

GRIEVANCE COMMITTEE APPOINTMENT GUIDE

• Overview	1
• Eligibility Guidelines	3
• Commonly asked Questions	5
• Timeline for Appointments	7
• Nomination Form	8

1. OVERVIEW

One of your important duties as a Director of the State Bar of Texas is to nominate attorney and public members to Grievance Committees in your District. This packet is designed to guide you through that process by:

- (1) Setting out your duties and responsibilities under the Texas Rules of Disciplinary Procedure and Board Policy,
- (2) Setting forth the timeline by which your nominations should be completed,
- (3) Offering logistical assistance through the Chief Disciplinary Counsel's Regional Office serving your Bar District, and
- (4) Providing you with the appropriate forms to make your nominations.

With each Director's consent, the Chief Disciplinary Counsel's Office provides logistical assistance in the administration of committee nomination process. The Chief Disciplinary Counsel's Office is the primary record-keeper for the nomination and appointment of committee members. The Regional Counsel serving your area will notify you of upcoming vacancies in accordance with the enclosed timeline. The Regional Counsel serving your area will notify you of any vacancies that may occur at other times during your term.

The responsibility for the nomination of grievance committee members is solely that of the Directors. However, the Chief Disciplinary Counsel provides a variety of services to assist you in that task. Each potential attorney nomination will be screened for prior attorney discipline. All would-be nominees are asked to consent to a criminal background check.

The Regional Counsel for your District will coordinate with you to assure that the appropriate forms are signed by both Directors and nominees. The Chief Disciplinary Counsel will then forward the nomination to the President for formal appointment, have appointment certificates executed, and send each new member a grievance committee handbook introducing the member to the grievance system. The Regional Counsel will provide a very thorough orientation for new members and training to familiarize new members with the grievance process and applicable rules. If you would like a copy of the grievance committee handbook, please contact the Regional Counsel in your area.

As a member of the Board of Directors, you are prohibited from having or acquiring knowledge about disciplinary matters beyond what is knowable in the public domain. Stated simply, confidentiality extends from the inception of the disciplinary process until either a public sanction is imposed against the respondent lawyer in the evidentiary process or a lawsuit is filed in an open forum, such as a district court or BODA. Even in instances where a Director may have knowledge acquired elsewhere about a disciplinary matter pending at a confidential stage or a matter dismissed as an inquiry, because of the confidentiality rules, the Office of Chief Disciplinary Counsel will be unable to confirm such information or provide any information with regard to confidential

matters.

Both the Chief Disciplinary Counsel and the Commission for Lawyer Discipline periodically report to the Board of Directors regarding the state of the attorney discipline system and annually present for approval a recommended budget for the disciplinary system to the Board as a part of the overall Bar's budget.

ELIGIBILITY FOR GRIEVANCE COMMITTEE MEMBERS

ATTORNEYS:

Any attorney with an active Texas law license in good standing and who has not been convicted of a misdemeanor involving theft, a felony, or a crime involving moral turpitude is eligible for service, provided that he or she resides in or maintains his or her principal place of practice within the District. However, lawyers with prior discipline are usually not nominated. Likewise, lawyers with a history of administrative suspension for non-payment of bar dues or non-compliance with MCLE may not make good candidates. No person may serve as a grievance committee member while he or she is a member of the Board or an active judge subject to Canon 4H of the Code of Judicial Conduct.

PUBLIC MEMBERS:

Any member of the public is eligible to serve on a grievance committee provided he or she meets the following qualifications:

- (1) Must be representative of the general public;
- (2) Have not been convicted of a misdemeanor involving theft, a felony, or a crime involving moral turpitude;
- (3) Is not a member of the State Bar Board of Directors; and
- (4) Does not have, other than as a consumer, a financial interest in the practice of law. "Financial interest in the practice of law" is specifically defined in State Bar Board of Directors Policy as:
 - (a) the spouse of a lawyer;
 - (b) any employee of a lawyer, private law firm, or professional legal corporation;
 - (c) any person who acquires the majority of his or her annual gross income from or through a lawyer, law firm, professional legal corporation by way of professional or consultant fees;

(d) the spouse of any person listed in (b) through (c) above.

In making nominations every Director is requested to consider the following goal set out in Board of Directors Policy:

"It is in the best interest of the public and the lawyers of Texas for the racial, ethnic, and gender makeup of the district grievance committees to fairly represent, as closely as reasonably practicable, the racial, ethnic, and gender makeup of the district they serve. Directors are encouraged to make their district grievance committee appointments so as to continue the fulfillment of this goal and to ensure that lawyer members reflect the various sizes of practice groups."

ALL POTENTIAL NOMINEES:

Each person seeking to serve as a grievance committee member shall, prior to nomination, submit to the Chief Disciplinary Counsel a written consent to the performance of a criminal background check as a prerequisite to nomination.

COMMONLY ASKED QUESTIONS

How will I know how many new committee members to nominate and how many current members could be re-nominated for another term?

Answer: The Regional Counsel serving your district will advise you in February of each year of the number of new members needed for the next term to begin July 1. You may choose to nominate a current member whose term is expiring for another three-year term, if the member is eligible. Members may serve two consecutive three-year terms. Nominations should be submitted to the Regional Counsel who services your region by April 1, utilizing the form included in this manual. Regional Counsel will assist you in the completion of the required forms to implement your nominations.

What information can I obtain about a respondent lawyer or pending grievance case?

Answer: You are not entitled to obtain any information regarding matters dismissed as inquiries, complaints dismissed by summary disposition panels, or disciplinary actions pending before an evidentiary panel. You can get information with respect to any public discipline of an attorney or any lawsuit pending in an open forum, such as a district court or the Board of Disciplinary Appeals.

How do I remove a committee member?

Answer: A committee member who fails or neglects to fulfill the duties of office, including unexcused absences at two or more meeting, may be removed for cause. Rule 4.06(H), Texas Rules of Disciplinary Procedure, provides that the Commission for Lawyer Discipline may recommend removal of a member to the Board of Directors. If a member is no longer eligible because he/she no longer qualifies (either under the TDRP or Board policy) you should notify the President and our office, and the President shall remove the member. Many times a member can be persuaded to resign rather than be removed. Please work with your Regional Counsel to resolve these problems.

What if a committee member becomes ineligible?

Answer: Committee members are requested to notify the Chief Disciplinary Counsel's Office if they become ineligible to serve due to relocation outside the District, change in employment or otherwise. They are given a grievance committee notebook outlining responsibilities and eligibility. An ineligible member should resign the appointment and usually can be persuaded to do so. If an ineligible member refuses to resign, that member can be removed as set out above.

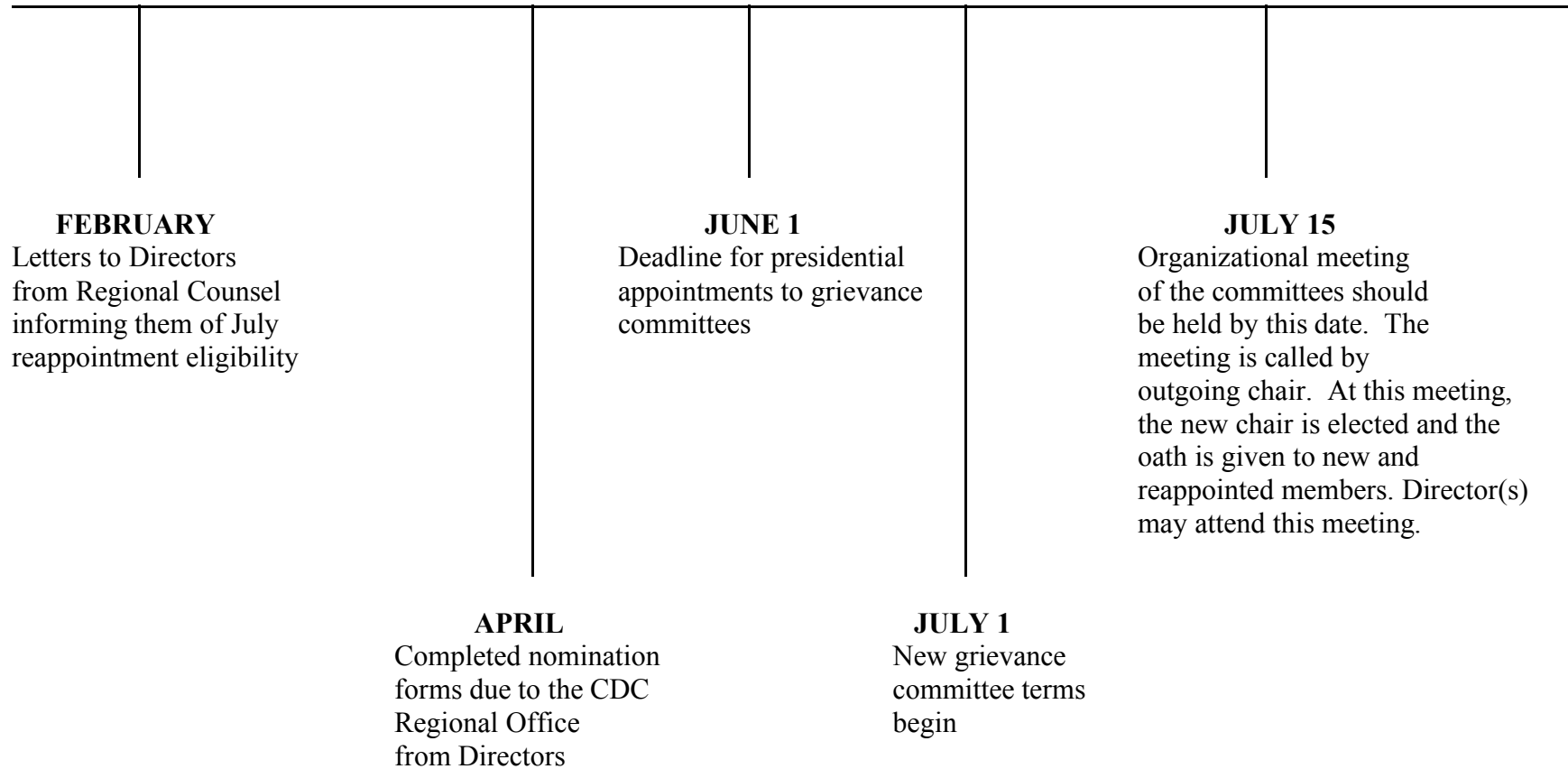
What happens if a grievance is filed against a committee member?

Answer: It is very unlikely that a Director would ever know of such an occurrence because the Director is not privy to that information. By way of information, however, the filing of a grievance does not disqualify an attorney member from service. Any information provided to the Chief Disciplinary Counsel's office about alleged attorney misconduct will proceed in accordance with the protocol as established by the State Bar Act and the Texas Rules of Disciplinary Procedure. If the grievance is classified as a complaint, the committee member will be asked to cease sitting as a grievance committee member until the matter is resolved. The State Bar grievance/discipline process will follow due course.

What is the Director's continuing responsibility with respect to grievance committees in his or district?

Answer: On occasion, a Director may be called upon to assist either district grievance committee chairs or the Chief Disciplinary Counsel in encouraging members to regularly attend called panel meetings. In cases of frequent or habitual absence, a Director may be asked to participate in seeking removal of a grievance committee member.

GRIEVANCE COMMITTEE NOMINATION AND APPOINTMENT TIMELINE



GRIEVANCE COMMITTEE MEMBER NOMINEE FORM

1. TO BE COMPLETED BY DISTRICT DIRECTOR:

TERM: 1st _____
2nd _____
Unexpired _____

I nominate _____ for appointment as a **PUBLIC/ATTORNEY** (circle one) member of the District _____ Grievance Committee.

RESIDING AT: _____
(Street, City, County, and Zip Code)

BUSINESS ADDRESS: _____
(Street, P.O. Box, and/or Building, Suite, City, and Zip Code)

HOME TELEPHONE: (____) _____ BUSINESS TELEPHONE: (____) _____

FAX: (____) _____ E-MAIL ADDRESS: _____

DATE OF BIRTH: _____ DRIVER LICENSE #: _____

PROPOSED TERM TO BEGIN: _____ EXPIRE: _____

DISTRICT DIRECTOR

2. TO BE SIGNED BY ALL NOMINEES:

I have not been convicted of a misdemeanor involving theft, a felony or a crime involving moral turpitude. I am not under indictment or other legal accusation of a misdemeanor involving theft, a felony or a crime involving moral turpitude. I hereby consent to a criminal background check as a prerequisite to my nomination.

I am not currently the subject of a disciplinary proceeding or investigation and am a member in good standing.

I have not served as a member of the grievance committee for two consecutive three-year terms immediately prior to this nomination or three years have passed since my last service.

If appointed, I agree to serve and to actively participate as a member of the State Bar of Texas district grievance committee.

The District Director has explained to me the importance of this position.

I understand that Board Policy prohibits me from counseling or representing any Respondent, Complainant, or any attorney representing any Respondent or Complainant in any disciplinary matter pending or filed while I am serving on the grievance committee.

I understand that Board Policy prohibits me from serving as a grievance committee member while I am a member of the State Bar Board of Directors or while I am serving as an active judge.

I understand that Board Policy prohibits me from sitting on a panel for either a summary disposition hearing or evidentiary hearing if the Respondent or Complainant is represented by a member, associate, employee or shareholder of the law firm or professional corporation of the director who nominated me.

I understand that Board Policy prohibits me from testifying in any capacity in connection with any disciplinary matter pending or filed while I am serving on the grievance committee.

I understand that if I am absent from more than two meetings during the course of a year, I am subject

to removal from office.

I agree to abide by the provisions of the Texas Rules of Disciplinary Procedure, the State Bar Act, and the policies established from time to time by the Board of Directors of the State Bar of Texas relating to grievance committees.

I agree that if at any time during my service I am charged with or indicted for a misdemeanor involving theft, a felony or a crime involving moral turpitude I will immediately notify the Chief Disciplinary Counsel.

NOMINEE

GRIEVANCE COMMITTEE MEMBER NOMINEE FORM FOR: _____
(NAME)

3. TO BE COMPLETED AND SIGNED BY **PUBLIC MEMBER** NOMINEE:

OCCUPATION OR PROFESSION: _____

EMPLOYER: _____

I am not a licensed attorney and, except as a consumer, I have no financial interest in the practice of law. Financial interest includes:

- (1) the spouse of a lawyer;
- (2) an employee of a lawyer, private law firm, or professional legal corporation;
- (3) any person who acquires the majority of his or her annual gross income from or through a lawyer, law firm, or professional legal corporation by way of professional or consultant fees; and
- (4) spouse of any person listed in (2) through (3) above.

PUBLIC MEMBER NOMINEE

4. Furnishing the following information is voluntary on the part of the member. We would like to have this data for the purpose of achieving balanced representation in compliance with Board policy as set forth below:

"The Board of Directors of the State Bar of Texas reaffirms that it is in the best interest of the public and the lawyers of Texas for the racial, ethnic, and gender makeup of the district grievance committees to fairly represent, as closely as reasonably practicable, the racial, ethnic, and gender makeup of the district they serve. Members of the Board are encouraged to make their district grievance committee nominations so that lawyer representatives reflect the various size of practice groups."

GENDER: _____

ETHNICITY: (Please Circle One)

Native American

Asian

White/Caucasian

African-American/Black

Hispanic

Other: _____

ATTORNEY NOMINEE: LAW FIRM SIZE (number of attorneys): _____

PRIMARY AREA OF PRACTICE: _____