(j) Engages in frivolous behavior in a proceeding before an Immigration Court, the Board, or any other administrative appellate body under title II of the Immigration and Nationality Act, provided:

(1) A practitioner engages in frivolous behavior when he or she knows or reasonably should have known that his or her actions lack an arguable basis in law or in fact, or are taken for an improper purpose, such as to harass or to cause unnecessary delay. Actions that, if taken improperly, may be subject to disciplinary sanctions include, but are not limited to, the making of an argument on any factual or legal question, the submission of an application for discretionary relief, the filing of a motion, or the filing of an appeal. The signature of a practitioner on any filing, application, motion, appeal, brief, or other document constitutes certification by the signer that the signer has read the filing, application, motion, appeal, brief, or other document and that, to the best of the signer's knowledge, information, and belief, formed after inquiry reasonable under the circumstances, the document is well-grounded in fact and is warranted by existing law or by a good faith argument for the extension, modification, or reversal of existing law or the establishment of new law, and is not interposed for any improper purpose.

(2) The imposition of disciplinary sanctions for frivolous behavior under this section in no way limits the authority of the Board to dismiss an appeal summarily pursuant to §3.1(d)(1-a);

(k) Engages in conduct that constitutes ineffective assistance of counsel, as previously determined in a finding by the Board or an Immigration Judge in an immigration proceeding, and a disciplinary complaint is filed within one year of the finding;

(l) Repeatedly fails to appear for scheduled hearings in a timely manner without good cause; or

(m) Assists any person, other than a practitioner as defined in §3.101(b), in the performance of activity that constitutes the unauthorized practice of law.

§3.103 Immediate suspension and summary disciplinary proceedings; duty of practitioner to notify EOIR of conviction or discipline.

(a) *Immediate suspension*—(1) *Petition*. The Office of the General Counsel of EOIR shall file a petition with the Board to suspend immediately from practice before the Board and the Immigration Courts any practitioner who has been found guilty of, or pleaded guilty or *nolo contendere* to, a serious crime, as defined in §3.102(h), or any practitioner who has been disbarred or suspended on an interim or final basis by, or has resigned with an admission of misconduct from, the highest court of any state, possession, territory, commonwealth, or the District of Columbia, or any Federal court. A copy of the petition shall be forwarded to the Office of the General Counsel of the Service, which may submit a written request to the Board that entry of any order immediately suspending a practitioner before the Board or the Immigration Courts also apply to the practitioner's authority to practice before the Service. Proof of service on the practitioner of the Service's request to broaden the scope of any immediate suspension must be filed with the Board.

(2) *Immediate suspension*. Upon the filing of a petition for immediate suspension by the Office of the General Counsel of EOIR, together with a certified copy of a court record finding that a practitioner has been so found guilty of a serious crime, or has been so disciplined or has so resigned, the Board shall forthwith enter an order immediately suspending the practitioner from practice before the Board, the Immigration Courts, and/or the Service, notwithstanding the pendency of an appeal, if any, of the underlying conviction or discipline, pending final disposition of a summary disciplinary proceeding as provided in paragraph (b) of this section. Such immediate suspension will continue until imposition of a final administrative decision. Upon good cause shown, the Board may set aside such order of immediate suspension when it appears in the interest of justice to do so. If a final administrative decision includes the imposition of a period of suspension, time spent by

the practitioner under immediate suspension pursuant to this paragraph may be credited toward the period of suspension imposed under the final administrative decision.

(b) *Summary disciplinary proceedings.* The Office of the General Counsel of EOIR shall promptly initiate summary disciplinary proceedings against any practitioner described in paragraph (a) of this section. Summary proceedings shall be initiated by the issuance of a Notice of Intent to Discipline, accompanied by a certified copy of the order, judgment, and/or record evidencing the underlying criminal conviction, discipline, or resignation. Summary proceedings shall be conducted in accordance with the provisions set forth in §§3.105 and 3.106. Any such summary proceeding shall not be concluded until all direct appeals from an underlying criminal conviction shall have been completed.

(1) In matters concerning criminal convictions, a certified copy of the court record, docket entry, or plea shall be conclusive evidence of the commission of the crime in any summary disciplinary proceeding based thereon.

(2) In the case of a summary proceeding based upon a final order of disbarment or suspension, or a resignation with an admission of misconduct, (*i.e.*, reciprocal discipline), a certified copy of a judgment or order of discipline shall establish a rebuttable presumption of the professional misconduct. Disciplinary sanctions shall follow in such a proceeding unless the attorney can rebut the presumption by demonstrating by clear, unequivocal, and convincing evidence that:

(i) The underlying disciplinary proceeding was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process;

(ii) There was such an infirmity of proof establishing the attorney's professional misconduct as to give rise to the clear conviction that the adjudicating official could not, consistent with his or her duty, accept as final the conclusion on that subject; or

(iii) The imposition of discipline by the adjudicating official would result in grave injustice.

(c) *Duty of practitioner to notify EOIR of conviction or discipline.* Any practitioner who has been found guilty of, or pleaded guilty or *nolo contendere* to, a serious crime, as defined in §3.102(h), or who has been disbarred or suspended by, or who has resigned with an admission of misconduct from, the highest court of any state, possession, territory, commonwealth, or the District of Columbia, or by any Federal court, must notify the Office of the General Counsel of EOIR of any such conviction or disciplinary action within 30 days of the issuance of the initial order, even if an appeal of the conviction or discipline is pending. Failure to do so may result in immediate suspension as set forth in paragraph (a) of this section and other final discipline. This duty to notify applies only to convictions for serious crimes and to orders imposing discipline for professional misconduct entered on or after August 28, 2000.

§ 3.104 Filing of complaints; preliminary inquiries; resolutions; referral of complaints.

(a) *Filing of complaints*—(1) *Practitioners authorized to practice before the Board and the Immigration Courts.* Complaints of criminal, unethical, or unprofessional conduct, or of frivolous behavior by a practitioner who is authorized to practice before the Board and the Immigration Courts, shall be filed with the Office of the General Counsel of EOIR. Disciplinary complaints must be submitted in writing and must state in detail the information that supports the basis for the complaint, including, but not limited to, the names and addresses of the complainant and the practitioner, the date(s) of the conduct or behavior, the nature of the conduct or behavior, the individuals involved, the harm or damages sustained by the complainant, and any other relevant information. Any individual may file a complaint with the Office of the General Counsel of EOIR using the Form EOIR–44. The Office of the General Counsel of EOIR shall notify the Office of the General Counsel of the Service of any disciplinary complaint that pertains, in whole or in part, to a matter involving the Service.