



# BOARD OF FORENSIC DOCUMENT EXAMINERS (BFDE)

## Code of Ethics and Professional Responsibility

### PREAMBLE

This Code of Ethics and Professional Responsibility expresses the standards of ethical and professional conduct required of forensic document examiners who are certified by the Board of Forensic Document Examiners (BFDE). BFDE certificate holders accept that it is our duty as forensic document examiners to serve the interests of justice to the best of our abilities at all times. In fulfilling this duty, it is our professional responsibility to maintain the highest standards of integrity in our relationships with clients, in all verbal and written reports and in our testimony.

### 1. DEFINITIONS

- 1.1 The term “client,” as used in this Code, refers to any party in the private or public sector who submits evidence for examination and testing by a forensic document examiner employed in private practice or in a government crime laboratory.
- 1.2 For the purpose of this document, the term “forensic document examiner” as used in this Code refers to all individuals certified by the BFDE.

### 2. SCOPE OF EMPLOYMENT

- 2.1 The field of forensic document examination consists of individuals who either work in the private sector, usually as sole owners or partners in a private practice, or individuals who work in the public sector, as salaried employees of a federal, state or municipal law enforcement agency. Whether working in the private sector or the public sector, forensic document examiners perform essentially the same type of work.
  - 1.1.1 In some instances, a full-time, salaried, public sector forensic document examiner is allowed to work part-time in the private sector by accepting a civil case assignment, so long as doing so does not conflict with the forensic document examiner’s primary obligations and duties as a full-time, salaried, public sector employee.
- 2.2 A forensic document examiner may act as an expert witness and give sworn testimony with respect to an opinion that results from an examination of documents or physical evidence.
- 2.3 A forensic document examiner may act as a consultant and examine documents or physical evidence solely for the purpose of serving an attorney in an advisory capacity.
  - 1.3.1 Such advice shall be given in good faith in the interests of justice.

### **3. ETHICAL OBLIGATIONS AND RESPONSIBILITIES TO THE CLIENT**

3.3 A forensic document examiner shall:

- 3.3.1 Refrain from proceeding unaided in any assignment that clearly requires forensic testing or analysis that exceeds the examiner's level of knowledge, skill and/or experience.
  - 2.2.1.1 Referral to an appropriate third party in such a case is permissible and recommended.
- 3.3.2 Complete assignments in an efficient and timely manner.
- 3.3.3 Render opinions that are clearly supported by the evidence examined.
- 3.3.4 Be prepared to support a verbal or written opinion with testimony in an appropriate forum having jurisdiction to hear and decide the issue(s).
- 3.3.5 Preserve evidence entrusted to the examiner's custody.
- 3.3.6 Preserve confidential information obtained directly or indirectly from the client.
- 3.3.7 Refrain from using confidential information, whether obtained directly or indirectly, without the client's express consent.
- 3.3.8 Refrain from communicating with individuals having adverse interests to those of the client, unless specifically authorized to do so by the client.

### **4. ETHICAL OBLIGATIONS AND RESPONSIBILITIES TO THE PROFESSION**

4.1 A forensic document examiner shall protect the integrity of the profession by:

- 4.1.1 Undertaking each assignment objectively and solely with a view towards ascertaining demonstrable facts from which an opinion may properly be derived, without bias as to the outcome.
- 4.1.2 In all matters that may reflect on the professional image of forensic document examination, the certificate holder shall avoid even the appearance on impropriety.
- 4.1.3 Accurately and honestly reporting all results or data obtained from examining evidence.
- 4.1.4 Refraining from engaging in professional or personal conduct that would or might be detrimental to the profession of forensic document examination in general.
  - 4.1.4.1 A forensic document examiner shall not behave in any way that would or might diminish the value of the BFDE certification program, or diminish the confidence of the legal profession and/or public in the BFDE certification program.

- 4.1.4.2 A certificate holder shall file a report with the Ethics Committee of the BFDE upon learning of any infraction of this Code by another certificate holder
- 4.1.5 Insuring that any training course or program of which the forensic document examiner is a “sponsor”, or in which the forensic document examiner participates as a trainer, is compliant with the minimum training requirements for forensic document examiners, as specifically set forth in ASTM E2388-05.
  - 4.1.5.1 As used in Section 3.1.5, the term “sponsor” refers to a principal trainer, as defined in ASTM E2388-05, or to anyone who has authored, co-authored or offers (for sale or otherwise) a course or program that provides training in forensic document examination.
- 4.1.6 Refraining from actively or passively allowing the use by any individual of the certificate holder’s name as a “mentor”, a “trainer”, or one under whom another has “apprenticed”, or otherwise as an endorsement of an individual’s training, unless that mentoring, training or apprenticeship was provided as part of an ASTM E2388-05-compliant training program.

## **5. ETHICAL OBLIGATIONS AND RESPONSIBILITIES RELATED TO MAINTAINING INTEGRITY IN CASE WORK**

### **5.1 Integrity Related to Examination Procedures.**

#### **5.1.1 A forensic document examiner shall:**

- 5.1.1.1 Objectively examine any and all evidence submitted, and request any additional documents or information that is or may be pertinent to the evaluation of the evidence.
- 5.1.1.2 Use only methods, tests, and practices in examining evidence that are generally accepted by forensic document examiners, as well as courts of law.

### **5.2 Integrity Related to Opinions and Conclusions.**

5.2.1 A forensic document examiner shall always undertake an assignment with an unbiased mind and a view towards ascertaining all demonstrable facts from which an opinion may properly be derived. All interpretations of examinations and tests performed by the forensic document examiner shall be consistent with that purpose and shall not be knowingly distorted.

- 5.2.1.1 A forensic document examiner shall scrupulously avoid being influenced or swayed by information not relevant to the documents being examined, and shall reject any suggestion, pressure or coercion to render an opinion that is misleading or inconsistent with the examiner’s findings.

5.2.1.2 If a forensic document examiner determines that examination or test results are capable of being interpreted to the advantage of both sides of a case or controversy, the examiner shall report the results as inconclusive.

5.2.1.2.1 A forensic document examiner shall not choose an interpretation which favors the side by which the forensic document examiner is employed merely to satisfy the desires of the employer or as a means to justify the forensic document examiner's employment or fee.

5.2.2 A forensic document examiner shall report opinions in an impartial manner, fully disclosing all relevant findings honestly and accurately, as represented by the data or information obtained from the examination of the evidence.

5.2.2.1 A forensic document examiner shall not withhold evidence that may tend to refute the validity, or diminish the value, of the opinion being offered.

5.2.3 When explaining the basis of an opinion, a forensic document examiner shall use language clearly understood by the judiciary and the general public.

5.2.3.1 A forensic document examiner shall avoid the use of terms that might cause the forensic document examiner's opinion to be over-valued or misunderstood.

### 5.3 Integrity Related to Expert Witness Testimony.

5.3.1 When testifying as an expert witness, a forensic document examiner shall:

5.3.1.1 Adhere to all the principles and provisions set forth in this Code.

5.3.1.2 Present findings or evidence that supports the forensic document examiner's opinion in an impartial, objective manner.

5.3.1.3 Not assign greater or lesser significance to an interpretation than is justified by the available data.

4.3.1.3.1 If an opinion requires or warrants qualification or explanation so that the opinion is not overstated, misconstrued, or misunderstood, it is not only proper for, but also is incumbent upon, the forensic document examiner to offer such qualification.

5.3.1.4 Use understandable language in presenting explanations and demonstrative evidence so that that the trier-of-fact will understand the full and accurate meaning and/or significance of the testimony.

5.3.1.5 Not knowingly testify in any manner which directly, or by implication, conveys a false or misleading impression to the court or jury, such as through the use of misleading, circuitous, or ambiguous language.

5.3.1.5.1 A forensic document examiner shall not intentionally use unclear, misleading, circuitous, or ambiguous language with a view towards confusing an issue in the mind of the finder of fact.

#### 5.4 Mandatory Withdrawal from An Assignment.

5.4.1 A forensic document examiner shall withdraw from an assignment:

5.4.1.1 Upon being asked to offer or support any opinion that is contrary to the forensic document examiner's actual opinion, to misrepresent facts concerning the documents submitted for examination, or otherwise to become involved in any unethical or unlawful course of conduct.

5.4.1.2 If undesirable conduct on the part of the client or the attorney(s) representing the client makes it difficult, if not impossible, to complete the assignment in compliance with this Code.

5.4.1.2.1 A forensic document examiner shall report to an appropriate authority any conduct on the part of a client, representative or agent of a client, or other party involved in the case that renders it difficult, if not impossible, to complete the assignment in compliance with this Code.

## 6. ETHICAL OBLIGATIONS AND RESPONSIBILITIES RELATED TO BUSINESS PRACTICES

6.1 A forensic document examiner's business practices shall avoid even the appearance of impropriety.

6.2 An individual or business entity engaged in the practice of forensic document examination shall keep that practice separate and apart from all other business enterprises of that individual or entity, unless any such other enterprise is directly related to the discipline of forensic document examination or some other forensic discipline.

6.3 Advertisements shall not contain statements that may mislead the reader concerning the credentials, abilities or services of the forensic document examiner.

6.4 In a certificate holder's resume or curriculum vitae any expression of the number of the years in professional practice; the educational and specialized training the forensic document examiner has received; the diversity of the forensic document examiner's clients; and any other information relating to the forensic document examiner's stated expertise and background must be factually accurate.

- 6.6 A forensic document examiner shall not represent himself/herself to the public as a corporation or a partnership unless such a legal entity actually exists.

## **7. ETHICAL OBLIGATIONS AND RESPONSIBILITIES RELATED TO FEES**

- 7.1 A forensic document examiner shall not accept an assignment on a contingency basis.
- 7.2 A forensic document examiner shall be reasonable in establishing fees, which must be commensurate with the nature of the services requested and with the qualifications and experience of the forensic document examiner providing the services.
- 7.3 A forensic document examiner must take into account the following considerations when determining the reasonableness of fees:
- 7.3.1 Complexity of the assignment and the time needed to complete it.
  - 7.3.2 Likelihood that acceptance of the assignment will preclude the forensic document examiner's acceptance of assignments from other sources.
  - 7.3.3 Restrictions imposed by the client or the circumstances of the case.
  - 7.3.4 Nature and length of the professional relationship between the forensic document examiner and the client or client's attorney.
  - 7.3.5 The forensic document examiner's experience, reputation and abilities
- 7.4 A forensic document examiner who withdraws from an assignment shall promptly refund any unearned part of a fee paid in advance.

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