

Discipline Committee Policies and Guidelines Toolkit

2023-01-30

1. Introduction

“The purpose of the College is to regulate patent agents and trademark agents in the public interest, to enhance the public’s ability to secure the rights provided for under the Patent Act and the Trademarks Act”.

CPATA is a modern, risk-based and outcomes focused regulator. Its approach to being modern is summarized in its commitment to applying ‘Right Touch Regulation’ to all its regulatory activities. In essence CPATA’s approach to regulation is to regulate using only the means necessary to address the risks or other issues identified as requiring College intervention. That describes the ‘risk-based’ approach. Outcomes focus means CPATA intends to report on its work in ways that demonstrate what difference it makes and how its regulatory actions result in change. (see Appendix A - [Board Policy #1, How CPATA Works](#))

CPATA is mandated to regulate in the public interest. There are two important parts to this mandate: First, to ensure agents are competent and ethical in delivering their services. This protects the public who use these services; Second, to ensure that in providing their services the profession upholds the system that protects intellectual property rights.

CPATA sets ethical and practice standards for agents, supports these through the ethics inquiry and agent conduct inquiry processes, and enforces them through a variety of techniques, including a complaints and discipline system if necessary. The CPATA Code of Conduct for Patent Agents and Trademark Agents articulates the ethical standards for the profession. (see Appendix B - [CPATA Code of Professional Conduct for Patent Agents and Trademark Agents](#))

Concerns about licensee conduct that cannot be consensually resolved or addressed at an early stage through the Agent Conduct Inquiry process, and raise issues of possible misconduct or incompetence, must be referred to the Investigations Committee, under the appropriate guidance documents. Recent amendments to the Act enable the Registrar to review matters at intake to determine if they constitute a complaint to be referred to the Investigations Committee. The Investigations Committee will decide whether to refer to the Discipline Committee for adjudication. The Investigations and Discipline Committees are responsible for their roles as described in the Act, and policies they adopt.

2. Purpose

The purpose of this Toolkit is to provide resources for the Discipline Committee that:

- Support high quality and consistent decision-making
- Compile the Committee’s approved policies and procedures in one location
- Provide practical guidelines and templates

This toolkit is available to the public and licensees, in the interests of transparency and accountability. It is expected to be a living document, with regular updates as appropriate.

3. Role of Discipline Committee

The Investigations Committee and the Discipline Committee are established by s.21 of the Act. They are appointed by the Board, which appoints committee members based on the articulated competencies in the Skills Matrices. The members of the Investigations and Discipline Committees must have a majority who are not licensees. (see Appendix C for Terms of Reference and Skills Matrices for these regulatory committees: [IC ToR](#), [IC Skills Matrix](#), [DC ToR](#), [DC Skill Matrix](#))

The Discipline Committee functions fully independently of the Board and other committees. They serve on panels of 3-5 members, as decided by the Chair. They are obliged under the Act to conduct an oral hearing. The Act lays out the procedures, in sections 51 – 58, and the appeal provisions to the Federal Court. Further details of the process are set out in the By-laws and Policies.

The authority of the Discipline Committee is set out in the CPATA Act sections 51-64, the By-Laws and policies established by the Committee under its authority in s. 63. (see Appendix D for [relevant portions of the Act](#), [Regulations](#) and By-Laws, and [training slides for CPATA Discipline Committee Legislative Foundation](#))

The Committee is further guided by relevant administrative law principles, including a duty of fairness in the conduct of proceedings, ensuring due process, transparency (including open hearings), and sound and consistent decision making. (see Appendix E - [training slides on The Role and Jurisdiction of an Administrative Tribunal](#), April 2022, and [The Rule Against Bias](#), October 31, 2022)

The Discipline Committee is administratively supported by a Discipline Proceedings Coordinator. The DPC assists the Chair of the Discipline Committee and the Chair of individual panels with notices, coordinating the posting of materials by the parties, helping arrange recording services and translation, and other administrative tasks.

It is the responsibility of the Registrar to publish notices of proceedings on CPATA's website, and panel decisions with summaries on the website and with CanLii.

4. Policies and Templates

The current policies approved by the Discipline Committee are provided in Appendix F. They are produced in the following order: Pre-Hearing; Conduct of Proceedings; Post-Proceeding; and Templates:

Pre-Hearing

- i. [Policy on Assignment of Panels](#)
- ii. [Policy on Pre-Hearing Conferences](#)
- iii. [Policy on Preliminary Matters and Motions](#)
- iv. CPATA Policy on Official Languages Act Requirements (TBD)

Conduct of Proceedings

- i. [Policy on Conduct of Digital Proceedings](#)
- ii. [Policy on Oaths and Affirmations](#)
- iii. [Policy on Consent Dispositions](#)
- iv. Policy on Appeal of Investigations Committee Dismissals – to be drafted once By-laws are approved

Guides and Templates

- i. [Opening and Closing Proceedings](#)
- ii. [Written Decisions – Template](#)