

STATE BAR OF TEXAS



Office of the Chief Disciplinary Counsel

December 10, 2015

Ms. Nina Hess Hsu
General Counsel
Supreme Court of Texas
P.O. Box 12248
Austin, TX 78711

Dear Ms. Hsu:

The Commission for Lawyer Discipline and Chief Disciplinary Counsel have reviewed the Grievance Oversight Committee's 2015 Report on the Grievance Classification Process and welcome the opportunity to provide comment. The Committee's measured approach throughout the review fostered candor, openness and a collaborative environment. We also appreciate the Committee's framing of the report against a recognition of the professionalism and dedication of CDC's classification staff.

The Commission and CDC agree that the classification stage is an important component of the attorney discipline process requiring transparency and public confidence. Additional staffing has been requested for the 2016-2017 Bar Year which will reduce the individual caseload of each attorney, increase overall quality control, and allow for more information to be provided complainants regarding the basis for dismissals. In the areas of quality control and continued training, Deputy Counsel and the classification lawyers, in addition to frequent discussions regarding case-specific fact scenarios and classification procedures, meet monthly to discuss topics affecting the classification process, reinforce standing policies, and address any unique situations that may affect classification decisions. Also, the classification lawyers continually take advantage of State Bar sponsored CLE courses in specialty areas and, at its annual attorney workshop, CDC typically invites outside speakers who specialize in the areas of law seen most often in the discipline system (family, criminal, personal injury).

The CDC intends to implement the Committee's recommendation to revise the notification letters it sends to a person whose grievance is dismissed as an inquiry to clarify that the individual may appeal the classification decision and later amend the grievance if affirmed by the Board of Disciplinary Appeals. With respect to the Committee's recommendation to dedicate resources to

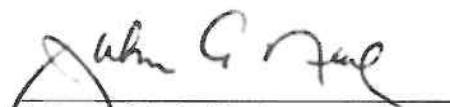
qualified Spanish language/translation services, there may have been a miscommunication between CDC and the Committee on this subject, as the CDC has employed professional translation services for any grievance not written in English, since the centralization of classification in 2007. While a majority of the translations involve grievances written in Spanish, CDC has also hired professionals to translate grievances written in other languages, including Korean, Chinese and French.

The Committee's belief that prior to 2004, all grievances were screened by the local grievance committees also requires some clarification. The initial classification process did exist prior to 2004, and CDC performed the initial screening of whether a grievance constituted an inquiry or complaint. What the Committee may be referring to is that under the former process, all grievances upgraded to a complaint were set for an investigatory hearing before a local grievance committee for a determination of just cause. Under the current system, the local grievance committees no longer conduct investigatory hearings and the determination of just cause is made by CDC. In any event, this misunderstanding does not significantly impact any of the Committee's recommendations.

The Commission and CDC will provide any requested input with respect to the Committee's recommendation for the Court to consider certain revisions to the disciplinary procedural rules governing classification. Finally, apart from administrative petition filed with the Court, the Commission and CDC have not experienced any recurring problems surrounding the application of TDRPC 8.04(a)(3); nor have lawyers expressed uncertainty to CDC about their obligations to report misconduct under this rule. As the Committee noted, CDC has provided the Court with information concerning its application of this rule, and we will defer to the Court on this issue.

The Committee's commitment to a fair and consistent disciplinary process is evident in the thoroughness of its report and detailed recommendations. We truly appreciate the volunteers who serve on the Committee for their dedication and work on behalf of the public and lawyers of Texas. We look forward to working with both the Committee and the Court in our efforts to provide the best disciplinary system possible.

Sincerely,



John A. Neal, Chair
Commission for Lawyer Discipline



Linda A. Acevedo
Chief Disciplinary Counsel

cc: Catherine N. Wylie