

SUPREME COURT OF FLORIDA

In re Amendments to Rules of the Supreme Court Relating to Admissions to the Bar

166 So. 3d 178 (Fla. 2015) · No. SC15-176 · Decided June 4, 2015

SUMMARY

The Florida Supreme Court adopted new Rule 1-21.1 of the Rules of the Supreme Court Relating to Admissions to the Bar. The rule establishes procedures for the Florida Board of Bar Examiners to request additional attorney and public members and specifies how their appointments and terms will be handled.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Labarga, C.J.; Pariente, J.; Lewis, J.; Quince, J.; Canady, J.; Polston, J.; Perry, J.
JURISDICTION	Florida
DECIDED	June 4, 2015
DOCKET	SC15-176
DISPOSITION	approved
PROCEDURAL POSTURE	Original proceeding in which the Florida Board of Bar Examiners petitioned the Supreme Court of Florida to amend the Rules of the Supreme Court Relating to Admissions to the Bar and requested appointment of additional board members.
PRECEDENTIAL VALUE	Published opinion adopting and amending rules of the Supreme Court of Florida.

TOPICS

[rulemaking](#)[appellate procedure](#)[administrative law](#)

PRACTICE AREAS

[legal ethics and professional responsibility](#)[bar admission](#)[judicial rulemaking](#)

QUESTIONS PRESENTED

1. Whether the Supreme Court should amend rule 1-21 to permit the Florida Board of Bar Examiners to obtain additional members as necessitated by its workload.
2. Whether the Court should appoint the additional attorney and public members requested by the Board in the rules proceeding.

HOLDINGS

1. The Court adopted new rule 1-21.1 rather than amending rule 1-21 as proposed, authorizing the Board to request additional members and prescribing procedures for recommendations and terms of service.
2. The Court declined to address the Board's request for appointment of additional members in this rules proceeding.

KEY QUOTATIONS

“Therefore, rather than amending rule 1-21 as proposed, we adopt new rule 1-21.1 (Additional Members) to provide the necessary procedures, as follows:” (-2)

“The amendment shall become effective immediately upon the release of this opinion.” (-3)

FACTUAL BACKGROUND

The Florida Board of Bar Examiners reported that its workload fluctuates with the number of bar applicants and sought authority to request additional members when necessary. The Board's proposed amendment did not specify procedures for requesting additional members, recommending particular attorney or public appointees, or determining the duration of their terms.

PROCEDURAL HISTORY

The Florida Board of Bar Examiners proposed amending rule 1-21 to permit additional board members and requested appointment of two additional attorney members and one additional public member. The Supreme Court declined to address the requested appointments in the rules case, adopted new rule 1-21.1 instead of the proposed amendment, and made the amendment effective immediately.

DISPOSITION

approved

OPINION

PER CURIAM.

Supreme Court of Florida _____ No. SC15-176 _____ IN RE: AMENDMENTS TO RULES OF THE SUPREME COURT RELATING TO ADMISSIONS TO THE BAR. [June 4, 2015] PER CURIAM. This matter is before the Court for consideration of an amendment to Rule of the Supreme Court Relating to Admissions to the Bar 1-21 (Membership) proposed by The Florida Board of Bar Examiners (Board).

See Fla. Bar Admiss. R. 1-12.1 After considering the Board's proposal, rather than amending rule 1-21 as proposed, we adopt new rule 1-21.1 (Additional Members). Rule 1-21 currently provides that the "Florida Board of Bar Examiners consists of 12 members of The Florida Bar and 3 public members who are not lawyers." The Board asks the Court to amend rule 1-21 to allow the Board to petition the Court for additional members to serve on the Board, as necessitated by 1.

We have jurisdiction. See art. V, § 15, Fla. Const. the Board's fluctuating workload. According to the Board, having the option to request additional members will allow the Board to process applicant files in the most efficient manner possible.

The Board recognizes that its workload may vary as the number of applicants fluctuates. Therefore, the proposed amendment to rule 1-21 is intended to allow the size of the Board to expand when necessary, while allowing for a reduction to standard membership when the additional members' terms end, if no replacement for the additional members proves necessary.

In the petition seeking to amend the rule, the Board also asks the Court to appoint two additional attorney members and one additional public member.² The Board's general proposal to allow for additional Board members is well justified.

However, the Board's proposed rule amendment fails to include procedures for requesting additional members and for appointing specific public or attorney members once the Court approves adding members. The proposed rule amendment also fails to clarify the duration of the terms of the additional members.

Therefore, rather than amending rule 1-21 as proposed, we adopt new rule 1-21.1 (Additional Members) to provide the necessary procedures, as follows: 1-21.1 Additional Members. The board may submit to the court a request for additional members to serve, as necessary.

The request and appointee recommendations must be submitted in the 2. Although the Board's request for appointment of additional members suggests terms of service for the additional members, it fails to include specific appointee recommendations. -2- same manner as appointee recommendations under rules 1-22.2 and 1- 23.2.

The term of service of a member appointed under this rule will be as provided in rules 1-22.3 and 1-23.3 or as otherwise approved by the court. We also decline to address the Board's request for appointment of additional members in this rules case.

Accordingly, we amend the Rules of the Supreme Court Relating to Admissions to the Bar as set forth in the appendix to this opinion. New language is indicated by underscoring. The amendment shall become effective immediately upon the release of this opinion.

The Board may submit its request for additional members and appointee recommendations to the Court in accordance with new rule 1-21.1. It is so ordered. LABARGA, C.J., and PARIENTE,

LEWIS, QUINCE, CANADY, POLSTON, and PERRY, JJ., concur. THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THESE AMENDMENTS. Original Proceeding – Rules of the Supreme Court of Florida Relating to Admissions to the Florida Bar Daryl M. Manning, Chair, Michele A. Gavagni, Executive Director, and Robert G. Blythe, General Counsel, Florida Board of Bar Examiners, Tallahassee, Florida, for Petitioner -3- APPENDIX 1-20 Florida Board of Bar Examiners.

1-21 Membership. The Florida Board of Bar Examiners consists of 12 members of The Florida Bar and 3 public members who are not lawyers. 1-21.1 Additional Members. The board may submit to the court a request for additional members to serve, as necessary.

The request and appointee recommendations must be submitted in the same manner as appointee recommendations under rules 1-22.2 and 1-23.2. The term of service of a member appointed under this rule will be as provided in rules 1- 22.3 and 1-23.3 or as otherwise approved by the court. -4-