



**TEXAS BOARD
OF
PARDONS AND PAROLES**

Number: BPP-DIR. 143.390

Date: April 6, 2022

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Supersedes: N/A

BOARD DIRECTIVE

SUBJECT: CLEMENCY RULES WORKGROUP

PURPOSE: To establish a workgroup to review and make recommendations to the Rules Committee related to the Texas Board of Pardons and Paroles clemency rules.

AUTHORITY: Texas Constitution Article IV, Section 11(b)
Texas Government Code Sections 508.035(d)(1) and (2), 508.036(b)(1).
Texas Code of Criminal Procedure Articles 48.01 and 48.05

DISCUSSION: The Board of Pardons and Paroles (Board) was established in 1936 when Article IV, Section 11 of the Texas Constitution was adopted. Article IV, Section 11(b) authorized the Governor to grant clemency on the written signed recommendation and advice of the Board of Pardons and Paroles, or a majority thereof. Subsequently in 1965, the Texas Legislature codified the Board's constitutional authority in Chapter 48 of the Texas Code of Criminal Procedure. The Board promulgated the first clemency rules in 1976.

The Administrative Procedure Act (APA) authorizes each state agency to promulgate rules. The APA also requires each state agency to review and consider for re-adoption each existing rule no later than the fourth anniversary of the rule's effective date, and every four years following that date.

The Rules Committee is an advisory committee established by the Presiding Officer to review and consider all the Board's rules as required by the APA. The Rules Committee is comprised of Board Members and Parole Commissioners. Because Parole Commissioners have no constitutional or statutory authority to make clemency recommendations, the Presiding Officer established a Clemency Rules Workgroup comprised of Board Members who are responsible for reviewing and considering the Board's clemency rules. The Presiding Officer authorizes the Clemency Rules Workgroup members to seek advice and counsel from the General Counsel and Chief of Staff or their designee.

PROCEDURE:

- I. Board Rules Review
 - A. When the Rules Committee Chair is advised by the Board's General Counsel or their designee that the Board's clemency rules are required to be reviewed and considered pursuant to the APA, the Rules Committee Chair will notify the Presiding Officer.
 - B. The Presiding Officer will contact the Clemency Rules Workgroup members who will review and consider the Board's clemency rules to recommend or not recommend revisions. The Clemency Rules Workgroup members may discuss the rules via teleconference or videoconference.
 - C. The Clemency Rules Workgroup will seek advice and counsel from the General Counsel or Chief of Staff or their designee. The Clemency Rules Workgroup will submit their final recommendations to the Presiding Officer with a copy to the Rules Committee Chair.
- II. New Rules
 - A. When the Presiding Officer is advised of the need to promulgate a new clemency rule based upon legislation, case law or other legal requirements, the Presiding Officer will contact the Clemency Rules Workgroup members who will consider developing a new Board clemency rule.
 - B. The Clemency Rules Workgroup members may discuss the rules via teleconference or videoconference. The Clemency Rules Workgroup will seek advice and counsel from the General Counsel or Chief of Staff or their designee. The Clemency Rules Workgroup will submit their final recommendations to the Presiding Officer with a copy to the Rules Committee Chair.
- III. The Rules Committee will discuss and consider the Clemency Rules Workgroup recommendations at the next scheduled meeting. The Rules Committee Chair will provide a member of the Clemency Rules Workgroup the opportunity to present their recommendations to the Rules Committee during the meeting.

SIGNED THIS, THE 6th DAY OF APRIL, 2022.

DAVID GUTIÉRREZ, PRESIDING OFFICER (CHAIR)

**Signature on file.*