

**IN THE CIRCUIT COURT OF THE THIRD JUDICIAL CIRCUIT,
IN AND FOR COLUMBIA, DIXIE, HAMILTON, LAFAYETTE,
MADISON, SUWANNEE AND TAYLOR COUNTIES, FLORIDA**

**ADMINISTRATIVE ORDER 2023-004
ESTABLISHING LOCAL PROFESSIONALISM PANEL**

WHEREAS, on July 6, 2023, the Florida Supreme Court issued Opinion No. SC2023-0884, adopting the *Code for Resolving Professionalism Referrals*; and

WHEREAS, The Florida Supreme Court has adopted standards of professional behavior for attorneys codified in: (1) the Oath of Admission to The Florida Bar; (2) The Florida Bar Creed of Professionalism; (3) the Rules Regulating The Florida Bar; and (4) the Professionalism Expectations, collectively referred to herein as the *Standards of Professionalism*; and

WHEREAS, the Florida Supreme Court states the informal, peer-to-peer mentoring approach offered by local professionalism panels can materially improve professionalism among Florida lawyers; and

WHEREAS, the Florida Supreme Court ordered the Chief Judge of each judicial circuit to create and maintain in continuous operation a local professionalism panel to receive, screen, and act on any referrals of claimed unprofessional conduct and to resolve those referrals informally, if possible, or refer them to The Florida Bar, if necessary,

THEREFORE, in accordance with the authority vested in the Chief Judge pursuant to Article V, section 2(d) of the Florida Constitution, section 43.26, Florida Statutes, Florida Rule of General Practice and Judicial Administration 2.215, and under mandate from the Florida Supreme Court, it is hereby, **ORDERED** as follows:

(A) ESTABLISHMENT OF THE THIRD JUDICIAL CIRCUIT LOCAL PROFESSIONALISM PANEL (LPP): The Third Judicial Circuit LPP is hereby established in accordance with the mandate of the Florida Supreme Court, adopting the *Code for Resolving Professionalism Referrals*.

- (1) Purpose:** The purpose of the LPP is to promote adherence to the *Standards of Professionalism* by attorneys practicing in the Third Circuit; to receive, screen, and address referrals of minor or isolated instances of unprofessional conduct informally if possible, by providing a voluntary, informal, peer-to-peer mentoring process to resolve referrals of claimed unprofessional conduct, separate and distinct from substantial, repeated misconduct that may require the formal grievance process or referral to The Florida Bar for investigation. This mentoring process 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.

- (2) **Applicability of the Standards of Professionalism:** The *Standards of Professionalism* apply to all forms of communication, including on-line, in-person, and remote (video or audio) communications.
- (3) **Definition of Unprofessional Conduct.** “Unprofessional conduct” means a violation of the *Standards of Professionalism* as codified in the Oath of Admission to The Florida Bar, The Florida Bar Creed of Professionalism, the Rules Regulating The Florida Bar, and the Professionalism Expectations.
- (4) **Authority of the LPP:** The LPP shall have no authority to discipline any attorney or compel any attorney to appear before it. The LPP may counsel attorneys if it concludes counseling will further the goals of the *Standards of Professionalism*.
- (5) **Formation of, and Appointment to, the LPP:** The Chief Judge shall determine the number of members to serve on the LPP and shall appoint the LPP members and the LPP Chair. The Chief Judge, or the Chief Judge’s designee, shall appoint members to fill LPP vacancies. LPP members shall serve at the discretion of the Chief Judge. The Chief Judge shall maintain the LPP in continuous operation.
- (6) **Composition of the LPP:** The LPP shall be comprised of at least two judges (current or senior, trial or appellate) and at least two local 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 who have practiced law for at least five years. The membership of the LPP, as it changes from time to time, shall be posted on the website of the Third Judicial Circuit.
- (7) **LPP Term Limits:** LPP members serve staggered three-year terms. Members may be reappointed to serve one additional three-year term not to exceed six consecutive years. Each term begins July 1 and ends June 30 of the third year.
- (8) **Immunity:** LPP members and staff assisting LPP members have absolute immunity from civil liability for all acts performed in the course and scope of their duties on the LPP acting under the *Code for Resolving Professionalism Referrals*.
- (9) **Education:** LPP members must comply with the education requirements on the role of LPPs through local, circuit-wide continuing legal education (CLE) programs as required by the Florida Supreme Court and shall undergo training by experienced lawyers involved in The Florida Bar’s disciplinary process prior to serving on the LPP. The Chief Judge shall facilitate the education of the lawyers in the Third Circuit regarding the role of the LPP through a CLE program.
- (10) **Attendance at Meetings Required by The Florida Bar:** The LPP Chair, or the LPP member designated by the LPP Chair, shall attend any meetings as required and organized by The Florida Bar to discuss matters relating to the LPP and the *Code for Resolving Professionalism Referrals*.

(11) LPP Meetings: LPP meetings may be called by the LPP Chair, the Chief Judge, or a majority of the LPP members. Notice of any meeting shall be given to each LPP member in such manner as deemed appropriate by the LPP Chair, and e-mail or telephonic notice is specifically approved. Meetings may be held in person or using web-based videoconferencing technology.

(12) Bi-Annual Meeting: Every other year, beginning in 2023, the Chair, or the LPP member designated by the Chair of the LPP, must meet in person or through use of remote conferencing to review the *Code for Resolving Professionalism Referrals* and make any recommendations for change to the Florida Supreme Court, review the forms used by the circuits to maintain uniformity of the forms (allowing for each circuit to modify the forms to meet the needs of the individual circuits), and review the procedures used by the circuits to maintain uniformity of procedures (allowing for each circuit to modify procedures to meet the needs of the individual circuits). The LPPs also must discuss the policies and procedures of the circuits to facilitate continued enhancement of the program. The Florida Bar will organize the biannual conferences.

(B) INDEPENDENCE OF THE LPP: The LPP is independent of The Florida Bar and shall informally resolve referrals of minor or isolated instances of claimed unprofessional conduct by attorneys practicing in the Third Circuit. The process is voluntary, and respondent attorneys shall be addressed in a peer-to-peer mentoring approach in an informal, non-punitive, educational, and constructive manner. Claims of unprofessional conduct addressed by the LPP are separate and distinct from claims of substantial, repeated misconduct that may require a formal grievance process. The LPP does not replace the formal disciplinary process for violation of the Florida Rules of Professional Conduct set out in Chapter 3 of the Rules Regulating The Florida Bar.

(C) REFERRALS TO, AND PROCEEDINGS BEFORE, THE LPP: Any person may initiate an unprofessional conduct referral against a member of The Florida Bar through the LPP using the procedures delineated below.

(1) Referrals

- a. **Referrals from Judicial or Quasi-Judicial Officers:** When a Judge, Magistrate, or Hearing Officer determines an attorney has engaged in unprofessional conduct, the matter may be referred to the LPP through the Chief Judge.
- b. **Referrals from Attorneys:** If an attorney observes the conduct of another attorney, which the attorney, in good faith, believes is inconsistent with the Standards of Professionalism, the referring attorney may request the LPP consider the matter by completing a Referral Form and submitting it to the LPP Chair. The form shall be limited to two (2) pages, exclusive of exhibits, and shall be located on the website of the Third Judicial Circuit.

- c. **Referrals from Non-Attorneys:** If a non-attorney is directly and adversely affected by an attorney's conduct that is inconsistent with the Standards of Professionalism, the non-attorney may request the LPP consider the matter by completing a Referral Form and submitting it to the LPP Chair. The form shall be limited to two (2) pages, exclusive of exhibits, and shall be located on the website of the Third Judicial Circuit.
 - d. **Referrals to and from The Florida Bar's Attorney/Consumer Assistance Program (ACAP):** The ACAP operates for consumers who have concerns about an attorney's conduct, which they prefer to resolve without filing a disciplinary complaint. The LPP may direct referrals to the ACAP, depending upon the nature and severity of the referral allegations, and may accept referrals from the ACAP.
 - e. **Referrals to and from The Florida Bar:** Minor or isolated instances of unprofessional conduct may be addressed through the LPP's informal process. 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 to the LPP when it determines prosecution through The Florida Bar's disciplinary process is not warranted and that the LPP can effectively address the referral through its informal process. This includes cases referred to The Florida Bar by the LPP when The Florida Bar determines the LPP can more effectively address the referral through its informal process.
- (2) **Process for Referrals:** Upon receipt of a referral, the LPP Chair shall review the referral, and may consult with other LPP members. If the matter is referred to the LPP, the LPP Chair shall address a letter to the attorney alleged to have engaged in unprofessional conduct (the "respondent attorney") that notifies the respondent attorney of the referral and invites the respondent attorney to meet with the LPP on a specified date and time. The LPP Chair may also request a response.
- a. **Initial LPP Referral Review:** The LPP Chair shall review the referral and notify the respondent attorney of the referral.
 - b. **Letters Sent by the LPP to Respondent Attorney:** Any letter sent by the LPP to the respondent attorney requesting the attorney appear before the LPP, shall: identify the unprofessional conduct alleged to be inconsistent with the *Standards of Professionalism*; include a complete reference to the standards the respondent attorney is alleged to have violated; advise the attorney that the LPP meeting is a voluntary, informal, non-disciplinary process to address unprofessional conduct

separate and distinct from misconduct that requires the formal grievance process; and include the date and time of the LPP meeting.

- c. **Respondent Attorney Meeting with the LPP:** The LPP Chair alone, or with any number of LPP members designated by the Chair, may meet with the respondent attorney on the date and time specified to discuss with the respondent attorney his or her alleged unprofessional conduct, and attempt to resolve the conduct alleged to be unprofessional and inconsistent with the *Standards of Professionalism*.
 - d. **Statement of Confidentiality:** All LPP members, the referring party, and the respondent attorney may sign a statement acknowledging all information disclosed during the LPP process is confidential and shall not be disclosed to anyone except other LPP members, the referring party, and the respondent attorney.
 - e. **Resolution:** After conducting any required investigation, including, if appropriate, discussing the referral with the referring party, witnesses, and the respondent attorney, the LPP may 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, but are not limited to, the following:
 - i. The LPP may refer the respondent attorney to “The Florida Bar’s Ethics School,” which is an eight-hour ethics course, or any other course(s) deemed appropriate.
 - ii. The LPP 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.
 - iii. The LPP may form other solutions and recommendations it deems appropriate.
 - f. **Post-LPP Meeting Letter:** Following the meeting with the respondent attorney, the LPP Chair shall send a letter to the respondent attorney summarizing the LPP’s discussions with the respondent attorney, and the LPP’s recommendations regarding resolution.
- (3) **Time for Referral Resolution:** The LPP shall endeavor to resolve all referrals within sixty (60) days of receiving the referral.
- (4) **Respondent Attorney’s Failure to Appear:** If the respondent attorney fails to appear for the scheduled LPP meeting, the designated members of the LPP may

consider the respondent attorney's failure to appear in determining whether referral to The Florida Bar for investigation is appropriate.

- (5) **Respondent Attorney's Failure to Follow the LPP's Recommendations:** If the respondent attorney fails to follow the LPP's recommendations, the LPP may refer the attorney to The Florida Bar.
- (6) **Record Retention:** All LPP records will be maintained by the LPP Chair and shall not be disclosed except as authorized herein.


(E) CONFIDENTIALITY: Documents and records provided to, and proceedings before, the LPP are confidential. However, LPP referrals made to The Florida Bar do not remain confidential under Rule Regulating the Florida Bar 3-7.1.

(F) REPORTING REQUIREMENTS: The LPP must file a report in June and December of each calendar year with the Chief Judge of the Third Circuit, the Florida Supreme Court, and The Florida Bar identifying all professionalism referrals received against a member of The Florida Bar.

- (1) The biannual report must include the following information for each referral for the six calendar months preceding the month in which the report is due:
 - a) the date of the referral;
 - b) the circuit in which the issue arose;
 - c) a short summary detailing the substance of the referral;
 - d) the relationship of the respondent attorney to the person submitting the referral;
 - e) whether the respondent attorney voluntarily participated in the process;
 - f) the resolution, if any, of the referral; and
 - g) whether there were previous referrals against the respondent attorney.
- (2) The reports must not include identifying information for the respondent attorney or the party who submitted the referral.
- (3) The Chief Judge, or the Chief Judge's designee, shall publish the LPP's biannual reports on the website of the Third Judicial Circuit.

This Administrative Order shall take effect immediately and shall remain in full force and effect unless and until otherwise ordered by the Court.

DONE AND ORDERED in Columbia County, Florida, this 21st day of December, 2023.



Melissa Gates Olin, Chief Judge

Copies to:

All Judges of the Third Judicial Circuit

All Magistrates and Hearing Officers of the Third Judicial Circuit

All Clerks of Court of the Third Judicial Circuit

Trial Court Administrator, Third Judicial Circuit

Clifton "Cliff" W. Wilson, Jr., Public Defender, Third Judicial Circuit

John Durrett, State Attorney, Third Judicial Circuit

Third Judicial Circuit Bar Association

Third Judicial Circuit Local Professionalism Panel