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March 24, 2026

The Honorable Pamela Bondi
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Submitted by: <https://www.regulations.gov>

Re: Department of Justice - Office of the Attorney General
Docket No. OAG199
Comment to Proposed Rulemaking
Review of State Bar Complaints and Allegations
Against Department of Justice Attorneys

Dear Attorney General Bondi:

I write as president of the Conference of Chief Justices (CCJ) to offer comment on the proposed rulemaking for the Review of State Bar Complaints and Allegations Against Department of Justice Attorneys (“Proposed Rule”).

Founded in 1949, the CCJ is composed of the chief justices and judges of the highest courts of each state, territory, and the District of Columbia. The CCJ’s Board of Directors met to consider the Proposed Rule and adopted the enclosed Resolution. The Resolution reaffirms the authority of the highest courts in each jurisdiction to regulate the professional conduct of all attorneys authorized to practice law, including federal government attorneys.

As noted in the Resolution, as early as 1994, the CCJ expressed its view that “as a matter of policy and ethics, as well as principles of federalism and separation of powers, the state supreme courts have the sole and exclusive responsibility to supervise the practice of law in each jurisdiction.”

We have also stated that, “under the 1998 McDade–Murtha Amendment, 28 U.S.C. § 530B, Congress has recognized that federal government attorneys are subject to the laws and rules governing attorneys where they perform their duties, to the same extent and in the same manner as other attorneys in those jurisdictions.”

Before adopting the Proposed Rule, the CCJ board of directors urges the Department of Justice to consider the CCJ’s position that attorney regulation and discipline is the exclusive province of each jurisdiction’s highest court. We also ask the Department of Justice to carefully consider our federalism and separation of powers concerns when considering the Proposed Rule.

We would welcome the opportunity to express our concerns in greater detail. As stated in the proposed resolution, our interest is not just the authority of the states, territories and the District of Columbia to regulate attorney conduct – it is also our interest in ensuring continued public trust and confidence in the justice system.

Respectfully,

A handwritten signature in black ink that reads "Collins J. Seitz Jr". The signature is written in a cursive, flowing style.

Chief Justice Collins J. Seitz, Jr.
Supreme Court of Delaware
President, Conference of Chief Justices

Attachment: Resolution 1-2026

CONFERENCE OF CHIEF JUSTICES

Resolution 1-2026

Reaffirming the Authority of Jurisdictions' Highest Courts to Regulate the Professional Conduct of All Attorneys Authorized to Practice in their Jurisdictions

WHEREAS, each state, territory, and the District of Columbia (collectively “jurisdictions”), through its highest court, and in some jurisdictions through the state constitution, has the responsibility and authority to regulate the professional conduct of attorneys and other legal practitioners authorized to practice within its jurisdiction and to establish and enforce ethical standards and enforcement mechanisms governing the legal profession; and

WHEREAS, United States Department of Justice attorneys are authorized to practice law by admission to the bar of a jurisdiction’s highest court; and

WHEREAS, in 1994, the Conferences of Chief Justices (“Conference”) adopted Resolution XII, which opposed a proposed rule that would allow Department of Justice lawyers to communicate with represented persons in violation of state rules of professional conduct; and

WHEREAS, in Resolution XII, the Conference reinforced that “[a]s a matter of policy and ethics, as well as principles of federalism and separation of powers, the state supreme courts have the sole and exclusive responsibility to supervise the practice of law in each jurisdiction;” and

WHEREAS, under the 1998 McDade–Murtha Amendment, 28 U.S.C. § 530B, Congress has recognized that federal government attorneys are subject to the laws and rules governing attorneys where they perform their duties, to the same extent and in the same manner as other attorneys in those jurisdictions; and

WHEREAS, the United States Department of Justice has now proposed a new rule that would give the Attorney General the right to review state bar complaints against Department of Justice attorneys before state bar authorities proceed with their own investigations; and

WHEREAS such a rule may interfere with the ability of jurisdictions’ highest courts to exercise their long-established authority to regulate the professional conduct of attorneys authorized to practice in their jurisdiction, which authority is essential to public trust and confidence in the legal profession and, by extension, in the Rule of Law itself;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Conference of Chief Justices reaffirms that each jurisdiction's highest court regulates the professional conduct of attorneys and others authorized to practice in their jurisdictions by adopting ethical standards and disciplinary mechanisms;

BE IT FURTHER RESOLVED that attorney regulation and enforcement by jurisdictions are essential to protecting the public and maintaining trust and confidence in the justice system;

BE IT FURTHER RESOLVED that the Conference has consistently recognized attorney regulation and discipline as the exclusive province of jurisdictions' highest courts, and has opposed efforts to encroach upon that authority;

BE IT FURTHER RESOLVED that the Conference of Chief Justices respectfully urges that the Department of Justice carefully consider the foregoing principles, as well as federalism and separation of powers concerns before adopting any rule that would attempt to preempt or interfere with timely jurisdictional attorney disciplinary proceedings; and

BE IT FURTHER RESOLVED that the Board of Directors of the Conference of Chief Justices invites a dialogue with the Department of Justice to further discuss these concerns and the importance of ensuring continued public trust and confidence in our justice system.

Approved by the Board of Directors of the Conference of Chief Justices on March 20, 2026.