

Office of the Secretary of Labor

§ 18.38

such courts shall be sufficient proof thereof, unless otherwise ordered by the administrative law judge. Any attorney of record must file prior notice in writing of intent to withdraw as counsel.

(2) *Persons not attorneys.* Any citizen of the United States who is not an attorney at law shall be admitted to appear in a representative capacity in an adjudicative proceeding. An application by a person not an attorney at law for admission to appear in a proceeding shall be submitted in writing to the Chief Administrative Law Judge prior to the hearing in the proceedings or to the administrative law judge assigned at the commencement of the hearing. The application shall state generally the applicant's qualifications to appear in the proceedings. The administrative law judge may, at any time, inquire as to the qualification or ability of such person to render legal assistance.

(3) *Denial of authority to appear.* The administrative law judge may deny the privilege of appearing to any person, within applicable statutory constraints, e.g. 5 U.S.C. 555, who he or she finds after notice of and opportunity for hearing in the matter does not possess the requisite qualifications to represent others; or is lacking in character or integrity; has engaged in unethical or improper professional conduct; or has engaged in an act involving moral turpitude. No provision hereof shall apply to any person who appears on his or her own behalf or on behalf of any corporation, partnership, or association of which the person is a partner, officer, or regular employee.

(h) *Authority for representation.* Any individual acting in a representative capacity in any adjudicative proceeding may be required by the administrative law judge to show his or her authority to act in such capacity. A regular employee of a party who appears on behalf of the party may be required by the administrative law judge to show his or her authority to so appear.

[48 FR 32538, July 15, 1983; 49 FR 2739, Jan. 20, 1984]

§ 18.35 Legal assistance.

The Office of Administrative Law Judges does not have authority to ap-

point counsel, nor does it refer parties to attorneys.

§ 18.36 Standards of conduct.

(a) All persons appearing in proceedings before an administrative law judge are expected to act with integrity, and in an ethical manner.

(b) The administrative law judge may exclude parties, participants, and their representatives for refusal to comply with directions, continued use of dilatory tactics, refusal to adhere to reasonable standards of orderly and ethical conduct, failure to act in good faith, or violation of the prohibition against ex parte communications. The administrative law judge shall state in the record the cause for suspending or barring an attorney or other representative from participation in a particular proceeding. Any attorney or other representative so suspended or barred may appeal to the Chief Judge but no proceeding shall be delayed or suspended pending disposition of the appeal; provided, however, that the administrative law judge shall suspend the proceeding for a reasonable time for the purpose of enabling the party to obtain another attorney or representative.

§ 18.37 Hearing room conduct.

Proceedings shall be conducted in an orderly manner. The consumption of food or beverage, smoking, or rearranging of courtroom furniture, unless specifically authorized by the administrative law judge, are prohibited.

[48 FR 32538, July 15, 1983; 49 FR 2739, Jan. 20, 1984]

§ 18.38 Ex parte communications.

(a) The administrative law judge shall not consult any person, or party, on any fact in issue unless upon notice and opportunity for all parties to participate. Communications by the Office of Administrative Law Judges, the assigned judge, or any party for the sole purpose of scheduling hearings or requesting extensions of time are not considered ex-parte communications, except that all other parties shall be notified of such request by the requesting party and be given an opportunity to respond thereto.