

STATE OF MAINE
SUPREME JUDICIAL COURT
AMENDMENT TO
MAINE CODE OF JUDICIAL CONDUCT

2023 Me. Rules 05

Effective: September 28, 2023

All of the Justices concurring therein, the following amendment to the Maine Code of Judicial Conduct is adopted to be effective on the date indicated above. The specific amendment is stated below. To aid in the understanding of the amendment, an Advisory Note appears after the text of the 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. Rule 2.15 of the Maine Code of Judicial Conduct is amended to read as follows:

RULE 2.15

Disciplinary Responsibilities

(A) A judge having knowledge that another judge has committed a violation of this Code that raises a substantial question as to the judge's honesty, trustworthiness, or fitness as a judge in other respects shall inform the Committee on Judicial Responsibility and Disability or the appropriate authority.

(B) A judge having knowledge that a lawyer has committed a violation of the Maine Rules of Professional Conduct that raises a substantial question regarding the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects shall inform the Board of Overseers of the Bar and any other appropriate authority including disciplinary boards of other jurisdictions in which the lawyer is admitted to practice. The fact that a judge has referred an attorney to the Maine Assistance Program or has filed a disciplinary complaint against an attorney with the Board of Overseers of the Bar does not provide a good faith basis for recusal when the basis for the complaint would not otherwise require recusal.

(C) A judge who receives information indicating a substantial likelihood that another judge has committed a violation of this Code should take appropriate action.

(D) A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Maine Rules of Professional Conduct should take appropriate action.

(E) Acts or omissions of a judge, in the discharge of disciplinary responsibilities required or permitted by sections A through D of this rule, are a part of a judge's judicial duties and shall be absolutely privileged, and no civil actions predicated thereon may be instituted against the judge.

(F) This Rule does not require disclosure of information obtained in the course of a lawyer's or judge's participation in the Maine Assistance Program for Lawyers and Judges, or an equivalent peer assistance program approved by a state's highest court.

Advisory Note – September 2023

A new subdivision (F) is added, modeled on the language of Rule 8.3(c) of the Maine Rules of Professional Conduct, which, as amended simultaneously with this amendment, provides:

RULE 8.3 *REPORTING PROFESSIONAL MISCONDUCT*

(a) A lawyer who knows that another lawyer has committed a violation of the Maine Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority.¹

¹ In Maine, the appropriate professional authority will be the Maine Board of Overseers of the Bar, or in certain circumstances, as described in the Maine Rules for Maine Assistance Program for Lawyers and Judges, the Maine Assistance Program for Lawyers and Judges.

(b) A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge’s fitness for office shall inform the appropriate professional authority.²

(c) This Rule does not require disclosure of information otherwise protected by Rule 1.6 or *information obtained in the course of a lawyer’s or judge’s participation in the Maine Assistance Program for Lawyers and Judges, or an equivalent peer assistance program approved by a state’s highest court.*

(Emphasis added.)

Dated: September 28, 2023

FOR THE COURT,*

_____/s/_____
VALERIE STANFILL
Chief Justice

ANDREW M. MEAD
JOSEPH M. JABAR
ANDREW M. HORTON
CATHERINE R. CONNORS
RICK E. LAWRENCE
WAYNE R. DOUGLAS
Associate Justices

² In Maine, the appropriate professional authority will be the Committee on Judicial Responsibility and Disability, or, in certain circumstances, as described in the Maine Rules for Maine Assistance Program for Lawyers and Judges, the Maine Assistance Program for Lawyers and Judges.

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