

and competence would ascertain the matter in question.

Registration means registration to practice before the Office in patent proceedings.

Roster means a list of individuals who have been registered as either a patent attorney or patent agent.

Serious crime means (1) any criminal offense classified as a felony under the laws of the United States, or of any state, district, or territory of the United States, or of a foreign country where the crime occurred, and (2) any crime a necessary element of which, as determined by the statutory or common law definition of such crime in the jurisdiction where the crime occurred, that includes interference with the administration of justice, false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit, bribery, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of another to commit a "serious crime."

Significant evidence of rehabilitation means clear and convincing evidence that is significantly more probable than not that there will be no reoccurrence in the foreseeable future of the practitioner's prior disability or addiction.

State means any of the 50 states of the United States of America, the District of Columbia, and other territories and possessions of the United States of America.

Substantial when used in reference to degree or extent means a material matter of clear and weighty importance.

Suspend or *suspension* means a temporary debarment from practice before the Office.

Tribunal means a court, the Office, a regulatory agency, commission, hearing officer, and any other body authorized by law to render decisions of a judicial or quasi-judicial nature, based on information presented before it, regardless of the degree of formality or informality of the proceedings.

United States means the United States of America, and the territories and possessions the United States of America.

USPTO Director means the Director of the United States Patent and Trademark Office, or an employee of the Office delegated authority to act for the Director of the United States Patent and Trademark Office in matters arising under this Part.

§ 11.2 Director of the Office of Enrollment and Discipline.

(a) *Appointment.* The USPTO Director shall appoint a Director of the Office of Enrollment and Discipline (OED

Director). In the event of the absence of the OED Director or a vacancy in the office of the OED Director, the USPTO Director may designate an employee of the Office to serve as acting OED Director. The OED Director and any acting OED Director shall be an active member in good standing of the bar of a State.

(b) *Duties.* The OED Director shall:

(1) Supervise such staff as may be necessary for the performance of the OED Director's duties.

(2) Receive and act upon applications for registration, prepare and grade the examination provided for in § 10.7(b), maintain the register provided for in § 10.5, and perform such other duties in connection with enrollment and recognition of attorneys and agents as may be necessary.

(3) Conduct investigations into the moral character and reputation of any individual seeking to be registered as an attorney and agent, or of any individual seeking limited recognition, deny registration or recognition of individuals failing to demonstrate present possession of good moral character, and perform such other duties in connection with investigations and enrollment proceedings as may be necessary.

(4) Conduct investigations of all matters involving possible violations by practitioners and persons granted limited recognition of an imperative Rule of Professional Conduct coming to the attention of the OED Director as information or a complaint, whether from within or from outside the USPTO, where the apparent facts, if true, may warrant discipline. Conduct investigations of all matters involving possible violations of §§ 11.303(a)(1), 11.304, 11.305(a), or 11.804 by other individuals identified in § 11.19(a)(2) coming to the attention of the OED Director as information or a complaint, whether from within or from outside the USPTO, where the apparent facts, if true, may warrant discipline. Except in matters meriting summary dismissal because the complaint is clearly unfounded on its face or falls outside the disciplinary jurisdiction of the USPTO, no disposition shall be recommended or undertaken by the OED Director until the accused practitioner shall have been afforded an opportunity to respond to the information or complaint received by the OED Director.

(5) With the consent of three members of the Committee on Discipline, initiate disciplinary proceedings under § 11.32, and perform such other duties in connection with investigations and disciplinary proceedings as may be necessary.

(6) Without the prior approval of a member of the Committee on Discipline, dismiss a complaint or close an investigation without issuing a warning; and otherwise conclude an investigation as provided for in §§ 11.22(e) or (m)

(7) File with the USPTO Director certificates of convictions of practitioners or other individual practicing before the Office who have been convicted of crimes, and certified copies of disciplinary orders concerning attorneys issued in other jurisdictions.

(c) *Petition to OED Director.* Any petition from any action or requirement of the staff of OED reporting to the OED Director shall be taken to the OED Director. Any such petition not filed within 30 days from the action complained of may be dismissed as untimely. The filing of a petition will not stay the period for taking other action, including the timely filing of an application for registration, which may be running, or act as a stay of other proceedings. Any request for reconsideration waives a right to appeal by petition to the USPTO Director under paragraph (d) of this section, and if not filed within 30 days after the final decision of the OED Director may be dismissed as untimely.

(d) *Review of OED Director's decision.* An individual dissatisfied with a final decision of the OED Director, except for a decision dismissing a complaint pursuant to § 11.22(f) or closing an investigation under § 11.22(m)(1), may seek review of the decision upon petition to the USPTO Director accompanied by payment of the fee set forth in § 1.21(a)(5). A decision dismissing a complaint or closing an investigation is not subject to review by petition. Any such petition to the USPTO Director waives a right to seek reconsideration. Any petition not filed within 30 days after the final decision of the OED Director may be dismissed as untimely. Any petition shall be limited to the facts of record. Briefs or memoranda, if any, in support of the petition shall accompany or be embodied therein. The petition will be decided on the basis of the record made before the OED Director. The USPTO Director in deciding the petition will consider no new evidence. Copies of documents already of record before the OED Director shall not be submitted with the petition. No oral hearing on the petition will be held except when considered necessary by the USPTO Director. Any request for reconsideration of the decision of the USPTO Director may be dismissed as untimely if not filed within 30 days after the date of said decision.