

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)



# 116th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1993

---

Legislative Document

No. 1473

S.P. 474

In Senate, May 10, 1993

**An Act to Provide Statutory Procedures for Grievances against Attorneys.**

(AFTER DEADLINE)

---

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.  
Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator HARRIMAN of Cumberland. (BY REQUEST).

2 Be it enacted by the People of the State of Maine as follows:

4 Sec. 1. 4 MRSA c. 18 is enacted to read:

6 **CHAPTER 18**

8 **ATTORNEY GRIEVANCE BOARD**

10 **§931. Appointment; terms**

12 The Attorney Grievance Board, referred to in this chapter as  
14 the "board," is established and shall administer the provisions  
16 of this chapter. The board consists of 7 persons, 2 of whom are  
18 attorneys appointed by the Attorney General and 4 of whom are  
20 members of the public appointed by the Governor. Board members  
22 shall serve for a term of 3 years, except that initial  
24 appointments by the Attorney General are for one and 2 years  
26 respectively and by the Governor are for one, 2, 3 and 4 years  
28 respectively.

30 The 6 appointed board members shall, by an affirmative vote  
32 of at least 5 members, elect a 7th member to act as chair and who  
34 shall serve for a term of 3 years.

36 A board member may not serve more than 2 full terms.

38 **§932. Removal; vacancies**

40 An appointed board member may be removed by the appropriate  
42 appointing authority for misconduct, incompetency, neglect of  
44 duty or for other sufficient cause.

46 The Attorney General and the Governor shall appoint members  
48 to vacancies on the board as they occur or upon expiration of  
50 terms.

The chair may be removed by affirmative vote of at least 5  
board members for reasons of misconduct, incompetency, neglect of  
duty or for any other sufficient cause.

**§933. Qualifications**

The members of the board must be residents of this State. A  
person appointed as a public member or a member of that person's  
immediate family may not derive any income from the practice of  
law.

**§934. Compensation; expenses**

The members of the board are entitled to compensation of \$75  
a day for each day of attendance at board meetings or board

2 hearings. In addition, the members of the board are reimbursed  
3 for all necessary expenses, including expenses for travel,  
4 incurred through service as board members. Reimbursement for  
5 expenses must be provided at the same rate as authorized for  
6 state employees.

7 **§935. Employees**

8 The board may employ such clerical and investigative  
9 assistance as may be necessary to carry out its duties.

10 **§936. Annual report**

11 The board shall submit to the Legislature, the Governor and  
12 the Attorney General an annual report on its activities under  
13 this chapter on or before January 1st of each year.

14 **§937. Authority**

15 1. Complaints. The board has authority to investigate  
16 complaints against attorneys filed by any member of the public  
17 alleging violation of a law or violation of a professional  
18 responsibility or trust. Written complaints received by the  
19 board must be retained as confidential unless the board chooses  
20 to make the complaint public.

21 2. Review and investigation. The board shall conduct such  
22 review and investigation of each complaint received as it  
23 determines appropriate and shall advise the complaining party in  
24 writing of its determination with regard to the complaint.  
25 Copies of that written notification must be provided to the  
26 Attorney General.

27 3. Response by attorney. The board must promptly notify  
28 the attorney named in a complaint that a complaint has been filed  
29 with the board. The board shall request that the attorney named  
30 in the complaint respond to the complaint within 15 days of  
31 transmission of the complaint to an attorney by the board.

32 4. Notice of meeting. The complaining party and the  
33 attorney named in the complaint must be notified of any meeting  
34 of the board at which the complaint is to be discussed and have  
35 the right to attend any such meeting of the board.

36 **§938. Hearings**

37 The board may conduct public hearings if determined  
38 necessary to support its investigative and fact-finding  
39 activities. When a hearing is held, the complaining party and  
40 the attorney named in the complaint must be notified of the  
41

2 hearing by certified mail at least 2 weeks in advance of the  
3 hearing. Copies of the hearing notices must also be transmitted  
4 to the Attorney General and the Chief Justice of the Supreme  
5 Judicial Court.

6 **§939. Hearing procedures**

8 1. Cross-examination. At any hearing, the board, the  
9 complaining party and the attorney who is the subject of the  
10 complaint may present witnesses and documentary evidence as they  
11 determine appropriate and may cross-examine. The Attorney  
12 General may appear at the hearing, present witnesses and evidence  
13 and cross-examine.

14 2. Witnesses sworn; testimony transcribed. All witnesses  
15 must be sworn and all testimony must be recorded in a manner that  
16 allows it to be transcribed if necessary.

18 3. Witnesses. The board may sequester the witnesses as it  
19 determines necessary.

22 4. Findings and opinions of the board. During hearings,  
23 the board is not bound by the strict rules of evidence that  
24 govern court proceedings in this State, but any findings and  
25 opinions of the board must be based upon competent and  
26 substantial evidence.

28 5. Hearings. Hearings held by the board must be public and  
29 a record of the hearings must be available for public inspection  
30 unless the board, by an affirmative vote, orders all or any  
31 portion of the hearing or the hearing record be closed to the  
32 public. When the board votes that any portion of a hearing or  
33 hearing record be closed to the public, the reasons for the  
34 board's action must be specified in writing.

36 **§940. Subpoena power**

38 The board may, through its chair or any other member,  
39 administer oaths, subpoena witnesses and compel the production of  
40 books, records, papers, documents, correspondence and other  
41 material and records that the board considers relevant to the  
42 proceedings before it.

44 **§941. Decisions**

46 1. Findings; Attorney General to take action. When a  
47 hearing is held upon a complaint alleging violation of a law or a  
48 professional responsibility or trust, the board shall issue  
49 findings of fact and conclusions and recommendations of  
50 appropriate action, if any, to be taken against an attorney.

2 These findings must be transmitted to the Attorney General, who  
3 shall take action upon them within 30 days. A copy of these  
4 findings, conclusions and recommendations must also be  
5 transmitted to the Chief Justice of the Supreme Judicial Court.

6 **§942. Attorney General authority not limited**

8 Nothing in this chapter may be interpreted to limit the  
9 independent authority of the Attorney General to bring matters  
10 related to the conduct of attorneys to the attention of the  
11 Supreme Judicial Court on the Attorney General's own motion.

12 **§943. Registration fee**

14 Every attorney admitted to practice in the State shall pay  
15 an annual registration fee of \$100 to the Department of the  
16 Attorney General. Fees generated under this section must be  
17 placed in a nonlapsing account to carry out the purposes of this  
18 chapter.

20

22

23 **STATEMENT OF FACT**

24

25 This bill establishes the Attorney Grievance Board under the  
26 jurisdiction of the Department of the Attorney General.