

§ 263.99

standards of conduct. If a written letter of censure is issued, a copy will be maintained in the Board's files.

(d) *Notice of debarment or suspension.* Upon the issuance of a final order for suspension or debarment, the Board shall give notice of the order to appropriate officers and employees of the Board, to interested departments and agencies of the Federal Government, and to the appropriate authorities of the State in which any debarred or suspended individual is or was licensed to practice.

§ 263.99 Petition for reinstatement.

The Board may entertain a petition for reinstatement from any person debarred from practice before the Board. The Board shall grant reinstatement only if the Board finds that the petitioner is likely to act in accordance with the regulations in this part, and that granting reinstatement would not be contrary to the public interest. Any request for reinstatement shall be limited to written submissions unless the Board, in its discretion, affords the petitioner an informal hearing.

Subpart G—Rules Regarding Claims Under the Equal Access to Justice Act

§ 263.100 Authority and scope.

This subpart implements the provisions of the Equal Access to Justice Act (5 U.S.C. 504) as they apply to formal adversary adjudications before the Board. The types of proceedings covered by this subpart are listed in §§ 263.1 and 263.50.

§ 263.101 Standards for awards.

A respondent in a covered proceeding that prevails on the merits of that proceeding against the Board, and that is eligible under this subpart as defined in § 263.103, may receive an award for fees and expenses incurred in the proceeding unless the position of the Board during the proceeding was substantially justified or special circumstances make an award unjust. The position of the Board includes, in addition to the position taken by the Board in the adversary proceeding, the action or failure to act by the Board upon

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which the adversary proceeding was based. An award will be reduced or denied if the applicant has unduly or unreasonably protracted the proceedings.

§ 263.102 Prevailing party.

Only an eligible applicant that prevailed on the merits of an adversary proceeding may qualify for an award under this subpart.

§ 263.103 Eligibility of applicants.

(a) *General rule.* To be eligible for an award under this subpart, an applicant must have been named as a party to the adjudicatory proceeding and show that it meets all other conditions of eligibility set forth in paragraphs (b) and (c) of this section.

(b) *Types of eligible applicant.* An applicant is eligible for an award only if it meets at least one of the following descriptions:

(1) An individual with a net worth of not more than \$2 million at the time the adversary adjudication was initiated;

(2) Any sole owner of an unincorporated business, or any partnership, corporation, associations, unit of local government or organization, the net worth of which did not exceed \$7,000,000 and which did not have more than 500 employees at the time the adversary adjudication was initiated;

(3) A charitable or other tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) with not more than 500 employees at the time the adversary proceeding was initiated; or

(4) A cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) with not more than 500 employees at the time the adversary proceeding was initiated.

(c) *Factors to be considered.* In determining the eligibility of an applicant:

(1) An applicant who owns an unincorporated business shall be considered as an *individual* rather than a *sole owner of an unincorporated business* if the issues on which he or she prevailed are related to personal interests rather than to business interests.

(2) An applicant's net worth includes the value of any assets disposed of for the purpose of meeting an eligibility