

**PROPOSED REVISIONS TO THE RULES GOVERNING DISCIPLINE
PROPOSAL 2026-040**

March 6, 2026

The Supreme Court Clerk's Office has recommended amendments to Rule 17-207 NMRA for the Supreme Court's consideration.

If you would like to comment on the proposed amendments set forth below before the Court takes final action, you may do so by either submitting a comment electronically through the Supreme Court's website at <https://supremecourt.nmcourts.gov/rules-forms-files/rules-forms/open-for-comment/> or sending your written comments by mail, email, or fax to:

Elizabeth A. Garcia, Chief Clerk of Court
New Mexico Supreme Court
P.O. Box 848
Santa Fe, New Mexico 87504-0848
rules.supremecourt@nmcourts.gov
505-827-4837 (fax)

Your comments must be received by the Clerk on or before April 5, 2026, to be considered by the Court. Please note that any submitted comments may be posted on the Supreme Court's website for public viewing.

17-207. Summary suspension or disbarment.

A. ~~[Summary suspension]~~ **Initiation of proceedings.**

(1) ~~[Petition for summary suspension.]~~ Summary suspension. Upon recommendation by the Disciplinary Board, an attorney may be summarily suspended from the practice of law by the Supreme Court

(a) upon the filing with the Supreme Court of a certified copy of a judgment finding an attorney guilty of a felony or other serious crime, as provided in Rule 16-804 NMRA of the Rules of Professional Conduct;

(b) upon the Disciplinary Board demonstrating by certificate or otherwise that an attorney has been convicted of or has pleaded guilty or no contest to a felony or serious crime;

(c) upon the filing with the Supreme Court of an order or judgment declaring the attorney to be incompetent or incapacitated;

(d) upon the Disciplinary Board demonstrating by certificate or otherwise that an attorney is incapacitated from continuing to practice law or to defend himself or herself; or

(e) upon the filing in the Supreme Court and service upon an attorney by chief disciplinary counsel of a petition which sets forth facts demonstrating that the continued practice of law by an attorney will result in a substantial probability of harm, loss, or damage to the public and that

(i) the attorney is under investigation by disciplinary counsel for an alleged violation of the Rules of Professional Conduct or a violation of a court rule, statute, or other law;

(ii) formal disciplinary charges have been filed against the attorney; or

(iii) a criminal complaint, information, or indictment has been filed against the attorney. ~~[Prior to suspending an attorney pursuant to this Subparagraph (A)(1)(e), the Supreme Court shall cause to be served on the attorney an order to show cause why the petition of chief disciplinary counsel should not be granted and requiring the attorney to appear before the Supreme Court to respond to the allegations set forth in the petition. The petition shall be served on the attorney at least ten (10) days prior to the date set for the hearing unless a shorter time is ordered by the Supreme Court. At any time prior to the hearing, an attorney may file an answer to the petition. A copy of the answer shall be served on chief disciplinary counsel.]~~

(2) Summary disbarment. Upon recommendation by the Disciplinary Board, an attorney may be summarily suspended from the practice of law by the Supreme Court

(a) upon the filing with the Supreme Court of a certified copy of a judgment finding an attorney guilty of a felony or other serious crime, as provided in Rule 16-804 NMRA of the Rules of Professional Conduct; or

(b) upon the filing of a certificate or otherwise demonstrating that an attorney has been convicted of or has pleaded guilty or no contest to a felony or serious crime.

B. Order to show cause. Prior to summarily suspending or disbarring an attorney under Paragraph A of this rule, the Supreme Court shall serve on the attorney an order to show cause why summary suspension or disbarment should not be granted. The Supreme Court shall require the attorney to file an answer to the petition or to appear before the Supreme Court to respond to the allegations set forth in the petition. If the Supreme Court sets a hearing on the matter, the petition and order to show cause shall be served on the attorney at least ten (10) days prior to the date set for the hearing unless a shorter time is ordered by the Supreme Court. At any time prior to a hearing, an attorney may file an answer to the petition. A copy of the answer shall be served on chief disciplinary counsel.

C. ~~(2)~~ [Suspension order.] Order of suspension or disbarment.

(1) Suspension. Upon ~~[a]~~ consideration of the showing made pursuant to Subparagraph (A)(1) of this rule~~;~~ and the attorney's answer or response at a hearing, the Supreme Court may enter an order immediately suspending the attorney indefinitely or pending the conclusion of a disciplinary proceeding, regardless of the pendency of an appeal from the conviction of a felony or serious crime or order or judgment declaring the attorney to be incompetent or incapacitated.

(2) Disbarment. Upon consideration of the showing made pursuant to Subparagraph (A)(2) of this rule and the attorney's answer or response at a hearing, the Supreme Court may enter an order immediately disbarring the attorney, regardless of the pendency of an appeal from the conviction of a felony or serious crime.

D. Evidence of commission of crime.~~[-(3) — Evidence of commission of crime.]~~ A judgment or plea of guilty or no contest by an attorney for any crime shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against the attorney based upon the conviction.

E. Reinstatement.~~[-(4) — Reinstatement.]~~

(1) *Suspension.* An attorney suspended under the provisions of Subparagraph (A)(1) of this rule shall be reinstated immediately upon the filing of a certificate by the Disciplinary Board demonstrating that,

(a) if the suspension was for conviction of a crime, the underlying conviction for the felony or other serious crime has been reversed and no further proceedings have been ordered by the reviewing court;

(b) if the suspension was imposed because of incompetency or incapacity, the Disciplinary Board certifies that such incapacity or incompetency no longer exists; or

(c) if the suspension was imposed on a showing that the continued practice of law by the attorney would result in a substantial probability of harm, loss, or damage to the public, the Disciplinary Board certifies that such a probability no longer exists.

(2) *Disbarment.* Notwithstanding the prohibition of reinstatement for disbarred attorneys in Rule 17-214(A) NMRA, the Supreme Court may consider reinstating an attorney disbarred under the provisions of Subparagraph (A)(2) of this rule upon the filing of a certificate by the Disciplinary Board demonstrating that the underlying conviction for the felony or other serious crime has been reversed and no further proceedings have been ordered by the reviewing court.

F. **Effect of reinstatement.** [~~—(5)—~~*Effect of reinstatement.*] Reinstatement after a summary suspension or disbarment ordered under the provisions of [~~Subparagraph (A)(1)~~] Paragraph A of this rule shall not terminate any formal disciplinary proceeding then pending against the attorney, the disposition of which shall be determined by the hearing committee and the Disciplinary Board as provided in these rules.

G. **Duty of clerk or judge.** [~~—(6)—~~*Duty of clerk or judge.*] Any clerk or judge of any court within this state who has knowledge that a member of the bar of this state has been convicted of a felony or other serious crime shall, within ten (10) days of said conviction, transmit a certificate thereof to the Disciplinary Board.

H. **Failure to forward a certificate.** [~~(7)—~~*Failure to forward certificate.*] Upon being advised that an attorney has been convicted of a felony or other serious crime within this state, disciplinary counsel shall determine whether the court in which the conviction occurred has forwarded a judgment of conviction to the Disciplinary Board in accordance with the provisions of this rule. If the judgment has not been forwarded to the Disciplinary Board, or if the conviction occurred in another jurisdiction, it shall be the responsibility of disciplinary counsel to obtain a copy of the judgment of the conviction.

[~~B.~~] I. **Administrative suspension for failure to cooperate.**

(1) *Application.* The provisions of this paragraph shall apply in all cases where there is a request for investigation or a specification of charges pending against an attorney under these rules. If the respondent-attorney fails to cooperate by

(a) failing to respond to requests for information;

(b) failing to respond to requests for investigation;

(c) failing to appear for a scheduled deposition or hearing;

(d) failing to answer the specification of charges; or

(e) failing to produce information or records requested by disciplinary

counsel absent a good-faith objection, then disciplinary counsel may file a petition for suspension of the attorney's license to practice law. Proceedings commenced against an attorney under the

provisions of this paragraph are administrative suspension proceedings. Suspension of an attorney's license to practice law under the provisions of this paragraph is not a form of discipline and shall not necessarily bar disciplinary action.

(2) *Petition for suspension.* Disciplinary counsel may file a petition for suspension with the Supreme Court alleging that the attorney has not responded to requests for information, has not responded to the request for investigation, has not appeared for a scheduled deposition or hearing, has not timely answered the specification of charges, or has not produced records or documents requested by disciplinary counsel and has not interposed a good-faith objection to producing the records or documents. The petition shall be supported by an affidavit setting forth sufficient facts to demonstrate the efforts undertaken by disciplinary counsel to obtain the attorney's cooperation and compliance. A copy of the petition shall be served on the respondent-attorney pursuant to Rule 17-301(C) NMRA.

(3) *Response to the petition.* If the respondent-attorney fails to file a response in opposition to the petition within fourteen (14) days after service of the petition, the Supreme Court may enter an order suspending the attorney's license to practice law until further order of the Supreme Court. The attorney's response shall set forth facts showing that the attorney has complied with the requests or the reasons why the attorney has not complied, and the attorney may request a hearing.

(4) *Supreme Court action.* Upon consideration of a petition for suspension and the attorney's response, if any, the Supreme Court may suspend the attorney's license to practice law for an indefinite period pending further order of the Supreme Court, deny the petition, or issue any other appropriate orders. If a response to the petition is filed and the attorney requests a hearing on the petition, the Supreme Court may conduct a hearing or it may refer the matter to the Disciplinary Board for an expedited evidentiary hearing pursuant to Rule 17-314(E) NMRA. The board's findings of fact and recommendations shall be sent directly to the Supreme Court within seven (7) days after receipt of the parties' proposed findings and conclusions if requested by the board.

(5) *Reinstatement.* An attorney suspended under Paragraph [B] I of this rule may apply to the Supreme Court for reinstatement upon proof of compliance with the requests of disciplinary counsel as alleged in the petition, or as otherwise ordered by the Court. A copy of the application must be delivered to disciplinary counsel, who may file a response to the application within two (2) business days after being served with a copy of the application. The Supreme Court may summarily reinstate an attorney suspended under the provisions of this paragraph upon proof of compliance with the requests of disciplinary counsel.

[As amended by Supreme Court Order No. 13-8300-045, effective December 31, 2013; as amended by Supreme Court Order No. _____, effective _____.]

Committee commentary. — The Supreme Court has the inherent power and duty to regulate the practice of law within this state. See Rule 17-201 NMRA. Notwithstanding the procedures set forth in this rule, the Supreme Court retains the authority to suspend or disbar an attorney sua sponte.

[Adopted by Supreme Court Order No. _____.]



**New Mexico
Courts**

Alyssa Segura <supams@nmcourts.gov>

[rules.supremecourt-grp] Open for Comment Form submitted on Supreme Court

1 message

Supreme Court <noreply@nmcourts.gov>

Thu, Mar 26, 2026 at 4:47 PM

Reply-To: noreply@nmcourts.gov

To: rules.supremecourt@nmcourts.gov

Name Nadia

Cabrera-Mazzeo

**Phone
Number** (505) 427-2025

Email nadia@honestcontracts.com

**Proposal
Number** 2026-040

Comment

I do not support this rule change because it unnecessarily expands the grounds for disbarment and could result in unnecessary disbarment, or, at best, unnecessary paperwork and hearings. The proposed changes essentially allow an attorney to be summarily disbarred if they are guilty of a "felony or other serious crime, as provided in Rule 16-804 NMRA of the Rules of Professional Conduct."

But Rule 16-804 does not mention felonies or the term "serious crimes" and certainly does not prohibit attorneys from practicing if they commit crimes, only if they commit a crime related to dishonesty, discrimination, violence, or other moral turpitude. The statutory grounds for disbarment under NMSA 36-2-18 are also clear that a felony conviction is grounds for disbarment when it involves moral turpitude and only when the record of conviction is conclusive. The statutory requirement that the record be conclusive is important as the proposed rule changes allow summary disbarment even when the conviction is pending appeal. In my opinion, that's not right and could potentially violate the statute.

Importantly, there is nothing stopping retroactive enforcement of this rule. I don't think it should be passed at all, but if it is, there should be constraints around the time elapsed between the conviction and grounds for summary disbarment.

Without having more information about the perceived need behind these rule changes, I must stand against them. Our current rules are sufficient and it does not seem necessary to give the disciplinary board more power, make disbarment easier, or make an attorney's life more difficult when they are involved in the criminal legal system for conduct that does not impact their ability to practice under the existing statutes and rules of professional conduct.



New Mexico Courts

Kateri Eisenberg <supkhe@nmcourts.gov>

[rules.supremecourt-grp] Open for Comment Form submitted on Supreme Court

Supreme Court <noreply@nmcourts.gov>
Reply-To: noreply@nmcourts.gov
To: rules.supremecourt@nmcourts.gov

Thu, Apr 2, 2026 at 2:16 PM

Name	Stephen
	Taylor
Phone Number	(505) 788-7210
Email	stephen@de-serving.org
Proposal Number	2026-040
Comment	comment attached
File Upload	https://supremecourt.nmcourts.gov/wp-content/uploads/sites/2/formidable/6/2026-040-rule-change-DSL-public-comment-1.pdf

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P.O. Box 25202, Albuquerque, New Mexico 87125
(505) 788-7210
www.de-serving.org

Elizabeth A. Garcia
New Mexico Supreme Court
P.O. Box 848
Santa Fe, New Mexico 87504-0848

Dear Clerk of the Supreme Court,

We write to offer comment on proposed rule change 2026-040 governing attorney discipline. (De)serving Life is a nonprofit organization that supports individuals navigating New Mexico's discretionary parole process. This work provides us with a unique vantage point on the criminal legal system in our state, including how it intersects with (and at times diverges from) the needs of protecting our communities.

We share the Court's interest in maintaining a high standard of legal practice and protecting the public from unethical conduct within the profession. However, as drafted, the proposed rule sweeps too broadly by treating any felony or "serious crime" as sufficient grounds for disbarment, without regard to the nature of the offense or its relevance to the practice of law.

The proposal is framed as a codification of existing statutory and ethical standards. In reality, it greatly expands them. Current law provides that an attorney may be disbarred upon "*conviction of felony or misdemeanor involving moral turpitude,*" where the record of conviction is conclusive. NMSA 1978, § 36-2-18. Similarly, the Rules of Professional Conduct define misconduct to include committing "*a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer.*" Rule 16-804 NMRA.

Both authorities establish two important limiting principles: first, that the conduct must bear a meaningful connection to the lawyer's fitness to practice law; and second, that the conviction itself must be reliable and final. The proposed rule departs from both principles by authorizing disbarment for any "felony or other serious crime," without requiring a nexus to professional fitness and without accounting for convictions that remain subject to direct appeal or other legitimate challenge.

This departure is especially concerning in the current legal and political climate. The enforcement of criminal law is not immune from bias or misuse. At various points in our

nation's history, attorneys representing politically marginalized communities or movements have themselves been investigated, charged, or prosecuted in connection with that work. We find ourselves in a moment in which many members of our legal profession are again working tirelessly in the defense of vulnerable communities against state terror, morally and ethically right actions in this moment in history which could easily result in criminal charges. In such a context, a rule that treats any felony conviction as dispositive of professional unfitness risks collapsing the distinction between zealous advocacy and unprofessional lawyer conduct.

(De)serving Life does not oppose a rule change that faithfully reflects existing statutory and ethical standards. Our concern is that this proposal instead broadens those standards in a way that removes critical safeguards. Not every criminal conviction reflects on a lawyer's honesty, trustworthiness, or fitness to practice law. A disciplinary framework that focuses on the fact of conviction alone, rather than the underlying conduct and its relevance to professional obligations, risks both overreach and unintended harm.

As with non-criminal misconduct, the touchstone should remain whether the conduct at issue bears on a lawyer's ability to practice law ethically. We urge the Court to revise the proposed rule to preserve this essential nexus and to ensure that disciplinary consequences are grounded in conduct, not merely conviction.

Accordingly, we offer the following recommended amendment to the proposed rule for consideration:

(A)(2) Summary disbarment. Upon recommendation by the Disciplinary Board, an attorney may be summarily suspended from the practice of law by the Supreme Court

(a) upon the filing with the Supreme Court of a certified copy of a judgment finding an attorney guilty of a ~~felony or other serious~~ crime that reflects adversely on the lawyers honesty, trustworthiness or fitness as a lawyer in other respects, as provided in Rule 16-804 NMRA of the Rules of Professional Conduct; or

(b) upon the filing of a certificate or otherwise demonstrating that an attorney has been convicted of or has pleaded guilty or no contest to a ~~felony or serious~~ crime that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects

(c) "In determining whether to file a certificate or other demonstration of criminal conduct, the disciplinary board shall consider:

i. the strength of the evidence of the criminal conviction, including whether the criminal conviction is being appealed and if so, on what grounds;

ii. the nexus between the criminal conduct and the lawyer's ability to ethically practice law in the state of New Mexico.

(C)(2) Disbarment. Upon consideration of the showing made pursuant to Subparagraph (A)(2) of this rule and the attorney's answer or response at a hearing, the Supreme Court may enter an order immediately disbarring the attorney, ~~regardless of the pendency of an appeal from the conviction of a felony or serious crime~~ unless the conviction is pending

appeal. If the conviction is pending appeal, the Court shall stay entry of a final order of disbarment unless it finds that (1) the grounds for appeal do not present a substantial question likely to result in reversal or modification, and (2) the underlying conduct demonstrates a present threat to the public or the integrity of the legal profession.

Respectfully submitted,

Stephen Taylor
Executive Director
(De)serving Life