

# NATIONAL ASSOCIATION OF DOCUMENT EXAMINERS CODE OF ETHICS

## Preamble

A professional Code of Ethics is a code of conduct providing specific guidelines for professional behavior. The primary aim of the Code should be protection of the public, through a system designed to prevent and/or rectify injurious behavior. The stringency of one's professional code is a measure of that professional's personal ethics.

## Section I: Conflicting Provisions

- (a) Wherever there is a conflict of interpretation between any of the following standards and an applicable law or regulation, whether municipal, state or federal, the applicable law or regulation shall prevail.
- (b) Wherever there is a conflict of interpretation between this Code and any preceding NADE standards, this Code of Ethics will prevail.

## Section II: Law and Regulation

- (a) The forensic document examiner (hereafter "examiner") shall adhere to all applicable laws and regulations in the conduct of business and in the performance of professional activities and services. This includes, but is not limited to:
  - (i) Obtaining all required business and professional licenses and registrations,
  - (ii) Payment of all business and personal taxes of all types, and
  - (iii) Adherence to requirements for all testimonial acts in any legal proceeding the examiner is engaged in.

## Section III: Agency for Which One Works

- (a) Agency shall include any private, corporate, non-profit or public entity, or any other entity recognized by law as legitimate, for which the examiner works.
- (b) The examiner shall abide by the requirements, regulations and standards of the agency, unless there is a conflict between these and a provision of law or of this Code.
  - (i) If there is a conflict with a provision of law, the examiner shall follow the law and shall do whatever is required to bring the agency into conformity with the law.
  - (ii) If the agency refuses to conform to the law and requires the examiner to violate such law, the examiner shall resign from such agency and shall report the violation, if required and directed to by the laws and regulations of the applicable jurisdiction.

- (iii) If there is a conflict between the agency and this Code of Ethics, no hard-and-fast rule for resolving such conflict can be given. The examiner shall obtain such advice from a professional mentor or legal counsel as seems fit. It is advisable to provide confidential information to the ethics committee of whatever professional organization in which the examiner has membership for one's own protection as well as to obtain their advice and guidance.

#### Section IV: Advertising, Promotions and Qualifications

- (a) This section applies to all types of advertising and promotions, including but not limited to traditional ads, directory listings, oral presentations to promote one's services, broadcast appearances, and documents created to represent one's services and qualifications.
- (b) Established, codified and recognized norms of "truth in advertising" shall be adhered to.
- (c) Norms set forth in this Code for representation of one's professional qualifications and for communications regarding other professionals should be followed in all advertising and promotions.
- (d) The examiner shall maintain a current curriculum vitae (CV) and other documents setting forth one's experience and qualifications as required by the rules of evidence. It is suggested to update the CV every six months. Presentation of one's professional qualifications shall be literally and strictly true and accurate in every particular.
- (e) In all representations of membership in NADE, whether printed or in testimony, the member shall state the type of membership held, which are:
  - i. Affiliate
  - ii. Associate Member
  - iii. Regular/General Member
  - iv. Professional Member
  - v. Candidate for Certification Member
  - vi. Certified Member
  - vii. Diplomat Member

#### Section V: Examination of Materials

The examiner should have reasonable assurances concerning the following, prior to undertaking the examination of materials submitted for testing or analysis:

- (a) All documents, both disputed and exemplar, whether originals or copies, must have been obtained legitimately,

- (b) There must be a legitimate right to know on behalf of all inquirers,
- (c) There should be assurance of confidentiality as far as the law permits, and
- (d) The examiner is not responsible for the conduct of others, but for having reasonable assurance that the examiner will not be involved in illegal or unethical activity. When in doubt, one would consult with one's legal counsel.

#### Section VI: Objectivity

- (a) The examiner must approach all problems in an objective, open-minded way, basing all opinions on technically and/or scientifically correct premises.
- (b) It must never be assumed the retaining party is in the right that a document is or is not genuine. In other words, the questions posed should be starting points of inquiry and not requirements for conclusions.
- (c) The investigation should be allowed to lead to new essential questions if evidence and logic so indicate.

#### Section VII: Advocacy

An examiner shall not act as an advocate for one party's cause or contention but shall remain impartial and shall render opinions based solely on verifiable observations, technically correct procedures, and scientifically valid theories.

#### Section VIII: Contingency

The examiner shall have no personal interest in the outcome, and therefore shall never work on a contingent fee basis.

#### Section IX: Standards of Performance

The examiner shall adhere to proper and accepted standards of performance. If some procedure or circumstance appears not to be covered by any standards known to the examiner, the nearest applicable standards should be adapted to the circumstance or advice sought from one's supervisor, mentor or advisor.

#### Section X: Loyalty to the Client

- (a) Once retained by one party in a case, the examiner is no longer available to assist any other party in that same case, except by the express consent of the performing parties. Anyone involved must be apprised of a potential conflict of interest.

- (b) Consent by a previous client in a case to permit the examiner to assist another party in the same case should be in written communication.
- (c) If request by another party in a different case might result in prejudice to a current client, written consent explicitly concerning this issue should also be obtained from all interested parties.
- (d) The examiner must value the client's interest above one's own personal consideration as far as reasonable. This may include continuing in a case where the client has become unable to pay further, but not to the obligation of financing the case out of the examiner's own resources. All such difficulties are best discussed with the client's attorney.
- (e) Nothing in this section shall in any way be interpreted as absolving the examiner from obligations under other sections, particularly Section VI, above.
- (f) No amount of potential income from a new case is sufficient to absolve the examiner from the obligation of loyalty to the previous client.

#### Section XI: Relations with the Client's Attorney

- (a) The lay client's attorney is the legal manager of the case and the examiner shall work with knowledge of and under the supervision of that attorney. Ideally, the examiner will be retained directly by counsel and by the client only with the knowledge and consent of counsel.
- (b) Where the lay client speaks critically to the examiner of the client's attorney, the examiner will inform the client of the examiner's legal and ethical obligations, and shall not repeat such criticisms to anyone unless legally obligated to do so.
- (c) The examiner must do nothing to interfere with the legal management of the case, or in any way act as legal counsel.
- (d) Where the examiner is acting as confidential consulting expert, there must be no contact with anyone in the case other than the retaining attorney or designated staff members. All materials shall be kept in complete confidence unless specifically instructed by the client's attorney or otherwise legally obligated.

#### Section XII: Confidentiality

- (a) During the case, all consultations and reports are confidential and the examiner may disclose the work and findings only through the attorney or as legally obligated to, as by deposition or court testimony.
- (b) All contact with the lay client, opposing attorney or any others in the case should be by proper arrangement through the retaining attorney, unless there is clear and explicit understanding otherwise.

- (c) After the case is concluded, it is advisable to act as if there is still an obligation of confidentiality unless assured otherwise. Further, it is best to protect the privacy of all parties as much as reasonably possible when publishing information from a case in any manner.

### Section XIII: Expeditious Work

All work should be done in a timely as well as thorough manner, according to agreed instructions.

### Section XIV: Non-discrimination

- (a) The examiner shall not discriminate on the basis of race, nationality, religion, ethnic origins, sex, age or social or economic status. The same dedication and level of service should be given to all clients equally.
- (b) In order to serve all segments of society, one should engage in pro bono work for the economically disadvantaged. It is suggested this is best done as a volunteer to an attorney public service organization.

### Section XV: Continuing Education

- (a) The examiner shall keep abreast of current publications and developments in the profession of document examination.
- (b) Attendance at professional meetings is encouraged, both to learn more and to be enriched by contacts with other professionals, as well as to contribute to new developments for the betterment of the entire profession.
- (c) There is a continual ethical obligation of self-study to increase knowledge and gain greater skill. The examiner is encouraged to do research and publish as a way to enrich the profession and make a return for benefits received from the profession.

### Section XVI: Fees

- (a) The examiner's fee structure and payment schedule should be stated clearly in a formal, printed Fee Schedule.
- (b) The examiner, as a professional, shall in no circumstance accept referral fees from those one recommends, nor give referral fees to other examiners who ask for them.

### Section XVII: Regarding Other Examiners

- (a) All communications regarding other examiners shall be truthful. Negative communications shall be made only if fully justified and then restricted only to those with a legitimate right to the knowledge.

(b) It is unethical to offer testimony on the qualifications or credibility of another examiner.

(c) When recommending another examiner to a client or attorney, one should have reasonable assurance of the competence and ethics of the one recommended. If not, there may be injury to one's own reputation or an accusation of legal responsibility for malfeasance or malpractice by the other examiner.

#### Section XVIII: General Obligation to the Profession

The examiner has an obligation to avoid bringing discredit on the profession and to comport oneself in an appropriate manner while performing professional duties. This includes protecting the good name of any professional organization to which one belongs, by developing professional competence, proper social etiquette and personal good judgment. When in doubt, ask proper advice.

In light of these and other general obligations to the profession, it shall be considered inappropriate and unethical for forensic examination students, still in training, to solicit or accept cases, and /or to render opinions to clients in document examination cases before completion of their entire training program.

It is also considered unethical for an examiner to teach, instruct, or affiliate with any organization or institution that instructs, teaches or encourages document examination students to solicit or accept cases, and/or to render opinions to clients in document examination cases before completion of their entire training program.

#### Section XIX: Ethics Procedures

NADE should, and does, have procedures for hearings into violations of ethical norms by its members. These procedures are designed to facilitate complaints from members of the public against members of the organization as well as members against other members, in order to resolve complaints, redress any proven injuries to the complainants, and bring about corrections to prevent future violations. Such methods gain the goodwill and confidence of the public, while unruly procedures incur justified cynicism and disdain from the public.