



# Supreme Court of Wisconsin

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Director

**FILED**

May 19, 2025

**MAY 20 2025**

VIA EMAIL ONLY ([clerk@wicourts.gov](mailto:clerk@wicourts.gov))

Clerk of Supreme Court  
Attention: Deputy Clerk-Rules  
P.O. Box 1688  
Madison, WI 53701-1688

CLERK OF SUPREME COURT  
OF WISCONSIN

Re: Rule Petition 24-06, Lawyer Regulation System's District Committees

Dear Clerk:

On December 23, 2024, the Lawyer Regulation System's Board of Administrative Oversight (BAO) filed Rule Petition 24-06. The Office of Lawyer Regulation (OLR) supports Rule Petition 24-06 and recommends the Court adopt the petition as proposed.

SCR 21.06(3) identifies six duties for District Committees, including educating the bar and public, referring misconduct allegations to OLR, assisting with diversions to alternatives to discipline programming, and resolving disputes between lawyers and clients. In practice, District Committees' most common activities had been the remaining two: assisting OLR with investigations and recommending disposition for matters investigated by the Committee.

BAO concluded in its supporting memorandum that District Committees are "effectively dormant."<sup>1</sup> Consistent with that conclusion, OLR's records show it has not made a referral to a District Committee since 2018 and that most District Committees have not received an OLR referral in ten years or more. The District 13 Committee, for example, has not received an OLR referral since 2011. OLR's records show its most recent documented contact with a District Committee member was on September 21, 2018.<sup>2</sup> OLR has no record of working with any District Committee or their members in their official capacities at any point thereafter.

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<sup>1</sup> Rule Petition 24-06, *In re Amendment of Supreme Court Rule 21.06 and Related Rules Regarding the Lawyer Regulation System's District Committees*, Supporting Mem. at 10 (Dec. 23, 2024).

<sup>2</sup> OLR kept a log to document communications with District Committee members. The log shows OLR contacted a District 11 Committee member on September 21, 2018, for her legal opinion in support of an investigation.

BAO referenced a “national trend” in professional ethics law where regulatory systems have, over time, been increasingly reliant on in-house professional staff rather than volunteer investigators.<sup>3</sup> This is consistent with several American Bar Association reports, which have recommended centralizing professional misconduct investigations and prosecutions by using in-house staff, not localized committees.<sup>4</sup> The OLR Procedure Review Committee echoed this recommendation in 2019 when it petitioned this Court to eliminate District Committees.<sup>5</sup>

The number of states that continue to rely on District Committees or their equivalent is unclear. Although most states’ lawyer regulatory systems share some similarities, each is unique, which makes direct comparisons difficult.<sup>6</sup> However, an ABA committee reviewing Minnesota’s system in 2022 noted “few jurisdictions” use “volunteer lawyers and public members to investigate complaints of lawyer misconduct.”<sup>7</sup> It found that “the reasons why volunteers should not be used to investigate complaints [were] present” in Minnesota’s system and reasoned that this was because “[v]olunteers simply cannot devote the time and lack the resources to investigate complaints in the same manner as paid, professional disciplinary counsel. This is not a negative reflection on these volunteers and their commitment to the system and the public, but rather just factual.”<sup>8</sup>

OLR’s experience is consistent with the national trend: exclusively using OLR’s in-house investigative staff leads to efficient investigations with fair and consistent outcomes. Like lawyers who focus on bankruptcy, immigration, or other specialty practice areas, OLR’s investigative counsel have an in-depth understanding and expertise regarding professional ethics law. Not only do they have specialized knowledge of the Rules of Professional Conduct, relevant precedent, and the Procedures for the Lawyer Regulation System, but they are also trained to dispassionately evaluate allegations and develop facts to determine whether a lawyer has violated the Rules. If the lawyer has violated the Rules, OLR’s investigative counsel have the training and expertise to gather, maintain, and prepare the evidence necessary to establish cause to proceed, work

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<sup>3</sup> See Rule Petition 24-06, Supporting Mem. at 9 (Dec. 23, 2024).

<sup>4</sup> See Mary M. Devlin, *The Development of Lawyer Disciplinary Procedures in the United States*, 7 Geo. J. Legal Ethics 911, 921–33 (1994) (citing Am. Bar Ass’n, Special Comm. on Evaluation of Disciplinary Enft, *Problems and Recommendations in Disciplinary Enforcement*, 5–6, 24–29 (1970)).

<sup>5</sup> See Rule Petition 19-08, *In re Amending Supreme Court Rules Pertaining to the Charging Process in Att’y Disciplinary Proc.* (Mar. 13, 2019); Rule Petition 19-08, Supporting Mem. at 2 (Mar. 13, 2019); see also Office of Law. Regul. Proc. Rev. Comm., *Final Report*, at 11 (Oct. 2018).

<sup>6</sup> See, e.g., Debra Moss Curtis, *Attorney Discipline Nationwide: A Comparative Analysis of Process and Statistics*, 35 J. Legal Prof. 209, 210 (2011).

<sup>7</sup> See Am. Bar Ass’n, *Minnesota: Report on the Lawyer Discipline System*, at 17 (Sept. 2022), <https://www.mncourts.gov/mncourtsgov/media/CIOMediaLibrary/News%20and%20Public%20Notices/Minnesota-Consultation-Report-SCPR.pdf> (last visited May 7, 2025). After evaluating its lawyer regulation system, the ABA recommended Minnesota retain its District Ethics Committees with “increased efficiencies,” but recommended that if consistency and efficiency issues persisted, the new Administrative Oversight Committee might need to report continuing issues to the Minnesota Supreme Court so that it could consider discontinuing the use of District Ethics Committees. *Id.* at 42.

<sup>8</sup> *Id.* at 42.

collaboratively with OLR's in-house litigation counsel in support of disciplinary proceedings, and assist in making substantive sanction recommendations to referees and this Court.

As noted by BAO's memorandum, OLR is also currently addressing three of the other duties assigned to District Committees under SCR 21.06(3). (BAO Mem. at 11.) OLR engages in outreach and education for members of the bar and interested organizations. When appropriate, OLR also seeks to resolve conflicts and encourage alternative dispute resolution through the OLR intake process and diversions to alternatives to discipline programs under SCR 22.10. *Id.*

In 2020, Chief Justice Roggensack discussed the intrinsic harm that often results from appointing volunteers to serve on "committees that have no meaningful work to do" and observed that they "start out enthusiastic, but end up disappointed."<sup>9</sup> There are also quantifiable effects on the Lawyer Regulation System. Like other System participants, allegations of misconduct regarding District Committee members are investigated by special investigators, not OLR's in-house staff. *See* SCR 22.25(1). At the conclusion of such investigations, the Special Preliminary Review Panel presides over cause to proceed determinations. *See* SCR 22.25(5). If discipline is warranted, the special investigator or special counsel must determine the appropriate sanction and pursue discipline before a referee or the Court. This alternate process is required even though members of the District Committees have no contact with OLR or its staff in their capacities as Committee members. With over 150 current lawyer members of District Committees – nearly double the combined number of all other System participants – the volume of potential respondents that require special investigations and Special Preliminary Review Panel reviews is increased twofold. In recent years, the majority of matters requiring special investigation and review by the Special Preliminary Review Panel have involved District Committee members, far more than matters involving other System participants.

OLR requests this Court grant Rule Petition 24-06 as proposed by BAO.

Very truly yours,

/s/ *Timothy C. Samuelson*

Timothy C. Samuelson  
Director

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cc: Timothy M. Barber, Supreme Court Commissioner  
Rene L'Esperance, Chairperson, Board of Administrative Oversight  
William R. Jones, Board of Administrative Oversight

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<sup>9</sup> *See In re Amending Supreme Court Rules Pertaining to Att'y Disciplinary Proc. in Regard to Supreme Court Rules, chs. 10, 20, 21, 22, & 31 (OLR Proc. Rev. Comm.)*, 2020 WI 62, ¶¶ 9–10 (June 30, 2020) (Roggensack, C.J., dissenting).