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**To:** [Linford, Tera](#); [Tracy, Mary](#)  
**Subject:** FW: Proposed changes to disciplinary procedures  
**Date:** Thursday, July 29, 2021 5:00:18 PM

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**From:** laura sutkuslawfirm.com [mailto:laura@sutkuslawfirm.com]  
**Sent:** Thursday, July 29, 2021 4:53 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Subject:** re: Proposed changes to disciplinary procedures

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Dear Supreme Court,

I am writing to provide my reasons for opposing the proposed rules changes. I'll use a bullet-point list to save space and number of words.

- The rules were drafted without any input from practicing attorneys or lawyers who represent attorneys accused of misconduct.
- The feedback received was from a minimal group of hand-picked participants who have a stake in the new rules, resulting in only minor revisions.
- Although the WSBA Executive Report (3/10/20) anticipated that the rules would be presented to the Board of Governors in spring of 2020, that did not take place, yet the BOG approved proposed amendments to the Rules of Professional Conduct at the June meeting.
- Lawyers in small/solo practices are disproportionately subject to discipline and the WSBA has failed to study racial or other inequities.
- The use of volunteer hearing officers has been eliminated. There may be one paid adjudicator presiding over hearings, with enormous power.
- A great deal of the current oversight for the Office of Disciplinary Counsel (ODC) would be removed.
- The removal of a great many opportunities for a grievant to appeal decisions (a dismissal or re-opening a grievance found without merit, for example) or the ability to contest decisions in regard to files or information withheld from a grievant or respondent.
- Sanctions would be increased and the permanent nature of all results, even admonitions, may ruin a lawyer's career.

All participants should have a meaningful opportunity to be involved in these changes, such as there

had been when the current rules (The Rules for Enforcement of Lawyer Conduct) were developed. This is particularly important because Washington eliminated private admonitions in the 1990s. Even an admonition is public and permanently listed on the Bar's website. A small error may terminate a lawyer's career, particularly if they are less well-established or a solo practitioner. Diversion is the only way a lawyer can avoid the negative publicity of discipline, but only ODC can offer diversion and there is no oversight of ODC's decision to deny diversion. This makes obvious the inherent imbalance of power in these proposed rule changes. As does the exclusion of input from practicing members of the Bar.

Please consider these points by not making these changes and opening up the discussion to those who will be most impacted by them.

Thank you for your consideration.

Laura A. Sutkus

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