

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR HARDEE, HIGHLANDS, AND POLK COUNTIES, FLORIDA

ADMINISTRATIVE ORDER NO. 1-48.1

**IN RE: RATIFICATION OF THE TENTH JUDICIAL CIRCUIT'S COMMITTEE ON
PROFESSIONALISM AND CREATION OF A LOCAL PROFESSIONALISM PANEL**

WHEREAS, the Tenth Circuit's Committee on Professionalism was created pursuant to an Administrative Order issued by the Florida Supreme Court in 1998; and

WHEREAS, on October 25, 2013, the Court entered Administrative Order No. 1-48.0, as required by *In Re: Code for Resolving Professionalism Complaints*, 116 So. 3d 280 (Fla. 2013), which established procedures to receive and resolve professionalism complaints informally, if possible; and

WHEREAS, Administrative Order No. 1-48.0 set forth that the Oath of Admission to The Florida Bar; The Florida Bar Creed of Professionalism; The Florida Bar Ideals and Goals of Professionalism; The Rules Regulating the Florida Bar; the decisions of the Florida Supreme Court; and the Standards of Professional Courtesy adopted in Administrative Order No. 7-6.0 make up the *Ideals and Standards* of professionalism; and

WHEREAS, Administrative Order No. 1-48.0 established that the *Ideals and Standards* apply to all counsel practicing law in this circuit and their staff, *pro se* litigants appearing before the courts of this circuit, and all persons entering an appearance before the courts of this circuit; and

WHEREAS, on July 6, 2023, the Florida Supreme Court issued *In Re: Code for Resolving Professionalism Referrals and Amendments to Rule Regulating The Florida Bar 6-10.3*, 367 So. 3d 1184 (Fla. 2023), which replaced the 2013 Code for Resolving Professionalism Complaints by adopting the Code for Resolving Professionalism Referrals; and

WHEREAS, amendments to Administrative Order No. 1-48.0 are necessary to comply with the revised guidelines and procedures of the recently adopted Code for Resolving Professionalism Referrals; and

WHEREAS, in accordance with the authority vested in the chief judge under article V, section 2(d), Florida Constitution; section 43.26, Florida Statutes; and Florida Rule of Judicial Administration 2.215(b)(2); it is:

ORDERED that:

A. Tenth Circuit Committee on Professionalism:

1. The Tenth Circuit's Committee on Professionalism is formally ratified. The Committee on Professionalism shall be composed of:

- The Chief Judge of the Tenth Judicial Circuit or designee;
 - A Chairperson selected by the Chief Judge;
 - The acting President of each active bar association within the Tenth Judicial Circuit or designee;
 - The acting President of each Inn of Court within the Tenth Judicial Circuit or designee;
 - The State Attorney for the Tenth Judicial Circuit or designee;
 - The Public Defender for the Tenth Judicial Circuit or designee;
 - The Regional Counsel of the Offices of Criminal Conflict and Civil Regional Counsel or designee; and
 - Trial Court Administrator of the Tenth Judicial Circuit Court.
2. The Committee on Professionalism will perform all responsibilities established in The Supreme Court of Florida's Administrative Order *In re: Commission on Professionalism*, dated June 11, 1998.
 3. Additionally, the Committee on Professionalism shall review the Tenth Circuit's *Standards of Professional Courtesy* and make any recommended changes to the Chief Judge.
 4. The Committee on Professionalism shall meet at least twice a year.

B. Creation of a Local Professionalism Panel:

1. A Local Professionalism Panel is hereby created (hereinafter "Panel"). The Panel shall provide a voluntary informal peer-to-peer mentoring process for addressing instances of unprofessional conduct that is separate and apart from instances of misconduct that require the formal grievance process. This mentoring process does not replace the Florida Rules of Professional Conduct formal disciplinary process for addressing violations of those rules as set out in the Rule Regulating The Florida Bar.
2. The Chief Judge will determine the total number of members to serve on the Panel, will appoint the members and the Chairperson of the Panel, and will appoint members to fill vacancies on the Panel.
3. Panel Members: The Panel shall be composed of at least five (5) members, including the Chairperson. The members of the Panel shall be comprised of at least one (1) judge, retired or current, and attorneys who are in good standing with The Florida Bar, eligible to practice law, from diverse areas of practice with varying levels of experience, and have practiced law for at least five (5) years. Panel members will be appointed to serve three (3)-year terms.
4. The Panel shall perform all responsibilities established by the Florida Supreme Court for resolving professionalism referrals.
5. The Panel shall meet as necessary to fulfill its responsibilities.

C. **Purpose of the Local Professionalism Panel:**

The Panel shall be independent of The Florida Bar and shall informally resolve referrals of claimed unprofessional conduct by lawyers practicing in the Tenth Judicial Circuit. The process is voluntary and respondent attorneys are to be addressed in a peer-to-peer mentoring approach in an informal, non-punitive, educational, and constructive manner. Claimed unprofessional conduct addressed by the Panel is separate and apart from instances of misconduct that require a formal grievance process.

The Panel does not replace the Florida Rules of Professional Conduct or the formal disciplinary process for a violation of those rules as set out in Chapter 3 of the Rules Regulating The Florida Bar. Rather, the Panel shall receive, screen, and act on referrals of unprofessional conduct and address those referrals informally, if possible, or refer the case to The Florida Bar for a formal investigation. Unprofessional conduct means a violation of the Standards of Professionalism found in the Oath of Admission to The Florida Bar, The Florida Bar Creed of Professionalism, the Professionalism Expectations, and the Rules Regulating The Florida Bar.

D. **Procedures:** The below procedures shall generally govern the proceedings of the Panel.

1. Referral by Judicial Officer or Quasi-Judicial Officer:

When any Judge, Magistrate or Hearing Officer within the Tenth Judicial Circuit determines that an attorney has engaged in unprofessional conduct, the matter may be referred to the Panel through the Chief Judge.

Once a claim has been received and screened by the Panel, the Chair may address a letter on behalf of the Panel to the respondent attorney, inviting that attorney to meet with the Panel on a specific date and time.

2. Referral by Attorney: If an attorney observes conduct on the part of another attorney that he or she believes, in good faith, is inconsistent with the standards set out by The Florida Bar and the local bar associations, the referring attorney may request that the Panel consider the matter by completing a Referral.

3. Referral by Non-Attorney: If a non-attorney person is directly and adversely affected by conduct on the part of an attorney that is inconsistent with the *Ideals and Standards*, that person may request that the Panel consider the matter by directing a letter or e-mail to the Chairperson of the Panel. The request shall be limited to ten (10) pages inclusive of exhibits. The Chairperson of the Panel may request additional documents as necessary. The Chairperson of the Panel shall address a letter to the attorney involved notifying the attorney of the referral, and may invite the attorney to submit a response or meet with the Panel on a date and time specified.

4. Referral by the Florida Bar's Attorney Consumer Assistance and Intake Program (hereinafter "ACAP"): The Professionalism Panel may accept referrals sent by ACAP. The Chairperson of the Panel shall review the request, shall notify the respondent

attorney of the referral, and may invite the attorney to submit a response or meet with the Panel on a date and time specified.

5. Referrals to and from The Florida Bar:

Minor or isolated instances of unprofessional conduct may be addressed through the informal process of the Panel. When unprofessional conduct is substantial or repeated, that conduct may be referred to The Florida Bar for a disciplinary investigation into whether the formal disciplinary process should be initiated.

The Florida Bar may refer a claim if and when the Florida Bar determines that prosecution through its disciplinary process is not warranted and that the Panel can effectively handle the referral through its informal process. This includes cases referred to The Florida Bar by the Panel if and when The Florida Bar determines that prosecution is more effectively handled by the Panel.

6. Letters Sent by Panel to Respondent Attorney: Any letter sent by the Panel to the respondent attorney requesting that the attorney appear before the Panel shall identify the conduct alleged to be unprofessional. The letter should also advise the attorney that the Panel meeting is a voluntary and non-disciplinary proceeding. The letter shall include a complete reference to the standards the attorney is alleged to have violated.
7. Meetings: The Chairperson, or the Chairperson together with the other Panel members, may meet with the respondent attorney at the date and time specified in the letter to discuss the attorney's conduct and how the attorney can act in the future to be consistent with the standards of professionalism. The Chairperson may send a letter to the attorney summarizing the Panel's decision.
8. Time: The Panel shall endeavor to resolve all referrals within forty-five (45) days of receiving the referral from the Panel's Administrator.
9. Panel's Resolution of Referral: After conferring and conducting an investigation, the Panel members may proceed and resolve the issues in an informal, non-punitive, educational, and constructive manner to provide the respondent attorney with an incentive for self-improvement. Ways to do this include:
 - a. The Chairperson may issue an oral or written decision to the respondent attorney.
 - b. The Panel may refer the respondent attorney to "The Florida Bar's Ethics School," which is an eight (8)-hour ethics course, or any course(s) deemed appropriate.
 - c. The Panel, in appropriate circumstances, may refer the respondent attorney to the Florida Lawyers Assistance Program or other similar, appropriate program(s) for assistance with alcohol, drug, and/or emotional problems.
 - d. The Panel has the discretion to direct any referrals to ACAP depending on the nature and severity of the allegations contained in the referral.

- e. The Panel may form any other solutions and recommendations as it deems necessary. Participation and successful completion of the Panel's recommendations shall not result in the imposition of sanctions or discipline. If the respondent attorney fails to follow the recommendations of the Panel, the Panel may refer the attorney to The Florida Bar.
10. Records Retention: All records will be destroyed within thirty (30) days of the conclusion of the Panel's resolution of the referral and after the respondent attorney has completed all of the Panel's recommendations.
11. Confidentiality: Rule 3-7.1 of the Rules Regulating the Florida Bar sets out the guidelines for confidentiality in disciplinary investigations and proceedings.
12. Statement of Confidentiality: All Panel members, the referring party, and the respondent attorney shall sign a statement acknowledging that all information disclosed during the Panel process is confidential and shall not be disclosed to anyone except other Panel members, the referring party, and the respondent attorney.
- E. This administrative order supersedes and vacates Administrative Order No. 1-48.0, entered on October 25, 2013, and shall be effective immediately.

DONE and ORDERED on this 12th day of October, 2023.

s/JAMES A. YANCEY, Chief Judge

Original: Polk County Clerk of Courts

Copies:

All Judges

Trial Court Administrator

Polk County Clerk of the Circuit Court

Highlands County Clerk of the Circuit Court

Hardee County Clerk of the Circuit Court

Electronic Bar Mailing