

be served upon the Office of the General Counsel of EOIR and the Office of the General Counsel of the Service. If disciplinary sanctions are imposed against a practitioner (other than a private censure), the Board may require that notice of such sanctions be posted at the Board, the Immigration Courts, or the Service for the period of time during which the sanctions are in effect, or for any other period of time as determined by the Board.

(d) *Referral.* In addition to, or in lieu of, initiating disciplinary proceedings against a practitioner, the Office of the General Counsel of EOIR may notify any appropriate Federal and/or state disciplinary or regulatory authority of any complaint filed against a practitioner. Any final administrative decision imposing sanctions against a practitioner (other than a private censure) shall be reported to any such disciplinary or regulatory authority in every jurisdiction where the disciplined practitioner is admitted or otherwise authorized to practice. In addition, the Office of the General Counsel of EOIR shall transmit notice of all public discipline imposed under this rule to the National Lawyer Regulatory Data Bank maintained by the American Bar Association.

### § 3.107 Reinstatement after expulsion or suspension.

(a) *Expiration of suspension.* Upon notice to the Board, a practitioner who has been suspended will be reinstated to practice before the Board and the Immigration Courts or the Service, or before all three authorities, once the period of suspension has expired, provided that he or she meets the definition of attorney or representative as set forth in § 1.1(f) and (j), respectively, of this chapter. If a practitioner cannot meet the definition of attorney or representative, the Board shall decline to reinstate the practitioner.

(b) *Petition for reinstatement.* A practitioner who has been expelled or who has been suspended for one year or more may file a petition for reinstatement directly with the Board after one-half of the suspension period has expired or one year has passed, whichever is greater, provided that he or she meets the definition of attorney or rep-

resentative as set forth in § 1.1(f) and (j), respectively, of this chapter. A copy of such petition shall be served on the Office of the General Counsel of EOIR. In matters in which the practitioner was ordered expelled or suspended from practice before the Service, a copy of such petition shall be served on the Office of the General Counsel of the Service.

(1) The practitioner shall have the burden of demonstrating by clear, unequivocal, and convincing evidence that he or she possesses the moral and professional qualifications required to appear before the Board and the Immigration Courts or the Service, or before all three authorities, and that his or her reinstatement will not be detrimental to the administration of justice. The Office of the General Counsel of EOIR, and in matters in which the practitioner was ordered expelled or suspended from practice before the Service, the Office of the General Counsel of the Service, may reply within 30 days of service of the petition in the form of a written response to the Board, which may include documentation of any complaints filed against the expelled or suspended practitioner subsequent to his or her expulsion or suspension.

(2) If a practitioner cannot meet the definition of attorney or representative as set forth in § 1.1(f) and (j), respectively, of this chapter, the Board shall deny the petition for reinstatement without further consideration. If the petition for reinstatement is found to be otherwise inappropriate or unwarranted, the petition shall be denied. Any subsequent petitions for reinstatement may not be filed before the end of one year from the date of the Board's previous denial of reinstatement. If the petition for reinstatement is determined to be timely, the practitioner meets the definition of attorney or representative, and the petitioner has otherwise set forth by the requisite standard of proof that he or she possesses the qualifications set forth herein, and that reinstatement will not be detrimental to the administration of justice, the Board shall grant the petition and reinstate the practitioner. The Board, in its discretion, may hold a

hearing to determine if the practitioner meets all of the requirements for reinstatement.

**§3.108 Confidentiality.**

(a) *Complaints and preliminary inquiries.* Except as otherwise provided by law or regulation, information concerning complaints or preliminary inquiries is confidential. A practitioner whose conduct is the subject of a complaint or preliminary inquiry, however, may waive confidentiality, except that the Office of the General Counsel of EOIR may decline to permit a waiver of confidentiality if it is determined that an ongoing preliminary inquiry may be substantially prejudiced by public disclosure before the filing of a Notice of Intent to Discipline.

(1) *Disclosure of information for the purpose of protecting the public.* The Office of the General Counsel of EOIR may disclose information concerning a complaint or preliminary inquiry for the protection of the public when the necessity for disclosing information outweighs the necessity for preserving confidentiality in circumstances including, but not limited to, the following:

(i) A practitioner has caused, or is likely to cause, harm to client(s), the public, or the administration of justice, such that the public or specific individuals should be advised of the nature of the allegations. If disclosure of information is made pursuant to this paragraph, the Office of the General Counsel of EOIR may define the scope of information disseminated and may limit the disclosure of information to specified individuals or entities;

(ii) A practitioner has committed criminal acts or is under investigation by law enforcement authorities;

(iii) A practitioner is under investigation by a disciplinary or regulatory authority, or has committed acts or made omissions that may reasonably result in investigation by such authorities;

(iv) A practitioner is the subject of multiple disciplinary complaints and the Office of the General Counsel of EOIR has determined not to pursue all of the complaints. The Office of the General Counsel of EOIR may inform complainants whose allegations have

not been pursued of the status of any other preliminary inquiries or the manner in which any other complaint(s) against the practitioner have been resolved.

(2) *Disclosure of information for the purpose of conducting a preliminary inquiry.* The Office of the General Counsel of EOIR, in the exercise of discretion, may disclose documents and information concerning complaints and preliminary inquiries to the following individuals or entities:

(i) To witnesses or potential witnesses in conjunction with a complaint or preliminary inquiry;

(ii) To other governmental agencies responsible for the enforcement of civil or criminal laws;

(iii) To agencies and other jurisdictions responsible for disciplinary or regulatory investigations and proceedings;

(iv) To the complainant or a lawful designee;

(v) To the practitioner who is the subject of the complaint or preliminary inquiry or the practitioner's counsel of record.

(b) *Resolutions reached prior to the issuance of a Notice of Intent to Discipline.* Resolutions, such as warning letters, admonitions, and agreements in lieu of discipline, reached prior to the issuance of a Notice of Intent to Discipline, will remain confidential. However, such resolutions may become part of the public record if the practitioner becomes subject to a subsequent Notice of Intent to Discipline.

(c) *Notices of Intent to Discipline and action subsequent thereto.* Notices of Intent to Discipline and any action that takes place subsequent to their issuance, except for the imposition of private censures, may be disclosed to the public, except that private censures may become part of the public record if introduced as evidence of a prior record of discipline in any subsequent disciplinary proceeding. Settlement agreements reached after the issuance of a Notice of Intent to Discipline may be disclosed to the public upon final approval by the adjudicating official or the Board. Disciplinary hearings are open to the public, except as noted in §3.106(a)(1)(v).