

separation from the patent examining corps.

(v) The OED Director may waive the taking of the examination for registration in the case of said individual who does not meet all the criteria of paragraphs (d)(1)(i), (d)(1)(ii), (d)(1)(iii) and (d)(1)(iv) of this section upon a showing of good cause.

(2) *Former patent examiners who [INSERT DATE 60 DAYS FOLLOWING PUBLICATION OF FINAL RULE] had actively served four years in the patent examining corps, and were serving in the corps at the time of their separation.* The OED Director would waive the taking of a registration examination in the case of any individual meeting the requirements of paragraph (b)(3) of this section who is a former patent examiner who by *[INSERT DATE 60 DAYS FOLLOWING PUBLICATION OF FINAL RULE]* had served four years in the patent examining corps, if the individual demonstrates that he or she:

(i) Actively served for at least four years in the patent examining corps of the Office by *[INSERT DATE 60 DAYS FOLLOWING PUBLICATION OF FINAL RULE]*;

(ii) Was rated at least fully successful in each quality performance element of his or her performance plan for the last two complete fiscal years as a patent examiner in the Office; and

(iii) Was not under an oral or written warning regarding the quality performance elements at the time of separation from the patent examining corps.

(vi) The OED Director may waive the taking of the examination for registration in the case of said individual who does not meet all the criteria of paragraphs (d)(2)(i), (d)(2)(ii), and (d)(2)(iii) of this section upon a showing of good cause.

(3) *Certain former Office employees who were not serving in the patent examining corps upon their separation from the Office.* The OED Director would waive the taking of a registration examination in the case of a former Office employee meeting the requirements of paragraph (b)(3) of this section who by petition demonstrates possession of the necessary legal qualifications to render to patent applicants and others valuable service and assistance in the preparation and prosecution of their applications or other business before the Office by showing that:

(i) He or she has exhibited comprehensive knowledge of patent law equivalent to that shown by passing the registration examination as a result of having been in a position of

responsibility in the Office in which he or she:

(A) Provided substantial guidance on patent examination policy, including the development of rule or procedure changes, patent examination guidelines, changes to the Manual of Patent Examining Procedure, or development of training or testing materials for the patent examining corps; or

(B) Represented the Office in patent cases before Federal courts; and

(ii) Was rated at least fully successful in each quality performance element of his or her performance plan for said position for the last two complete rating periods in the Office, and was not under an oral warning regarding performance elements relating to such activities at the time of separation from the Office.

(4) To be eligible for consideration for waiver, an individual within the scope of one of paragraphs (d)(1) through (d)(3) of this section must file a complete application and the fee required by § 1.21(a)(1)(i) of this subchapter within two years of the individual's separation from the Office. All other individuals, including former examiners, filing an application or fee more than two years after separation from the Office, are required to take and pass the examination to demonstrate competence to represent applicants before the Office. If the examination is not waived, the individual or former examiner must pay the examination fee required by § 1.21(a)(1)(ii) of this subchapter within 30 days after notice. Individuals employed by the Office but not meeting the requirements of any one of paragraphs (d)(1) through (d)(3) of this section must file a complete application, pay the fees required by § 1.21(a)(1) of this subchapter, and take and pass the registration examination to be registered.

(e) *Examination results.* Notification to an individual of passing or failing an examination is final. Within two months from the date an individual is notified that he or she failed an examination specified in paragraph (b) of this section, an unsuccessful individual is entitled to inspect, but not copy, the questions and answers he or she incorrectly answered under supervision and without taking notes. Substantive review of the answers or questions may not be pursued. An unsuccessful individual has the right to retake the examination an unlimited number of times upon payment of the fees required by §§ 1.21(a)(1)(i) and (ii) of this subchapter, and a fee charged by a private sector entity administering the examination.

(f) *Application for reciprocal recognition.* An individual seeking

reciprocal recognition under § 11.6(c), in addition to satisfying the provisions of paragraphs (a) and (b) of this section, and the provisions of § 11.8(c), shall pay the application fee required by § 1.21(a)(1)(i) upon filing an application.

(g) *Investigation of moral character.*

(1) Every individual seeking recognition shall answer all questions; disclose all relevant facts, dates and information; and provide verified copies of documents relevant to their good moral character and reputation. The facts, information and documents include expunged or sealed records necessary for determining whether the individual presently possesses the good moral character and reputation required for registration.

(2) The OED Director shall cause names and business addresses of all individuals seeking registration or recognition who pass the examination or for whom the examination has been waived to be published on the Internet and in the Official Gazette to solicit relevant information bearing on their moral character and reputation.

(3) If the OED Director receives information from any source tending to reflect adversely on the moral character or reputation of an individual seeking registration or recognition, the OED Director shall conduct an investigation into the moral character and reputation of the individual. The investigation will be conducted after the individual has passed the registration examination, or after the registration examination has been waived for the individual, whichever is later. If the individual seeking registration or recognition is an attorney, the individual is not entitled to a disciplinary proceeding under §§ 11.32–11.57 in lieu of moral character proceedings under paragraphs (j) through (m) of this section. An individual failing to timely answer questions or respond to an inquiry by the OED Director shall be deemed to have withdrawn his or her application, and shall be required to reapply, pass the examination, and otherwise satisfy all the requirements of this section. No individual shall be certified for registration or recognition by the OED Director until the individual demonstrates present possession of good moral character and reputation. The OED Director shall refer to the Committee on Enrollment the application and all records of individuals not certified for registration or recognition following investigation whose applications have not been withdrawn.

(h) *Moral character and good reputation.* Moral character is the possession of honesty and truthfulness,