

pay the fee required by § 1.21(a)(10) with the application for registration.

Paragraph (i) of § 11.7 would identify factors that may be taken into consideration when evaluating rehabilitation of an applicant seeking a moral character determination for registration.

Paragraph (j) of § 11.7 would provide procedures for the OED Director and Committee on Enrollment to hear cases arising if the OED Director believes that any evidence suggests that an individual lacks good moral character and reputation. The procedures are in accord with those recognized in *Willner v. Committee on Character and Fitness*, 373 U.S. 96, 83 S.Ct. 1175 (1963) as providing due process. When the evidence is information supplied or confirmed by the individual, or is of an undisputed documentary character, the hearing will be on the written record. When a person or source whose reliability or veracity is questioned supplies the evidence, the individual may choose to have a hearing on the written record, or have an oral hearing to confront and cross-examine the person or source providing the evidence. The expense of an oral hearing could be a serious burden on an individual who is both distant from the Office and without an established practice. The rule provides such an individual with an alternative to an oral hearing, *i.e.*, being heard on a written record with briefing. The procedures for an oral hearing are similar to those adopted by the District of Columbia Court of Appeals. Rule 46(f) and (g). An oral hearing will provide the Committee and OED Director with an opportunity to observe the individual's demeanor.

Paragraph (k) of § 11.7 would allow an individual whose application for registration has been rejected because of lack of good moral character and reputation to reapply for registration. The individual would be permitted to reapply five years after the ruling, unless otherwise provided. The individual would also be required to take and pass the registration examination. This provision follows the same time provisions of Rule 201.12 of the Rules Governing Admission to the Bar of the State of Colorado. The individual would have to pay the fee required by § 1.21(a)(10) with the application for registration.

Section 11.8 would continue the practice under current 37 CFR 10.8 of requiring an oath and payment of a fee prior to registration, and conform to the practice of filing a completed Data Sheet.

Paragraph (a) of § 11.8 would provide a two-year period within which an

applicant who passes the registration examination may complete registration. In effect, a passing score would be good for two years. The Office would deem this period reasonable for individuals who have not been registered, and not completed their registration within two years. Their continued familiarity with the Patent Statute, Office practices and procedures, and changes thereto in the interim is not established, and they could not lawfully practice before the Office in patent matters in that period. The two-year period is similar to the time afforded District of Columbia Bar applicants, who may request acceptance of a prior Multistate Bar Examination or essay exam result provided, *inter alia*, the prior administration of the examination was within 25 months of the examination about to be administered. See Rules 46(b)(8)(A)(3) and 46(b)(8)(B)(3) of the Rules of the District of Columbia Court of Appeals.

Under paragraph (a) of § 11.8, limited recognition would no longer be granted to individuals while awaiting registration. The period candidates await registration is expected to be reduced by the Office's soliciting information tending to affect the eligibility of candidates based on their character on both the Office Web site as well as the Official Gazette. The names of the candidates receiving a passing score will be published. The public will be given 60 days from publication on the Web to provide the information.

Paragraph (b) of § 11.8 would add procedures for applicants seeking registration as a patent attorney or agent. An individual seeking registration as a patent attorney would have to demonstrate that he or she is a member in good standing with the bar of the highest court of a state.

Paragraph (c) of § 11.8 would codify a practice of requiring individuals to update the information and answers they provide on their applications based on events occurring between the date an individual signs an application, and the date he or she is registered or recognized to practice before the Office in patent matters. This would include not only changes of address, but also events that may reflect adversely on the individual's moral character. The latter would serve the integrity of the registration process to require the applicant to update information and answers, and show that the individual continues to satisfy the requirements of § 11.7(a)(2)(i).

Paragraph (d) of § 11.8 would introduce an annual fee to be paid by registered practitioners. The amount of the fee would be set forth in § 1.21(a)(7). The annual fee would be due in three-

month intervals depending on the first initial of a practitioner's last name. The roster would be divided into four units. The payment period for last names beginning with A-E shall be every January 1 through March 31; the payment period for last names beginning with F-K shall be every April 1 through June 30; the payment period for last names beginning with L through R shall be every July 1 through September 30; and the payment period for last names beginning with S through Z shall be every October 1 through December 31.

In the past, the fees paid by applicants and patentees have supported the costs of the activities that maintain the patent practitioner's community reputation for integrity. The proposed annual fee is introduced pursuant to 35 U.S.C. 41(d). The annual fee is intended to fund the costs of the disciplinary system, and maintaining the roster of registered practitioners up-to-date by (i) annually surveying the practitioners for current address/telephone/e-mail information, and (ii) daily updating the roster with new changes of address. With an annual fee, the Office would be funding the disciplinary system as State Bars do, by dues from the bar members. Bar disciplinary activities are generally regarded as being in the interest of maintaining the Bar's reputation for integrity and supporting the willingness of potential clients to engage the services of practitioners. The continual updating of the USPTO roster is also in the interest of assuring that registered practitioners are identified to the public they seek to serve. The current cost of USPTO disciplinary and roster maintenance programs is a little in excess of \$100 per year per registered practitioner. That cost is currently met by funds from application, issue, or maintenance fees. It is problematic to charge applicants for this activity, since many of the complaints concern applications that were not filed or were filed or prosecuted improperly or should not have been filed in the first place, or patentees, who have received the benefit of competent counsel. The anomaly is magnified by the need for disciplinary action concerning practitioners who have been convicted of felonies, or disciplined by state bars for matters other than practice before the Office. By adopting an annual fee to be paid by registered practitioners, the costs of these activities is not passed on to applicants. Thus, USPTO will recover the costs associated with these activities from the practitioners instead of the public in general. The funds received from the annual fee would be directed