

ATTORNEY REGULATION: PLAYERS IN ADMISSION, EDUCATION, & DISCIPLINE

LAW AND JUSTICE INTERIM COMMITTEE
SARA HESS - NOV 2023

MONTANA SUPREME COURT

[Article VII, Part VII, Section 2 of the Constitution of the State of Montana](#) gives the Montana Supreme Court the authority to make rules governing “admission to the bar and the conduct of its members,” and the Supreme Court utilizes multiple boards and commissions to assist in carrying out this regulatory authority. The following entities play various roles in admission to the State Bar of Montana, education, and discipline.

COMMISSION ON CHARACTER AND FITNESS

ADMISSION

The commission oversees the process of character and fitness reviews with the help of [The National Conference of Bar Examiners \(NCBE\)](#) and the Bar Admissions Administrator of the State Bar of Montana. The Commission must certify that a prospective lawyer is of “good moral character and fitness” before admission may be granted.

- Reviews are done to help protect the public and safeguard the justice system¹
- Membership includes six lawyers and three non-lawyers appointed by the Montana Supreme Court who serve indefinite terms

BOARD OF BAR EXAMINERS

ADMISSION

The Board oversees the bar examination process with the help of The National Conference of Bar Examiners (NCBE) and the Bar Admissions Administrator of the State Bar of Montana. The Board administers and grades the Montana Uniform Bar Exam (UBE), which is used by most states, and determines the content for the state-specific Montana Law Seminar in accordance with the [Rules for Admission to the Bar](#).

- Membership includes seven lawyers appointed by the Montana Supreme Court to serve indefinite terms

COMMISSION ON MANDATORY CONTINUING LEGAL EDUCATION (MCLE)

EDUCATION

The Commission oversees the accreditation of mandatory continuing education and ensures compliance with the [Rules for Mandatory Continuing Legal Education](#). The Commission approves providers and activities and regulates the tracking of continuing legal education (CLE) credits.

¹ [Rules of Procedure of the Commission on Character and Fitness - 2016](#)

- Membership includes six lawyers and three non-lawyers nominated by the State Bar and appointed by the Supreme Court to serve three-year terms, and one member of the Montana Supreme Court serves as an ex-officio member

OFFICE OF DISCIPLINARY COUNSEL (ODC)

DISCIPLINE

The [ODC](#) investigates grievances filed against attorneys in Montana for alleged misconduct and prosecutes such claims before the Commission on Practice when necessary. Misconduct may include violations of the [Montana Rules of Professional Conduct](#), and the ODC must follow the [Rules for Lawyer Disciplinary Enforcement](#).

- The Office's Chief Disciplinary Counsel is hired by the Montana Supreme Court
- The ODC is administratively attached to the State Bar of Montana but independent of its governance structure.

COMMISSION ON PRACTICE

DISCIPLINE

The Commission enforces the Montana Rules of Professional Conduct by reviewing decisions and requests of the ODC and deciding cases involving alleged misconduct. according to the process set forth by the [Rules for Lawyer Disciplinary Enforcement](#).

- Membership includes nine attorneys and five members of the public.
- Members are appointed by the Montana Supreme Court, but eight of the attorneys must be selected from among the top candidates elected by lawyers from each district across the state.

STATE BAR OF MONTANA

The State Bar supports various Court Commissions with administrative and funding matters. For example, The Bar provides administrative staff to assist the Commission on Character and Fitness and Board of Bar Examiners with the admissions process. It also provides administrative support to the Commission on MCLE and CLE programming. It collects dues and other court-ordered assessment fees. It assists the Office of Disciplinary Counsel with matters related to staffing and accounting. The Bar may also suggest changes to the Montana Rules of Professional Conduct which are ultimately subject to approval by the Montana Supreme Court.

- Membership includes lawyers in good standing licensed to practice law in Montana (see [The State Bar | Role & Structure](#) and [Becoming a Lawyer in Montana](#))

For a complete list of the Montana Supreme Court's Boards and Commissions, see:
<https://courts.mt.gov/courts/boards/>