

Complaint Dismissals

APPLICABLE SECTIONS OF THE ACT, BY-LAWS AND REGULATIONS and/or PURPOSE	CPATA Act s. 32, s. 38.1 By-laws 85-86		
RESPONSIBILITY	Registrar		
APPROVED BY	EFFECTIVE	REVIEWED	REVISED
Registrar	September 22, 2023	Date	Date

In this policy:

- a. "Code" means the CPATA Code of Professional Conduct for Patent Agents and Trademark Agents;
- b. "Committee" means the Investigations Committee;
- c. "Complaint" means a complaint filed by any individual or party other than the Investigations Committee, by way of the on-line complaint form or such other means deemed acceptable by the Registrar, in the official language of choice of the complainant;
- d. "Complainant" means the individual or party filing a complaint;
- e. "Dismissal" means a decision by the Registrar that a complaint does not provide reasonable grounds to believe that a licensee has engaged in professional misconduct or was incompetent;
- f. "Dismissal decision" means the notice, written decision and reasons issued by the Registrar to the complainant in response to a complaint, in accordance with the Act and By-laws; and
- g. "Manager" means the Manager of Professional Responsibility.

1 Policy

s. 38.1 of the Act provides that the Registrar must consider all complaints received by the College relating to professional misconduct or incompetence by a licensee and may, subject to and in accordance with the by-laws, dismiss any complaint, in whole or in part, for any of the reasons set out in the regulations and By-laws. If the Registrar does not dismiss a complaint, then it must be referred to the Committee.

This policy sets out the process for consideration and dismissal of complaints by the Registrar.

2 Review of Complaints

A complaint may be filed by a party using the on-line complaints form. In order to ensure that the complaints process is accessible, parties may also submit complaints via email, in writing, or may request to speak with the Registrar or a member of the Professional Responsibility team, by phone or audiovisual means, in the official language of their choice.

If a complaint is received orally, the Professional Responsibility team member receiving the complaint information will prepare a written statement reflecting the oral complaint, and ask the complainant to confirm that the statement accurately represents the information they provided.

Complainants may provide additional materials to support their concerns or allegations.

The Registrar will review the complaint and any supporting materials, and evaluate whether the information provides reasonable grounds to believe a licensee engaged in professional misconduct or is/was incompetent.

By-law 2(1) defines *incompetence* as:

...the failure of a licensee to apply relevant knowledge, skills or judgment in a manner consistent with the standards of competence set out in the Code while practising as a patent agent or trademark agent.

By-law 2(2) defines *professional misconduct* as:

...conduct by a licensee that is inconsistent with the standards of professional conduct set out in the Code and that would reasonably be regarded as unprofessional or that may discredit the profession and includes any of the following:

- (a) Contravening the Act, the Regulations, these By-laws or the Code;
- (b) Exhibiting behaviour while practising as a patent agent or trademark agent that tends to bring discredit to the profession or undermines public confidence in it;
- (c) Being convicted of or pleading guilty to an offence described in paragraph 73(d); and
- (d) Being found by a professional regulatory body to have committed professional misconduct or to be incompetent, incapacitated or unfit to practise within the meaning of the statute under which the body made its finding.

3 Request for Further Information

The Registrar may request that a complainant provide additional information to support the concerns set out in the complaint. If a complainant does not provide the information requested within the timeframe set by the Registrar, the Registrar may evaluate the complaint and make a decision based on the information already provided.

4 Decision

The Registrar may dismiss a complaint in whole or in part, in circumstances where the complaint does not provide reasonable grounds to believe that the licensee the subject of the complaint committed professional misconduct or is/was incompetent, as those terms are defined in the By-laws.

Under s. 38.1(2), notice of the Registrar's dismissal decision will be communicated to the complainant in writing, in the official language of the complainant's choice, and include the Registrar's reasons for the dismissal. The Registrar is not permitted to disclose privileged information in the notice or written decision.

The Registrar will include in the dismissal decision notice to the complainant of their right to appeal the Registrar's dismissal decision to the Investigations Committee within 30 days of the date of the notice.

5 Referral to Investigations Committee

If, after reviewing the complaint and any supporting materials, the Registrar determines that the complaint in whole or in part discloses reasonable grounds to believe a licensee may have engaged in professional misconduct or was incompetent, the Registrar must refer the complaint to the Committee. In such cases, the complainant will be notified of the referral, and will be kept apprised of the status of the complaint by the Manager.