



RULES REGULATING THE FLORIDA BAR
SUBCHAPTER 3-3: JURISDICTION TO ENFORCE RULES

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RULES REGULATING THE FLORIDA BAR

CHAPTER: 3 RULES OF DISCIPLINE

SECTION: 3 JURISDICTION TO ENFORCE RULES

RULES: 3-3.1 through 3-3.5



3-3.1 | SUPREME COURT OF FLORIDA; DISCIPLINARY AGENCIES

The exclusive jurisdiction of the Supreme Court of Florida over the discipline of persons admitted to the practice of law will be administered in the following manner subject to the supervision and review of the court. The following entities are designated as agencies of the Supreme Court of Florida for this purpose with the following responsibilities, jurisdiction, and powers. The board of governors, grievance committees, and referees have the jurisdiction and powers necessary to conduct the proper and speedy disposition of any investigation or cause, including the power to compel the attendance of witnesses, to take or cause to be taken the deposition of witnesses, and to order the production of books, records, or other documentary evidence. Each member of these agencies has the power to administer oaths and affirmations to witnesses in any matter within the jurisdiction of the agency.

(Amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252), amended November 9, 2017, effective February 1, 2018 (234 So.3d 632).)



3-3.2 | BOARD OF GOVERNORS OF THE FLORIDA BAR

(a) Responsibility of Board. The board is assigned the responsibility of maintaining high ethical standards among the members of The Florida Bar. The board will supervise and conduct disciplinary proceedings in accordance with the provisions of these rules.

(b) Authority to File a Formal Complaint. No formal complaint may be filed by The Florida Bar in disciplinary proceedings against a member of the bar unless 1 of the following conditions has been met:

(1) *Finding of Probable Cause.* A formal complaint may be filed if there has been a finding under these rules that probable cause exists to believe that the respondent is guilty of misconduct justifying disciplinary action;

(2) *Emergency Suspension or Probation.* A formal complaint may be filed if the member is the subject of an order of emergency suspension or emergency probation that is based on the same misconduct that is the subject matter of the formal complaint;

(3) *Felony Determination or Adjudication.* A formal complaint may be filed if the respondent has been determined or adjudged to be guilty of the commission of a felony;

(4) *Discipline In Another Jurisdiction.* A formal complaint may be filed if the respondent has been disciplined by another entity having jurisdiction over the practice of law;

(5) *Felony Charges.* A formal complaint may be filed if a member has been charged with commission of a felony under applicable law that warrants the imposition of discipline and if the chair of the grievance committee agrees. A decision of the grievance committee chair to not file a formal complaint must be reviewed by the full grievance committee. The grievance committee may affirm or reverse the decision.



(6) *Discipline on Action of the Florida Judicial Qualifications Commission.* A formal complaint may be filed if the Supreme Court of Florida has adjudged the respondent guilty of judicial misconduct in an action brought by the Florida Judicial Qualifications Commission, the respondent is no longer a judicial officer, and the facts warrant imposing disciplinary sanctions.

(c) Executive Committee. All acts and discretion required by the board under these Rules of Discipline may be exercised by its executive committee between meetings of the board as may from time to time be authorized by standing board of governors' policies.

(Amended March 16, 1990, effective March 17, 1990 (558 So.2d 1008); July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252); amended November 19, 2010, effective February 1, 2010 (34 Fla.L.Weekly S628a), amended November 9, 2017, effective February 1, 2018 (234 So.3d 632).)



3-3.3 | COUNSEL FOR THE FLORIDA BAR

(a) Authority of Board of Governors. The board may employ staff counsel and bar counsel for The Florida Bar to perform such duties, as may be assigned, under the direction of the executive director.

(b) Appointment of Bar Counsel. Staff counsel may designate members of The Florida Bar to serve as bar counsel to represent The Florida Bar in disciplinary proceedings.

(c) Appointment of Board Members Limited. A member of the board may represent The Florida Bar on any review proceeding under rule 3-7.7.

(d) Appointment of Grievance Committee Members Limited. A member of a grievance committee may represent the bar in any proceeding before a referee and any review by the supreme court under rule 3-7.7 if the case was not considered by the grievance committee on which the member serves.

(e) Compensation. Bar counsel may be compensated in accordance with budgetary policies adopted by the board.

(Amended July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252); April 25, 2002 (820 So.2d 210); amended November 19, 2009, effective February 1, 2010 (24 So.3d 63)(34 Fla.L.Weekly S628a).)



3-3.4 | GRIEVANCE COMMITTEES

The board will appoint grievance committees as provided in this rule. Each grievance committee has the authority and jurisdiction required to perform the functions assigned to it, which are as follows:

(a) Circuit Grievance Committees. The board will appoint at least 1 grievance committee for each judicial circuit of this state and as many more as the board chooses. These committees will be designated as judicial circuit grievance committees, and in circuits having more than 1 committee they will be identified by alphabetical designation in the order of creation. These committees will be continuing bodies notwithstanding changes in membership, and they will have jurisdiction and the power to proceed in all matters properly before them.

(b) Special Grievance Committees. The board may appoint grievance committees for the purpose of investigations or specific tasks assigned in accordance with these rules. These committees will continue only until the completion of tasks assigned, and they will have jurisdiction and power to proceed in all matters assigned to them. All provisions concerning grievance committees apply to special grievance committees except those concerning terms of office and other restrictions imposed by the board. Any vacancies occurring in such a committee will be filled by the board, and any changes in members will not affect the jurisdiction and power of the committee to proceed in all matters properly before it.

(c) Membership, Appointment, and Eligibility. Each grievance committee will be appointed by the board and must have at least 3 members. At least one-third of the committee members must be nonlawyers. All appointees must be of legal age and, except for special grievance committees, must be residents of the circuit or have their principal office in the circuit. The lawyer members of the committee must have been members of The Florida Bar for at least 5 years.

A member of a grievance committee must not perform any grievance committee function when that member:

- (1) is related by blood or marriage to the complainant or respondent;



(2) has a financial, business, property, or personal interest in the matter under consideration or with the complainant or respondent;

(3) has a personal interest that could be affected by the outcome of the proceedings or that could affect the outcome; or

(4) is prejudiced or biased toward either the complainant or the respondent.

On notice of the above prohibitions, the affected members should recuse themselves from further proceedings. The grievance committee chair has the power to disqualify any member from any proceeding in which any of the above prohibitions exist and are stated orally on the record or memorialized in writing by the chair.

(d) Terms. The terms of the members are for 1 year from the date of administration of the oath of service on the grievance committee or until their successors are appointed and qualified. Continuous service of a member may not exceed 3 years. A member may not be reappointed for a period of 3 years after the end of the member's term; but, the expiration of a member's term of service does not disqualify the member from concluding any investigation or participating in disposition of cases that were pending before the committee when the member's term expired. A member who continues to serve on the grievance committee under the authority of this subdivision is not counted as a member of the committee when calculating the minimum number of public members required by this rule.

(e) Officers. The designated reviewer of the committee will designate a chair and vice-chair who must be members of The Florida Bar.

(f) Oath. Each new member of a committee must subscribe to an oath to fulfill the duties of the office. These oaths will be filed with the executive director and placed with the official records of The Florida Bar.

(g) Removal. The designated reviewer of a grievance committee or the board of governors may remove any member of a grievance committee from office.

(h) Grievance Committee Meetings. Grievance committees should meet at regularly scheduled times, at least once every 3 months, and either the chair or vice-chair may call special meetings. Grievance committees should meet at least monthly during any period when the committee has 1 or more pending cases assigned for investigation and report. The time, date, and place of regular monthly meetings should be set in advance by agreement between the committee and chief branch discipline counsel.

(Amended June 8, 1989 (544 So.2d 193); July 23, 1992, effective Jan. 1, 1993 (605 So.2d 252); April 25, 2002 (820 So.2d 210); on December 8, 2005, the Supreme Court of Florida issued a revised version of its original October 6, 2005 opinion adopting this amendment, effective January 1, 2006 (SC05-206), amended November 9, 2017, effective February 1, 2018 (234 So.3d 632).)



3-3.5 | CIRCUIT COURT JURISDICTION

The jurisdiction of the circuit courts is concurrent with that of The Florida Bar under these Rules of Discipline. The forum first asserting jurisdiction in a disciplinary matter retains jurisdiction to the exclusion of the other forum until the final determination of the cause.

(No history provided as of 1/1/10, amended November 9, 2017, effective February 1, 2018 (234 So.3d 632).)

APPENDIX



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