

**Annual List of Rulemaking Activity**  
**Rules Adopted January 1, 2023 to December 31, 2023**  
*Prepared by the Secretary of State pursuant to 5 MRS §8053-A(5)*

**Agency name:** Department of Labor, **Division for the Blind and Visually Impaired**  
**Umbrella-Unit:** **12-150**  
**Statutory authority:** 26 M.R.S.A. §1418-F – §1418-M  
**Chapter number/title:** **Ch. 15**, Rules Governing the Business Enterprise Program  
**Filing number:** **2023-247**  
**Effective date:** 12/13/2023  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This chapter outlines the procedures and standards governing the licensing by the Division for the Blind and Visually Impaired of blind persons as vending facility managers, pursuant to Title 34 CFR Section 395 and 26 M.R.S.A. § 1418-F to 1418-M. Modifications reflect changes that will clarify roles, responsibilities and the implementation of federal regulations and state statutory requirements.

**Basis statement:**

This chapter outlines the procedures and standards governing the licensing by the Division for the Blind and Visually Impaired of blind persons as vending facility managers, pursuant to Title 34 CFR Section 395 and 26 M.R.S.A. § 1418-F to 1418-M. Rule changes include updates to definitions related to the Business Enterprise Program (BEP). Rules also updated preferences for Blind individuals consistent with the Federal Randolph Sheppard Act and BEP laws. Duties, responsibilities, roles and opportunities of managers were expanded and clarified. This rule change is being done as a repeal and replace.

The Rule changes were approved by Rehabilitation Services Administration (RSA) Randolph-Sheppard (RS) Program.

After the close of the public comment period, the agency corrected minor grammatical errors and formatting issues.

**Fiscal impact of rule:**

None

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**Agency name:** Department of Labor, **Occupational Safety and Health Board**  
**Umbrella-Unit:** **12-179**  
**Statutory authority:** 26 M.R.S. § 565  
**Chapter number/title:** **Ch. 3**, Occupational Safety and Health Standards for Construction Industry Employment in the Public Sector  
**Filing number:** **2023-016**  
**Effective date:** 1/29/2023  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

These rules make changes to standards in construction related to Beryllium as required by changes to federal regulations.

**Basis statement:**

Maine is an OSHA State Plan for State and Local Governments only. The Federal Occupational Safety & Health Administration (OSHA) has jurisdiction for enforcing safety and health regulations in the private sector, while the Maine Department of Labor, Workplace Safety & Health Division, has jurisdiction for enforcing safety and health regulations in the public sector. Being a State Plan requires the Board of Occupational Safety & Health (BOSH) to adopt rules applicable to public sector workplaces that are at least as effective as the standards promulgated by OSHA that apply to private sector workplaces. 26 M.R.S. §§ 564 and 565. BOSH is a 10-member board of which nine members are appointed by the Governor and the 10<sup>th</sup> member is the Bureau of Labor Standards Director. BOSH has rulemaking authority and is tasked with adopting reasonable rules for the public sector. 26 M.R.S. § 565.

The purpose of this Chapter is for BOSH to establish workplace safety and health standards and procedures to protect public sector employees in construction, aligning public sector standards with changes to federal safety and health standards and procedures for Beryllium. The most recent changes to the rules for Beryllium in Construction went into effect on February 24, 2021. Changes included items such as a requirement that the written exposure control plan for beryllium must contain a list of operations and job titles who are expected to work with beryllium; that written warning labels are no longer required on containers contaminated with beryllium; and employees are only required to be trained in beryllium safety if they are reasonably expected to have airborne exposure. For a complete copy of the required elements please see OSHA Construction 29 CFR 1926.1124. BOSH determined that updating the existing rule to incorporate the current federal regulations by reference ensured clarity and consistency.

BOSH voted to propose the rule on August 31, 2022. The notice was issued on November 9, 2022. No comments were received during the public comment period. BOSH voted to adopt the rule on December 7, 2022.

**Fiscal impact of rule:**

N/A

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**Agency name:** Department of Labor, **Maine Labor Relations Board**  
**Umbrella-Unit:** **12-180**  
**Statutory authority:** 26 M.R.S. § 968(3)  
**Chapter number/title:** **Ch. 10**, General Rules  
**Filing number:** **2023-088**  
**Effective date:** 7/1/2023  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This rulemaking is intended to clarify the service and proof of service requirements for a prohibited practice complaint. Current rules have confused some parties regarding the requirement to serve a physical copy of the complaint upon the respondent despite the ability to electronically file the complaint with the Board. The changes make this requirement clearer and would eliminate the need for parties to cross-reference the Board's rules in this respect. Along similar lines, the rules also clarify when service of a document may be effected exclusively by email.

The Board's new rules formalize a process for a party to request an extension of time, in order to provide better advanced notice to the Board and parties and to reduce needless Board advertising expenditures and scheduling challenges for all involved. Changes also specify that hand delivery of documents to the Board's office should not be made to individual Board members for the sake of streamlining electronic filings with the Board. Other minor changes are made in order to improve clarity and consistency.

**Basis statement:**

**Chapter 10: General Rules**

**Chapter 11: Bargaining Unit Composition and Representation Matters**

**Chapter 12: Prohibited Practice Complaints; Interpretive Rulings**

This rulemaking of the Maine Labor Relations Board is authorized by 26 M.R.S.A. § 968(3). A public rulemaking hearing was held at the Department of Labor headquarters in Augusta on May 22, 2023. The Board met and formally approved proposed rule changes on June 5, 2023. The rule changes will go into effect on July 1, 2023.

The vast majority of the rule changes are minor changes made simply to reflect the Board's desire to bring its rules up to modern drafting standards and to provide more clarity and consistency to parties engaging in the processes administered by the Board. One of the more substantive clarifications made was the rules around service and proof of service of a prohibited practice complaint. The Board heard concerns from a practitioner who had been confused about the requirement to physically serve a prohibited practice complaint. Even though delivery of the complaint through email is permitted, actual physical service is still required. The revisions make this more clear.

Another more substantive change to the rules is added requirements for parties wishing to request an extension of time for a filing or delay of a hearing. The basis for this regulatory tightening is the intention to reduce the inconvenience and last-minute scheduling for both Board members and the parties. The change to allow service of certain documents exclusively by email reflects the current reliance on electronic communication and was approved by the Attorney General's Office. Also recognizing the convenience and ubiquity of electronic

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information, the new rules also allow the executive director or prehearing officer to permit the filing of electronic documentary evidence in lieu of physical copies to reflect the Board's increased reliance on electronic copies, particularly during remote proceedings. Another technology-based improvement to the rules is allowing the Board to meet remotely when determining whether to grant or deny a motion to defer to arbitration, to reflect the Board's use of remote videoconferencing technology over telephonic technology. Board member email addresses had inadvertently been left off the list of unacceptable places for electronic filing and the rule changes fix that oversight.

The new rules allow notification of prehearing conferences and hearings to parties by regular mail instead of by certified or registered mail, in order to save the Board an unnecessary expense. The executive director would be permitted under the new rules to decide on requests to defer to arbitration in order to expedite proceedings for the parties. The executive director's time to transmit a copy of a completed petition to the respondent has been changed from 24 hours to within 1 business day to reflect operational realities. Also along those lines, the new rules clarify that hand delivery of documents to the Board's office should be made by prior arrangement.

**Fiscal impact of rule:**

These changes will not have a significant fiscal impact on the agency or members of the regulated community.

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**Agency name:** Department of Labor, **Maine Labor Relations Board**  
**Umbrella-Unit:** **12-180**  
**Statutory authority:** 26 M.R.S. § 968(3)  
**Chapter number/title:** **Ch. 11**, Bargaining Unit Composition and Representation Matters  
**Filing number:** **2023-089**  
**Effective date:** 7/1/2023  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This rulemaking is intended to make minor changes to the rules for the purpose of clarity and consistency. More substantive changes include adding language that showing of interest and employee authorization forms must be physically received by the Board before the corresponding petition is considered complete, to improve clarity, and changing the executive director's time to transmit a copy of a completed petition to the respondent to within 1 business day instead of 24 hours in order to reflect operational realities. Other changes are minor and non-substantive, for the purpose of added clarity and consistency.

**Basis statement:**

**Chapter 10: General Rules**

**Chapter 11: Bargaining Unit Composition and Representation Matters**

**Chapter 12: Prohibited Practice Complaints; Interpretive Rulings**

This rulemaking of the Maine Labor Relations Board is authorized by 26 M.R.S.A. § 968(3). A public rulemaking hearing was held at the Department of Labor headquarters in Augusta on May 22, 2023. The Board met and formally approved proposed rule changes on June 5, 2023. The rule changes will go into effect on July 1, 2023.

The vast majority of the rule changes are minor changes made simply to reflect the Board's desire to bring its rules up to modern drafting standards and to provide more clarity and consistency to parties engaging in the processes administered by the Board. One of the more substantive clarifications made was the rules around service and proof of service of a prohibited practice complaint. The Board heard concerns from a practitioner who had been confused about the requirement to physically serve a prohibited practice complaint. Even though delivery of the complaint through email is permitted, actual physical service is still required. The revisions make this more clear.

Another more substantive change to the rules is added requirements for parties wishing to request an extension of time for a filing or delay of a hearing. The basis for this regulatory tightening is the intention to reduce the inconvenience and last-minute scheduling for both Board members and the parties. The change to allow service of certain documents exclusively by email reflects the current reliance on electronic communication and was approved by the Attorney General's Office. Also recognizing the convenience and ubiquity of electronic information, the new rules also allow the executive director or prehearing officer to permit the filing of electronic documentary evidence in lieu of physical copies to reflect the Board's increased reliance on electronic copies, particularly during remote proceedings. Another technology-based improvement to the rules is allowing the Board to meet remotely when determining whether to grant or deny a motion to defer to arbitration, to reflect the Board's use of remote videoconferencing technology over telephonic technology. Board member email

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addresses had inadvertently been left off the list of unacceptable places for electronic filing and the rule changes fix that oversight.

The new rules allow notification of prehearing conferences and hearings to parties by regular mail instead of by certified or registered mail, in order to save the Board an unnecessary expense. The executive director would be permitted under the new rules to decide on requests to defer to arbitration in order to expedite proceedings for the parties. The executive director's time to transmit a copy of a completed petition to the respondent has been changed from 24 hours to within 1 business day to reflect operational realities. Also along those lines, the new rules clarify that hand delivery of documents to the Board's office should be made by prior arrangement.

**Fiscal impact of rule:**

These changes will not have a significant fiscal impact on the agency or members of the regulated community.

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**Agency name:** Department of Labor, **Maine Labor Relations Board**  
**Umbrella-Unit:** **12-180**  
**Statutory authority:** 26 M.R.S. § 968(3)  
**Chapter number/title:** **Ch. 12**, Prohibited Practice Complaints; Interpretive Rulings  
**Filing number:** **2023-090**  
**Effective date:** 7/1/2023  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This rulemaking is intended to make minor changes to the existing rules for the purpose of clarity and consistency. Changes include a deleted reference to multiple hard copies of the prohibited practice complaint and relevant collective bargaining agreement being filed in order to reflect the requirement of electronic filing of these documents with the Board. The new rules clarify prohibited practice complain service requirements, as well as when a prohibited practice complaint may be amended, and add appropriate cross-references.

The changes allow notification of prehearing conferences and hearings to parties by regular mail instead of by certified or registered mail, in order to save the Board an unnecessary expense. The changes also allow the executive director or prehearing officer to permit the filing of electronic documentary evidence in lieu of physical copies, to reflect the Board's practice of relying on electronic copies during remote proceedings. The executive director is permitted under the rule change to rule on requests to defer to arbitration in order to expediate proceedings for the parties. The rules also clarify that oral argument concerning deferral to arbitration may be permitted at the discretion of the executive director or prehearing officer, to allow for better-informed deferral decisions under appropriate circumstances. The changes also allow the Board to meet remotely when determining whether to grant or deny a motion to deter to arbitration, to reflect the Board's use of remote videoconferencing over telephone technology. In addition, the new rules contain multiple non-substantive changes for clarity and consistency.

**Basis statement:**

**Chapter 10: General Rules**

**Chapter 11: Bargaining Unit Composition and Representation Matters**

**Chapter 12: Prohibited Practice Complaints; Interpretive Rulings**

This rulemaking of the Maine Labor Relations Board is authorized by 26 M.R.S.A. § 968(3). A public rulemaking hearing was held at the Department of Labor headquarters in Augusta on May 22, 2023. The Board met and formally approved proposed rule changes on June 5, 2023. The rule changes will go into effect on July 1, 2023.

The vast majority of the rule changes are minor changes made simply to reflect the Board's desire to bring its rules up to modern drafting standards and to provide more clarity and consistency to parties engaging in the processes administered by the Board. One of the more substantive clarifications made was the rules around service and proof of service of a prohibited practice complaint. The Board heard concerns from a practitioner who had been confused about the requirement to physically serve a prohibited practice complaint. Even though delivery of the complaint through email is permitted, actual physical service is still required. The revisions make this more clear.

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Another more substantive change to the rules is added requirements for parties wishing to request an extension of time for a filing or delay of a hearing. The basis for this regulatory tightening is the intention to reduce the inconvenience and last-minute scheduling for both Board members and the parties. The change to allow service of certain documents exclusively by email reflects the current reliance on electronic communication and was approved by the Attorney General's Office. Also recognizing the convenience and ubiquity of electronic information, the new rules also allow the executive director or prehearing officer to permit the filing of electronic documentary evidence in lieu of physical copies to reflect the Board's increased reliance on electronic copies, particularly during remote proceedings. Another technology-based improvement to the rules is allowing the Board to meet remotely when determining whether to grant or deny a motion to defer to arbitration, to reflect the Board's use of remote videoconferencing technology over telephonic technology. Board member email addresses had inadvertently been left off the list of unacceptable places for electronic filing and the rule changes fix that oversight.

The new rules allow notification of prehearing conferences and hearings to parties by regular mail instead of by certified or registered mail, in order to save the Board an unnecessary expense. The executive director would be permitted under the new rules to decide on requests to defer to arbitration in order to expedite proceedings for the parties. The executive director's time to transmit a copy of a completed petition to the respondent has been changed from 24 hours to within 1 business day to reflect operational realities. Also along those lines, the new rules clarify that hand delivery of documents to the Board's office should be made by prior arrangement.

**Fiscal impact of rule:**

These changes will result in minor cost savings to the Board due to reduced mailing costs, but it will not have significant fiscal impact on the agency or members of the regulated community.



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**Agency name:** Department of Labor, **Maine Apprenticeship Board**  
**Umbrella-Unit:** **12-181**  
**Statutory authority:** 26 M.R.S. § 3212  
**Chapter number/title:** **Ch. 3**, Rules Relating to Labor Standards for Certification of Pre-Apprenticeship Training Programs  
**Filing number:** **2023-029**  
**Effective date:** 3/1/2023  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

These rules are amended to Update and clarify standards related to pre-apprenticeship.

**Basis statement:**

This rulemaking is to repeal and replace a rule pertaining to pre-apprenticeship training programs. The proposed rules establish, define, and provide for the certification and decertification of Pre-Apprenticeship Agreements and Training Programs with the Maine Apprenticeship Program. They contain procedures for holding hearings and give the authority and the effective date.

The Maine Apprenticeship program oversees apprenticeships in accordance with federal law, including requirements to promote equality of opportunity in apprenticeship set forth in 29 CFR 30.

The statutory authority for this Rule is 26 M.R.S. § 3212. This rulemaking incorporates changes to the pre-apprenticeship training program set forth in P.L. 2022, Chapter 705.

**Fiscal impact of rule:**

N/A

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**Agency name:** Department of Labor, **State Board of Arbitration and Conciliation**  
**Umbrella-Unit:** **12-186**  
**Statutory authority:** 26 M.R.S. § 931  
**Chapter number/title:** **Ch. 1, General Rules**  
**Filing number:** **2023-086**  
**Effective date:** 7/1/2023  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

The primary purpose of this rule is to require the electronic filing of all correspondence and any other documents filed with the Board. This formal move to electronic filing will better facilitate the efficiency and ease of the Board's processes. This rulemaking also makes several minor changes for the purposes of clarity, consistency and to better reflect operational realities.

**Basis statement:**

**Chapter 1: General Rules**

**Chapter 3: Logging Dispute Resolution Board Rules**

This rulemaking of the State Board of Arbitration and Conciliation (BAC) is authorized by 26 M.R.S.A. § 931. A public rulemaking hearing was held at the Department of Labor headquarters in Augusta on May 22, 2023. The Board met and formally approved proposed rule changes on June 7, 2023. The rule changes will go into effect on July 1, 2023.

The vast majority of the rule changes are minor changes made simply to reflect the Board's desire to bring its rules up to modern drafting standards and to provide more clarity and consistency to parties engaging in the processes administered by the Board.

The most substantive change in the Board's procedural rules is a new electronic filing requirement. Informally, since the onset of the COVID-19 pandemic, the Board had been permitting electronic filing on an ad hoc basis. Now, electronic filing is required for all correspondence and any other documents filed with the Board by sending an email to sbac@maine.gov. Parties who are unable to submit documents electronically may submit documents by mail, hand delivery or delivery service if the party certifies it was unable to submit the documents electronically and the Board, in its discretion, accepts the filing. The rules also allow for electronic service of documents, except in the case of an arbitration request form or subpoena.

Informally, a longstanding practice of the Board has been to not process an arbitration request form unless it's accompanied by a copy of the grievance, contract or other pertinent documents. The new rules formalize this requirement. Similar to revisions to the Maine Labor Relations Board (MLRB) rules, the BAC rules will allow discretion to waive the requirement for parties to produce hard copies, in recognition of increased reliance on electronic information.

In addition to changes to the BAC's own procedural rules, in this rulemaking the Board also established rules for the newly created Logging Dispute Resolution Board. These rules largely mirror the BAC's own procedural rules. The only exceptions are the complaint process, which is modeled after the Maine Labor Relations Board's process, and when statute dictated otherwise, as in the change in fee structure which will be discussed more below.

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**Fiscal impact of rule:**

During the course of the development and adoption of these rules, the Board considered all relevant information available to it. The Board does not anticipate any significant fiscal impact from these rules on the agency or on members of the regulated community, including the State, as an employer, and its counties and municipalities. These rule changes will have no adverse impact on small businesses.

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**Agency name:** Department of Labor, **State Board of Arbitration and Conciliation**  
**Umbrella-Unit:** **12-186**  
**Statutory authority:** 26 M.R.S. § 3707  
**Chapter number/title:** **Ch. 3**, Logging Dispute Resolution Board Rules  
**Filing number:** **2023-087**  
**Effective date:** 7/1/2023  
**Type of rule:** Routine Technical  
**Emergency rule:** No

**Principal reason or purpose for rule:**

This rulemaking is intended to establish the procedural rules for the newly created Logging Dispute Resolution Board.

**Basis statement:**

**Chapter 1: General Rules**

**Chapter 3: Logging Dispute Resolution Board Rules**

This rulemaking of the State Board of Arbitration and Conciliation (BAC) is authorized by 26 M.R.S.A. § 931. A public rulemaking hearing was held at the Department of Labor headquarters in Augusta on May 22, 2023. The Board met and formally approved proposed rule changes on June 7, 2023. The rule changes will go into effect on July 1, 2023.

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Informally, a longstanding practice of the Board has been to not process an arbitration request form unless it's accompanied by a copy of the grievance, contract or other pertinent documents. The new rules formalize this requirement. Similar to revisions to the Maine Labor Relations Board (MLRB) rules, the BAC rules will allow discretion to waive the requirement for parties to produce hard copies, in recognition of increased reliance on electronic information.

In addition to changes to the BAC's own procedural rules, in this rulemaking the Board also established rules for the newly created Logging Dispute Resolution Board. These rules largely mirror the BAC's own procedural rules. The only exceptions are the complaint process, which is modeled after the Maine Labor Relations Board's process, and when statute dictated otherwise, as in the change in fee structure which will be discussed more below.

**Fiscal impact of rule:**

These rules will not have a significant fiscal impact on the agency or the public.