

**Association of Independent Consumer Credit Counseling Agencies  
d/b/a Financial Counseling Association of America (FCAA)  
Standards and Best Practices  
(Effective January 2016)**

Members of the FCAA must comply with the following Standards and Best Practices.

## **Standards**

### **I LEGAL STATUS**

1. Member must operate in accordance with the Internal Revenue Code, guidance, including 501(q) as applicable, and all other applicable federal laws.
2. Member must meet all applicable licensing, registration, bonding, regulatory and statutory requirements in states where business is conducted.
3. As applicable, Member must maintain an independent board, the majority of which cannot be employees, or related to other board members or employees of the organization.

### **II AVAILABILITY**

Member must provide services to those who desire it regardless of age, race, creed, religion, employment, marital status, sexual orientation or financial status. All services must be provided within a reasonable amount of time since inquiry, and at times convenient to the public.

### **III COUNSELORS**

1. Must be properly trained and qualified to provide clients with a quality financial education experience.
2. Must be certified by an organization approved by the Association within 12 months of the date of hire. Approved certification providers shall include any validly existing, state approved provider.
3. Must provide a comprehensive, one-on-one money management counseling interview following a prospective client's request for counseling services, and provide a written assessment and action plan to the client as applicable to the service provided.
4. Compensation cannot be based on outcome of the counseling process.

5. Must undergo a state criminal background check prior to their official employment and at least every five years thereafter. (This also applies to all employees with banking transaction duties.)

#### **IV FEES**

1. All services must be available to the public regardless of ability to pay and at no time should a person be refused service due to an inability to pay.
2. Fees to clients should be as low as possible, and should consider the financial situation of the client.
3. Member may not charge a fee for credit repair nor be affiliated with an organization that does.

#### **V EDUCATION**

1. Member must provide a community resource for educational materials and information concerning personal finance and debt issues.
2. Member shall allocate a reasonable percentage of operating expenses to develop, foster and/or provide a variety of community educational programs (beyond counseling) on money management, budgeting and the intelligent use of credit.

#### **VI ACCREDITATION**

Member must be accredited by an approved third-party accrediting organization -- currently Council on Accreditation (COA); or ISO to the FCAA Code of Practice through Bureau Veritas Certification (BVC), or British Standards Institution (BSI) -- and must be re-accredited periodically.

#### **VII REPORTING**

1. All financial books and records of an association member, including all client deposit accounts, must be audited annually within 180 days of the close of the member's fiscal year. Each Member shall provide a copy of its audit opinion letter, if unqualified, and its entire report of auditors, if qualified for any reason.
2. Member must make reasonable amounts of statistical data (as determined by the Board) available to the Association in order to allow proper presentation of essential information to outside parties.

3. The chief executive officer of a Member agency shall complete and submit a notarized annual questionnaire affirming compliance with these standards when reporting its previous year's activities to the Association.

## **VIII BUSINESS PRACTICES**

1. Member will fully comply with the Association's Best Practices Guidelines. (Best Practices Requirements are outlined on page 6).
2. Member must not engage in deceptive or false advertising and in all cases should adhere to the highest standards of honesty and fairness.
3. Any materials that discuss debt management plans must include a disclosure regarding the Member's dual role in serving the needs of consumers and creditors.
4. Prior to the receipt of the client's first deposit, an Member must provide each client enrolling in a debt management plan with a reliable estimate of the length of time it will take to complete the plan. This must be provided in writing and identify all creditors included in the plan, the amount owed to and the proposed payment to each creditor, and the anticipated number of months to liquidate the debt.
5. Third parties providing services to an Member are to be held to the same standards as the Member, including, but not limited to, standards for fees and counselor certification.
6. On an annual basis, there will be an independent third party audit of the Member's operating practices to ensure compliance with the Standards. Among other things, the audit will confirm the quality of counseling services delivered (as evidenced by quality assurance reports), as well as ensure the Member consistently conducts thorough client financial analyses, screens clients in order to make appropriate debt management plan recommendations, and conducts regular internal quality reviews to ensure a comprehensive counseling process during and after the counseling session. (Note: See Section VI Accreditation).
7. Member shall only offer to its clients for additional fees or costs, goods or services that meet all applicable state and federal requirements, are optional and are offered at fair market value. Member shall not allow or otherwise facilitate third parties to solicit its clients for such goods, products or services unless expressly allowed under member's privacy policy and under privacy law.

## **IX CLIENT FUNDS**

1. Member must carry adequate insurance or bonding on all employees with access to Member or client funds, with coverage based on the level of funds handled by the Member. agencies must add the Association to their respective Certificate of Insurance bonding policies for the purpose of receiving notice of any potential lapse in coverage due to non-payment of premium.
2. All client funds must be kept in a separate trust account in an FDIC insured, or equivalent, bank or financial institution.

## **X COMMON OWNERSHIP and/or CONTROL of THIRD-PARTY SERVICE PROVIDERS**

1. A member must avoid the appearance of a conflict of interest in all decisions involving third-party providers of goods and services to the member.
2. A member may subcontract a non-core member activity to a third party as long as no non-independent trustee, family of a non-independent trustee, or paid officer of the member has an ownership interest in the third party other than a non-controlling interest in a publicly traded company.
3. A member may not subcontract a non-core member activity to a third party where an independent trustee of the member has an interest in the third party unless: the trustee discloses such interest to the member's board of trustees and recuses himself/herself from the decision processes related to the third party. In addition, the transaction must either be for a nominal or otherwise insignificant amount; and the transaction was made at or below market rate.
4. A member may not outsource or subcontract any core activity except to an organization that has received a determination of tax exempt status from the IRS and complies with the standards set forth in this document.

Member is defined as a licensed credit counseling or debt management service provider that maintains all required licensing with all requisite bodies in every State it provides counseling services.

Core activities of a member are defined as education, consumer credit and debt management counseling, and related debt management consumer services that are not related to payment processing.

Non-core activities of a member are defined as all other activities that are not core activities.

Independent Trustee is: a trustee who is not employed by a member or by an affiliate of a member; and who *is not* employed by an organization or business that will receive a direct financial benefit

from the outcomes of counseling sessions or the business activities of the member, such as a credit grantor, collection member or third party contractor (other than a third party contractor performing non-core activities for compensation that is nominal or otherwise insignificant, or priced at below market rates).

Non-Independent Trustee is a trustee who is employed by a member or by an affiliate of an member or by an organization or business that will receive a direct financial benefit from the outcomes of counseling sessions or the business activities of the member (unless such organization or business is a third party contractor performing non-core activities for compensation that is nominal or otherwise insignificant, or priced at below market rates).

Family Member is defined as a spouse, parent, child, sibling, in-law, wherever they may reside, as well as any person(s) sharing the same living quarters in an intimate, personal relationship.

*(Intent of Section X: Disclosures of improper arrangements between some non-profit credit counseling agencies and for-profit service providers have the potential to undermine the trust of the public in credit counseling. The goal of this Standard is to ensure that the member adheres to the highest possible standards when dealing with third party and for-profit service providers. Even the slightest appearance of a conflict of interest should be avoided. The subcontracting of non-core services from member insiders must be conducted on an "arm's length" basis. An independent trustee of the member is only allowed to be financially involved with a third party contractor that receives compensation for non-core activities or services if the amount of financial involvement is nominal or otherwise insignificant, or priced at below market rates. The determination of whether an amount is insignificant should be based on the facts and circumstances of the transaction. While this statement of Intent is only to be used in interpreting and enforcing Section X, Section X may be considered in the interpretation and understanding of related concepts contained in other Sections of these Standards and Best Practices. )*

## **XI INTERPRETATION OF STANDARDS**

A majority vote of the Board of Trustees shall be the final determinant as to whether a member is in compliance with these Standards.

## Best Practices Requirements

The following “Best Practices” are required to be followed by every member to ensure integrity, fairness and professionalism in the delivery of those services. Where specific limits are stated they are provided as upper limits that are acceptable, while improved performance is encouraged.

1. **FEES** – All fees must be reasonable. A fee of \$100 or less is presumed reasonable for the “set-up” of a Debt Management Plan (DMP). A fee of \$75 or less is presumed reasonable for the monthly maintenance of a DMP.

If a member charges set-up or monthly maintenance fees that are in excess of the dollar amount that is presumed to be reasonable, such member may seek a determination from the Compliance Committee that such fee is nonetheless reasonable, or the Committee may initiate a review on its own accord.

Any determining criteria or other information brought to the Compliance Committee’s attention or independently developed by it shall be considered by the Committee when assessing the reasonableness of such member’s fees. In the event that the Compliance Committee determines that such fees are not reasonable then the member shall immediately come into compliance with FCAA Standards and Best Practices.

If the member disagrees with the Committee’s determination of non-reasonableness it may seek a review of such decision by the full Board of Trustees by filing a written request for review within thirty days after receiving written notification of the Committee’s determination, with such request including all relevant information and reasons as to why the member believes that the determination was erroneous. The Board’s decision in such matters shall be final.

2. **DISBURSEMENT OF FUNDS** – Client funds received for a DMP must be disbursed to the creditors no later than 15 days from receipt of valid funds, or by scheduled disbursement date, whichever is greater.
3. **TRANSMITTAL OF FUNDS** – members must utilize available electronic payment processing in remitting funds to creditors.
4. **CLIENT/CREDITOR ACCEPTANCE** – DMPs should be established only when they are appropriate, and advantageous to the client. No client will be refused a DMP for minimum balances. No creditor will be excluded from a DMP unless it is beneficial to the client.
5. **INCEPTION DATES** – Clients must start a DMP, and make their first plan payment, within six weeks of agreeing to the service. Proposals must be submitted in a timely manner.

6. **COUNSELING** – Appointments for a counseling session should be scheduled within 2 business days of receipt of the request.
7. **COMPLAINTS** – All complaints should be researched and responded to within 5 business days.

### **Student Loan Counseling Best Practices Requirements**

The following “Student Loan Counseling Best Practices” are required to be followed by every member providing student loan counseling assistance to ensure integrity, fairness and professionalism in the delivery of those services.

1. **FEES** –
  - All fees must be reasonable and relatable to the service provided.
  - Fees must comply with all applicable State regulations.
  - Fees must be clearly communicated to the consumer prior to the delivery of services.
  - All members must submit their fee schedules and fee reduction policies to FCAA for review.
2. **TIMING OF FEES** – Any fee assessed by a member should only be collected after services have been delivered.
3. **FEE WAIVER** – Member will reduce or waive fees for clients whose household income is less than 150% of the estimated poverty threshold for their applicable family size, as published by the Bureau of the Census, AND it is determined that the client is unable to pay the fee based on the member’s financial analysis of the client’s situation. The member must retain records of fee waivers granted to clients and service outcomes for FCAA data-gathering purposes.
4. **MONEY BACK GUARANTEE** – Each service must be accompanied by a money-back guarantee.
5. **DISCLOSURES** –
  - Any materials and/or electronic marketing that discuss student loan assistance must include a disclosure regarding the ability of a debtor to obtain consolidations or other relief programs by themselves for free.
  - The member must disclose that its assistance is private, optional and not required to be used.

- The member must disclose that its services are not related to or part of the Department of Education or any other government entity.
  - The member must not utilize names or color schemes to create the appearance of being affiliated with any government agency.
  - The member must disclose its complaint/grievance policy and provide applicable instructions for filing a complaint with the member entity, as well as with the Consumer Financial Protection Bureau.
6. **COUNSELING** – Appointments for a student loan counseling session should be scheduled within 2 business days' of receipt of the request.
- 7. COMPLAINTS** – All complaints should be researched and responded to within 5 business days.