

ONE HUNDRED NINETEENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

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April 2, 2026

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

Dear Attorney General Bondi:

I strongly oppose the Department of Justice's (DOJ) Proposed Rule titled "Review of State Bar Complaints and Allegations Against Department of Justice Attorneys," Docket No. OAG199 (Proposed Rule), published last month in the Federal Register. The Proposed Rule would amend DOJ regulations<sup>1</sup> to allow "the Department to review allegations against its [current or former] attorneys *before* [state] bar disciplinary authorities may undertake any investigative steps that seek information or otherwise require participation from a Department attorney."<sup>2</sup> This weird proposal for federal preemption of state professional bar discipline would give DOJ the power to supplant and forestall attorney misconduct investigations in all 50 states, Puerto Rico and the District of Columbia indefinitely. Plainly designed to shield you and your lawyers from accountability all over America for your serial egregious acts of professional misconduct in and out of court, this astonishing Proposed Rule is profoundly unprincipled and dangerous and almost certainly unlawful for reasons you should quickly understand and that I hope you will internalize.

The proposal comes as the bench, the bar and the public are in an uproar over your lawyers' continued lying in court and unblushing defiance of court orders. Your response is not to clean up your act but to try and shield your attorneys from the professional consequences of recklessly carrying out President Donald Trump's unceasing assault on our rights and liberties. According to one independent study, judges have castigated the Administration's noncompliance with judicial orders in no fewer than 34 cases and expressed skepticism about your representations of factual or legal matters in court in a breathtaking 90 cases.<sup>3</sup> These documented instances of spectacular disrespect for the law balloon to over 300 cases when recent

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<sup>1</sup> 28 C.F.R. § 77.

<sup>2</sup> Notice of proposed rulemaking, 91 Fed. Reg. 10780 (Mar. 5, 2026) (emphasis added).

<sup>3</sup> Ryan Goodman, et al., *The "Presumption of Regularity" in Trump Administration Litigation (4th Edition)*, JUST SECURITY (Mar. 19, 2026), <https://www.justsecurity.org/120547/presumption-regularity-trump-administration-litigation/>.

immigration-related habeas cases are included.<sup>4</sup> DOJ admitted after a court-ordered review that it had “accidentally” violated more than 50 judicial orders in a single district court in New Jersey over a two-month period in cases involving immigrants challenging their detentions.<sup>5</sup> This widespread defiance of the judiciary does not appear to be “accidental” but part of a systematic effort to undermine the rule of law by DOJ officials. According to one whistleblower, former acting Deputy Attorney General Emil Bove appeared to encourage DOJ attorneys to ignore or defy adverse court orders, often in the crudest and most shocking of terms.<sup>6</sup> Indeed, several senior DOJ officials—including you, Madam Attorney General—have been the subject of state bar ethics complaints for allegedly pressuring DOJ attorneys to violate their basic ethical and professional obligations.<sup>7</sup> In this context, it is no wonder that some Administration hardliners have apparently urged you to seek to avoid professional accountability rather than face and embrace it.

But, as I told you when you came before the House Judiciary Committee on February 11, 2026, it is not too late to mend your ways in favor of justice and the rule of law, and I continue to hope you will do so.

I believe this Proposed Rule is doomed in any event. It departs dramatically from what the Supreme Court has repeatedly recognized as the exclusive role of state courts to maintain and enforce professional conduct rules for lawyers operating in their jurisdictions. “Since the founding of the Republic, the licensing and regulation of lawyers has been left exclusively to the States and the District of Columbia within their respective jurisdiction.”<sup>8</sup> Because the States license the lawyers, “the States [also] prescribe ... the standards of professional conduct” and “are responsible for the discipline of lawyers.”<sup>9</sup> In our federalist system of government, state courts and state bar associations—not the Trump Administration—must be responsible for handling alleged professional misconduct taking place within their jurisdiction.

Because Congress has made clear that there are no special exceptions to this rule for DOJ attorneys, the Proposed Rule also appears to sharply conflict with a longstanding federal statute. The McDade Amendment provides that “[a]n attorney for the Government shall be subject to State laws and rules, and local Federal court rules, governing attorneys in each state where such attorney engages in that attorney’s duties, *to the same extent and in the same manner* as other

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<sup>4</sup> *Id.*

<sup>5</sup> Mattathias Schwartz, Zach Montague, & Luis Ferré-Sadurni, *Officials Violated More Than 50 Court Orders in New Jersey, Justice Dept. Tells Judge*, N.Y. TIMES (Feb. 18, 2026), <https://www.nytimes.com/2026/02/18/us/politics/court-orders-new-jersey-immigrants.html>.

<sup>6</sup> Josh Gerstein & Kyle Cheney, *Internal DOJ Messages Bolster Claim That Trump Judicial Nominee Spoke of Defying Court Orders*, POLITICO (July 10, 2025), <https://www.politico.com/news/2025/07/10/emil-bove-whistleblower-documents-00446225>.

<sup>7</sup> David Zimmermann, *DOJ Moves to Block State Ethics Investigations Against Its Attorneys*, WASH. EXAMINER (Mar. 4, 2026), <https://www.washingtonexaminer.com/news/justice/4480381/doj-moves-block-state-ethics-investigations/>.

<sup>8</sup> *Leis v. Flynt*, 439 U.S. 438, 442 (1979).

<sup>9</sup> *Id.*

attorneys in that State.”<sup>10</sup> How does this Proposed Rule subject government attorneys to State laws and rules “to the same extent and in the same manner” as all other attorneys in the state if they can be waived out of the system of state bar discipline for a short period, a long period or even indefinitely and permanently?

Congress passed the McDade Amendment in 1998 due to concern about federal prosecutorial abuse and “the problems inherent in any system of self-policing and regulation” by DOJ.<sup>11</sup> Its authors believed that “the disciplinary mechanisms available for enforcement of standards of conduct for the legal profession offer[ed] an impartial means of deterring and punishing prosecutorial abuse;”<sup>12</sup> that “disciplinary mechanisms are more effective if they can be invoked where the abuse occurs rather than where the prosecutor is admitted to practice;”<sup>13</sup> and that “the Attorney General lacks authority claimed by the [DOJ] to waive the ethical standards to which federal prosecutors must otherwise adhere.”<sup>14</sup> All of these clear purposes are defeated by your Proposed Rule.

Congress provided the Attorney General with rulemaking authority “to assure compliance” with the McDade Amendment, but the Proposed Rule would badly undermine—rather than faithfully comply with and implement—the statute. Under the Proposed Rule, DOJ alone would effectively and suddenly be responsible for policing the ethical and professional conduct of its attorneys. Compounding this problem, the Department’s Office of Professional Responsibility answers to political appointees, has never had real power to conduct thorough investigations and is currently without a lead attorney. In any event, this radical departure from current law and policy is undoubtedly the kind of “major question” reversal of interpretation of a federal statute that the Supreme Court strongly disfavors. Congress has had ample opportunity to completely rewrite the statute to replace state bar discipline with a federal ethical review process but has never sought to do that. The regulatory process cannot be used to turn the McDade Amendment upside down.

In fact, the key feature of the Proposed Rule appears to be that the Attorney General would be empowered to delay accountability indefinitely. Under the Proposed Rule, there is no timeline required for DOJ to complete its investigation or to take disciplinary action against a federal prosecutor subject to a complaint. The proposal thus acts as a “get out of jail free” card

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<sup>10</sup> 28 U.S.C. §530B(a) (2026) (emphasis added). While the authority to regulate and discipline lawyers ultimately rests with the state and federal judiciaries, Congress possesses the authority under the Constitution’s Supremacy Clause to determine what standard of professional conduct should apply to federal prosecutors to avoid a conflict of laws and to ensure that DOJ attorneys comply with local standards like every other lawyer, as federal prosecutors may be admitted to practice law in one state but engage in their duties before a federal court sitting in another.

<sup>11</sup> According to the Congressional Research Service (CRS), the “roots [of 28 U.S.C. §530B(a)] extend back at least to the 101st Congress when the House Government Operations Committee conducted hearings and recommended among other things a thorough examination of the ethics rules applicable to Department attorney while expressing concern over “the problems inherent in any system of self-policing and regulation.” See Charles Doyle, *McDade-Murtha Amendment: Ethical Standards for Justice Department Attorneys*, CRS REPORT (Dec. 18, 2001) at 2 (citing H. Rept. 101-986 101st Cong. (1990) at 35).

<sup>12</sup> *Id.* at 4.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

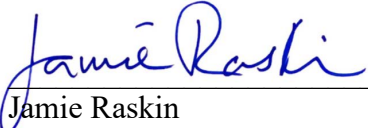
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and a “justice delayed, justice denied, let Main Justice decide” card for any DOJ attorney who violates his or her duty of candor to a court in defense of the Trump Administration’s countless unlawful policies.

As officers of the court, licensed attorneys take an oath to uphold the Constitution. We are expected to uphold the highest ethical and professional standards of the legal profession as embodied in law, not politics. The Proposed Rule, if implemented, would constitute a miserable and historic failure of that essential obligation.

Very truly yours,

  
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Jamie Raskin  
Ranking Member

cc: The Honorable Jim Jordan, Chairman