

Investigations Committee

Skills Matrix

21 June 2021 – Under Review

Introduction

CPATA regulates the patent and trademark profession in accordance with Act, Regulations, Bylaws, Registrar's Policies, and the Regulatory Objectives, Standards and Principles. This includes setting and enforcing 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 Investigations Committee, this regulatory approach includes finding ways to fairly resolve complaints as early as possible; adopting a restorative approach to complaints handling that strives to identify and address harm, helping agents be accountable for their actions, and, where appropriate in the public interest, fostering learning from mistakes rather than punishing; and making decisions that are clear, concise, well-supported and balance all relevant interests.

Objects

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.

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, By-laws, and Policy on Complaint Investigations.

The Discipline Committee hears complaints referred to it by the Investigations Committee, and may conduct its work through the Chair alone, or panels of three or five individuals.

Role

The Investigations Committee¹ is responsible for supporting the Board's professional regulation and public protection mandate by carrying out responsibilities assigned under ss. 37-50 of the Act, the Regulations, and the Registrar's Policies.

Responsibilities

The Investigations Committee's responsibilities include:

- a. Supporting the ethical and competent delivery of patent and trademark services by licensees
- b. Acting on complaints referred to it by the Registrar or opened at the instigation of the Committee
- c. Investigating or directing the investigation of complaints of professional misconduct or incompetence, and making decisions in accordance with the Regulatory Objectives, Standards and Principles
- d. Recommending and commenting on revisions to By-laws, policies and procedures needed to support a complaints process that is efficient, effective, fair, transparent and accountable

Committee Composition

The Investigations Committee as a whole must possess the required skills, knowledge, attributes and experience to enable it to fulfil its responsibilities in the public interest. Most of the Committee consists 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.

Specific Knowledge, Skills, Attributes and Experience

The Skills Matrix below is used to:

¹ Appointed under s. 21(1) of the Act

- i. identify the specific knowledge, skills, attributes and experience² required of the Investigations 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	Effective oral communications
Patent Act Rules and practice	Effective written communications including writing decisions with reasons
Trademark Act Regulations and practice	Collegial and effective decision making
CPATA Regulations	Conflict management
CPATA By-laws	Attention to detail
CPATA Code of Professional Conduct	Organization & time management
Registrar's Policies for Investigations Committee and complaints process	Practice & business management
Administrative law principles incl. fairness and natural justice	Investigations & evaluation of factual evidence
Charter & Human Rights	Conducting interviews
Restorative justice & ADR principles ³	
Equity, diversity, inclusion and access to justice principles ⁴	

² Knowledge² includes understanding how CPATA operates in substance and principle, risk principles, and the prosecution of patent and trademark applications;

³ '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

⁴ '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 8 '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,

Experience	Attributes
Professional regulation	Active listener & strong communicator
Federal Court and administrative tribunal procedures	Fair, impartial and open-minded
Law relating to privilege and privacy	Courteous, respectful and patient
Administrative Law ⁵	Apply confidentiality and discretion
Patent Agent services	Cultural competence ⁶
Trademark Agent services	Ethical
Not For Profit, regulator and/or other community service	Strong work ethic
Business & innovation	Professionalism & civility
CPATA Board	Competent to use the technology facilitating the committee's work
Adult education ⁷	Respected by peers

including a physical, mental or emotional condition or addiction, and the most effective ways to identify and address such situations in the public interest.

⁵ Administrative law' refers to principles of fairness, natural justice, efficiency, transparency, etc. and the four basic rights: for the licensee to know the case against them and make answer; unbiased decision-makers; those who hear the application decide the case; and there are adequate reasons for the decision. (Federation of Law Societies of Canada National Adjudicator Training Curriculum)

⁶ '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)

⁷ Adult education' experience is valuable for understanding how adults learn, how to evaluate whether learning has taken place, and developing or identifying effective educational opportunities