

## REGISTRAR POLICIES

NAME OF POLICY	Good Character & Fitness to Practise		
APPLICABLE SECTIONS OF THE ACT, BY-LAWS AND REGULATIONS	Regulation 4(b)(iii), 5(b)(ii), 6(b)(ii), 7(b)(ii), 8(b)(iii), 9(b)(ii), 10(b)(ii), 11(b)(ii) By-laws 45(1)(f), 48(1)(n), 51(2)(a), 68, 75(2)		
APPROVED BY	EFFECTIVE	REVIEWED	REVISED
Registrar	June 28, 2021	March 2022 August 8, 2023	July 14, 2021 March 17, 2022 August 8, 2023

In this policy:

- a. "Applicant" means an individual who has applied to the College to be a Patent Agent or Trademark in Training, or an individual who has applied to the College to be a Patent Agent or Trademark Agent;
- b. "Agent" means an individual registered with the College as a Patent Agent or Trademark Agent;

### Policy

The College's registration program ensures individuals applying to be an Agent in Training, individuals applying to be an Agent, and Agents, as a condition of their ongoing registration, meet the good character and fitness to practise requirements.

To meet the registration requirements, the Registrar must determine whether an applicant or an Agent is of good character by assessing their integrity and competence in accordance with the highest standards of the profession to preserve the trust, respect and confidence of members of the profession and the public.

Good Character - The College considers previous conduct in its assessment, as even someone with good technical skills can cause significant damage through inappropriate, dishonest or abusive conduct, while acknowledging previous bad behaviour is not always a predictor of future behavior. The nature of the previous conduct, suitability to practise and subsequent conduct are considered when determining if the good character requirement is met. Some of the factors arising from previous behaviour include:

- Age at the time of any criminal or similar offence;
- How long ago a criminal or similar offence occurred;
- Frequency and seriousness of any reported occurrences;
- Factors underlying a criminal or similar offence;
- Evidence of rehabilitation (including changes implemented to prevent future occurrences); and
- Evidence of positive social contributions since the offence.

Fitness to Practise – While striving to balance respect for human dignity with the College’s obligation to protect the public interest, the Registrar must determine if an applicant or Agent is fit to practise by assessing their ability to be a licensee, and maintain their licence, with sufficient knowledge, skills and judgement not substantially impaired by a physical, mental, or emotional condition, disorder or addiction.

## PROCEDURES

1. Applicants for an Agent in Training (Class 3) Licence will respond to the good character declarations on the application form by providing
  - a. a criminal background check,
  - b. records of any disciplinary sanction imposed by an academic institution or professional or non-professional body;
  - c. Certificates of Professional Conduct or Good Standing issued by any organization responsible for the regulation of a profession from any jurisdiction in which the Trainee Applicant is or was registered, and must be sent directly to the College, dated no later than 6 months from the date of the application; and
  - d. records of any bankruptcy or insolvency.
2. The Registrar may request other information to assess good character including:
  - A detailed account of past conduct and relevant documents related to the conduct;
  - Evidence of prior and subsequent behaviour;
  - Court transcripts and proceedings, particularly criminal findings and sentencing;
  - Decisions and reasons for civil court orders;
  - Academic transcripts;
  - Parole or Probation Officer’s reports;
  - A certified copy of:

- The police Information Form, Indictment or any other charging document (typically available from the Court Clerk where your matter was heard)
  - Any judicial interim release, promise to appear, undertaking or recognizance of bail form, if applicable;
  - All judgments, orders and reasons for decision made by the Court (available from the Court Clerk where the matter was heard);
  - Disclosure (evidence provided by the prosecution in accordance with its obligations), if available;
  - Police report(s), if available;
  - Pre-sentencing or Pre-disposition Report, if applicable;
  - Pardons, if applicable;
  - Termination letter or discharge documentation from your employer;
  - Any investigation report or other report prepared by or for your employer in relation to your conduct, if applicable;
  - Notice of “Trustee in Bankruptcy”;
    - Notice of Discharge;
    - Conditional Discharge, if applicable;
  - Any investigation report or other report prepared by or for your employer in relation to conduct, if applicable;
    - Any warning letter, conduct letter, or memo to file setting out the circumstances of the discipline;
    - All pleadings in relation to human rights proceedings (such as Application, Response, and Reply)
    - All judgments, orders, and reasons for decision made by a court or tribunal in relation to conduct
    - Signed consent to permit the employer / former employer to provide the discipline or proceeding documents to the College directly
  - The circumstances of the finding(s) of guilt, court order(s), and/or outstanding charge(s) or warrant(s) to arrest and particulars of any offences;
  - Length of time since the offence(s) occurred; and
  - Efforts made at rehabilitation, likelihood of recurrences, and accomplishments since an offence.
3. If the fitness to practise question is answered affirmatively, the applicant will submit the Fitness to Practise: Additional Information Form to provide additional information regarding their situation. This information will be kept strictly confidential and will not be shared with any external parties, including the applicant’s firm, without their consent.
4. Registration staff will communicate the Registrar’s decision to the applicant or Agent in writing and will provide instructions for appealing the decision to the Registration Committee should the Registrar deem the good character or fitness to practise requirements unmet for any reason.

## Criminal Background Check

A criminal background check must be obtained from the applicant's local police station and contain the information in Appendix A. Additionally, the report must:

- a. be dated no more than six (6) months before the date of the application;
- b. reflect the name and date of birth on the application form;
- c. confirm that a search was completed on all names the applicant uses or has used;
- d. not be provided by a commercial vendor offering online background checks.

### *International Background Checks*

If an applicant lived or worked in a country outside of Canada after the age of 18, supporting documentation must also be provided:

- a criminal background check performed by a police and/or law enforcement agency authorized to do so in that (or those) jurisdiction(s); or
- if the applicant was successful with a Canadian immigration process (i.e. Canadian permanent resident status or Canadian citizenship), a notarized copy of the approved immigration documentation (i.e. Permanent Resident Card, Citizenship Certificate) and an affidavit confirming no information would be presented on the background check if one were to be provided, can be submitted in lieu of the international background check.

Applicants are encouraged to contact the Director of Registration at [registration-inscription@cpata-cabamc.ca](mailto:registration-inscription@cpata-cabamc.ca) to discuss their specific situation and receive further instructions about required documentation.

## REFERENCES

[Registrar's Policy on Agent in Training](#)

[CPATA Regulations](#)

[CPATA By-laws](#)

[CPATA Regulatory Objectives, Standards and Principles](#)

## APPENDIX A

Item	Type of Information
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1.	Every criminal offence of which the individual has been convicted for which a pardon has not been issued or granted.
2.	Every finding of guilt under the <i>Youth Criminal Justice Act</i> (Canada) regarding the individual during the applicable period of access under that Act.
3.	Every criminal offence of which the individual has been found guilty and received an absolute discharge.
4.	Every criminal offence of which the individual has been found guilty and received a conditional discharge on conditions set out in a probation order.
5.	Every criminal offence for which there is an outstanding charge or warrant to arrest regarding the individual.
6.	Every court order made against the individual.

The following information may provide assistance in obtaining the criminal background check required by this policy. Please note that a Vulnerable Sector Check is not required.

Jurisdiction	Name of Check
Alberta	Police Information Check
British Columbia	Criminal Record Check
Manitoba	Police Record Check
New Brunswick	Police Record Check
Newfoundland & Labrador	Criminal Record Check
Northwest Territories	Criminal Record Check
Nova Scotia	Criminal Record Check

Jurisdiction	Name of Check
Nunavut	Criminal Record Check
Ontario	Criminal Record and Judicial Matters Check
Prince Edward Island	Criminal Record Check
Quebec	Criminal Record Check
Saskatchewan	Criminal Record Check
Yukon	Criminal Record Check