

## § 10.131

shown to be incompetent or disreputable, who is guilty of gross misconduct, or who violates a Disciplinary Rule.

(b) Petitions to disqualify a practitioner in *ex parte* or *inter partes* cases in the Office are not governed by §§10.130 through 10.170 and will be handled on a case-by-case basis under such conditions as the Commissioner deems appropriate.

### § 10.131 Investigations.

(a) The Director is authorized to investigate possible violations of Disciplinary Rules by practitioners. See §10.2(b)(2).

(b) Practitioners shall report and reveal to the Director any knowledge or evidence required by §10.24. A practitioner shall cooperate with the Director in connection with any investigation under paragraph (a) of this section and with officials of the Office in connection with any disciplinary proceeding instituted under §10.132(b).

(c) Any non-practitioner possessing knowledge or information concerning a violation of a Disciplinary Rule by a practitioner may report the violation to the Director. The Director may require that the report be presented in the form of an affidavit.

### § 10.132 Initiating a disciplinary proceeding; reference to an administrative law judge.

(a) If after conducting an investigation under §10.131(a) the Director is of the opinion that a practitioner has violated a Disciplinary Rule, the Director shall, after complying where necessary with the provisions of 5 U.S.C. 558(c), call a meeting of the Committee on Discipline. The Committee on Discipline shall then determine as specified in §10.4(b) whether a disciplinary proceeding shall be instituted under paragraph (b) of this section.

(b) If the Committee on Discipline determines that probable cause exists to believe that a practitioner has violated a Disciplinary Rule, the Director shall institute a disciplinary proceeding by filing a complaint under §10.134. The complaint shall be filed in the Office of the Director. A disciplinary proceeding may result in:

- (1) A reprimand, or

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(2) Suspension or exclusion of a practitioner from practice before the Office.

(c) Upon the filing of a complaint under §10.134, the Commissioner will refer the disciplinary proceeding to an administrative law judge.

### § 10.133 Conference between Director and practitioner; resignation.

(a) *General.* The Director may confer with a practitioner concerning possible violations by the practitioner of a Disciplinary Rule whether or not a disciplinary proceeding has been instituted.

(b) *Resignation.* Any practitioner who is the subject of an investigation under §10.131 or against whom a complaint has been filed under §10.134 may resign from practice before the Office only by submitting with the Director an affidavit stating his or her desire to resign.

(c) If filed prior to the date set by the administrative law judge for a hearing, the affidavit shall state that:

(1) The resignation is freely and voluntarily proffered;

(2) The practitioner is not acting under duress or coercion from the Office;

(3) The practitioner is fully aware of the implications of filing the resignation;

(4) The practitioner is aware (i) of a pending investigation or (ii) of charges arising from the complaint alleging that he or she is guilty of a violation of the Patent and Trademark Office Code of Professional Responsibility, the nature of which shall be set forth by the practitioner to the satisfaction of the Director;

(5) The practitioner acknowledges that, if and when he or she applies for reinstatement under §10.160, the Director will conclusively presume, for the limited purpose of determining the application for reinstatement, that:

(i) The facts upon which the complaint is based are true and

(ii) The practitioner could not have successfully defended himself or herself against (A) charges predicated on the violation under investigation or (B) charges set out in the complaint filed against the practitioner.