

March 15, 2020

Board of Governors
Washington State Bar Association
1325 Fourth Ave, Ste 600
Seattle, WA 98101

And To:

Washington State Supreme Court Supreme@courts.wa.gov

Re: Opposition to Proposed Rules for Discipline and Incapacity

Dear Board of Governors:

As the Chair of the **Criminal Law Section**, I am notifying you that our cross section of both prosecutors and defense lawyers have voted as a board to take a position against the implementation of the **new proposed disciplinary rules** which were created without input or consideration from stakeholders.

We believe that under due process, a committee should be established with representatives of all groups to redraft a balanced set of rules that does not create an omnificent office, which is without oversight by the membership that it serves. It is extremely troubling that the Office of Disciplinary Counsel seeks to have more authority and less oversight. We do not believe a fair or just set of rules can be drafted unless all of those involved in the lawyer discipline process have a say. Because stakeholders were not involved in drafting the proposed rules, our ideas for improving the disciplinary system were not even considered.

Currently, a committee selects hearing officers and disciplinary board members. But under the proposed rules, WSBA chooses the most important person in the new system, the Chief Regulatory Adjudicator, who hires all other adjudicators. *See* RDI 2.3(c). Since there is no restriction on which WSBA employees make the selection, ODC could be authorized to choose the Chief Regulatory Adjudicator. Since the rules eliminate the current right of parties to remove a hearing officer without cause, respondent lawyers will have no ability to avoid an adjudicator who always rules in ODC's favor.

We believe that independent volunteer hearing officers, who are familiar with and practice the particular area of law being examined is helpful to the process and provides a level of fairness. Their knowledge and experience provides a level of experience and knowledge of the intricacies associated with those laws to the table which promotes fairness to the accused.

We urge the BOG and the Supreme Court to completely reject this unilateral proposition by ODC as it does not represent a system of fairness. It will have a chilling effect on our membership and violates due process.

“We need to defend the interests of those whom we've never met and never will.”

Sincerely,

s/Josephine C. Townsend

Josephine C. Townsend

Chair, Criminal Law Section

WSBA 31965

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The Criminal Law Section Respectfully submits its opposition to the proposed Rule Making by ODC.

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