

Discipline Committee

Skills Matrix

Introduction

CPATA regulates the patent and trademark profession in accordance with the Act, Regulations, Bylaws, Registrar's Policies, and the Regulatory Objectives, Standards and Principles. It is an independent and risk-focused public interest regulator.

CPATA is committed to selecting Board and committee members based on a set of identified skills and attributes, to ensure the Board and committees have the knowledge and attributes to carry out the work effectively, are diverse in all respects, and who strive to attain the vision of CPATA for a modern regulator as outlined in the Board Governance Policies and Practices¹.

CPATA sets and enforces compliance with required ethical and practice standards through a variety of means, and in a manner that is risk focused, fair, transparent, efficient, proactive, proportionate and principled. For the Discipline Committee, this regulatory approach includes fair, efficient and effective adjudication of applications; adopting a restorative approach that strives to address harm, help agents be accountable for their actions, and, where appropriate in the public interest, foster learning from mistakes rather than merely punishing; and making decisions that are clear, concise, well-supported and balance all relevant interests.

Objects of Complaints Process

The objects of the complaints process are to protect and promote the public interest and preserve the integrity of the patent and trademark profession, in a manner consistent with the College's Regulatory Objectives, Standards and Principles. This includes:

- a. Promoting and ensuring competent and ethical delivery of patent and trademark services by licensees;
- b. Addressing concerns of professional misconduct and professional incompetence, including striving for early resolution of complaints when doing so is consistent with the public interest; and
- c. Enforcing compliance with professional and ethical standards.

¹ <https://cpata-cabamc.ca/wp-content/uploads/2021/06/CPATA-Governance-Policies.pdf>

The Complaints Process

The Registrar has primary responsibility for regulatory transactions with licensees, trainees and the public, including receiving inquiries about the conduct of licensees. Individuals may either file a complaint directly, or may first complete an Agent Conduct Inquiry Form to help assess whether their questions or concerns can be resolved or addressed at an early stage by the Registrar. If not, the result of the inquiry may be the filing of a complaint for referral to the Investigations Committee for direction, investigation or decision.

The Investigations Committee provides direction respecting investigations. If the Committee decides there is evidence of professional misconduct or incompetence, it must refer the matter to the Discipline Committee. Otherwise, the Committee may dispose of the complaint in accordance with the Act and Investigation Committee Policies.

Role of the Discipline Committee

The Discipline Committee is appointed under s. 21(1) of the Act and supports the College and Board's mandate to protect the public interest, by carrying out responsibilities assigned under ss. 51-63 of the Act, the Regulations, and the applicable Discipline Committee Policies.

Responsibilities

The Discipline Committee's specific responsibilities include:

- Hearing applications referred by the Investigations Committee in accordance with principles of fairness and natural justice, as well as the Regulatory Objectives, Standards and Principles
- Recommending revisions to by-laws, and implementing policies and procedures as needed to support an adjudications process that is efficient, effective, fair, transparent, consistent and accountable

Committee Composition

The Discipline Committee as a whole must possess the required skills, knowledge, attributes and experience to enable it to fulfil its responsibilities in the public interest. The CPATA Act requires that a majority of the Committee consist of individuals who are not licensees as one means of ensuring the public is intrinsically involved in the College's public interest work. Members of the Committee bring to the table knowledge and experience with the patent and trademark agency professions, the legal profession, as well as perspectives of members of the public whom the system is designed to protect.

All Committee members must complete mandatory training prior to commencement of service, and engage in such ongoing training and education during their term on the Committee as determined to be appropriate by the Chair and the Registrar.

The Committee Chair may require additional specific training to effectively lead the Committee and carry out work delegated by the Discipline Committee to the Chair.

Specific Knowledge, Skills, Attributes and Experience

The Skills Matrix below is used to:

- i. identify the specific knowledge, skills, attributes and experience required of the Discipline Committee members and as a whole;
- ii. facilitate appointments that will fill gaps in the required knowledge, skills, attributes and experience; and
- iii. assist with identifying training and education needs on an ongoing basis.

Members as a whole must possess/demonstrate the following:

The College is committed to the foundational principles of equity, diversity and inclusion, which are reflected in the composition of committees and the level of cultural competence expected of committee members.

Knowledge	Skills
CPATA Act, Regulatory Objectives, Standards and Principles	Effective oral communications
Patent Act and Rules; Patent Office practice, including the Manual of Patent Examination Practice and Patent Practice Notices; and Patent Agency Practice	Effective, persuasive written communications
Trademarks Act and Regulations; Trademark Office practice, including the Trademark Examination Manual and Trademark Practices Notices; and Trademark Agency Practice	Collegial and effective decision making and writing in accordance with the Committee's Policies
CPATA By-laws, Pt. 6	Adjudicative hearings management
CPATA Code of Professional Conduct	Attention to detail
Discipline Committee Policies and Procedures	Organization & time management
Administrative & common law principles relevant to adjudication	Statutory interpretation
Charter & Human Rights and values	Evaluation of factual evidence
Restorative justice & ADR principles ²	Conflict management
Principles of equity, diversity, inclusion and access to justice ³	Applying sanctioning principles
General knowledge of relevant international Patent and Trademark systems and practices	Bilingual
	Cultural competence ⁴
	Competent to use the technology facilitating the committee's work

² 'Restorative justice' and ADR (alternate dispute resolution) principles focus on: early and informal resolution; effective conflict management; understanding context; identifying and addressing actual harms; encouraging accountability; being proactive, principled and proportionate rather than pursuing punishment; avoiding 'naming, blaming and shaming' and instead seeking collaborative solutions where possible and in the public interest.

³ 'Equity, diversity, inclusion and access to justice principles' are closely tied to cultural competence, and include having the knowledge, experience and skills to actively work to protect against and prevent individual and systemic discrimination, to cultivate appropriate attitudes toward cultural differences, and to ensure that the College's processes are open and accessible to all.

⁴ 'Cultural competence' refers to an ability to understand, communicate with and effectively interact with people across different cultures; acknowledge the harmful effects of discriminatory thinking and behavior on human interaction; and acquire and perform the skills necessary to lessen the effect of these influences in order to serve the pursuit of justice. (Rose Voyvodic, "Lawyers Meet the Social Context: Understanding Cultural Competence" (2006) 84:3 The Canadian Bar Review 564 at 564).

Experience	Attributes
Professional regulation & adjudication	Active listener and strong communicator
Federal Court and administrative tribunal procedures	Fair, impartial and open-minded
Law relating to privacy & privilege	Courteous, respectful and patient
Administrative Law	Apply confidentiality and discretion
Patent Agent services	Ethical
Trademark Agent services	Strong work ethic
Community service & volunteer leadership	Professionalism & civility
Law of evidence	Accountable – takes full responsibility for decisions made
Conduct of adjudicative hearings	Respected by peers
Fitness to practice, ⁵ capacity and health impacts on professional practice	
Ability to conduct hearings in both official languages	
Experience in a variety of work environments, including in-house, sole practice, small and large firms	

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⁵ 'Fitness to practice' encompasses knowledge and awareness of a range of factors that may impact or impair a licensee's ability to provide services competently and ethically, including a physical, mental or emotional condition or addiction, and the most effective ways to identify and address such situations in the public interest.