

# AD HOC RULEMAKING

AT TEXAS AND FEDERAL AGENCIES – A PRACTITIONER'S PERSPECTIVE

1



**FOLEY & LARDNER LLP**

**Robert F. Johnson III**

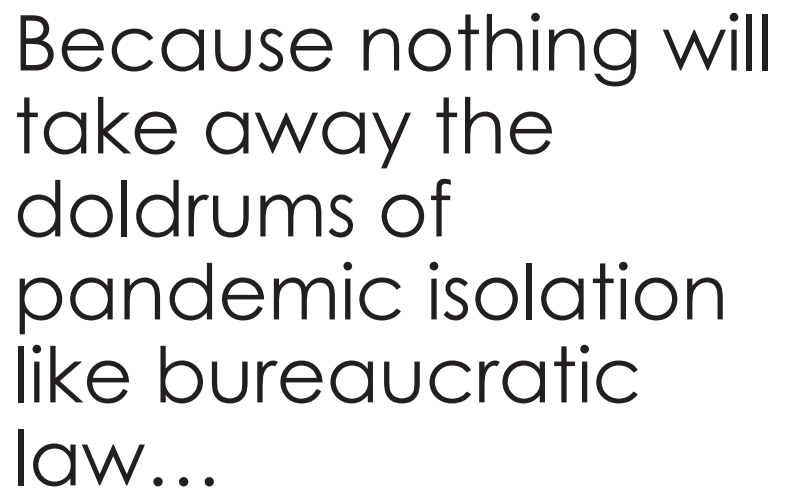


**Disclaimer: Opinions  
stated are those of the  
presenters and not  
Foley & Lardner LLP.**

**Andres S. Medrano**



2



# What is a Rule?

- The Term Rule is defined for Texas Agencies by the Texas Government Code Section 2001 – usually called the Administrative Procedures Act or the APA



# Tex. Gov. Code (APA) § 2001.003(6)(12)

- **“Rule”:**
- (A) means a state agency statement of general applicability that:
  - (i) implements, interprets, or prescribes law or policy; or
  - (ii) describes the procedure or practice requirements of a state agency;
- (B) includes the amendment or repeal of a prior rule; and
- (C) does not include a statement regarding only the internal management or organization of a state agency and not affecting private rights or procedures.

5

## What is a “Statement of General Applicability”?

- Statements that affect the interest of the public at large such that they cannot be given the effect of law without public input.
- *El Paso Hosp. Dist. v. Tex. Health & Human Servs. Comm’n*, 247 S.W.3d 709, 714 (Tex. 2008)
- *R.R. Comm’n of Tex. v. WBD Oil & Gas Co.*, 104 S.W.3d 69, 79 (Tex. 2003)



6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

## Title search: Ad-Hoc Rulemaking

First appeared as part of the conference materials for the  
15<sup>th</sup> Annual Advanced Texas Administrative Law Seminar session  
"Ad-Hoc Rulemaking"