

# DISCIPLINARY RULES AND PROCEDURES FOR EXAMINATION MISCONDUCT

In Effect from October 1, 2023

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# ARTICLE 1: INTRODUCTION

## 1.1 Introduction

A division of FP Canada™, the FP Canada Standards Council™ (the “Standards Council”) establishes and enforces financial planning standards, sets the certification requirements for professional financial planners and develops and delivers certification exams. The Standards Council ensures FP Canada certificants — CERTIFIED FINANCIAL PLANNER® professionals and QUALIFIED ASSOCIATE FINANCIAL PLANNER™ professionals — meet appropriate standards of competence and professionalism through rigorous requirements of education, examination, experience and ethics. These standards include successful completion of rigorous education and examination requirements, financial planning-related work experience, and an ethical commitment to putting the client's interest first.

Before, during and after each examination session, all examination candidates (Candidates) are expected to conduct themselves in an ethical manner and refrain from any activities that may impede the ability of their fellow Candidates to complete the examinations independently. By registering to write the QAFP® examination or CFP® examination, and signing the respective application to enroll for either examination, Candidates are deemed to have accepted the policies and procedures outlined in FP Canada Guide to the QAFP Examination and the FP Canada Guide to the CFP Examination (collectively the “Guides to Examinations”).

Cases of examination or examination related misconduct by Candidates are governed by the provisions of the *FP Canada Standards Council Disciplinary Rules and Procedures for Examination Misconduct* (the “DPEM”). The DPEM guides how the Standards Council conducts investigations and its review into actions by a Candidate.

The purpose of the DPEM is to:

1. Establish fair processes that consider the interests of the public, the financial planning profession, and the individual candidate;
2. Ensure processes and proceedings are clear, understandable, timely and transparent; and
3. Allow candidates to participate in the process, with or without legal representation.

The DPEM shall be liberally interpreted and implemented to secure the most reasonably expeditious and fairest determination with respect to every proceeding.

# ARTICLE 2: GROUNDS FOR DISCIPLINE

## 2.1 Grounds for Discipline

A complaint against a Candidate, or other indication of misconduct by a Candidate (“a Complaint”), that, pursuant to the DPEM, is investigated and found to constitute examination or examination related misconduct shall constitute grounds for discipline. Examination or examination related misconduct (“Misconduct”) may include:

1. Copying responses from other Candidates, or making responses available to other Candidates;

2. Any act or omission that violates the provisions of either of the Guides to Examinations, including the Examination Day Rules and Procedures;
3. Failing to cooperate with a Standards Council investigation and/or providing or making false or misleading statements to FP Canada and/or its Divisions; and
4. Any other acts or omissions amounting to misconduct as determined by Standards Council Staff (staff).

## ARTICLE 3: THE HEAD OF THE STANDARDS COUNCIL

### 3.1 Powers of the Vice President Standards, Certification and Enforcement and Head of the Standards Council

The President & CEO of FP Canada shall appoint a Vice President Standards, Certification and Enforcement (the “Head of the Standards Council”) who shall be responsible for, among other things, standards and enforcement, and having regard to the necessity for expeditiously concluding all disciplinary matters, shall have the power to:

1. Oversee the process for receipt and investigation of Complaints from any person or entity, in accordance with Article 4;
2. Make a Complaint in the absence of a third-party allegation of misconduct where the Head of the Standards Council has a reasonable suspicion that the Candidate may have engaged in Misconduct;
3. Appoint the Director of Professional Conduct and Enforcement or another delegate to represent the Standards Council before a Disciplinary Hearing Panel (“Hearing Panel”) or an Appeal Panel;
4. Engage counsel or other qualified individuals to act on behalf of the Standards Council; and
5. Do anything else necessary or desirable for the proper discharge of the Head of the Standards Council’s duties including raising possible changes to the DPEM to the President & CEO.

## ARTICLE 4: INVESTIGATION

### 4.1 Initial Review

Within 30 days of receipt of written information that includes an allegation of misconduct as defined in Article 2.1 (a “Complaint”), staff will review the Complaint and make an initial determination of its merits. The length of the initial review period may be impacted by the complexity of the complaint.

Any complaint that does not include an allegation of misconduct and/or does not meet the requirements set out in Article 2.1 shall be dismissed, with or without a written staff caution reminding the Candidate of their professional obligations.

## **4.2 Notice of Complaint**

Where it is determined that a Complaint includes a proper allegation of Misconduct, staff shall give written notice to the Candidate of the Complaint, setting out the substance of the Complaint, in accordance with Article 11.

The Candidate shall provide a detailed, written response, within 30 days of receipt of the notice, or any other deadline set by staff, and provide copies of relevant documents in the Candidate's possession or control.

Staff will review the Candidate's response, and where it is determined that the Complaint does not include a proper allegation of Misconduct in accordance with Article 2 above, dismiss the matter, with or without a written staff caution reminding the Candidate of their professional obligations.

## **4.3 Notice of Investigation**

Where, after review of the Candidate's response, it is determined that a Complaint includes a proper allegation of Misconduct and a formal investigation is warranted, staff shall give written notice to the Candidate, setting out the substance of the Complaint and the allegations instructed for investigation in accordance with Article 11 that a formal investigation has been commenced.

## **4.4 Cooperation**

Every Candidate under initial review or investigation, or is subject to an inquiry by the Standards Council, has an obligation to fully cooperate, including by making available to the Standards Council, upon request, any relevant documents and records in the Candidate's possession or control and meeting with the investigator (in-person or by way of telephone or videoconference) to answer questions. Relevance shall be determined by the Standards Council. Failure to cooperate or provide relevant documents is grounds for discipline under Article 2 of the DPEM.

Where a Candidate fails to respond to the Standards Council's communications and/or to cooperate with an initial review, investigation or inquiry by the Standards Council, the Head of the Standards Council or their delegate, may immediately refer the matter to a Hearing Panel for consideration.

## **4.5 The Conduct Review Panel**

The findings of an investigation shall be presented to the Conduct Review Panel (CRP) for consideration.

Following its consideration of the findings of an investigation, the CRP shall:

1. Dismiss the matter where it is determined that the complaint is unlikely to result in a finding of Misconduct; or

2. Dismiss the matter with a letter of Guidance and Advice, where the Panel has concerns about a Candidate's conduct but determines that a remedial approach is appropriate in the circumstances and that referral to a Hearing Panel is not required to protect the public interest; or
3. Refer the matter to a Hearing Panel.

The CRP shall advise the Candidate of its decision in writing.

## ARTICLE 5: HEARING PANEL

### 5.1 Referral To A Hearing Panel

Where the CRP determines that a matter should be referred to a Hearing Panel in accordance with Article 4.5, the Head of the Standards Council or their delegate shall, within 45 days, serve the Candidate with and file with the Secretary to the Hearing Panel (the Secretary), the Standards Council's Statement of Allegations and request that the Secretary establish a Hearing Panel.

### 5.2 Hearing Panel Roster

FP Canada shall maintain a Hearing Panel Roster. The Hearing Panel Roster supports the fulfillment of FP Canada Standards Council's professional-oversight mandate by establishing a list of members who can serve on FP Canada Standards Council Hearing and Appeal Panels, in the public interest. The Roster shall at all times be comprised of a majority of CFP professionals.

### 5.3 Hearing Panel

The Secretary shall appoint three members of the Hearing Panel Roster to serve as members on the Hearing Panel. In selecting members from the Hearing Panel Roster, the Secretary shall consider area of expertise and, where applicable, geographic location. The Secretary shall make every effort to rotate Hearing Panel Roster members. The Hearing Panel must be comprised of a majority of CFP professionals.

The selected members shall appoint one member, from amongst themselves, to serve as Chair of the Hearing Panel. If a member of a Panel who is engaged in a hearing becomes unable, for any reason, to complete the hearing or to participate in the decision or order, the remaining member(s) may:

1. complete the hearing, make the decision and any order, and give the reasons; or
2. request the Secretary appoint a substitute Hearing Panel member for the balance of the proceeding.

The Secretary shall be responsible for all aspects of administering the hearing process including maintaining administrative records of all hearings and decisions.

## 5.4 Notice of Hearing

Upon the fixing of the time and place for the Hearing, the Secretary shall give written notice (the Notice of Hearing) to the Head of the Standards Council or their delegate, the Candidate and the members of the Hearing Panel. Where a hearing is in writing, the hearing date will be used for deliberations by the Hearing Panel and the parties will not be in attendance.

The Notice of Hearing shall set out the Standards Council's and the Candidate's respective deadlines for delivery of submissions and supporting evidence. The Notice of Hearing will also detail the location and format of the Hearing.

Generally speaking, hearings shall be held in writing. Requests to change the location or format of the Hearing must be made to the Chair of the Hearing Panel, through the Secretary, in accordance with the deadline set within the Notice of Hearing. When considering a request to vary the format of a hearing, the Chair of the Hearing Panel may consider any relevant factors including:

1. Whether the nature of the evidence is not appropriate for a written hearing, including whether credibility is in issue and the extent to which facts are in dispute; and
2. Ensuring a fair process.

Where the Chair of the Hearing Panel determines that a Hearing shall be held in a format other than in writing, the Hearing shall be held at a location chosen by the Secretary who shall give due consideration to the convenience of all parties concerned.

### 5.4.1 Hearing Proceedings Together or Consecutively

Requests to have two or more proceedings, in whole or in part, be heard at the same time or one immediately after the other, may be made to the Chair of the Hearing Panel, through the Secretary, in accordance with the deadline set within the Notice of Hearing. When considering a request to hear proceedings together or consecutively, the Chair of the Hearing Panel may consider whether:

1. The proceedings have a question of fact, law or mixed fact and law in common;
2. The proceedings involve the same parties or witnesses;
3. The proceedings arise out of the same events or occurrences or series of events or occurrences; and/or
4. Any other facts or circumstances that the Hearing Panel considers relevant.

## 5.5. Disclosure by the Standards Council

As soon as is reasonably possible after the Notice of Hearing is issued, the Standards Council shall disclose to the Candidate copies of all non-privileged documents in the Standards Council's possession, that are relevant to the allegations as set out in the Statement of Allegations.

## 5.6. Written Hearings

### 5.6.1 The Standards Council's Evidence and Submissions

The Standards Council shall file with the Secretary, and deliver a copy to the Candidate, not later than 45 days prior to the date of the Hearing, or such other date as established in a decision or order of the Hearing Panel or as set out in the Notice of Hearing:

1. Written submissions;
2. A book of authorities, if any; and
3. Supporting evidence, including affidavits and documents that the Standards Council intends to rely on.

### 5.6.2 Candidate's Response

The Candidate, either directly or through counsel, shall file with the Secretary, and deliver a copy to counsel for the Standards Council, not later than 30 days prior to the date of the Hearing detailed in the Notice of Hearing or such other date as established in a decision or order of the Hearing Panel or as set out in the Notice of Hearing:

1. Written submissions;
2. A book of authorities, if any; and
3. Supporting evidence, including affidavits and documents that the Candidate intends to rely on (the Response).

The Candidate has the right, but not the obligation, to retain counsel to assist in the preparation of their Response.

### 5.6.3 The Standards Council's Reply

The Standards Council shall file its Reply, if any, with the Secretary, and deliver a copy to the Candidate, not later than ten (10) days prior to the date of the Hearing or such other date as established in a decision or order of the Hearing Panel or as set out in the Notice of Hearing.

The Secretary shall deliver copies of: the Standards Council's Submissions, the Candidate's Response and the Standards Council's Reply to the members of the Hearing Panel.

Absent the consent of the other party or leave of the Hearing Panel, neither the Standards Council nor the Candidate shall be allowed to submit any additional material (evidence or submissions) to the Secretary or the Hearing Panel subsequent to delivery of the Standards Council's Reply.

## 5.7 Alternative Hearing Formats

Where the Hearing proceeds in-person, or by telephone or video conference, both parties may lead evidence and make submissions to the Hearing Panel. For clarity at an in-person Hearing, the Candidate has the right to be represented by counsel, to invite witnesses, to introduce evidence, to make submissions and to question witnesses. The Standards Council has the same rights.

The Panel may direct that a witness be excluded from a hearing until the witness is called to give evidence. A party or their counsel may not be excluded from a hearing but the party may be required to give evidence before the party's other witnesses. Any witness giving testimony shall do so upon making a solemn promise to tell the truth.

## **5.8 Conduct of Hearing Panel**

The members of the Hearing Panel shall not discuss any aspect of the matter before the Hearing Panel, other than among themselves, with the Secretary or with Independent Legal Counsel.

## **5.9 Independent Legal Counsel**

The Standards Council may retain Independent Legal Counsel to support the Hearing Panel.

## **5.10 Case Conference**

Prior to the commencement of the Hearing, at a mutually convenient time and place, the Director of Professional Conduct and Enforcement or a delegate appointed by the Head of the Standards Council shall convene a case conference with the Candidate and, where applicable, their counsel to consider:

1. Any matters that may simplify the Hearing including facts or evidence that may be agreed upon, the narrowing of any issue and any other matter that may assist in the fair and expeditious disposition of the matter; or
2. A settlement of the matter.

## **5.11 Settlement**

Where a settlement is agreed upon, the parties shall file with the Hearing Panel, a Settlement Agreement consisting of an agreed statement of facts, admissions to the allegations, in whole or in part, or to the basis for the Bar to Certification, and an agreed penalty. The parties may also file joint submissions in support of the Settlement Agreement.

The Hearing Panel shall review the Settlement Agreement and, unless the Hearing Panel considers the terms of the Settlement Agreement to be inappropriate in the circumstances, shall make an order consistent with the agreed terms of the Settlement Agreement.

If the Hearing Panel determines the Settlement Agreement to be inappropriate, it shall either:

1. Request an amendment to the Settlement Agreement in accordance with its recommendations; or
2. Reject the Agreement in its entirety and refer the matter back to the Head of the Standards Council or their delegate.

If the Hearing Panel rejects the Settlement Agreement, the parties may enter into another Settlement Agreement or proceed to a new Hearing.

## 5.12 Agreed Statements of Fact and Joint Submissions on Penalty

Where the parties agree on all or part of the facts or evidence relevant to the allegations, the parties may enter into an Agreed Statement of Fact with respect to those facts or evidence.

Where the parties agree on all or part of the penalty to be imposed on the Candidate, the parties may enter into a Joint Submission on Penalty with respect to those penalties.

The Hearing Panel may receive and rely on any facts or evidence agreed to by the parties without having to prove the admitted facts or the admitted evidence through a full hearing.

## 5.13 Decision and Notice

The Hearing Panel shall, on a balance of probabilities, determine that there has been Misconduct or dismiss the matter. The decision of the Hearing Panel shall be by majority vote.

The Hearing Panel shall provide its written decision, including reasons, to the Secretary as follows:

- a. If the Hearing Panel is considering a Settlement Agreement or Agreed Statement of Facts, within 30 business days of the date of the Hearing; or
- b. If the Hearing Panel is considering a contested hearing, within 45 business days of the date of the hearing.

Upon receipt, the Secretary shall deliver a copy of the Hearing Panel's decision to the Candidate and the Head of the Standards Council or their delegate.

## 5.14 Penalty

Where the Hearing Panel determines that Misconduct occurred, following receipt of submissions on penalty, the Hearing Panel may order any one, or a combination, of the following sanctions:

1. A letter of admonishment, delivered by the Hearing Panel;
2. A prohibition from writing the QAFP examination or CFP examination, as applicable, for a specified number of exam sittings;
3. Where the Candidate is also a QAFP professional, a temporary or permanent suspension of the right to use the Certification Marks;
4. Permanent prohibition from writing the QAFP examination or CFP examination, as applicable;
5. An order nullifying the Candidate's examination results;
6. An award of costs against the Candidate; or
7. Such other penalty as the Hearing Panel may deem appropriate.

Where costs of the proceeding are sought by the Standards Council and the Hearing Panel awards costs against the Candidate, the Hearing Panel may consider, among other factors, the following:

1. The costs and expenses incurred by FP Canada or its Divisions including, without limiting the generality of the foregoing:

- Costs incurred during the investigation (applying the tariff rate of \$106 per hour for time spent by the investigator); and
  - Out-of-pocket expenses incurred by FP Canada or its Divisions during the course of the investigation and prosecution; and
2. Legal or other costs associated with the investigation and prosecution, including preparing or responding to allegations, evidence, submissions, requests for direction, etc., at the following tariff rates:
    - a. \$75 per hour for time spent by a summer or articling law student; and
    - b. \$175 per hour for time spent by the prosecutor.
  3. Costs for Independent Legal Counsel to the Hearing Panel, at the following tariff rates:
    - a. For a half day hearing (3 hours or less): \$1,000; and
    - b. For a full day hearing (more than 3 hours): \$2,000

These costs includes time spent by the Independent Legal Counsel to prepare for any hearing and to support the Hearing Panel throughout the proceeding
  4. Whether the Candidate delayed or prolonged the proceedings, including any failure to cooperate with the Standards Council’s initial review, investigation or inquiry;
  5. The respective degree of success of the parties in the proceedings; and
  6. Any other matter the Hearing Panel considers relevant.

## 5.15 Correction of Errors

The Secretary or the Chair of the Hearing Panel may at any time correct a typographical error, error of calculation or similar minor error made in directions or decisions of a Hearing Panel, including, but not limited to, merits, penalty or appeal decisions.

# ARTICLE 6: APPEALS

## 6.1. Right to Appeal

Either party may appeal the decision of the Hearing Panel on the grounds that there has been a significant and material error interpreting a provision of either of the Guides to Examinations, the DPEM or the facts, such that the Hearing Panel would likely have reached a different decision but for that error.

## 6.2 Notice of Appeal

The party bringing the Appeal (the Appellant) shall, within 30 days of receipt of the decision, provide the other party (the Respondent), and the Secretary, with a written notice of the intention to appeal (the Notice of Appeal). The Notice of Appeal shall detail the Appellant’s grounds for appeal in the form of a concise statement, without argument, of the issues and findings under appeal.

Where the Candidate is the Appellant, the penalty imposed by the Hearing Panel shall be stayed upon receipt of a Notice of Appeal and pending the outcome of the Appeal.

### **6.3 Appeal Panel**

Upon receipt of a Notice of Appeal, the Secretary shall appoint three members of the Hearing Panel Roster to serve as members on the Appeal Panel. Members of the original Hearing Panel are ineligible to sit on the Appeal Panel.

In selecting members from the Hearing Panel Roster, the Secretary shall consider area of expertise and, where applicable, geographic location. The Secretary shall make every effort to rotate Hearing Panel Roster Members. The Appeal Panel must be comprised of a majority of CFP professionals.

The selected members shall appoint one member, from amongst themselves, to serve as Chair of the Appeal Panel. Subject to the provisions of Article 7, the Appeal Hearing shall be held at a location chosen by the Secretary who shall give due consideration to the convenience of all parties concerned.

### **6.4 Notice of Appeal Hearing**

Following the appointment of the Appeal Panel, the Secretary shall fix a time and place for the Appeal Hearing and shall give notice to the Appellant, the Respondent, and the members of the Appeal Panel. The Notice of Hearing shall set out the Appellant's and Respondent's respective deadlines for submissions.

Appeal hearings shall be held in writing, unless otherwise directed by the Chair of the Appeal Hearing Panel following a request to change the format. Any such requests must be made to the Chair of the Appeal Hearing Panel in the Notice of Appeal, if the request is by the Appellant, or within 15 days of receipt of the Notice of Appeal, if the request is by the Respondent.

### **6.5 Submissions to the Appeal Panel**

#### **6.5.1. Appellant's Submissions**

The Appellant shall deliver to the Secretary and to the Respondent, not later than 30 days prior to the Appeal Hearing date or such other date as established by the Secretary and set-out in the Notice, a written submission setting out the grounds for appeal and the relief sought. The Applicant must include all documentation relied on and referenced in their submissions.

No fresh evidence can be filed or relied on for the Appeal.

#### **6.5.2. Respondent's Submissions**

The Respondent may reply to the Appellant's submission. Any such submissions shall be filed with the Secretary, and delivered to the Appellant, not later than 10 days prior to the Appeal Hearing date or such other date as established by the Secretary and set-out in the Notice.

The Secretary shall deliver copies of the Appellant's and Respondent's submissions to the members of the Appeal Panel.

## **6.6. Submissions at Appeal Hearing**

Where the Appeal proceeds in-writing, the Appellant's and Respondent's submissions are the parties' respective submissions.

Where the Appeal proceeds in-person, or by telephone or video conference, both parties may make oral submissions to the Appeal Panel. The Appeal Panel shall not hear witnesses and no fresh evidence shall be admitted except with leave of the panel. If a party seeks to tender evidence which was not before the Hearing Panel, the party shall make a request to the Appeal Panel. The Appeal Panel shall give written reasons for its decision in respect of any such request.

## **6.7 Standard of Review on Appeal**

The standard of review on Appeal shall be reasonableness.

## **6.8 Decision and Order**

The Appeal Panel shall decide the Appeal by majority vote and its written decision, with reasons, shall be delivered to the Secretary within 30 business days of the date of the Appeal Hearing. The Appeal Panel may maintain, vary, or partially vary any penalty imposed by the Hearing Panel or make such orders as it sees fit.

Where costs of the proceeding are sought by the Standards Council and the Appeal Panel awards costs against the Candidate, the Appeal Panel may consider, among other factors, the following:

1. Legal costs and expenses incurred by FP Canada or its Divisions;
2. The respective degree of success of the parties; and
3. Any other matter the Appeal Panel considers relevant.

Upon receipt of the Appeal Panel's written decision, the Secretary shall provide the Appellant, and the Respondent with a written copy of the final reasons for decision.

## **6.9 Decision Final**

The decision of the Appeal Panel is final.

# **ARTICLE 7: GENERAL RULES FOR HEARINGS**

## **7.1 General Rules for Hearings**

The following general rules shall apply to the proceedings of any Hearing Panel or Appeal Panel:

1. The Chair shall establish such procedures as are appropriate in the circumstances;
2. The Chair may admit any evidence relevant to the proceedings;
3. The Chair may impose reasonable time limits during the proceedings;

4. The Chair may make such orders or give such directions in proceedings as the Chair considers proper to maintain order or prevent abuses of the panel's processes;
5. The Secretary shall maintain administrative minutes of all Panel proceedings;
6. A hearing may be adjourned by the Chair at any time;
7. The Chair may engage counsel or experts to assist the panel in a hearing and in making its decision;
8. The Chair may extend or abridge any time prescribed by these Rules before or after the expiration of the time prescribed, including, without limitation, the time for service, filing or delivery of any document pursuant to the DPEM, on such terms as are just;
9. The Chair shall have the discretion to hold any Hearing by such means as may be appropriate in accordance with Article 5.4; and
10. Unless otherwise ordered by the Chair, all in-person hearings shall be held in-camera.
11. No one other than a court reporting service may, without leave of the Hearing Panel, make a video or audio recording or take a screen shot or make a video or audio recording of a proceeding.

## ARTICLE 8: COSTS

### 8.1 Costs

Unless otherwise provided herein, the Standards Council shall bear the costs of the investigation, and related proceedings. The Candidate shall be responsible for their own costs.

The Hearing Panel and Appeal Panel may, in their discretion, award costs to the Standards Council against the Candidate. Costs may not be awarded against the Standards Council or its staff.

## ARTICLE 9: SUSPENSION OR PROHIBITION

### 9.1 Suspension

Unless otherwise provided in the decision or order of the Hearing Panel or by the Appeal Panel, a Candidate whose rights to sit the QAFP examination or CFP examination has been suspended must continue to meet all applicable requirements, and shall be reinstated upon the expiration of the period of suspension, provided the Candidate demonstrates that he or she has fully complied with the Hearing Panel's and/or Appeal Panel's decision.

### 9.2 Prohibition

A prohibition from writing the QAFP examination or CFP examination for a specified number of exam sittings will be counted from the next exam sitting following the exam in which the Misconduct occurred.

An indefinite prohibition from writing the QAFP examination or CFP examination shall be permanent and there shall be no opportunity to make future application to write the QAFP examination or CFP examination.

## ARTICLE 10: PUBLICATION AND CONFIDENTIALITY

### 10.1 Publication of Disciplinary Decisions

For Hearing Panel and Appeal Panel decision (“Disciplinary Decision”) released after September 1, 2020, in which a Hearing Panel or Appeal panel determines whether a Candidate has engaged in exam misconduct, an anonymized version of the Disciplinary Decision (including any appended Settlement Agreement), as well as an anonymized summary of the Disciplinary Decision, (the “Anonymized Summary”), shall be publicized on FP Canada’s website, within ten (10) business days of the Disciplinary Decision being issued and accessible by members of the profession and the public. The Anonymized Summary shall set out: a brief summary of the relevant facts; any provision(s) of the relevant *Guide to Examination* or DPEM that were found to have been breached; and the outcome.

#### Publication in Other Mediums

The disclosure of an anonymized Disciplinary Decision and/or Anonymized Summary can also be made in such other medium as deemed appropriate including in the FP Standard, FP Canada newsletter or other FP Canada publications, local or national newspapers, social media, and in any other manner deemed appropriate by the Standards Council to facilitate the purpose of informing and protecting the public, including notification of the individual's employer, associates, partners or the relevant governing bodies of other professions. In particular, the Head of the Standards Council or their delegate may notify approved education providers who offer FP Canada-Approved Education Programs, those bodies with whom FP Canada has a Memorandum of Understanding, or the relevant governing bodies of other professions.

#### Where Discipline Decisions and Summaries Will Not be Anonymized

Discipline Decisions and Summaries will not be anonymized in the following circumstances:

1. Where a Candidate is also an FP Canada Certificant, or was an FP Canada Certificant at the time of the alleged misconduct, and the Hearing Panel or Appeal Panel finds that a Candidate has engaged in misconduct pursuant to the *Standards of Professional Responsibility*; or
2. Where the penalty ordered by Hearing Panel pursuant to Article 5.14 includes a permanent suspension of the right to use the Certification Marks and/or a permanent prohibition from writing the QAFP examination or CFP examination, as applicable.

### 10.2 Protecting Confidentiality

In addition to the steps taken to anonymize the summary, pursuant to Article 10.1, the Head of the Standards Council or their delegate may redact the published versions of the Anonymized Summary as

necessary to prevent unnecessary disclosure of personal information relating to the Candidate or others (including, names of third parties and health information).

### **10.3 Retention of Disciplinary Actions**

Disciplinary Decisions will be maintained in an FP Canada database and will be available to the public on the FP Canada website indefinitely.

The Head of the Standards Council may remove a Disciplinary Decision from the FP Canada website taking into consideration, without limitation, the following considerations: (1) the Candidate has applied in writing for the removal of the information; (2) more than 5 years have passed since the date of the Hearing Panel or Appeal Panel decision; and (3) where the Candidate is also a QAFP professional, the disciplinary action did not involve a temporary or permanent suspension of the rights to call themselves a QAFP professional and use of the Certification Marks; and (4) any disciplinary action did not involve a permanent prohibition from writing the QAFP examination or CFP examination, as applicable.

### **10.4 Compulsory Disclosure**

Any records with respect to the Candidate including records of a complaint, an investigation and/or hearing under the DPEM will only be disclosed to a third party if such disclosure is required by: legal process of a court of law or provincial government agency with appropriate jurisdiction; a body with whom FP Canada has an information sharing agreement; or a provincial body with authority to regulate, oversee or enforce title protection legislation.

### **10.5 Consent**

By registering to write the QAFP examination or CFP examination, and signing the respective application to enroll for either examination, Candidates consent to any notice, publication or release of information made in accordance with the DPEM.

## **ARTICLE 11: SERVICE OF DOCUMENT**

### **11.1 Service**

Documents required to be served on the Candidate (“Notices”) may be delivered by: personal services, courier, registered mail, ordinary mail and/or e-mail.

### **11.2 Deemed Service**

Where service is challenged, the Standards Council has the burden of establishing delivery of Notices.

Notices delivered by personal service shall be deemed to be delivered on the day delivered. Notices delivered by registered mail and courier shall be deemed delivered on the fourth business day following mailing or as noted on the delivery receipt.

### 11.3 Time Period

Any time periods specified in the DPEM shall include and begin to run from the date of actual delivery or deemed delivery in accordance with Article 11.2.

### 11.4 Address

A Candidate may not challenge service properly given to the address recorded in the files of FP Canada. The Candidate may challenge service if he or she did not, in good faith, receive the notice due to matters beyond their control, by providing proof to the Secretary, the Head of the Standards Council or their delegate and the Hearing and/or Appeal.

## ARTICLE 12: TIME

### 12.1 Computation of Time

In the computation of time under these rules or an order, except where a contrary intention appears,

- a. where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, even if they are described as clear days or the words “at least” are used;
- b. where a period of seven (7) days or less is prescribed, holidays shall not be counted;
- c. where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday; and
- d. where a time of day is mentioned in these rules, in an order or in any document in a proceeding, unless otherwise specified, the time referred to shall be taken as Eastern Standard Time.

“holiday” means any Saturday or Sunday; any officially recognized Federal or Provincial Statutory holiday in Ontario or in the relevant Province where the Candidate resides.



## Contact Details

FP CANADA™

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