

STATE OF MAINE
SUPREME JUDICIAL COURT
AMENDMENTS TO
MAINE BAR RULES

2020 Me. Rules 04

Effective: October 26, 2020

All of the Justices concurring therein, the following amendments to the Maine Bar Rules are adopted to be effective on the date indicated above. The specific amendments are stated below. To aid in the understanding of the amendments, an Advisory Note appears after the text of each amendment. The Advisory Note states the reason for recommending the amendment, but the Advisory Note is not part of the amendment adopted by the Court.

1. The Preamble and Terminology section of the Maine Bar Rules is amended to read as follows:

PREAMBLE AND TERMINOLOGY

....

Terms used in these Rules shall have the following meanings, unless the context clearly requires a different meaning:

....

“Executive Clerk of the Court” means the Clerk of the Maine Supreme Judicial Court.

“Executive Director” means the attorney employed by the Board to perform the administrative and executive functions of the Board.

“Fee Arbitration Commission” means a creation of the Maine Supreme Judicial Court, under the jurisdiction of the Board of Overseers of the Bar, that provides an efficient and less formal adjudication process for attorney-client fee disputes.

....

Advisory Note – October 2020

The Preamble and Terminology section is amended to add a definition of “Executive Director.”

2. Rule 1 of the Maine Bar Rules is amended to read as follows:

RULE 1. STRUCTURE

(a) Board. The Board is established as the statewide agency to administer the regulation of lawyers. The Board oversees a Grievance Commission as provided in Rule 9; Bar Counsel as provided in Rule 2; a Fee Arbitration Commission as provided in Rule 7; a Professional Ethics Commission as provided in Rule 8; and staff appointed by the Board and/or the Executive Director. The Board is a unitary entity responsible for educational, prosecutorial, and adjudicative functions; however, to avoid unfairness, these functions shall be separated within the agency insofar as practicable. The prosecutorial functions shall be directed by Bar Counsel and performed, insofar as practicable, by Board employees. The adjudicative functions shall be directed by the Board Clerk and performed, insofar as practicable, by Board employees, practicing lawyers, and public members serving on the Board, the Grievance Commission, and the Fee Arbitration Commission. The Board’s administrative and executive functions shall be performed by the Executive Director, who shall report directly to the Board. The Executive Director shall not perform or direct the prosecutorial or adjudicative functions of Bar Counsel or the Board Clerk.

....

(j) Executive Director. The Executive Director shall be a lawyer admitted to practice in Maine.

(1) Responsibilities. Under the direction and supervision of the Board, the Executive Director is responsible for

(A) the administrative functions of the Board, including but not limited to, the day to day operation of the Board, the management and supervision of all Board employees, the keeping of the Board's accounts and financial reports, and the keeping of a current register of all persons admitted to the Maine Bar; and

(B) the executive functions of the Board, including, but not limited to, the execution of the Board's mission and policies to promote the competent practice of law through regulation and education, and the provision of general and legal advice to the Board.

(2) *Ethical Obligations.* The Executive Director shall maintain the confidentiality of matters coming before the Board. The Executive Director shall not engage in the private practice of law or participate in activities that would, appear, to a reasonable person, to undermine the Executive Director's integrity. The Executive Director may lecture at continuing legal education seminars on topics relating to ethics or professionalism provided that the Executive Director shall do so without compensation and may render advisory opinions, along with Bar Counsel, pursuant to Rule 2(c). The Executive Director may be reimbursed for travel and ancillary expenses.

Advisory Note - October 2020

Two sentences are added at the end of Rule 1(a) to clarify the responsibilities of the Board, the Executive Director, the Board Clerk, and Bar Counsel.

New Rule 1(j) is added to specify that the Executive Director must be a lawyer admitted to practice in Maine and to summarize the Executive Director's responsibilities and ethical obligations.

Dated: October 26, 2020

FOR THE COURT,*

_____/s/_____
ANDREW M. MEAD
Acting Chief Justice

ELLEN A. GORMAN
JOSEPH M. JABAR
THOMAS E. HUMPHREY
ANDREW M. HORTON
CATHERINE R. CONNORS
Associate Justices

* This Rule Amendment Order was approved after conference of the Court, all Justices concurring therein.