



## NEW JERSEY STATE BAR ASSOCIATION

JERALYN L. LAWRENCE, PRESIDENT  
Lawrence Law LLC  
776 Mountain Boulevard, Suite 202  
Watchung, NJ 07069  
908-645-1000 • FAX: 908-645-1001  
jlawrence@lawlawfirm.com

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Hon. Heather Joy Baker  
Clerk of the Supreme Court of New Jersey  
Comments on the Proposed Disciplinary Budget  
Hughes Justice Complex  
P.O. Box 970  
Trenton, NJ 08625-0970

Dear Ms. Baker:

The New Jersey State Bar Association very much appreciates the opportunity to review the Disciplinary Oversight Committee's (DOC) proposed 2023 budget for the attorney disciplinary system. We also extend our appreciation to the members of the DOC for their dedicated service to the Supreme Court and the legal community in monitoring the budget and operations of our disciplinary system. We particularly appreciate the DOC adopting a 7% staff vacancy rate, consistent with the actual vacancy rate for the past 10 years, as part of the budget proposal.

As you are aware, the proposal for 2023 includes a significant increase of \$27 in the annual assessment, raising it from \$148 to \$175, a change the NJSBA must oppose. The cited reason for the change is largely to address an expected reduction of the reserve due to reported budget deficits over the past several years. The deficits projected with each budget over the past several years have been significant, and, yet, at the end of the 2021 fiscal year, they do not appear to have been realized. According to the 2023 budget proposal, from 2016 to 2021, the actual reserves have averaged nearly 30% of the budget.

For 2021 there was a projected deficit of \$1.1 million, however, the actual number was closer to half that amount. Regardless, the reserve at the end of 2021 (less than one year ago) was at 27.3% of the operating budget, as stated in the 2023 proposal. The 2022 budget projected a deficit of \$1,888,662, however, it again appears that number will be lower than anticipated a year ago.

The NJSBA has consistently raised concerns about the accuracy of the projected deficits in each budget year. The data that we have available indicates that those projections are often inflated. The budget proposal itself states that "a review of the impact of expenses on the reserve back to 2015 showed that actual expenses are historically lower than projected expenses." As a result, the projections for the reserve amounts have often been inaccurate; yet the fee increase is based on those very projections.

Even assuming the projections in the 2022 budget proposal were accurate, it was noted that “should the registration fee remain at \$148 for 2023... the resultant reserves will be at 9.3%.” The goal for the reserve has long been 10% of the operating budget, and this squarely falls within that range without the proposed increase.

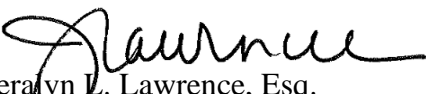
Please note that we do not have actual numbers but are relying on those presented in each budget proposal, including the 2023 proposal. Without actual numbers, it is difficult for anyone to make accurate projections or to critically analyze what is proposed. We request, therefore, that the annual Attorney Discipline Budget Report be restructured to include the actual numbers for revenue, expenses and the beginning and ending reserve amounts for the past 5 years in order to provide a realistic picture of disciplinary system’s operating costs and reserves.

Of note in this year’s proposal is the focus on the Fringe Benefit Rate (FBR), which represents a significant percentage of the total expenses. The FBR in the 2023 budget proposal is a whopping 67.45% of salary, and that amount has increased 21% in just three years. Fringe benefits simply cannot be such an enormous percentage of salary. It is unprecedented and not sustainable. We recognize that the rate is negotiated with the federal government, but the rate needs to be addressed in whatever way possible as the burden of an FBR that represents two-thirds of an employee’s salary is untenable and cannot be justified. If the FBR cannot be reduced to something reasonable and comparable, the budget numbers compel a reduction in the number of staff in order to keep the personnel expense and the operating costs in line from year to year.

The NJSBA is grateful for the opportunity to once again comment on the DOC’s budget proposal, and we commend the members of the DOC for their desire to ensure that our disciplinary system remains fiscally sound. We are hopeful that you will agree that having the actual numbers to review over a period of years will enable the DOC, the NJSBA and ultimately the Court to better assess the need for additional revenue to fund the disciplinary system. Until those numbers become available, however, we cannot support the proposed \$27 increase in the annual assessment and do not agree that it is even necessary at this time.

If the NJSBA can be of any assistance to you or the Supreme Court in further review of the budget proposal, we look forward to that opportunity.

Very truly yours,

  
Jeralyn L. Lawrence, Esq.  
President