

# Supreme Court of Texas

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## Supreme Court Procedures Summary

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In Misc. Dkt. No. 25-9104, the Court amends the Texas Rules of Appellate Procedure to eliminate the Court’s practice of requesting merits briefs before granting a petition for review, effective January 1, 2026. The amendments apply to a case in the Court in which the petition—or the first petition for review, in a case involving multiple petitions—is filed on or after January 1, 2026. The purpose of this summary is to explain how the Court’s processes will change—and, in many cases, remain the same—to accomplish this objective. This summary is shared to document the Court’s ordinary practices for the benefit of the bar and public and is not intended to bind the Court. On occasion, strict adherence to these procedures may undermine rather than effectuate the underlying goal of effective judicial administration or may be impractical for other reasons.

### *Petition for Review*

- A petition for review remains the primary means to seek the Court’s review of the decision of a court of appeals. Before filing a petition for review, one should carefully review Texas Rule of Appellate Procedure 9, which establishes word and page limits, margins, font sizes, and other format requirements. One should also carefully review Texas Rule of Appellate Procedure 53, which sets out the necessary contents of and deadlines for filing a petition for review.
- In Rule 9.4(i), a 2,000-word increase to the word limit for a petition for review will allow the Court to decide whether to grant a petition for review based entirely on the petition-stage briefing.
- The word-limit increase is intended to accommodate the expanded focus of a petition for review. Rule 53.2 now requires a petition for review to address more robustly the merits of the appeal and error preservation. It also eliminates the practice of “unbriefed” issues to avoid the Court improvidently granting review.
- Rule 53.2 also reorganizes a petition for review’s contents to place a greater emphasis on the introduction. The goal of petitioner’s introduction section is to explain enough about the case, its importance, and the merits to illustrate its plausible inclusion within the Court’s merits docket. A well-framed introduction will motivate members of the Court to read beyond that section with care. Conversely, clear introductions help the Court more

readily understand when a petition for review should be denied. The introduction is limited to 1,000 words that must be counted within the petition's overall word count.

### *The Court's Initial Review*

- The Court Clerk and Court Administrator circulate the petition to the Court on the Tuesday following its filing. The Court Clerk and Court Administrator will no longer wait for the filing of a response or waiver or for the response deadline to pass before circulating a petition for review for the Court's initial review. This change in practice should help reduce the overall time from filing to disposition.
- Each Justice reviews the petition and casts an initial vote within four weeks of circulation. A Justice may vote to deny relief, to request a response, or to discuss the case at conference, among other options.
- A petition for review receiving no votes other than to deny by the initial vote deadline will be denied on the next orders list, which issues on Friday.
- If any Justice votes other than to deny, the case will be placed on the Court's agenda for discussion at the next conference, except that a petition receiving a vote for a response will either: (a) if no response is filed, be placed on the Court's conference agenda after the deadline for filing the response has passed; or (b) if a response is filed, be placed on the Court's conference agenda after the reply is received or the deadline for filing the reply has passed, whichever is earlier.
- A vote for a response triggers the Supreme Court Clerk to immediately convey the Court's order that a response be filed. The Clerk will no longer wait until the initial vote deadline to pass before issuing the order for a response. Again, this change in practice should help reduce the overall time from filing to disposition.

### *Response to Petition for Review*

- A party need not file a response to a petition for review unless ordered by the Court and ordinarily is not well-served by filing a response without such an order. The Court will not grant a petition without first ordering a response or receiving a response from a party voluntarily. This practice remains unchanged.
- The changes to the response practice in Rule 53.3 track the changes to Rule 53.2 regarding petitions for review. The word limit is increased by 2,000 words and the contents are rearranged to emphasize the introduction.
- Because the Court intends to grant review on petition-stage briefing, the responding party should be fully incentivized to flesh out jurisdictional or other problems at the outset.

### *Conference at Petition Stage*

- The Court’s deliberative process remains unchanged.
- For each case on the conference agenda, the Court will act or defer the case for further development and consideration.
- A Justice may circulate a memo in a case at any time.
- The Court may request that Court staff prepare a “study memo” upon the vote of 3 Justices. Study memos are assigned by rotation to each chambers in seniority order.

### *Argued Cases*

- The Court may grant review, set the case for oral argument, and order briefing on the merits upon the vote of 4 Justices. It takes 5 votes to set an original proceeding requesting extraordinary relief for oral argument.
- The Court may set oral argument when it announces its decision to grant review, so it is important for attorneys to file any vacation notices as soon as possible.
- As reflected in Texas Rule of Appellate Procedure 55, a responding party now has the same amount of time to file merits briefing as the petitioner: 30 days. This change also makes briefing deadlines in the Court consistent with the deadlines in the courts of appeals.
- Before the Court hears oral argument, each case will be randomly assigned to a Justice as the presumptive author of the majority opinion, with the aim of evenly distributing cases among the Court.
- When feasible, the Court will leave sufficient time between the grant announcement and oral argument to allow each side 1 full extension if needed and to ensure that all briefing is completed at least 2 weeks in advance of oral argument.

### *Time Extensions*

- The Court intends to remain generous in granting motions for extensions of time to file a petition, a response to a petition, or a reply.
- However, because oral argument is closely tied to the merits briefing schedule, the Court’s generosity in granting extensions of time to file merits briefs will be more limited. Because ordinarily merits briefs are no longer solicited in aid of the Court’s decision to grant the petition, when they are ordered, counsel may expect that the Court will rule on the merits, which now may be the briefs’ exclusive focus.
- The Court will not grant a request for a merits brief extension if the request would push the briefing deadline into the 2-week window before oral argument.

### *Per Curiam Opinions*

- The Court may dispose of a petition on the merits without hearing oral argument upon the vote of 6 Justices.
- The Court may issue a per curiam opinion without requesting merits briefing. In such cases, the Court may rely in part on the court of appeals briefs.
- The Court reserves the authority to order merits briefing before issuing a per curiam opinion.
- The need for flexibility in handling per curiam opinions is one of the reasons the Court has maintained the language in Rule 55.1 that allows the Court to order merits briefing before granting review.