

The USPTO's Office of Enrollment and Discipline (OED) administers a Diversion Program for those practitioners whose physical, mental, or emotional health issues (including substance or alcohol abuse) or law practice management issues (including inadequate client communication) resulted in minor misconduct and little, if any, harm to a client. OED independently assesses cases to determine if a practitioner qualifies for diversion. When a practitioner appears to be qualified, OED contacts the practitioner to discuss the feasibility of

diversion including, but not limited to, the practitioner's desire and willingness to enter into a diversion agreement.

Notwithstanding OED's independent assessment, if, after you have reviewed the information about the Diversion Program, you believe that your case may qualify for diversion, please contact the undersigned OED staff attorney identified in the accompanying letter.

Frequently Asked Questions

Am I eligible for diversion?

A practitioner must not have been publicly disciplined by the USPTO or another jurisdiction in the past three years unless the discipline is based on the same conduct as the conduct that is the basis for the investigation.

In addition, the misconduct at issue must not involve:

- The misappropriation of funds or dishonesty, deceit, fraud, or misrepresentation;
- Substantial prejudice to a client or other person;
- A "serious crime," as defined by 37 C.F.R. § 11.1; or
- A pattern of similar misconduct unless the misconduct at issue is minor and related to a chronic physical or mental health condition or disease.

Are there other criteria to be considered for participation?

Yes, once OED determines that the practitioner and misconduct at issue are eligible, other factors will be reviewed to determine if diversion is appropriate, including:

- Whether participation is likely to benefit the practitioner and accomplish the goals of the program;
- Whether diversion was previously attempted; and
- Any other aggravating or mitigating factors

What are the tools of diversion?

Although not an exhaustive list, some of the tools may include:

- Individual counseling;
- Substance abuse counseling;
- Substance use and mental health screening, assessment, and treatment;
- Educational and employment goals including, but not limited to, law office management skills training; and
- Continuing Legal Education to minimize future formal discipline

DISCLAIMER

Nothing in this communication constitutes an offer, contract, agreement, or settlement to enter into a diversion agreement. Neither the United States Patent and Trademark Office, the Office of Enrollment and Discipline, nor any of its employees or agents endorses or sponsors any particular program, resource, or service. This information is for general informational purposes only and is not intended to provide legal or ethics-related advice to any specific individual or entity. The information contained herein does not constitute endorsement, recommendation, or favoring of any particular entity, organization, service provider, rehabilitation/substance abuse treatment or addiction facility center.