

SETTLEMENT PLANNING PRACTICE STANDARDS OVERVIEW

Statement of Purpose for Settlement Planning Practice Standards

Settlement Planning Practice Standards are developed by the Society of Settlement Planners (“SSP”) Board of Directors (“SSP Board”) and are effective following adoption by the SSP Board.

These Practice Standards are intended to:

1. Benefit consumers of settlement planning services;
2. Assure that settlement planning is practiced by professionals and based on established norms of practice;
3. Advance professionalism in settlement planning; and
4. Enhance the value of the settlement planning process.

Description of Practice Standards

A Practice Standard establishes the level of practice that is expected of professionals engaged in settlement planning. These Practice Standards are intended to apply to all of those holding themselves out as “Settlement Planners” in performing the tasks of settlement planning regardless of the person's title, job position, type of employment or method of compensation. The Practice Standards are designed to provide settlement planners with a framework for the professional practice of settlement planning. They are not designed to be a basis for legal liability to any third party. Compliance with the Practice Standards will eventually be made mandatory for members of the Society of Settlement Planners whose services include settlement planning or material elements of settlement planning. However, all settlement-planning professionals are encouraged to use the Practice Standards whenever performing settlement planning tasks or activities addressed by a Practice Standard.

Format of the Practice Standards

Each Practice Standard is a statement regarding one of the steps of the settlement planning process. It is followed by an explanation of the Standard. The Explanation accompanying each Practice Standard explains and illustrates the meaning and purpose of the Practice Standard. The text of each Practice Standard is authoritative and directive. The related Explanation is a guide to interpretation and application of the Practice Standard based, where indicated, on a standard of reasonableness, a recurring theme throughout the Practice Standards. The Explanation is not intended to establish a professional standard or duty beyond what is contained in the Practice Standard itself. We recognize the pioneering achievements in professionalism in financial planning by the CFP Board and with their gracious permission, most of our Practice Standards and the associated documents are adapted directly from the CFP Board’s Practice Standards in effect in January 2017.

Settlement Planning Practice Standards:

1. The settlement planner shall acknowledge that the “client” is the person(s) receiving or potentially receiving settlement proceeds and although circumstances may require working on the client’s behalf with the client’s attorney, agent, guardian or other appropriate surrogates, the settlement planner’s focus and duty must remain on the client.
2. The settlement planner and the client shall mutually define the scope of the engagement before any settlement planning service is provided.
3. The settlement planner and the client shall mutually define the client’s personal and financial goals, needs and priorities that are relevant to the scope of the engagement before any recommendation is made and/or implemented.
4. The settlement planner shall obtain sufficient quantitative information and documents about a client relevant to the scope of the engagement before any recommendation is made and/or implemented.
5. A settlement planner shall analyze the information to gain an understanding of the client’s financial situation and then evaluate to what extent the client’s goals, needs and priorities can be met by the client’s resources (including those that are related and those that are unrelated to the settlement).
6. The settlement planner shall first consider sufficient and relevant options and then develop recommendation(s) based on the selected option(s) in an effort to reasonably meet the client’s goals, needs and priorities.
7. The settlement planner shall communicate the recommendation(s) in a manner and to an extent reasonably necessary to assist the client in making an informed decision.
8. The settlement planner and the client shall mutually agree on the implementation responsibilities consistent with the scope of the engagement.
9. The settlement planner shall recommend appropriate products and services that are consistent with the client’s goals, needs and priorities.
10. The settlement planner and client shall mutually define monitoring responsibilities.

Explanations of Each Practice Standard

1. Settlement planning often occurs within a compressed timeframe and often involves clients who have limited capacity or are financially unsophisticated. In this environment, working with a surrogate who functions as a decision maker for a client is often necessary. Throughout these Practice Standards and the Explanations of Practice Standards it is understood that circumstances often require that decisions and actions, communications and agreements be made with surrogates on behalf of the client. To the fullest extent possible, the settlement planner should involve the client directly or the person's legal guardian to fulfill each of these Practice Standards. The settlement planner's client is the person(s) receiving or potentially receiving settlement proceeds even though the planner may have entered into agency contracts with other companies (e.g., life insurance companies). Whenever conflicts of interest between a settlement planner, client, attorney, or surrogate for a client exist, the settlement planner should disclose the conflict to the most appropriate parties.

2. Prior to providing any settlement planning service, the settlement planner and the client shall mutually define the scope of the engagement. The process of "mutually-defining" is essential in determining what activities may be necessary to proceed with the engagement. This process is accomplished in settlement planning engagements by:
 1. Identifying the service(s) to be provided;
 2. Disclosing the settlement planner's material conflict(s) of interest;
 3. Disclosing the settlement planner's compensation arrangement(s);
 4. Determining the client's and the settlement planner's responsibilities;
 5. Establishing the duration of the engagement; and
 6. Providing any additional information necessary to define or limit the scope.

It is acceptable to mutually define engagements in which the scope is limited to specific activities. Mutually defining the scope of the engagement serves to establish realistic expectations for both the client and the settlement planner. This Practice Standard does not require the scope of the engagement to be in writing. However, there may be certain disclosures that are required to be in writing. As the relationship proceeds, the scope may change by mutual agreement. This Practice Standard shall not be considered alone, but in conjunction with all other Practice Standards.

3. Prior to making recommendations to the client, the settlement planner and the client shall mutually define the client's personal and financial goals, needs and priorities. In order to arrive at such a definition, the settlement planner will need to explore the client's values, attitudes, expectations, and time horizons as they affect the client's goals, needs and priorities. Personal

values and attitudes shape the client's goals and objectives and the priority placed on them. Accordingly, these goals and objectives must be consistent with the client's values and attitudes in order for the client to make the commitment necessary to accomplish them. Goals and objectives provide focus, purpose, vision and direction for the settlement planning process. It is important to determine clear, and measurable objectives that are relevant to the scope of the engagement. The role of the settlement planner is to facilitate the goal-setting process in order to clarify, with the client, goals and objectives. When appropriate, the settlement planner shall try to assist clients in recognizing the implications of unrealistic goals and objectives. This Practice Standard addresses only the tasks of determining the client's personal and financial goals, needs and priorities; assessing the client's values, attitudes and expectations; and determining the client's time horizons. These areas are subjective and the settlement planner's interpretation is limited by what the client and/or surrogates for the client reveals.

4. Prior to making recommendations to the client and depending on the scope of the engagement, the settlement planner shall determine what quantitative information and documents are sufficient and relevant. The settlement planner shall obtain sufficient and relevant quantitative information and documents pertaining to the client's financial resources, obligations and personal situation. This information may be obtained directly from the client or other sources such as interview(s), questionnaire(s), client records and documents. The settlement planner shall communicate to the client a reliance on the completeness and accuracy of the information provided and that incomplete or inaccurate information will impact conclusions and recommendations. The settlement planner shall communicate to the client any limitations on the scope of the engagement, as well as the fact that this limitation could affect the conclusions and recommendations. If the settlement planner is unable to obtain sufficient and relevant quantitative information and documents to form a basis for recommendations, the settlement planner shall either:
 - A. Restrict the scope of the engagement to those matters for which sufficient and relevant information is available; or
 - B. Terminate the engagement.
5. Prior to making recommendations to a client, it is necessary for the settlement planner to assess the client's financial situation and to determine the likelihood of reaching the stated objectives. The settlement planner will utilize client-specified, mutually agreed upon, and/or other reasonable assumptions. Both personal and economic assumptions must be considered in this step of the process. These assumptions may include, but are not limited to, the following: Personal assumptions, such as: retirement age(s), life expectancy(ies), income needs, risk factors, time horizon and special

needs; and economic assumptions, such as: inflation rates, tax rates and investment returns. Analysis and evaluation are critical to the settlement planning process. These activities form the foundation for determining strengths and weaknesses of the client's financial situation. These activities may also identify other issues that should be addressed. As a result, it may be appropriate to amend the scope of the engagement and/or to obtain additional information.

6. After analyzing the client's current situation and prior to developing and presenting the recommendation(s) the settlement planner shall identify alternative actions. The settlement planner shall evaluate the effectiveness of such actions in reasonably meeting the client's goals, needs and priorities. This evaluation may involve, but is not limited to, considering multiple assumptions, conducting research or consulting with other professionals. This process may result in multiple alternatives. In considering alternative actions, the settlement planner shall recognize and, as appropriate, take into account his or her legal and/or regulatory limitations and level of competency in properly addressing each of the client's settlement planning issues. More than one alternative may reasonably meet the client's goals, needs and priorities. Alternatives identified by the settlement planner may differ from those of other settlement planners or advisers, illustrating the subjective nature of exercising professional judgment. When presented with an engagement for which the settlement planner is not competent, the settlement planner should inform the client and recommend that the client seek advice from a more competent person unless the settlement planner is capable of becoming competent and committed to do so within an appropriate timeframe for the engagement.

After identifying and evaluating the alternative(s), the settlement planner shall develop the recommendation(s) expected to reasonably meet the client's goals, needs and priorities. A recommendation may be an independent action or a combination of actions that may need to be implemented collectively. The recommendation(s) shall be consistent with and will be directly affected by the following:

- Mutually defined scope of the engagement;
- Mutually defined client goals, needs and priorities;
- Quantitative data provided by the client;
- Personal and economic assumptions;
- Settlement planner's analysis and evaluation of client's current situation;
- and
- Alternative(s) selected by the settlement planner.

A recommendation may be specific and/or detailed or provide a general direction. In some instances, it may be necessary for the settlement planner

to recommend that the client modifies a goal. The recommendations developed by the settlement planner may differ from those of other settlement planners or advisers, yet each may reasonably meet the client's goals, needs and priorities.

7. When presenting a recommendation, the settlement planner shall make a reasonable effort to assist the client in understanding the client's current situation, the recommendation itself, and its impact on the ability to meet the client's goals, needs and priorities. In doing so, the settlement planner shall avoid presenting the settlement planner's opinion as fact. The settlement planner shall communicate the factors critical to the client's understanding of the recommendations. These factors may include but are not limited to material:
 - Personal and economic assumptions;
 - Interdependence of recommendations;
 - Advantages and disadvantages; Risks; and/or
 - Time sensitivity.

The settlement planner should indicate that even though the recommendations may meet the client's goals, needs and priorities, changes in personal and economic conditions could alter the intended outcome. Changes may include, but are not limited to: legislative, family status, career, investment performance and/or health. If there are conflicts of interest that have not been previously disclosed, such conflicts and how they may impact the recommendations should be addressed at this time. Presenting recommendations provides the settlement planner an opportunity to further assess whether the recommendations meet client expectations, whether the client is willing to act on the recommendations, and whether modifications are necessary.

8. The client is responsible for accepting or rejecting recommendations and for retaining and/or delegating implementation responsibilities. The settlement planner and the client shall mutually agree on the services, if any, to be provided by the settlement planner. The scope of the engagement, as originally defined, may need to be modified. The settlement planner's responsibilities may include, but are not limited to the following:
 - Identifying activities necessary for implementation;
 - Determining division of activities between the settlement planner and the client;
 - Referring to other professionals;
 - Coordinating with other professionals;
 - Sharing of information as authorized; and
 - Selecting and securing products and/or services.

If there are conflicts of interest, sources of compensation or material relationships with other professionals or advisers that have not been previously disclosed, such conflicts, sources or relationships shall be disclosed at this time. When referring the client to other professionals or advisers, the settlement planner shall indicate the basis on which the settlement planner believes the other professional or adviser may be qualified. If the settlement planner is engaged by the client to provide only implementation activities, the scope of the engagement shall be mutually defined, orally or in writing. This scope may include such matters as the extent to which the settlement planner will rely on information, analysis or recommendations provided by others.

9. The settlement planner shall investigate products or services that reasonably address the client's needs. The products or services selected to implement the recommendation(s) must be suitable to the client's financial situation and consistent with the client's goals, needs and priorities. The settlement planner uses professional judgment in recommending the products and services that are in the client's interest. Professional judgment incorporates both qualitative and quantitative information. Products and services recommended by the settlement planner may differ from those of other settlement planners or advisers. More than one product or service may exist that can reasonably meet the client's goals, needs and priorities. The settlement planner shall make all disclosures required by applicable regulations.
10. The purpose of this Practice Standard is to clarify the role, if any, of the settlement planner in the monitoring process. By clarifying this responsibility, the client's expectations are more likely to be in alignment with the level of monitoring services that the settlement planner intends to provide. If engaged for monitoring services, the settlement planner shall make a reasonable effort to define and communicate to the client those monitoring activities the settlement planner is able and willing to provide. By explaining what is to be monitored, the frequency of monitoring and the communication method, the client is more likely to understand the monitoring service to be provided by the settlement planner. The monitoring process may reveal the need to reinitiate steps of the settlement planning process. The current scope of the engagement may need to be modified.