

Moatz, Harry

From: Robert Keegan [robert.keegan@sbcglobal.net]
Sent: Monday, March 05, 2007 4:08 PM
To: ethicsrules comments
Subject: Comment on OED rules.doc

**Comment on “Changes to Representation of Others. . . “
Federal Register 2/28/2007, p. 9196.**

In response to the solicitation of comments, it is suggested that §11.22(h) set forth below and particularly §11.21(h)(2) could be expanded to better avoid devotion of time and effort regarding importune grievances that should be directed elsewhere, rather than the O.E.D.

(h) *Closing investigation without issuing a warning or taking disciplinary action.* The OED Director shall terminate an investigation and decline to refer a matter to the Committee on Discipline if the OED Director determines that:

- (1) The information or evidence is unfounded;
- (2) The information or evidence relates to matters not within the jurisdiction of the Office;
- (3) As a matter of law, the conduct about which information or evidence has been obtained does not constitute grounds for discipline, even if the conduct may involve a legal dispute; or
- (4) The available evidence is insufficient to conclude that there is probable cause to believe that grounds exist for discipline.

While there may be several classes of alleged grievances that could be mentioned as outside O.E.D jurisdiction, a clear and well defined example is matters arising in proceedings in federal or state courts of original or appellate jurisdiction or other legal tribunals not within the USPTO.

It is suggested that the intent of §11.21(h)(2) would be clearer, and unnecessary time and effort to deal with such extraneous grievance matters could be reduced by a modest expansion of this sub-section. Although the following sub-section (3) mentions “a legal dispute” and is consistent with the proposed addition to §11.21(h)(2), it is lacking in clarity regarding tribunals outside the Office.

Accordingly an addition to §11.21(h)(2) in terms similar to those below is suggested:

(2) The information or evidence relates to matters not within the jurisdiction of the Office, *such as matters arising in proceedings in federal or state courts of original or appellate jurisdiction or other tribunals not within the Office;*

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Consideration of this comment will be appreciated.

Respectively submitted,

Robert R. Keegan
Reg. No. 18,614