# **Complaints, Settlements and Hearings**

If Enforcement Counsel decides it is likely that an individual violated the <u>Code and Standards</u>, the parties may pursue a Settlement or Enforcement Counsel may file a Complaint. Both Settlements and Complaints are submitted to CFP Board's Disciplinary and Ethics Commission (DEC).

Can **Enforcement Counsel** and the individual whose conduct is at issue reach an agreement on what happened and what the consequences should be?

#### YES:

Enforcement Counsel and the individual whose conduct is at issue work together to prepare a Proposed Consent Order that is submitted to the Disciplinary and Ethics Commission.

YES/NO

NO:
Enforcement
Counsel files a
Complaint with the
Disciplinary and
Ethics Commission.

A Settlement Review Panel reviews the Proposed Consent Order and recommends a resolution to the full Disciplinary and Ethics Commission. The Disciplinary and Ethics Commission reviews the Proposed Consent Order and makes a final decision on whether to accept its terms.

The individual named in the **Complaint** has 30 days to file an **Answer** in response. Failing to meet this deadline could constitute a **Default** and result in an **Administrative**Order of Revocation.

Does the **Disciplinary and Ethics Commission** accept the **Proposed Consent Order**?

Counsel to the Disciplinary and Ethics Commission (DEC Counsel) sends the parties a Scheduling Order containing instructions, deadlines and events in the case, including the date of any Hearing. The Scheduling Order should be reviewed carefully.

# YES/NO

## YES:

The **Disciplinary and Ethics Commission**finalizes and issues

the **Proposed Consent Order** as its **Final Order** in the case.

NO:
The Disciplinary
and Ethics
Commission
rejects the
Proposed
Consent Order.

Enforcement Counsel and the individual whose conduct is at issue each present evidence and argument at a Hearing before a Hearing Panel. The Hearing Panel recommends a resolution to the Disciplinary and Ethics Commission, which reviews the case again and decides the outcome.

The **Disciplinary and Ethics Commission** issues a **Final Order** accompanied by instructions that must be followed by the individual named.

#### DOES THIS MAP APPLY TO ME?

This process applies to current CFP® professionals and, with some exceptions, former CFP® professionals whose conduct might conflict with the <u>Code</u> of <u>Ethics and Standards of</u> <u>Conduct</u>.

### **PRACTICE TIPS**

Concepts to Consider:

Administrative Order of Revocation: An order issued by DEC Counsel permanently revoking a CFP® professional's certification due to a Default.

Assessment of Fee: Candidates before the Disciplinary and Ethics Commission are assessed a fee. In some circumstances, a Fee Waiver or refund of the assessed fee may be available.

Proposed Consent Order: At any point in time, the individual whose conduct is at issue and Enforcement Counsel may submit a settlement offer to the Disciplinary and Ethics Commission in the form of a Proposed Consent Order. If the parties cannot agree to settlement terms, Enforcement Counsel will likely file a Complaint, and the case will proceed to a Hearing.

It is important to note that:

- Once the Disciplinary and Ethics Commission accepts a Proposed Consent Order and issues it as its Final Order in the case, its terms cannot be appealed.
- Proposed Consent Orders, including any related negotiation or settlement discussion materials, are not admissible in future hearings or investigations.

#### Settling After a Complaint Is Filed:

Even if a **Settlement** cannot be reached before a **Complaint** is filed, the parties can still try to settle the case at any point later in the proceedings. The settlement terms must be approved by the **Disciplinary and Ethics Commission**.

#### **KEY RESOURCES**

Procedural Rules:
Article 3
Article 8
Article 9
Article 10

**Hearings Video** 

Settlements, Complaints and Motions Video