

September 30, 2019

Honorable Patience D. Roggensack, Chief Justice
and Members of the Wisconsin Supreme Court
16 East State Capitol
P.O. Box 1688
Madison, WI 53701-1688

Re: Petition 19-08

Dear Justice Roggensack and Members of the Court,

On behalf of the OLR Review Committee, I write this letter in response to comments formally or informally received regarding Petition 19-08 in advance of the hearing on October 29. We have consulted with the Board of Administrative Oversight, who also has communicated with the Court on these issues. We offer the following to clarify the issues that will be addressed at the hearing.

First, we write to share data regarding the District Committees. We understand that those participating in the District Committees are fully committed to participating in a worthwhile process. But the reality is that many of the individuals involved in the Committees spend little time actually investigating complaints. Please see the attached chart reflecting the level of referrals to the District Committees in the past few years. These individuals want and should be involved in the Court processes. But, as you know, there are many other committees, whose positions remain unfilled and these individuals, particularly public members, could play important roles in other capacities.

Secondly, we address the points raised regarding Section 6, repealing and recreating SCR 22.03(4). To avoid confusion or question regarding an attorney's responsibilities to clients upon license suspension pursuant to the proposed SCR 22.03(4), we propose revising the first sentence in par. (c)(2) of the recreated Rule to read: "SCR 20:1.16 (d) and SCR 22.26 (2) apply immediately upon suspension to a respondent whose license to practice law is suspended pursuant to this Rule." This amendment makes clear that all attorneys are subject to the same responsibilities to their clients upon notification of their suspension.

Additionally, objections have been made to the 40-day requirement for a respondent to answer an investigator's request for information as set forth in the

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proposed SCR 22.03(4). Understanding the OLR process undertaken in the investigation puts the 40-day timeline into context. Upon receipt of a grievance, OLR's intake personnel alerts the respondent attorney of the allegations and request the attorney's explanation of the events prompting the complaint. If the attorney does not respond within a reasonable time, the intake agent repeats the inquiry (in some cases, multiple times). Once sufficient information is received as a result of the investigation (either from the attorney or other sources), the intake staff decides either to terminate the matter or forward it OLR's investigative branch. That arrangement allows the attorney, on the average, at least 30 days for responding to OLR intake inquiries before the matter proceeds to formal investigation.

Once a formal investigation is initiated, SCR 22.03(2) allows an attorney 20 days for responding to an inquiry served by mail from the investigator. (The petition does not propose amending SCR 22.03(2).) In practice, investigators have extended the 20-day deadline on their own initiative. SCR 22.04, as amended pursuant to the petition, provides an uncooperative respondent an additional 20 days to provide the requested information or explain the attorney's inability to do so. Only when the attorney fails to comply with the final request would suspension of the attorney's license commence. Thus, even under the proposed amendment, an attorney would enjoy at least 70 days to comply with OLR's inquiry--during the intake process and investigation combined--before risking suspension.

The 20-day limit proposed for SCR 22.03(4) reflects a limit appearing often in the law. It parallels the limit currently appearing in par. (2) of SCR 22.03 and parallels the answer time for the defendant in a civil case.

We hope these explanations help clarify our position with respect to the petition.
Thank you.

Very truly yours,



MARSHA M. MANSFIELD

Reporter, OLR Process Review Committee

mmansfield2824@gmail.com

<u>District Committee</u>	<u>Lawyer Members</u>	<u>Public Members</u>	<u>FY 15 Referrals</u>	<u>FY16 Referrals</u>	<u>FY17 Referrals</u>	<u>FY18 Referrals</u>	<u>FY19 Referrals</u>
1	7	6					
2	24	13	3			1	
3	10	7	2				
4	6	3					
5	11	6					
6	9	5					
7	7	6					
8	6	5	1	1	1		
9	21	11	2				
10	4	1	1				
11	5	6					
12	12	8					
13	6	3					
14	8	5	1				
15	9	3					
16	9	5		3	1		
TOTAL	154	93	10	4	2	1	0