

State of North Dakota
DISCIPLINARY BOARD OF THE SUPREME COURT
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FILED
IN THE OFFICE OF THE
CLERK OF SUPREME COURT
SEPTEMBER 1, 2016
STATE OF NORTH DAKOTA
RODNEY H. HARRIS
ASSISTANT DISCIPLINARY COUNSEL

September 1, 2016

Penny Miller
Clerk of the Supreme Court
600 E. Boulevard Ave.
Bismarck, ND 58505-0530

SENT VIA EMAIL ONLY

Re: Proposed Amendments to the North Dakota Rules for Lawyer Discipline


Dear Ms. Miller:

Throughout the discussions regarding the proposed rule changes to the North Dakota Rules for Lawyer Discipline, it has been the position of the Office of Disciplinary Counsel that we would be happy to take on the investigative role, but that to do so, additional staff or assistance would be needed in some form. Without additional support, by way of temporary part-time staff or an outside contractor, we fear that instead of increasing the speed in which files are resolved, they would be open longer because our office would likely become overburdened due to the increased workload. Our position that assistance would be necessary has remained unchanged since 2014 when the discussions began within the Joint Committee on Attorney Standards.

Unfortunately, from the time those discussions commenced, the State's financial position has become less favorable. The Governor has called for budgets to be at 90% of the spending levels approved for the current biennium. When the proposed rule changes were initially presented to the Court and the hearing was held in May, there were budgetary concerns; however, some necessary financial discussions still needed to be held in order to fully assess whether it would be possible to make the 10% cut and still add additional support to the office. After those discussions, and now that we are further into the budgeting process, it does not appear that making a 10% cut and having additional help within our office will be feasible without significantly affecting our ability to perform the essential functions of our office. The Operations Committee will be reviewing possible budgets for the Office of Disciplinary Counsel next week, but I felt it necessary to alert the Court to these concerns in advance of our budget submissions.

I would be happy to discuss the concerns of our office with the Court or yourself in more detail at your convenience.

Sincerely,



Kara J. Erickson
Disciplinary Counsel