

**Understanding the Changes
to the Texas Disciplinary Rules
*Rules Vote Referendum 2024:***



Part 1:
**Overview of the
Disciplinary Rules Process**

RULE PROPOSAL PROCESS

RULE PROPOSAL

A request to initiate the rule proposal process may be made by: (1) a resolution of the State Bar of Texas Board of Directors; (2) a request by the Supreme Court of Texas; (3) a request by the Commission for Lawyer Discipline; (4) a petition signed by at least 10% of registered members of the State Bar; (5) a concurrent resolution of the Legislature; or (6) a petition signed by at least 20,000 people, of which at least 51% or 10,200 or more, must be Texas residents. Additionally, the Committee on Disciplinary Rules and Referenda can initiate the rule proposal process on its own.

INITIATION

The committee must vote to initiate the rule proposal process or decline in writing within 60 days of receiving a request.

PUBLICATION

A proposed rule must be published in the *Texas Register* and the *Texas Bar Journal* within six months of initiation of the rule proposal process.

COMMENT PERIOD

The committee shall give interested parties at least 30 days from the date of publication to submit comments on the proposed rule to the committee.

PUBLIC HEARING

During the comment period, the committee shall hold a public hearing on the proposed rule at the committee's discretion or if requested by: (1) at least 25 people; (2) a state agency or political subdivision of this state; or (3) an association with at least 25 members.

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COMMITTEE VOTE

The committee shall vote on whether to recommend a proposed rule to the Board of Directors not later than the 60th day after the final day of the comment period.

BOD VOTE

The Board of Directors shall vote on each proposed disciplinary rule recommended by the committee not later than the 120th day after the date the rule is received from the committee. The board shall vote for or against the rule or return the rule to the committee for additional consideration. If the rule is approved, the board shall petition the Supreme Court to order a vote by State Bar members.

VOTING

On receipt of a petition filed by the Board of Directors, the Supreme Court shall: (1) distribute a copy of the rule in ballot form to each member of the State Bar and order a vote on the rule; and (2) publish the rule in the *Texas Register* and the *Texas Bar Journal*. The Supreme Court shall give State Bar members: (1) at least 30 days to consider a proposed disciplinary rule before voting begins; and (2) 30 days to vote on the proposed disciplinary rule following the period for considering the proposed rule.

ADOPTION

The Supreme Court by majority vote may approve or reject a proposed disciplinary rule in its entirety, but may not approve or reject only part of the rule. If the Supreme Court does not vote on the rule by the 120th day after the rule is approved by State Bar members, the rule is considered approved by the Supreme Court.

RULE PROCESS SUMMARY

1. Proposal Received
2. Proposal Initiated
3. Publication in TBJ
4. Comment Period
5. Public Hearing
6. Committee Vote
7. State Bar BOD Vote
8. Supreme Court Orders Referendum Vote
9. Lawyers Vote in Referendum
10. Supreme Court Adopts Approved Rule

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2024 Proposed Rules

Question:

Who initiated the proposed rules we are voting on in April 2024?

Answer:

The CDRR proposed and initiated the rules included in the 2024 ballot:

- Reviewing other jurisdictions
- Issues of ambiguity requiring clarification
- Experiences with grievance system
- Receiving input from Chief Disciplinary Counsel

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Objectivity and Perspectives

- Makeup of the committee: lawyers and non-lawyers
- Multiple perspectives
- Each proposed rule is reviewed from the perspective of a busy practicing attorney



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First appeared as part of the conference materials for the 2024 First Friday Ethics (April 2024) session

"Understanding the Changes to the Texas Disciplinary Rules in the 2024 Referendum"