

**GUAM BAR ASSOCIATION PETITION
TO SUSPEND IMPLEMENTATION OF PROPOSED RULES FOR LAWYER DISCIPLINARY
ENFORCEMENT PENDING FURTHER REVIEW**

By this Petition, the undersigned active members of the Guam Bar Association are requesting that the Court suspend implementation of the Proposed Guam Rules for Lawyer Disciplinary Enforcement and Disability Proceedings, Amended November 15, 2019 (hereinafter “Proposed Rules”), and conduct a comprehensive review of the following:

- (1) Impact of the rules on the practice of law, and
- (2) Responsible examination of the cost of such a system.

While the Court’s original intention may have been to remove an of appearance of impropriety created by its authority over initial appointment of ethics committee members, and final appellate review of ethics adjudications, the Proposed Rules maintain the Court’s complete appointment authority over each member in the regulatory scheme. The only body removed from the appointment process is the Board of Governors, whose participation in the appointment, as elected officers, is replaced by a Commission appointed by the Court.

Furthermore, the Court has not fully examined the cost of establishing a comprehensive system of regulation, which will include maintenance of public documents, public disclosure obligations and a host of administrative duties which will require significant funding. The Court does not address the review of the financial obligations that will be required; nor does it identify a funding source for this system, other than to state that a disciplinary assessment is warranted. The GBA does not believe that the financial burden on 305 active lawyers (temporary admits included) to carry out the regulatory duties and responsibilities of the Judiciary is one that can withstand constitutional or statutory muster.

The Members of the GBA request particular review of the following issues and their impact on our limited population of 305 active lawyers:

1. The removal of **confidentiality** of proceedings after the filing of formal specifications, but before the adjudication of any ethical violation (Rule 16).
2. The **requirement of public disclosure of all documents** filed in a formal proceeding, known as the Hearing Panel (Rule 16(a)).
3. The granting of **civil immunity as an absolute privilege** for all communications in the regulatory disciplinary process (Rule 12).
4. The lifting of any **statute of limitations** on “fraud, conversion or conviction of a serious crime, or for an offense the discovery of which has been prevented by concealment on the part of the lawyer.” (Rule 32).
5. Application of confidentiality to **Certain Ethics complaints** against the Regulatory Counsel, Investigative Committee members, and/or Hearing Panel members, which are dealt with confidentiality and with finality by the Regulatory Commission. (Rule 2(d)(4)).

The Members of the GBA also request that the Court conduct a comprehensive review of the cost of implementation and maintenance of this proposed regulatory system. The membership does not believe that the proposed \$100.00 annual disciplinary assessment fee of attorneys that has been suggested to perform the regulatory functions of the Judiciary under the Proposed Rules will be sufficient based on the function required under the Proposed Rules. (Rule 8). The undersigned Members further request identification of the source of funding to perform the Judiciary of Guam’s regulatory function, and the appointment of a Subcommittee made up of the following members: 2 members of the GBA Board of Governors, 2 current or former members of the Ethics Investigative Committee, 2 current or former members of the Ethics Adjudicative Committee, the Ethics Prosecutor, 2 other interested GBA members, and 2 judicial members from the Superior Court of Guam.