

Association of Certified Fraud Examiners



Professional Standards for Certified Fraud Examiners

Adopted for Public Comment by the Board of Regents on January 26, 2012

Professional Standards for Certified Fraud Examiners

Introduction

The Association of Certified Fraud Examiners (ACFE) is an association of professionals comprised of Certified Fraud Examiners (CFEs) and Associate Members (Associates) who have made a commitment to work together for the common goal of detecting and preventing fraud, waste, and abuse. Fraud, waste, and abuse occur in all industries and organizations, both public and private. Fraud, however, is inherently secretive, complex, and difficult to deal with. The complexity and difficulty of detecting and preventing fraud requires and demands that anti-fraud professionals operate and conduct themselves with the highest level of ethical conduct and professionalism.

The ACFE, along with the ACFE Board of Regents (Board) and the ACFE Professional Standards and Practices Committee (Committee), have developed a set of Professional Standards for Certified Fraud Examiners (Standards) to help guide CFEs to meet the challenges encountered in the anti-fraud profession. These Standards express basic principles of ethical behavior to guide CFEs in fulfilling their professional duties and obligations. All CFEs shall be required, and all Associates shall strive, to adhere to these standards.

Purpose of the Standards

The ACFE is committed to the advancement of the anti-fraud profession and the growth and development of its members. Every CFE, regardless of position, industry, or profession, should exhibit and maintain a core set of professional anti-fraud standards that are representative of the ACFE and the CFE designation.

The purpose of the Standards is to:

- Provide a set of core values and expectations with regard to professional conduct for CFEs where ethics, integrity, and professionalism are the cornerstones of the CFE designation.
- Establish minimum requirements for CFEs when interacting and communicating with clients/employers.
- Provide a basic framework of expectations for CFEs by outlining common principles that are applicable to all fraud examiners.
- Remind CFEs of their duty to adhere to the Standards.
- Encourage CFEs to report violations of the Standards to the ACFE.

The Standards are comprised of five core elements and expectations for CFEs:

- Standards of Professional Conduct
- Standards of Client Interaction and Communication
- Standards of Examination
- Standards of Reporting
- Standards of Enforcement

Applicability of the Standards

The Standards apply to all CFEs. All Associate members should strive to adhere to the Standards.

The ACFE understands and respects the fact that CFEs work in every industry, profession, and trade around the world and that the laws and standards of practice for CFEs can vary based on their particular circumstances. As a result, there may be instances where CFEs encounter a conflict between the Standards and other requirements imposed by their professions/industries/jurisdictions. When CFEs are subject to codes or standards from other professional organizations or licensing bodies that conflict with these Standards, they should follow the more stringent requisites.

In addition, CFEs must abide by all laws, regulations, and court orders to which they are subject. If there is a conflict between the Standards and any law, regulation or valid court order, the provisions of the law, regulation, or court order should be followed.

The Standards were drafted by the ACFE Professional Standards and Practices Committee. The Committee will continually review and recommend updates to the Standards based on comments and feedback received from ACFE members, the ACFE Staff, and the Board of Regents.

Questions, comments or suggestions as they relate to the Standards can be directed to:

The Association of Certified Fraud Examiners
Attn: Professional Standards Committee Liaison
716 West Avenue
Austin, TX 78701

1.0 – Standards of Professional Conduct

Section 1.1 – Integrity

CFEs shall conduct themselves with integrity, knowing that public trust is founded on integrity. CFEs shall not sacrifice integrity to serve the client, the employer, or the public interest.

Guidance

Integrity can be defined as an adherence to moral and ethical principles; soundness of moral character; honesty. These are traits that CFEs are expected to uphold. CFEs should be mindful that the integrity they exhibit reflects not only on them, but also on the ACFE and the anti-fraud profession in general. Part of the ACFE's core mission is to inspire public confidence in the integrity, objectivity, and professionalism of CFEs. If a CFE fails to act with integrity, then public confidence in the ACFE itself may be diminished.

Section 1.2 – Truthfulness

CFEs shall be truthful in their communications, findings, and professional dealings. This standard does not prohibit the use of lawful investigative techniques, covert examinations, and interviewing techniques that have been deemed acceptable in a court of law.

Guidance

CFEs should act in a truthful manner. Personal character is a quality that is demonstrated through truthfulness, and truthfulness is manifested through providing services with the highest degree of integrity.

In short, CFEs should uphold truthfulness in their actions, words, and deeds, and they should always be dedicated to finding and reporting the truth, regardless of the desired outcome.

There are many facets to the anti-fraud profession and CFEs provide a variety of services in a multitude of settings. CFEs commonly provide testimony and report their findings in legal and non-legal matters such as criminal and civil trials, arbitrations, bankruptcy proceedings, legislative hearings, and other legal or equitable proceedings, and they must be truthful when doing so. Any exaggeration or embellishment, if uncovered, will likely reduce the CFEs credibility and persuasiveness. Moreover, the use of false statements, half truths, and misrepresentations by a CFE could cause the innocent to be punished or cause the guilty to go free. A CFE's word can hold great weight, and this should not be taken lightly.

Additionally, CFEs often must report their findings and communicate the results of an engagement with a client or employer, and such communications must be accurate. Providing inaccurate results will affect the credibility of the underlying engagement and the CFE.

1.2.1 – Truthfulness in Courts of Law, Hearings, and Other Dispute Resolution Bodies

1.2.1.1 – False Statements

CFEs shall not knowingly make a false statement when testifying under oath.

1.2.1.2 – Court Compliance

CFEs shall comply with lawful orders of the courts or other dispute resolution bodies.

1.2.2 – Truthfulness in Communicating Results

CFEs shall not knowingly make a false statement when reporting findings or communicating the results of an engagement with a client/employer.

Section 1.3 – Objectivity

CFEs shall maintain objectivity in discharging their professional responsibilities at all times. CFEs shall not be influenced to misrepresent, skew, suppress, or fabricate any information or findings.

Guidance

CFEs should strive to safeguard any examination from the influences of the personal feelings or interests of others involved and focus on the facts of the case. For CFEs, objectivity refers to the ability to conduct examinations without being influenced by one's own personal feelings or the personal feelings and motives of others. An objective CFE makes decisions and renders opinions that are based on fact and are free from bias, prejudice, and personal interpretations.

CFEs must maintain objectivity to report findings accurately. A CFE who fails to work freely and objectively does a disservice to the anti-fraud profession and the CFE designation.

1.3.1 – Reporting Objectivity Issues

CFEs shall immediately report to their client/employer, or remove themselves from an examination when their objectivity becomes so diminished that it could significantly impact the outcome or findings of the examination.

Section 1.4 – Conflicts of Interest

Prior to accepting a professional engagement, CFEs shall investigate for actual and/or potential conflicts of interest. If actual conflicts of interest and/or potential conflicts of interest arise at any time before or during an engagement, CFEs shall disclose such conflicts to their employers or prospective clients as soon as the conflicts are known to the CFE.

Guidance

An *actual conflict of interest* exists when a member's ability to act objectively, or in the best interests of his client/employer, will be impaired by any current, prior, or future relationship with parties relevant to the engagement. An example of an actual conflict of interest might include being asked to conduct a fraud examination of someone with whom you have strong personal or business ties, such as a relative, a friend, or a business partner. A *potential conflict of interest* exists when a member's private interest could result in a conflict of interest in the future. An example of a potential conflict of interest might include being asked to conduct an examination of a Company A when you have business interests in an entity that is a supplier of Company A and derives a substantial amount of its revenue from Company A.

1.5.1 – Mitigation of Actual and Potential Conflicts of Interest

1.4.1.1 – Actual Conflicts of Interest

CFEs shall refrain from conducting any examination where an actual conflict of interest exists until such a time when the actual conflict of interest no longer exists or when informed consent is obtained from all affected parties.

1.4.1.2 – Potential Conflicts of Interest

In situations where potential conflicts of interest exist, CFEs should take all necessary steps to ensure that an actual conflict of interest does not materialize. This could include reassigning personnel, tasks, job duties, and/or responsibilities. CFEs should also refrain from conducting any examination until the potential conflict has been disclosed to the client/employer and informed consent has been obtained.

Section 1.5 – Discreditable Acts

CFEs shall not commit discreditable acts, and shall always conduct themselves in the best interests of the reputation of the profession.

Guidance A *discreditable act* is any act conducted by a CFE that would be reasonably expected to diminish his/her trustworthiness or integrity. Examples of discreditable acts include but are not limited to perjury, fabricating evidence, excluding relevant evidence, lying about or fabricating professional qualifications, and so on.

CFEs are routinely called on to investigate allegations of wrongdoing and report findings in matters involving fraud, corruption, and other violations of the law. A CFE's findings and opinions are often given great weight by employers, law enforcement authorities and the courts.

CFEs who commit discreditable acts tarnish their reputation, the reputation of the ACFE, and the public perception of the CFE designation. Therefore, CFEs should strive to live by the spirit as well as the letter of the law, and they should seek to serve as role models for ethics, integrity, and honesty.

1.5.1 – Criminal Acts

CFEs shall not commit criminal acts or knowingly induce others to do so.

Guidance

CFEs operate in many different jurisdictions and under varying circumstances and conditions, but regardless of where they live or operate, CFEs are expected to comply with the law and avoid engaging in criminal conduct. Generally speaking, this standard is meant to apply to felony offenses (those punishable by more than one year in prison) or crimes of moral turpitude.¹ Examples of the categories of criminal acts that would rise to a violation of this standard include by are not limited to: corruption, bribery, illegal gratuities, extortion, asset misappropriation, larceny, forgery, financial statement fraud, identity theft, perjury, and computer fraud. In some circumstances, other crimes may constitute a violation of this standard depending on their severity. For example, reckless or intentional misconduct that endangers the life or safety of another, even if it is not a felony offense, might violate this Standard.

Minor infractions that do not involve any aspect of moral turpitude, such as traffic violations, are not covered by this standard, although CFEs should strive to obey all laws at all times.

All cases involving the application of this standard will be decided by the ACFE Board of Regents at its own discretion on a case-by-case basis.

Section 1.6 – Professional Competence

CFEs shall be competent in their respective areas and disciplines, and they shall not accept assignments where competence is lacking. In some circumstances, it may be possible to meet the requirement for professional competence by use of consultation or referral.

Guidance

Professional competence refers to an individual's knowledge, skills, and overall capability to perform the duties of a CFE. Competency, however, is not the same as perfection. Everyone makes mistakes and CFEs are no different, but CFEs must diligently discharge their professional responsibilities, and they should not accept any matters which they are not competent to handle. CFEs, however, may accept matters where the requisite level of competence can be achieved by reasonable preparation.

¹ Section 5.07 of the ACFE Bylaws defines a crime of moral turpitude as one that calls into question the integrity and judgment of the offender and includes but is not limited to offenses such as bribery, fraud, corruption, solicitation, embezzlement, theft by a fiduciary or trustee, or theft by trick, deceit or false pretenses.

CFEs should refrain from taking cases in which they lack the knowledge, skills, or experience to provide competent services unless they can obtain the necessary expertise to establish competence prior to the engagement, or they associate with someone of established competence in the field in question. A CFE may have significant expertise in one area of practice but lack competence to handle other types of cases. For example, a CFE whose sole experience is in health care fraud should refrain from taking a bankruptcy fraud case unless he/she can obtain the necessary expertise to establish competence prior to the engagement, or he/she is able to hire, engage, or consult with other professionals who do have the requisite competence. However, if the CFE does rely on third party expertise in this manner, doing so does not absolve the CFE of his/her responsibilities to oversee the engagement and to ensure that competent services are delivered to the client/employer. At a minimum, the CFE must have sufficient expertise to determine if those operating under his/her direction have the requisite knowledge, skills, and abilities to perform their assigned tasks.

1.6.1 – Continuing Education

CFEs shall maintain the minimum amount of continuing professional education required by the ACFE.

Guidance

CFEs shall continually strive to increase the level of competence and effectiveness of their professional services by maintaining appropriate continuing professional education (CPE). CPE requirements are set by the ACFE Board of Regents and are subject to change. These requirements are published by ACFE on its website. It is the CFE's responsibility to know what CPE requirements have been established by the Board of Regents. CFEs must maintain the minimum levels of CPE as dictated by the Board and must certify their compliance with CPE requirements.

Section 1.7 – Due Professional Care

CFEs shall exercise due professional care in the performance of their services. Due professional care requires diligence, critical analysis, and professional skepticism in discharging professional responsibilities.

Guidance

Due professional care can be defined as the care that a reasonable person in the same profession and in the same situation would exercise to achieve the desired results.

The standard of due professional care requires that CFEs utilize techniques and approaches that are accurate, professional, ethical, and legal when compared to others in the profession. A useful question to ask when considering whether one has exercised due professional care

is: If another CFE with expertise in this field was brought in to critique my work, would that CFE generally utilize the same or similar approaches and make the same or similar decisions in conducting the examination? If the answer is no, then it is possible that the primary CFE was not utilizing due professional care.

Section 1.8 – Confidentiality

CFEs shall not disclose confidential or privileged information obtained during the course of a professional engagement without the express permission of the client/employer or another appropriate authority.

Guidance

Due to the nature of the anti-fraud profession, CFEs often will come into contact with sensitive, privileged, or otherwise confidential information. It is imperative that CFEs maintain integrity and trustworthiness and safeguard such information from unauthorized viewing or disclosure.

CFEs must maintain confidentiality regarding the sharing of information outside of the scope of their responsibilities until directed by an appropriate authority to turn over confidential information. The appropriate authority could be the client/employer, a judicial or legislative body, or an investigative review board, depending on the circumstances.

1.8.1 – Unauthorized Use of Confidential Information

CFEs shall not use sensitive, privileged, or otherwise confidential information obtained during the course of a professional engagement for their own personal benefit or profit or for the benefit of their family members, friends, or business associates.

Guidance

When a CFE is made privy to a client/employer's sensitive, privileged, or otherwise confidential information, such information must be used only in furtherance of his/her professional responsibilities. Any other use of confidential information, without the client/employer's knowledge and consent, is prohibited—particularly if such use is for the CFE's personal benefit. For example, a CFE who uses a client's customer database to promote his/her own services would be in violation of this standard. The same would be true of a CFE who buys or sells stock based on confidential financial information that he/she obtained during a fraud examination or other professional engagement.

2.0 – Standards of Client/Employer Interaction and Communication

Every client and every professional engagement is unique in terms of circumstances, scope, expectations, compensation, subject matter, and so on. But regardless of the differences, there are several standards to which CFEs should adhere in order to ensure that there is mutual understanding with clients/employers regarding the terms and conditions of the engagement. Proper planning, communication, on-going assessment and follow-up with the client/employer are essential to CFEs and to the success of the engagement.

Section 2.1 – Initial Scope Agreement

At the beginning of a fraud examination, CFEs shall reach an agreement with those retaining them (client or employer) about the scope and limitations of the fraud examination and the responsibilities of all parties involved.

Guidance

The initial scope agreement is the most critical piece of pre-engagement communication CFEs have with the client/employer. The initial scope may consist of a formal written contract, a client engagement letter, or in some circumstances an oral understanding with the client/employer. Examples of basic information that should be considered in the initial scope agreement include:

- Predication and/or allegation/concern to be investigated
- Timeliness or urgency of the engagement
- Compensation
- Requirements for status updates and ongoing communication
- Final report guidelines and/or format
- Confidentiality requirements
- Authorized contact(s) for the client/employer who can approve changes to the scope of the examination.
- Expertise and/or resources (e.g., equipment, software, etc.) required for the examination
- Supporting assistance, if any, needed from the client/employer
- Expected completion date or timeline
- Specific responsibilities of the CFE, client/employer, and other parties involved in the engagement

It is generally preferable for the initial scope agreement to be in writing in order to clarify the terms and help preclude subsequent disagreements or confusion as to the nature of the engagement or the expected outcome. However, in some circumstances it may not be practical to enter into a written agreement with the client/employer. Oral agreements are not prohibited, but when they are used it is recommended that the CFE document the terms and

conditions in his/her own notes or file and make every effort to communicate the CFE's understanding of the engagement's key terms to the client/employer in a clear and unambiguous manner.

In no case should a CFE guarantee an outcome for the client/employer. The results of the engagement should always be based on the facts uncovered during the engagement.

Section 2.2 – Ongoing Communication

Throughout the engagement, CFEs shall communicate openly with those retaining them about the status of the engagement. Whenever the scope or limitations of a fraud examination or the responsibilities of the parties change significantly, a new understanding shall be reached with the client/employer.

Guidance

This standard seeks to serve three purposes. First, ongoing communication will help ensure that the CFE keeps the client/employer informed about the progress of the engagement. Second, communication will provide assurance to the client/employer that the CFE is performing his/her duties in accordance with the initial scope agreement. Third, it will enable the CFE and client/employer to make necessary changes to the scope or focus of the engagement as new facts or information becomes known.

CFEs should be cognizant of changes in scope where the engagement grows outside of the original concerns or issues, particularly when such changes will likely increase the costs or length of the examination. In such instances, the CFE should openly communicate the changes to the client/employer. This allows the CFE along with the client/employer to:

- Assess how to continue from a monetary and legal standpoint.
- Protect CFEs from complaints that the final engagement costs were larger than originally agreed upon or that the engagement lasted longer than expected.
- Ensure that CFEs have adequate predication to delve into new areas that arise during an engagement.

This standard does not necessarily require that CFEs and their clients/employers enter into a new, written scope agreement every time the scope of an engagement changes. As noted in Standard 2.1, the scope of an engagement can be amended based on an oral understanding. But when the scope is amended based on an oral understanding, the CFE should document the revised terms and conditions in his/her file and make every effort to communicate the CFE's understanding of the revised terms of the engagement to the client/employer in a clear and unambiguous manner.

Section 2.3 – Consideration of Client Cost

CFEs should always be cognizant of the ongoing cost to the client/employer during the course of professional engagements.

Guidance

The costs of a professional engagement can expand quickly. If, during the course of an engagement, it becomes reasonably apparent that the costs of the engagement will materially exceed those authorized under the original agreement with the client/employer, the CFE should not proceed until the client/employer has approved the cost change.

Section 2.4 – Conscious Disregard for Responsibilities

CFEs shall not knowingly neglect or disregard their responsibilities owed to clients/employers during the course of engagements.

Guidance

CFEs are expected to hold themselves accountable to the promises and agreements they make to clients/employers. CFEs who purposefully fail to deliver promised services, work product, or documentation cast a shadow on the CFE designation.

Section 2.5 – Awareness of Client/Employer Manipulation

CFEs shall remain alert and vigilant to the possibility that the client/employer has retained the services of the CFE to further a fraudulent or unethical business dealing.

Guidance

CFEs should always be aware of the motives of clients/employers. In most instances these motives are positive and constructive; i.e. identify fraud, waste and abuse, remove wrongdoers, or improve a business. In instances where the motives are less than honorable, a CFE could become an unwitting pawn in advancing a client/employer's inappropriate goals, i.e. misdirection from a larger fraud, targeting a scapegoat to conceal the misdeeds of another, or retaliating against whistleblowers and other innocent parties. If a CFE becomes reasonably certain that the motives of the client are fraudulent or unethical and that the CFE's services are being utilized for inappropriate purposes, the CFE should resign the engagement or report the CFE's concerns about the client/employer's improper motives, provided that such a report does not violate the CFE's duty of confidentiality to the client/employer.

Section 2.6 – Duty to Self-Report Material Errors and Omissions

CFEs shall notify their clients/employers of any situation or circumstance in which the CFE generated any material errors or omissions in association with the engagement.

Guidance

This Standard is an extension of Standard 1.2 – Truthfulness, which requires CFEs to be truthful in their communications, findings, and professional dealings. A CFE who knowingly fails to notify his client/employer of a material error or omission and thereby allows the client/employer to proceed based on incomplete or inaccurate information does not fulfill his/her duty of truthfulness to the client.

3.0 – Standards of Examination

Section 3.1 – Fraud Examinations

CFEs shall conduct fraud examinations in a legal, professional, and thorough manner. The CFE's objective shall be to obtain evidence and information that is complete, reliable, and relevant.

Guidance

Fraud examination refers to a process of resolving allegations of fraud from inception to disposition, and it is the primary function of the anti-fraud professional. The fraud examination process encompasses a variety of tasks that include taking statements, analyzing and reviewing relevant records and documents, interviewing individuals, writing reports, testifying to findings, and assisting in the detection and prevention of fraud.

Every fraud examination is different and may demand a different approach and methods of deployment. Examinations can take different directions, requiring expertise covering various disciplines, and can present a variety of legal considerations. Regardless of the challenges posed by fraud examinations, CFEs should remain professional and conduct the examination in a complete and thorough manner. CFEs should not cut corners, make leaps of faith or broad assumptions, or allow others to influence the outcome of their examinations. CFEs should strive to present facts in an impartial, unbiased, and fair manner.

While this standard requires CFEs to conduct thorough examinations and obtain evidence that is complete, it does not require CFEs to expand the scope of their engagements to follow every evidence trail or perform services not contemplated by the client/employer. A CFE will not violate this standard if he/she fails to collect evidence or follow leads that are outside the scope of the examination agreed upon by the CFE and client/employer, but the CFE must, within the defined scope of work for the engagement, make every effort to obtain evidence that is complete, reliable, relevant, and thorough.

If, during the course of a fraud examination, a CFE determines that he/she cannot conduct a legal, professional, and thorough examination due to limitations imposed by the client/employer, the CFE should raise these concerns with the client/employer and document such communications. If scope limitations are such that the CFE reasonably believes the end result of the examination will be misleading or inaccurate (for example, if a client directs a CFE to examine only transactions made by one employee where evidence suggests that others may have been involved in a fraud), then the CFE may be required to resign the engagement, depending on the circumstances.

Section 3.2 – Examination Preparation

CFEs' professional services should be adequately planned. Planning controls the performance of a fraud examination from inception through completion, and it involves developing strategies and objectives for performing the agreed upon services.

Guidance

Preparation is a critical step in any fraud examination. Often the success or failure of the examination can be attributed simply to the planning phase.

Before accepting a professional engagement, CFEs should ask a series of questions designed to prepare them for the examination. Some example questions include:

- Do I have the right expertise to conduct this examination?
- Do I have adequate resources to conduct this examination, including intellectual resources, physical resources, and monetary resources?
- Do I have documented policies and procedures on how my staff and I will conduct the examination, interview individuals, handle evidence, report our findings?
- Where are the information, documents, and data pertinent to the examination housed? Do I have the expertise to export and analyze it?
- Who are the relevant parties, potential witnesses, subject matter experts, and possible suspects? Who do I interview first, last? Which individuals might have ulterior motives?
- Might there be involvement by the media? How will I handle media requests for information about the case?

CFEs should never accept and begin fraud examinations without ensuring that they are adequately prepared for what may lie ahead. Proper planning can lead to a successful examination and the delivery of professional services.

Section 3.3 – Predication

CFEs shall establish predication at the outset of a fraud examination and continuously reevaluate predication as the examination proceeds. Members shall strive for efficiency in their examination.

Guidance

Predication is the totality of circumstances that would lead a reasonable, professionally trained, and prudent individual to believe a fraud has occurred, is occurring, and/or will occur. In other words, predication is the basis upon which an examination is commenced. CFEs should not conduct fraud examinations without proper predication. As a fraud examination progresses and as new information emerges, the CFE should continually re-evaluate whether there is adequate predication to take each additional step in the examination.

This standard applies only to the conduct of fraud examinations as that term is defined by these Standards and does not bar CFEs from accepting other forms of engagements in circumstances where predication is lacking. For example, predication is not required for a CFE to conduct a risk assessment, to provide consulting services or to conduct a non-forensic internal or external audit.

Section 3.4 – Use of Third Parties

When a third party performs work at the request of, or under the supervision of, a CFE, the CFE shall adequately supervise the work of the third parties. The extent of supervision required will vary depending on the complexities of the work and the qualifications of the third parties.

Guidance

In some situations, it might be necessary to employ outside specialists in a particular field to assist with a fraud examination. And although *Standard 1.6 – Professional Competence* provides that it is permissible for CFEs to retain third-party services to assist in an examination, that Standard does not absolve CFEs of the overall responsibilities for supervising the engagement. CFEs must direct and supervise the work that is done on their behalf and ensure that third parties adhere to and follow the same standards required of CFEs.

3.4.1 – Accuracy of Third Party Work

The CFE shall assume responsibility for the accuracy and completeness of the work performed by assistants, subordinates, consultants, or other individuals employed or directed by the CFE. The work performed by third parties under direction of the CFE must satisfy these Standards.

Section 3.5 – Document and Evidence Collection

CFEs should apply appropriate procedures addressing how documents and evidence are collected, generated, maintained, reported, and safeguarded during an examination.

Guidance

In most fraud examinations, CFEs will confront significant amounts of information, some of which might be relevant to the examination and some which might not. Evidence can be defined as all the information that influences a decision-maker in reaching decisions. *Relevant evidence* is evidence that tends to make some fact in issue more or less likely than it would be without the evidence. For example, in a check forgery examination, a piece of notebook paper showing an employee had practiced writing the signature that was forged on the fraudulent check might be relevant to show that the employee was preparing to convert the forged check.

CFEs should strive to thoroughly review, identify, collect, and report on all information and evidence that is relevant to the examination. CFEs must be competent in their abilities to know what information and evidence is relevant and what is not. If, during a fraud examination, the CFE determines that the amount of relevant information is more than the CFE can manage in a cost effective and professional manner, the CFE should seek additional resources or support and promptly report the change in scope to his/her client/employer.

A CFE's work product may vary with the circumstances of each fraud examination. The extent of documents and evidence that needs to be collected, generated, maintained, reported, and safeguarded is subject to the needs and objectives of the CFE, client/employer.

If the client/employer has appropriate procedures addressing how documents and evidence are to be collected, generated, maintained, reported and safeguarded, then the CFE should adhere to the client/employer's procedures. But in circumstances where the client/employer does not have appropriate procedures, the CFE should establish and adhere to procedures that adequately preserve and establish the authenticity of the collected documents and evidence relevant to the examination.

3.5.1 – Documentation Control

CFEs shall be cognizant of the chain of custody including origin, possession, and disposition of relevant evidence and material. CFEs shall strive to preserve the integrity of relevant evidence and material.

Guidance

Once relevant evidence is identified during an examination, the CFE must ensure that the evidence is properly acquired and safeguarded.

CFEs must be aware of the potential for litigation in any fraud examination, and because documents make up so much of the evidence in fraud cases, CFEs should employ appropriate collection practices so that relevant documents obtained in an examination will later be accepted by a court of law. Appropriate collection practices are especially important for electronic data, which is often more susceptible to inadvertent or intentional alteration than tangible information.

Accordingly, employing appropriate evidence collection practices is critical to every fraud examination. Accidentally deleting a hard drive containing relevant evidence, over-writing critical files, or spilling coffee on an original, forged document could alter the outcome of an examination and affect any future disciplinary or legal action that the client/employer may wish to pursue.

Some examples of document control considerations are:

- *Protect the evidence integrity* (i.e., protect the ability to show that the evidence has not been altered or damaged) by establishing how original documents will be acquired, used, protected, and analyzed.
- *Adhere to record retention guidelines* that establish the length of time that paper and electronic work product and evidence will be kept after the examination is

completed. The record retention policies might also include guidelines on how evidence is to be catalogued, recorded, tracked and destroyed.

- *Maintain chain of custody* procedures when necessary. The chain of custody is both a process and a document that memorializes who has had possession of an object and what that party has done with it. The chain-of-custody document records the route that evidence takes from its initial possession until its final disposition. Establishing the chain of custody for a document ensures that the item has not been altered or changed from the time it was collected through its production in court.

3.5.2 – Exculpatory and Inculpatory Evidence

CFEs shall consider both exculpatory and inculpatory evidence.

Guidance

CFEs are tasked with uncovering and reporting all facts and evidence relevant to an examination and this includes both exculpatory and inculpatory evidence.

Exculpatory evidence is evidence which tends to show that shows an individual is not guilty, had no criminal intent, and/or was justified in his or her actions. For example, in an inventory theft case, travel records showing that an employee was out of town when the thefts occurred would tend to exculpate that employee from charges that he personally removed the items from the warehouse.

Inculpatory evidence is evidence that helps establish the guilt of an individual. Returning to the inventory theft example, video footage showing the inventory manager taking items from inventory and placing them in his car would tend to incriminate the manager and thus would be considered inculpatory evidence.

CFEs must be truthful in their findings (see Standard 1.2 -- Truthfulness), they must maintain objectivity in their professional responsibilities at all times (See Standard 1.3 – Objectivity), and they must base their opinions and conclusions on the facts of the case. Therefore, before rendering any opinions or conclusions, CFEs must consider all relevant evidence, regardless of which side the evidence favors or what it proves or disproves.

When considering evidence, CFEs may decide how much weight should be given to various pieces of evidence. This standard does not prohibit CFEs from making judgments about the relative quality or persuasiveness of evidence, and it does not prohibit CFEs from rendering opinions that may be contradicted by some evidence. CFEs, however, cannot refuse to consider evidence because it tends to favor one possible conclusion over another. Often, CFEs will encounter evidence that exculpates a particular individual and additional evidence that inculpates that same individual. When a CFE faces such circumstances, the CFE should report that

he/she considered the contradictory evidence and explain the reasons why he/she gave more weight to one type of evidence than the other.

3.5.3 – Destruction of Evidence

CFEs shall at no time intentionally tamper with, destroy, fabricate, or alter evidence that is relevant to an examination.

3.5.4 – Exclusion of Evidence

CFEs shall not intentionally exclude any information or evidence that would change the outcome of the findings, or the report on the findings, of an examination.

3.5.5 – Deceptive Misrepresentation

CFEs shall not misrepresent, skew, suppress, or fabricate any information or findings of an examination.

Section 3.6 – Potential for Witness Bias and Motive

CFEs should be alert to the possibility of conjecture, deceit, unsubstantiated opinions, and bias among witnesses and others.

Guidance

Witness statements can be very important to fraud examinations. Frequently, witness testimony is an important element in determining facts. Witness testimony is often used to fill in the gaps of the paper record, and it may be the only way to introduce certain documents into evidence. Moreover, witness testimony can corroborate witness' accounts, provide leads for questioning, support witness testimony, and give CFEs a better understanding of the underlying facts. Also, the evidence provided by a witness can lead to a suspect's confession, particularly when multiple witnesses are available.

Given the importance of witness testimony, CFEs must be aware that witnesses might be motivated by something other than the quest for truth. Accordingly, CFEs should be cognizant of the potential motives witnesses might have for lying, and they should strive to protect the examination from witness bias and motive.

Some possible improper motives of witnesses include:

- A witness might be motivated to cover up his/her own wrongdoing or deflect suspicion away from himself/herself.
- A witness might be motivated by a grudge he/she has against the suspected wrongdoer.
- A witness might be motivated to protect others from getting in trouble.
- A witness might be motivated to avoid confrontation.

- A witness might be motivated to fabricate reasons for terminating the suspected wrongdoer.
- A witness might be motivated to deflect blame for the wrongdoing.
- A witness might be motivated to see the perceived perpetrators suffer punishment.

Section 3.7 – Examination Findings Supported by Evidence

CFEs' conclusions shall be supported with evidence that is relevant, reliable, and sufficient.

Guidance

CFEs must use relevant, reliable, and sufficient evidence to support their findings and conclusions. *Relevant evidence* is evidence that tends to make some fact in issue more or less likely than it would be without the evidence. Evidence that has no relationship to any of the issues in the case is irrelevant. *Reliable evidence* is evidence that it comes from a reasonably credible source. Evidence is *sufficient* to support a CFE's findings and conclusions where the weight of the evidence is such that a reasonable professional could draw the same or a similar conclusion to that of the CFE.

3.7.1 – Free from Influence

Examination findings and conclusions shall be free from influence by the personal feelings or interests of the CFE, client/employer, or any other parties involved. Findings and conclusions shall not be influenced by, or fabricated on behalf of, the client/employer or other interested parties.

4.0 – Standards of Reporting

CFEs must report the results of fraud examinations to the clients/employers, but because CFEs operate in different industries, countries, markets, professions and cultures, and under different sets of circumstances, no single report format can cover every examination. Nonetheless, there are basic standards for reporting to which CFEs should adhere.

Section 4.1 –Form of the Examination Report

CFEs' reports may be oral or written. The report should adequately represent the facts and findings of the examination and be free from bias and misleading information.

Guidance

Although most fraud examination reports will be written, an oral report may be preferable in some cases. Whether the CFE's client/employer is best served by an oral or written report will depend on the facts of each situation, and it is a matter that should be discussed with the client/employer's management and with legal counsel.

In determining whether to provide a written or oral report, those making the decision should consider a number of factors, including:

- A written report provides for easy review of the examination, which can provide valuable aid in deciding what action, if any, to take in attending to the situation.
- A written report provides tangible evidence concerning what was reported, but it can provide a guide for adverse parties.
- A written report commits its author to a particular version of the facts that may be contradicted by later discoveries.
- Oral reports are less susceptible to legal discovery than written reports.
- Oral reports provide the best protection against waiver of legal privileges or protection against legal discovery because any distribution of a written report increases the possibility that available protections will be waived.

Although the results of an examination can be communicated in various ways, written reports are the most common method. Such reports are normally used for internal reporting purposes, but they may also be a formal report to the court, a report to a prosecutor or law enforcement agency, or a report to an insurance company in support of a claim

Where possible, a written report documenting the examination's findings is preferred, but not required.

Regardless of whether the examination report is written or oral, it must be accurate and all facts should be reported without bias. Reports are designed to communicate the examiner's specific activities and findings, to comply with policies and procedures, and, in some cases, to satisfy legal requirements. Accordingly, the information in a report must be accurate so that its end users will know what transpired.

Section 4.2 – Content of the Examination Report

CFEs' reports shall be based on information that is relevant, reliable, and sufficient to support the facts, conclusions, opinions, and/or recommendations contained therein. Reports shall be confined to subject matter, principles, and methodologies within the CFE's area of knowledge, skill, experience, training, and/or education, or the knowledge, skill, experience, training and/or education of third parties operating under the CFE's direction and in accordance with these Standards.

Guidance

In general, the purpose of examination reports is to establish and document relevant facts, reach appropriate conclusions based on the available evidence, and determine an appropriate response. Accordingly, CFEs must base their reports on relevant facts (i.e., facts that tend to make the existence of any fact at issue more probable or less probable than it would be without the evidence). When a CFE is drafting a report, he should not guess or make assumptions. Also, examination reports shall be based on reliable information (i.e., information comes from a reasonably credible source). Finally, examination reports shall be based on information sufficient to support a CFE's findings and conclusions.

Section 4.3 – Opinions

No opinion shall be expressed regarding the legal guilt or innocence of any person or party.

Guidance

CFEs must be cautious about stating opinions.

Generally, in a reporting context, a CFE's job is to present the evidence in his/her report along with reasonable conclusions derived therefrom. Such evidence might establish a convincing case pointing to the guilt or innocence of a particular party, but reports should not include opinions regarding the guilt or innocence of any party involved. Determining whether a person is guilty or innocent of a crime is not a decision for CFEs; it is a decision that is reserved for a judge or jury.

The ACFE Code of Professional Ethics specifically prohibits CFEs from making statements of opinion as to guilt or innocence of any person or party involved in an examination. Specifically, Article Five of the Code of Professional Ethics states: "A fraud examiner, in conducting examinations, will obtain evidence or other documentation to establish a reasonable basis for any opinion rendered. No opinion shall be expressed regarding the guilt or innocence of any person or party."

Similarly, CFEs should be careful not to include any statement of opinion as to the integrity or veracity of any witness, even if they are convinced that a witness is being untruthful. Instead, CFEs should demonstrate truthfulness, or lack thereof, through conflicting facts or statements.

Opinions regarding technical matters, however, generally are permitted if the CFE is qualified as an expert in the matter being considered. For example, a permissible opinion might address the relative adequacy of an entity's internal controls. Likewise, a permissible opinion might discuss whether financial transactions conform to generally accepted accounting principles.

As a general rule, no opinions, other than opinions on technical matters, should be included in examination reports.

Although opinions generally should be avoided, CFEs may draw reasonable conclusions based on the evidence, but they must be very circumspect when doing so. Conclusions are based on observations of the evidence, whereas opinions call for an interpretation of the facts. For example, a CFE might conclude that the suspect employee stole money, misrepresented a transaction, or concealed funds. There is no prohibition in the Code of Professional Ethics on expressing such conclusions, provided the conclusions have a reasonable basis in fact.

5.0 – Standards of Enforcement

The continued advancement of the CFE designation as a standard of integrity, honesty, and professionalism in the anti-fraud profession, and the continued advancement of the CFE designation requires that all CFEs adhere to these Standards.

Section 5.1 –Reporting Violations

CFEs are required to report their own violations of these Standards to the ACFE, and they are encouraged to report any violations by other members. Any individual may report violations of these Standards by a third party.

Guidance

CFEs or third parties wishing to file a grievance against a CFE for violating these Standards may do so by sending a written statement of their complaint to the attention of the ACFE associate general counsel, who is responsible for investigating disciplinary complaints. There is no specific form the complaint must take; a letter or email is fine. The complainant should include a full explanation of the alleged misconduct along with any documentary evidence the complainant may have to support the allegations. Complaints may be sent to the following address:

The Association of Certified Fraud Examiners
Attn: Carrie Kelly, Associate General Counsel
716 West Avenue
Austin, TX 78701
ckelly@ACFE.com

For more information on ACFE disciplinary procedures, visit www.acfe.com.

Section 5.2 – Penalties

CFEs who knowingly violate these Standards may be subject to sanctions by ACFE up to and including termination of membership and loss of CFE designation.