought to be proved is true.

## **14.3 RECOMMENDATION OF THE HEARING PANEL**

The Hearing Panel must recommend whether a Petition for Reinstatement Eligibility should be granted, denied, or denied with a right to re-apply for a period not to exceed 5 years. The Hearing Panel's recommendation must include factual findings, and any mitigating or aggravating factors that the Hearing Panel found relevant.

## **14.4 REVIEW BY THE DEC AND ISSUANCE OF THE DEC'S FINAL ORDER**

- a. The DEC must review *de novo* and accept, reject, or modify the Hearing Panel's findings and recommendations concerning the Petition for Reinstatement Eligibility. *De novo* means that the DEC must consider the matter anew, as if the Hearing Panel had rendered no recommendation, except that the DEC must give deference to rulings on procedural and evidentiary motions unless the DEC finds that such a ruling was arbitrary and capricious.
- b. The DEC must issue its final order that grants or denies the Petition and states the date, if any, after which Respondent may file a Renewed Petition. The DEC's final order also must set forth the DEC's factual findings and any mitigating or aggravating factors, and any *Sanction Guidelines* and *Case Histories* that the DEC found relevant. If the DEC grants the Petition or Renewed Petition, then the DEC must state the effective date of Respondent's eligibility for reinstatement. If the DEC denies Respondent's Petition and does not authorize a Renewed Petition, or the DEC denies Respondent's Renewed Petition, then the DEC must issue a revocation.
- c. If the DEC or Appeals Commission has granted a Petition or Renewed Petition, then Respondent must timely satisfy any remaining CFP Board certification requirements before CFP Board will reinstate Respondent.

## **14.5 PUBLICATION OF REVOCATION**

CFP Board will publish a revocation in accordance with Article 17.7.

# ARTICLE 17: GENERAL PROVISIONS

## 17.1 CONFIDENTIALITY

- a. Except as provided below, the existence of an investigation and adjudication by CFP Board and the information obtained pursuant to these *Procedural Rules* (“Confidential Information”) will be confidential and will not be made public. Respondent must use such Confidential Information solely in connection with Respondent’s defense of the investigation or Complaint, or any appeal thereof, except as provided below. Respondent, Respondent’s counsel, experts, and witnesses must not record any examination or hearing.
- b. CFP Board or Respondent may disclose Confidential Information:
  1. To counsel designated by Respondent;
  2. To Respondents in a consolidated matter and their designated counsel;
  3. To Respondent’s Firm, except for Confidential Information concerning a client who is not a client of Respondent’s Firm;
  - 3.4. To a potential expert (an expert is a person retained by a party who is qualified to offer an opinion by knowledge, skill, experience, training, or education) as necessary to assist in proceedings conducted pursuant to these *Procedural Rules*, provided that the expert executes a written confidentiality agreement that prohibits the expert from disclosing the Confidential Information to third parties, and that the expert is required to return or destroy any copy of any document containing Confidential Information at the conclusion of the expert’s engagement;
  - 4.5. To a potential witness (and counsel for the witness) as necessary to assist in proceedings conducted pursuant to these *Procedural Rules*, provided that the witness (and counsel for the witness) is not permitted to retain a copy of a document containing Confidential Information;
  - 5.6. To stenographers or video equipment operators who assist with the recordation of an oral examination or a hearing;
  - 6.7. As required to comply with federal, state, or local law;
  - 7.8. As required to comply with a properly authorized civil, criminal, or regulatory investigation or examination, or a subpoena or summons, by a governmental authority or self-regulatory organization; and
  - 8.9. As required to comply with a request from another party, or a subpoena issued, in a civil action or arbitration.
- c. CFP Board also may disclose Confidential Information:
  1. In publication of a public sanction pursuant to Article 17.7;
  2. Within CFP Board and to third parties, but only as necessary to assess a Respondent’s compliance with CFP Board’s *Code and Standards*, including to:
    - a) DEC Counsel and members of the DEC, Hearing Panels, and Settlement Review Panels;
    - b) Members of the Appeals Commission and counsel to the Appeals Commission, if an Order is appealed under these *Procedural Rules*; and
    - c) Enforcement Counsel, Appellate Counsel, CFP Board’s staff and Board of Directors.
  3. To individuals who filed a complaint with CFP Board against a Respondent, but unless otherwise provided in this Article, only to notify the individual that their complaint remains under review or investigation, or that the review of their complaint is complete and that a public sanction has or has not been issued.
  4. To a governmental agency or industry self-regulatory organization having appropriate jurisdiction over Respondent; and
  5. If Respondent has waived confidentiality.

- d. Upon request, CFP Board also may disclose to an examinee who testified at an oral examination or hearing a copy of the transcript of the examinee's testimony and any exhibits that the examinee produced in the proceeding conducted pursuant to these *Procedural Rules*. The transcript may be redacted to exclude quotations from exhibits that are not produced to the examinee.
- e. If the disclosure is not otherwise prohibited, then Respondent also may disclose Confidential Information:
  - ~~1.—To Respondent's Firm, except for Confidential Information concerning a client who is not a client of Respondent's Firm;~~
  - 1.2:As necessary to defend against allegations of wrongdoing made by a governmental authority or self-regulatory organization having appropriate jurisdiction;
  - 2.3:As necessary to defend against a claim raised by a client or former client in a civil action or arbitration, provided that Respondent discloses to the client or former client all Confidential Information in the proceeding conducted pursuant to these *Procedural Rules* that relate to the claim; and
  - 3.4:As necessary to provide information to professional organizations that are assessing Respondent's compliance with professional standards.

## 17.2 RETENTION OF COUNSEL

Respondent, Appellant, or Appellee may be represented by counsel during proceedings conducted pursuant to these *Procedural Rules*. Respondent's counsel, if any, must be identified to CFP Board prior to any scheduled on the record testimony or in Respondent's Answer to the Complaint, Petition for Consideration, Petition for Reinstatement, Response to any Motion for an Administrative Order, or any other initial filing by Respondent. Respondent must provide the counsel's contact information as well as whether the counsel will appear in person or by video conference (if CFP Board makes video conference available) for any oral examination, oral argument, or hearing conducted under these *Procedural Rules*. Respondent's counsel must be an active member in good standing of the bar of a state of the United States, the District of Columbia, or any jurisdiction, possession, territory or dependency of the United States. DEC Counsel and Appeals Commission Chair may prohibit the appearance of Respondent's counsel if either determines that Respondent's counsel has (i) not complied with any guidelines or standards that CFP Board establishes for outside counsel or (ii) has engaged in unethical or improper professional conduct. If CFP Board prohibits Respondent's counsel from appearing, Respondent may designate substitute counsel. Respondent must promptly inform CFP Board in the event Respondent's counsel withdraws or otherwise ceases to represent Respondent in the proceedings and promptly update CFP Board regarding any other change in representation by counsel.

## 17.3 RECUSAL

- a. **Standard for Recusal.** A member of the DEC, a Hearing Panel, a Settlement Review Panel, or the Appeals Commission ("Member") must not participate in any proceeding in which the Member's impartiality might reasonably be questioned, including but not limited to the following circumstances:
  1. The Member has a personal bias or prejudice concerning a party or a party's counsel, or personal knowledge of facts that are in dispute in the proceeding.
  2. The Member knows, or reasonably should know, that the Member or a member of the Member's Family (as defined in the *Code and Standards*) is:
    - a) A party or member of a party's Family;
    - b) An officer, director, general partner, managing member, or employee of a business entity that the party or members of the party's Family Control (as defined in the *Code and Standards*);
    - c) A person who has an economic interest in the proceeding or a business entity that a party or members of the Family of a party Control;
    - d) A person who has any other interest that could be substantially affected by the outcome of the proceeding; or
    - e) Likely to be a witness in the proceeding.

- b. **Process for Recusal.** The DEC (or DEC Counsel) or the Appeals Commission (or Appeals Commission Counsel), as applicable, must provide Respondent or Appellant and Appellee with notice of the name and employer of each potential member of the Hearing Panel, the DEC, the Settlement Review Panel, and/or Appeals Commission, and must timely supplement the list as needed. Respondent, Appellant or Appellee must file, within 14 calendar days of delivery of this notice, any motion requesting the recusal of a Member and state with particularity the grounds for the motion. Respondent's failure timely to file a motion for recusal will result in the waiver of an objection to the participation of the Member. The Chair of the DEC or the Appeals Commission, as applicable, must rule upon any motion for recusal, unless the Chair is the subject of the motion, in which case a Member who DEC Counsel or Appeals Commission Counsel designates must rule upon the motion. No person who is the subject of a motion for recusal may participate in the consideration of the motion except to raise the issue.

#### **17.4 FEES AND FINANCIAL HARDSHIP**

CFP Board may impose fees on Respondent or Appellant, including for a settlement review, hearing, or appeal. Respondent or Appellant must submit the fee to CFP Board within 30 calendar days of the assessment. To receive a waiver or reduction of fees, Respondent or Appellant must submit a written request and supporting documentation demonstrating a financial hardship, as required by CFP Board. All such requests must be submitted to CFP Board no later than 30 calendar days after the fee assessment. CFP Board then may reduce or waive the required fees. If the DEC or, if the case is appealed, the Appeals Commission, finds no ground for sanction or grants a Petition for Fitness Determination filed under Article 5.2, with no Public Notice, then CFP Board must refund Respondent the fee.



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