

PROCEDURAL RULES

(as revised November 2021)

The revisions noted in this redline document were adopted by the Board of Directors in November 2021. Revisions related to an Inaccurate Ethics Declaration take effect January 1, 2022. Revisions related to Failure to Timely Report Information to CFP Board take effect January 1, 2024.

View the current *Procedural Rules* at [CFP.net/ProceduralRules](https://www.cfp.net/ProceduralRules)

Table of Contents

ARTICLE 3: COMPLAINT AND ANSWER	11
3.1 Complaints and Amended Complaints.....	11
3.2 Answers and Amended Answers.....	11
3.3 Complaint for Single Bankruptcy, <u>Failure to Timely Report Information,</u> <u>or Inaccurate Ethics Declaration</u>	11
3.4 Answer to Complaint for Single Bankruptcy, <u>Failure to Timely Report</u> <u>Information, or Inaccurate Ethics Declaration</u>	12
3.5 Request for Extension of Time.....	12
3.6 Withdrawal of a Complaint.....	12

ARTICLE 3: COMPLAINT AND ANSWER

3.3 Complaint for Single Bankruptcy, Failure to Timely Report Information, or Inaccurate Ethics Declaration

CFP Board Counsel must deliver to Respondent a Complaint for Single Bankruptcy, Failure to Timely Report Information, or Inaccurate Ethics Declaration, with or without delivering a Notice of Investigation, if:

- a. In the case of a Complaint for Single Bankruptcy, CFP Board Counsel has probable cause to believe receives credible evidence that Respondent or an entity over which Respondent was a Control Person (as defined in the *Code and Standards*) has filed for or been the subject of a personal bankruptcy or business bankruptcy (each a "Bankruptcy Matter") and Respondent has no other Bankruptcy Matter;
- b. In the case of a Complaint for Failure to Timely Report Information, CFP Board Counsel has probable cause to believe that the Code and Standards required Respondent to report information to CFP Board that Respondent failed to report, and Respondent has had no other failure to report or inaccurate Ethics Declaration~~Respondent has no other Bankruptcy Matter~~;
- ~~b.c.~~ In the case of a Complaint for Inaccurate Ethics Declaration, CFP Board Counsel has probable cause to believe that Respondent inaccurately completed the Ethics Declaration, and Respondent has had no other inaccurate Ethics Declaration or failure to report; and
- ~~c.d.~~ In the case of a Complaint for Single Bankruptcy, Failure to Timely Report Information, or Inaccurate Ethics Declaration, ~~T~~there is no probable cause to believe that other grounds for sanction exist.

3.4 Answer to Complaint for Single Bankruptcy, Failure to Timely Report Information, or Inaccurate Ethics Declaration

- a. Within 30 calendar days of delivery of the Complaint for Single Bankruptcy, Respondent must deliver to CFP Board Counsel, using a form that CFP Board provides, ~~an Bankruptcy~~ Answer that admits or denies the existence of the Bankruptcy Matter, admits or denies that the Bankruptcy Matter demonstrates an inability to manage responsibly the Respondent's or the business's financial affairs, and states whether Respondent has any other Bankruptcy Matter.
- b. If Respondent has another Bankruptcy Matter, Respondent must provide the name of the debtor, the date of the first filing in the Bankruptcy Matter, the court in which the Bankruptcy Matter is or was pending, the case number of the Bankruptcy Matter, and a copy of any petition filed in the Bankruptcy Matter. In this circumstance:
 1. CFP Board Counsel must deliver an Amended Complaint to Respondent; and
 2. Respondent must deliver to CFP Board Counsel, within 30 calendar days of delivery of the Amended Complaint, a written Answer to the Amended Complaint that satisfies the requirements of Article 3.2.
- c. Within 30 calendar days of delivery of the Complaint for Failure to Report Information to CFP Board, Respondent must deliver to CFP Board Counsel, using a form that CFP Board provides, an Answer that admits or denies that Respondent failed to report the information to CFP Board.

Where the Answer admits a failure to report, the Answer must state whether Respondent contends that Respondent is able to demonstrate a mitigating factor as set forth in the *Sanction Guidelines*.

d. Within 30 calendar days of delivery of the Complaint for Inaccurate Ethics Declaration, Respondent must deliver to CFP Board Counsel, using a form that CFP Board provides, an Answer that admits or denies that Respondent submitted an inaccurate Ethics Declaration. Where the Answer admits an inaccurate Ethics Declaration, the Answer must state whether Respondent contends that Respondent is able to demonstrate a mitigating factor as set forth in the *Sanction Guidelines*.

e.e. If Respondent (i) has no other Bankruptcy Matter and admits that the Bankruptcy Matter demonstrates an inability to manage responsibly the Respondent's or the business's financial affairs, (ii) admits the failure to report and that Respondent is unable to demonstrate a mitigating factor as set forth in the *Sanction Guidelines*, or (iii) admits the inaccurate Ethics Declaration and that Respondent is unable to demonstrate a mitigating factor as set forth in the *Sanction Guidelines*, then Respondent may accept an Order of Public Censure, in which case CFP Board Counsel will deliver to Respondent an Order of Public Censure, the DEC will not hold a hearing, and CFP Board will not charge Respondent the hearing fee. CFP Board publishes an Order of Public Censure in accordance with Article 17.7.

d.f. If Respondent (i) has no other Bankruptcy Matter and denies that the Bankruptcy Matter demonstrates an inability to manage responsibly the Respondent's or the business's financial affairs, (ii) denies the failure to report or contends that Respondent may demonstrate a mitigating factor as set forth in the *Sanction Guidelines*, or (iii) denies the inaccurate Ethics Declaration or contends that Respondent may demonstrate a mitigating factor as set forth in the *Sanction Guidelines*, then Respondent must provide the factual basis for Respondent's denial in the ~~Bankruptcy~~ Answer. In this circumstance, the Complaint ~~for Single Bankruptcy~~ will proceed to a hearing as set forth in Article 10, CFP Board will charge Respondent the hearing fee, and CFP Board Counsel may file a written statement, no later than 30 calendar days prior to the Hearing, setting forth CFP Board's position concerning Respondent's denial.

3.5 Request for Extension of Time

Prior to the deadline for delivering an Answer ~~or~~, Amended Answer ~~, or Bankruptcy Answer~~ (each an "Answer"), Respondent may request an extension of time to file the Answer. CFP Board Counsel may grant the request, for good cause shown. If CFP Board Counsel denies the request, Respondent may file a Motion for Extension of Time to File an Answer. The Chair of the DEC must issue an order resolving the Motion for Extension of Time to File an Answer.

ARTICLE 11: SANCTIONS, POST-SANCTION REQUIREMENTS, AND REINSTATEMENT

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. **Suspension.** A suspension is a period in which Respondent remains subject to the *Terms and Conditions of Certification and Trademark License* but is prohibited from using the CFP® 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.
4. **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.
5. **Administrative Suspension.** An administrative suspension is a suspension imposed by CFP Board Counsel pursuant to Article 4. An administrative suspension will be in place for one year and one day. CFP Board publishes an administrative suspension in accordance with Article 17.7.
6. **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 CFP® Certification and License is revoked is permanently barred from applying for or obtaining CFP® certification.
7. **Administrative Revocation.** An administrative revocation is a revocation imposed by CFP Board Counsel pursuant to Article 4. CFP Board publishes an administrative revocation in accordance with Article 17.7.
8. **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.
9. **Administrative Temporary Bar.** An administrative temporary bar is a temporary bar imposed by CFP Board Counsel pursuant to Article 4. An administrative temporary bar will be in place for one year and one day. CFP Board publishes an administrative temporary bar in accordance with Article 17.7.
10. **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.
11. **Administrative Permanent Bar.** An administrative permanent bar is a permanent bar imposed by CFP Board Counsel pursuant to Article 4. CFP Board publishes an administrative permanent bar in accordance with Article 17.7.

b. Applicable Sanctions

When Respondent is a CFP® professional, the DEC may order a Private Censure, Public Censure, Interim Suspension, Suspension, or Revocation and CFP Board Counsel may order an Interim Suspension, Administrative Suspension, Administrative Revocation, or Order of Public Censure in a single Bankruptcy, failure to timely report information, or inaccurate Ethics Declaration matter. When Respondent is not a CFP® professional but is subject to sanction under either the *Terms and Conditions of Certification and Trademark License* or the *Pathway to CFP® Certification Agreement*, the DEC may order a Private Censure, Public Censure, Temporary Bar, or Permanent Bar and CFP Board Counsel may order an Administrative Temporary Bar, Administrative Permanent Bar, or Order of Public Censure

in a sSingle Bankruptcy, failure to timely report information, or inaccurate Ethics Declaration mMatter. In a non-administrative order, the DEC also may order remedial education or work.

c. Use in Other CFP Board Proceedings

CFP Board may consider in a subsequent proceeding any Letter of Dismissal, Respondent's response to a Letter of Dismissal, and DEC final order finding that Respondent violated the *Code and Standards* or the *Pathway to CFP® Certification Agreement*.

ARTICLE 12: RESOLUTION OF COMPLAINTS

12.1 Burden of Proof and Grounds for Sanction

- a. **CFP Board Counsel Burden of Proof.** CFP Board Counsel must prove grounds for sanction raised in a Complaint by a preponderance of the evidence. A violation of the *Code and Standards* or the *Pathway to CFP® Certification Agreement* constitutes grounds for sanction. A preponderance of the evidence is a standard of review that means "more probable than not," *i.e.*, evidence which shows that, as a whole, the matter sought to be proved is more probable than not to have occurred.

b. ~~When Respondent Has~~ Burden of Proof.

1. ~~Circumstances Involving Multiple Allegations of Misconduct.~~ If Respondent is alleged to have engaged in multiple instances of misconduct that is the subject of settled customer disputes and Respondent does not produce documents or information CFP Board Counsel requests that is material to the allegations of misconduct raised in or by the customer disputes, then the existence of the settled customer disputes will constitute grounds for sanction unless Respondent proves by a preponderance of the evidence that the allegations of misconduct raised in the settled customer disputes are without merit.

- 1.2. **Bankruptcy.** As set forth in section E.2.c. of the *Code and Standards*, a Respondent has the burden of rebutting the presumption that a bankruptcy demonstrates an inability to manage responsibly the CFP® professional's or the business's financial affairs.