

## MainePERS Consensus-Based Rulemaking

### Proposed Ground Rules

#### Process

1. Engage in good faith to try to reach consensus
2. Review agenda and materials in advance of meetings
3. Do follow-up work between meetings
4. Attend each meeting or send a designee
5. Proposals should fit within one of the below topic areas, be consistent with the below principles, and be appropriate for rulemaking

#### Topic Areas

- Legal compliance
- Fairness, consistency, and predictability
- Just and rational decision-making
- Opportunity to submit information
- Clarity of communications
- Ease and understandability of process

#### Principles

- Standards are clear, fair, and consistent with statute and case law
- All relevant information is considered
- Applicants are kept informed
- Unnecessary burdens on applicants are avoided
- Applicants are viewed holistically
- Process is timely and can be administered efficiently

#### Appropriateness for Rulemaking

“Rule’ is defined as follows.

A. ‘Rule’ means the whole or any part of every regulation, standard, code, statement of policy, or other agency guideline or statement of general applicability, including the amendment, suspension or repeal of any prior rule, that is or is intended to be judicially enforceable and implements, interprets or makes specific the law administered by the agency, or describes the procedures or practices of the agency.

B. The term does not include:

(1) Policies or memoranda concerning only the internal management of an agency or the State Government and not judicially enforceable; . . .

or

(4) Any form, instruction or explanatory statement of policy that in itself is not judicially enforceable, and that is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges. . . .”

5 M.R.S. §8002(9).