



FPA ETHICS POLICIES AND PROCEDURES

Purpose

The purpose of the Ethics Policies and Procedures is to provide guidance to FPA members, the FPA Ethics Committee, (the “Committee”) and staff in the application and enforcement of the FPA Code of Ethics (the “Code”). All of the policies in this document are designed to be consistent with the principles embodied in the Code. The procedures are designed to establish fairness and procedural consistency in the enforcement of the Code.

General Policies

1. The FPA Board of Directors has delegated its power to adjudicate complaints or disciplinary actions that involve FPA members to the FPA Ethics Committee. CERTIFIED FINANCIAL PLANNER™ (“CFP®”) certificant members are subject to the CFP Board’s ethics process and the FPA will follow all CFP Board determinations as to violations of the CFP Code of Ethics taken by that body against FPA members who are CFP certificants. However, FPA retains the right to determine the appropriate sanctions for its members. In determining the appropriate sanction, CFP certificant members shall be subject to the process described in Sections D, F, G, and H of these policies and procedures and, when appropriate, also section E. Non-CFP-certificant members of the FPA will be subject to the entire process described in these policies and procedures.
2. All decisions by the Committee shall be based on the Code.
3. Any Committee member that has a personal relationship with the accused or another conflict of interest must disclose that conflict to the Committee, and shall be recused if appropriate.
4. Appropriate confidentiality will be protected to the fullest extent possible. Ethics case files will be maintained separately from member files, with limited staff access. Paper files shall be retained for at least three years, subject to FPA’s record retention policy. FPA staff shall not provide details about open member cases to anyone except the Committee, Board of Directors, select FPA staff, the complainant, the member or their attorney. If the complaint is a result of information submitted by an outside party, they will be notified of the outcome of the investigation only.
5. The Committee may rely on the findings of professional credentialing organizations, self-regulatory organizations, or state or federal regulatory agencies in making its resolution decisions.
6. Unless otherwise stated, all meetings shall require a quorum, defined as a majority of members on the committee, to be called to order. All decisions shall be made by a majority of the voting members present at a meeting. Staff liaisons are not eligible to vote.

7. General committee business, including PlannerSearch reinstatement requests, but not hearings, may be transacted by email or other means.
8. These procedures are in addition to any actions that may be taken pursuant to the PlannerSearch Policies and Procedures.

A. Definitions

1. "Committee" means the FPA Ethics Committee.
2. "Reportable Event" means any of the following events or actions by or involving the Member:
 - a. A violation of the Code;
 - b. A pending investigation or regulatory action by the U.S. Securities & Exchange Commission, a state securities administrator, the insurance regulator of a state, a depository institution regulator or other financial services regulatory body;
 - c. A pending investigation by any self-regulatory or certifying organization;
 - d. Any felony or a misdemeanor charge involving a security, a commodity future or option contract, or an aspect of a business involving securities, commodities, investments, franchises, insurance, banking, or finance;
 - e. A temporary or permanent injunction or restraining order issued by a court of competent jurisdiction enjoining or restraining the member from engaging in or continuing an act, practice, or course of business involving an aspect of a business involving securities, commodities, investments, franchises, insurance, banking, or finance;
 - f. Conviction for a felony or a misdemeanor involving a security, a commodity future or option contract, or an aspect of a business involving securities, commodities, investments, franchises, insurance, banking, or finance;
 - g. An order, based on a substantive violation of the law, issued after notice and opportunity for hearing by:
 - i. the U.S. Securities & Exchange Commission, a state securities administrator, the insurance regulator of a state, a depository institution regulator or other financial services regulatory body denying, revoking, barring, or suspending registration with that agency or regulator ;
 - ii. a self-regulatory organization suspending or expelling the registrant from membership in the self-regulatory organization;
 - iii. A court adjudicating a United States Postal Service fraud order;
 - iv. The insurance regulator of a State denying, suspending, or revoking the registration of an insurance agent; or
 - v. A depository institution regulator suspending or barring a person from the depository institution business;

- h. An adjudication or determination, after notice and opportunity for hearing, by the Securities and Exchange Commission, the Commodity Futures Trading Commission, the Federal Trade Commission, a federal depository institution regulator, or a depository institution, insurance, or other financial services regulator of a State that the person willfully violated the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, or the Commodity Exchange Act, the securities or commodities law of a State, or a federal or state law under which a business involving investments, franchises, insurance, banking, or finance is regulated;
- i. Issuance of a cease and desist order by the Securities and Exchange Commission or issued under the securities, commodities, investment, franchise, banking, finance, or insurance laws of a State;
- j. Is the subject of three or more open arbitration filings or three or more customer initiated complaints filed with the U.S. Securities & Exchange Commission, a state securities administrator, the insurance regulator of a state, a depository institution regulator or other financial services regulatory body and/or one or more adverse findings on arbitration complaints;
- k. After notice and opportunity for a hearing, has been found:
 - i. by a court of competent jurisdiction to have willfully violated the laws of a foreign jurisdiction under which the business of securities, commodities, investment, franchises, insurance, banking, or finance is regulated;
 - ii. to have been the subject of an order of a securities regulator of a foreign jurisdiction denying, revoking, or suspending the right to engage in the business of securities as a broker-dealer, agent, investment adviser, investment adviser representative, or similar person; or
 - iii. to have been suspended or expelled from membership by or participation in a securities exchange or securities association operating under the securities laws of a foreign jurisdiction;
- l. Held liable in a civil action brought by a customer that involved allegations of fraud or deceit by the member.

Procedures

B. Initiation

1. An ethics file will be opened by the FPA staff on an active FPA member or lapsed member when one or more of the following takes place:
 - a. A written complaint is received from a consumer or member;
 - b. A member alerts the Committee in writing on a membership application, renewal form, or other communication that a Reportable Event has occurred;
 - c. It is discovered that a Reportable Event has not been duly reported;

- d. Information is obtained from, or FPA is alerted by, a state or federal licensing or regulatory agency or a professional or credentialing organization of findings and action taken against an FPA member in the enforcement of that organization's code of ethics or laws;
 - e. Information is obtained from a published source, such as a newspaper, magazine, news release, broadcast report, or electronic communication, about a Reportable Event taken by or against an FPA member.
2. When an ethics file is opened the staff shall send the member a copy of the FPA Ethics Policies and Procedures. If the file is based on information that is not provided by the member, the Ethics staff will, in addition, notify the member of the complaint. Further, if the file is based on information from a written complaint, the Ethics staff will send an acknowledgement to the complainant.
 3. If information about a lapsed member is received that would result in the opening of an ethics file, the Ethics staff will flag and note that lapsed member's record in the database. No further action need be taken unless the lapsed member reapplies for membership.

C. Investigative Process

1. If the initial Reportable Event is still pending, the staff will hold the file open until that matter is completed. For example, the staff will hold the file while the case is before a district or trial court. It does not, however, have to wait for a decision from a case that is appealed to a higher court.
2. The Ethics staff will review the complaint and/or information received and will seek any additional information or clarification, including complaint or disciplinary history, which is needed so that the staff can determine if it is more likely than not that a violation of the Code has occurred.
3. The staff will present its preliminary findings to a subcommittee of three committee members. If the subcommittee finds that there is enough evidence that it is more likely than not that a violation has occurred, then the staff will draft a complaint and submit it to the member.
4. For CFP certificants, the staff shall prepare a complaint based on the findings of the CFP Board.
5. The member will have 60 days from the date of their receipt of the complaint to file a response with the FPA. If a timely response is filed, then staff shall set up a hearing.
6. If the member does not respond within the 60 days, the Committee shall deem the allegations admitted.

D. Hearing

1. Hearings shall be conducted by telephone. If at least a quorum is not present, the member may either proceed with the members who are present or may ask that the matter be

rescheduled for a later date. In any event, if there are less than three members, the matter shall be rescheduled.

2. The chair of the Committee shall be the presiding officer at the hearing.
3. The staff shall present its case to the committee first. The member and/or their attorney has the right to make presentation at hearing. The staff shall have the right to a rebuttal.
4. The committee may ask questions of any party.
5. If the proceeding is based on a complaint directly to FPA, that complainant may be called as a witness and cross-examined. No other witnesses are allowed.
6. The member may ask that the proceedings be recorded.
7. Even if the member does not respond to the staff's request for information or request a hearing, the staff shall still present its case to the Committee.
8. The Committee shall take the allegations, findings, and/or decisions in an order, or court decision, or CFP Board disciplinary finding that was issued after notice and opportunity for hearing to be true. Members may explain the situation, but are not entitled to dispute the allegations and findings in that order or guilty finding or plea.
9. The Committee will review the facts and circumstances of the case presented at the hearing in light of the Code and determine if a violation of the FPA Code of Ethics has been violated and, if so, the appropriate resolution. The staff member shall be present during the discussion to assist the Committee, but is not entitled to vote on the matter.
10. The decision shall be supported by a majority of those members who were present at the hearing. Members who do not participate in the hearing are not eligible to vote.
11. The standard for reaching a decision is the preponderance of the evidence.

E. Summary Action

1. If summary action is deemed appropriate, the staff shall present such evidence to a subcommittee of three committee members at a hearing conducted as described in section D above, except that the member shall not be present or entitled to legal representation.
2. A request for summary action must be approved by the entire sub-committee. There must be a specific finding of necessity of immediate action. The staff will communicate the result to the member within five business days. The staff will schedule a hearing within 30 days, or sooner if requested by the member.
3. If the committee does not find a necessity for immediate action, the hearing shall be treated as a presentation of preliminary findings under Section C.

F. Resolution

1. The Committee may resolve the matter by taking any of the following actions:

- a. Dismiss the case with no action; or
 - b. Suspend or terminate the member's membership in the association.
2. Suspension or termination of membership shall be used when the Committee believes that the violation is serious, recurring, or likely to reoccur in the future.
 3. To the extent that the Committee determines that a suspension should be longer, or shorter, than the one that was the basis of the action, it should provide a detailed explanation for that deviation.
 4. When a member is terminated from membership that termination shall be for life. However, notwithstanding that lifetime ban, the member may, no sooner than ten years after the effective date of their termination, reapply for membership in FPA. The terminated member shall submit their application to the Ethics Committee for review and, if the request is granted, the member shall be allowed to rejoin the FPA.
 5. Disciplinary actions shall not be final until the time for an appeal has passed. Final actions will remain on a member's permanent record.

G. Appeal Process

1. Only members of FPA, not the staff, are entitled to appeal decisions by the Ethics Committee.
2. All appeals must be in writing and received by the Board of Directors within 60 calendar days after the member receives the decision of the Committee.
3. The appeal should contain specific responses to the action taken by the Committee by providing either:
 - a. Information relevant to the specific rules violations contained in the Committee's decision; and/or
 - b. Specific rebuttal to the rules violation citing where the member feels that the Committee did not properly interpret the facts of the situation; and/or
 - c. A challenge to the validity of the cited rule.
4. If no appeal is received by the Board within the 60 day period, the decision is final.

H. Implementation of Decision

1. The Ethics staff will notify the member by certified letter of the Committee's decisions.
2. A copy of the letter will also be sent to the complainant, if any.
3. If an appeal is requested, the matter remains confidential until the appeal is final.

4. The Ethics staff will implement the Committee's decision, flag and note the member's record, and notify the appropriate chapter.
5. The staff shall have the right to summarize the matter and publish the summary. However, the member's name may not be used in the summary.

Revised August 2012