

Maximum Number of Examination Attempts & Remedial Training

2024-02-23

APPLICABLE SECTIONS OF THE ACT, BY-LAWS AND REGULATIONS and/or PURPOSE	CPATA By-laws s. 57, 59, and 60		
RESPONSIBILITY	Registrar		
APPROVED BY	EFFECTIVE	REVIEWED	REVISED
Registrar	February 23, 2024		

In this policy:

- a. "College" and "CPATA" means the College of Patent Agents and Trademark Agents.
- b. "Agent in Training" means a class 3 agent in training who has attempted an examination administered by CPATA.
- c. "Committee", means the "Registration Committee".
- d. "Days" means a business day.
- e. "Licensee" means a class 3 agent in training.

Policy

CPATA's registration framework is designed to be transparent, fair, principled and proportionate¹, and the Registrar's policies are developed to promote the objects of the licensing process².

¹ *Transparent* reflects how we do our work, make decisions, and address license applications in the public interest. *Fair* means obtaining and considering information in an objective, unbiased way, and making decisions that are clear, concise and consistent. *Principled and proportionate* mean applying the right 'regulatory touch' when balancing interests.

² The objects of the licensing 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.

To establish and maintain high standards for the profession, patent and trademark agents are, among other things, required to be competent, of good character and fit to practice. Under CPATA's By-laws, the Registrar has authority to make determinations whether applicants for patent agent or trademark agent licenses meet the registration requirements established under the Act, Regulations and By-laws.

This policy specifies the number of attempts permitted for each component of the qualifying examinations, outlines the process for nullifying examination attempts, and describes when remedial training will be required.

1.1 Maximum Number of Attempts and Remediation

Agents in training who do not initially receive a passing mark on the qualifying examinations may write them only one additional time and must do so at the first sitting that takes place after they receive their examination results^{3, 4}.

Agents in training who do not receive a passing mark on the qualifying examinations within two (2) years after the day on which they complete the training program must provide the Registrar with a remedial training and education plan prepared in conjunction with their supervisor or, if they have no supervisor, in accordance with any conditions that the Registrar may impose on their licence^{5, 6}.

On completion of the remedial training and education plan, the agent in training may request to rewrite the qualifying examinations or any part of the examinations, on payment to the College of the fees⁷.

1.1.1 Knowledge Examinations:

The Knowledge Examinations will be administered once in 2024, and twice per year thereafter.

Because agents in training complete their training programs at different times throughout the year and the dates of the examinations are fixed on an annual basis, to ensure fairness, all agents in training are permitted to attempt the Knowledge Examination four (4) times⁸.

³ CPATA By-law s. 55(2). If an agent in training is unable to write the examinations as required for a reason beyond their control, the Registrar may, on request, allow them to write the examinations at the next following sitting. See the [Registrar's Policy on Requests for Delayed Examinations](#) for more information.

⁴ CPATA By-law s. 57(1)

⁵ CPATA By-law s. 59(1)

⁶ CPATA By-law s. 55(2). If an agent in training is unable to write the examinations as required for a reason beyond their control, the Registrar may, on request, allow them to write the examinations at the next following sitting. See the [Registrar's Policy on Requests for Delayed Examinations](#) for more information.

⁷ CPATA By-law s. 59(2)

⁸ CPATA By-law s. 60 allows the Registrar to waive or modify a requirement if an applicant or licensee is unable to meet any requirement for licensing or training for reasons beyond their control. The Registrar is exercising this authority out of fairness to all agents in training to allow four (4) attempts at the knowledge examination before requiring remediation.

Agents in training who do not attempt the Knowledge Examination within two (2) years after the day on which they complete their training program, will be required to provide and complete a remedial training and education plan as described above before being permitted to attempt the examination.

Agents in training who do not yet demonstrate competency on the Knowledge Examination after four (4) attempts, will be required to provide and complete a remedial training and education plan as described above before being permitted to attempt the examination again.

Agents in training who have attempted the Knowledge Examination and request a delay in writing a subsequent administration of the examination for a reason beyond their control, and without attempting it again within a period of two years, will be required to provide and complete a remedial training and education plan as described above before being permitted to attempt the examination again.

1.1.2 Skills Examinations:

The Skills Examinations will be administered once per year starting in 2024, and each year thereafter.

Agents in training are permitted to attempt the Skills Examination two (2) times.

Agents in training who do not yet demonstrate competency on the Skills Examination after two (2) attempts will be required to provide and complete a remedial training and education plan as described above before being permitted to attempt the examination again⁹.

Agents in training who have attempted the Skills Examination and request a delay in writing a subsequent administration of the examination for a reason beyond their control, without attempting it again within a period of two years, will be required to provide and complete a remedial training and education plan as described above before being permitted to attempt the examination again.

The results of the Knowledge Examination for agents in training who demonstrate competency on that examination, but who are required to complete remedial training/education as a result of not demonstrating competency on the skills examination within two (2) attempts, will remain valid.

1.1.2.1 Patent Agent Skills Examination:

The Patent Agent Skills Examination is comprised of two (2) parts with four (4) components:

- Part 1 Component A – Drafting and Strategy
- Part 1 Component B – Drafting and Strategy
- Part 2 Component A – Prosecution, Validity & Infringement

⁹ CPATA By-law s. 60 allows the Registrar to waive or modify a requirement if an applicant or licensee is unable to meet any requirement for licensing or training for reasons beyond their control. The Registrar is exercising this authority out of fairness to all agents in training to allow two (2) attempts at the skills examination before requiring remediation.

- Part 2 Component B – Validity & Infringement

Because Part 1 and Part 2 are considered and marked separately, agents in training who demonstrate competency on one Part but not the other and have reached the two (2) attempt maximum, may carry forward the Part in which they demonstrated competency while the remedial training and education plan and remaining qualifying examination requirement is completed.

1.2 Nullifying Examination Attempts

Agents in training who, due to unfairness, are not able to demonstrate competency on a part or component of the qualifying examination, may submit a written request to the Registrar that their attempt be nullified, and not counted toward their maximum number of attempts.

Grounds for the nullification must present a compelling and substantiated reason for not demonstrating competency on the examination.

The Registrar will strongly consider whether:

- the agent in training reported issues impacting their ability to write the examination by:
 - contacting CPATA prior to the exam in the case of medical or compassionate grounds;
 - notifying the proctor during the examination;
 - completing the post-examination survey; and/or
 - contacting CPATA within seven (7) days of writing the examination.
- the report is consistent with the proctor's report and/or exam administrator's investigation, if applicable.
- the agent in training requested an accommodation with acceptable supporting documentation by the examination confirmation deadline if the request is on the grounds of process irregularity related to lack of accommodation.

Agents in training can request the nullification of their examination attempt based on the following categories:

1.2.1 Compassionate consideration

Compassionate consideration may be given where the agent in training has provided evidence that unforeseen circumstances outside their control were severe enough to have reasonably impacted their exam performance.

Evidence may include a doctor's letter speaking to the impact of the circumstances on the exam performance, notice of immediate family member's death, or police report. Compassionate consideration may involve, without limitation:

- bereavement of a close relative or spouse;
- personal or family emergency;
- being victim of a crime; or

- personal crisis or other extenuating circumstances that impacted the agent in training's ability to cope with additional responsibilities.

The Registrar will consider whether there is evidence supporting that the extenuating circumstances existed at the time when the exam was written.

1.2.2 Medical reasons

Medical documentation is required to demonstrate how the illness or injury may have impacted exam performance. Medical reasons may involve, without limitation:

- sudden and unforeseeable physical or mental illness; or
- unforeseeable exacerbation of chronic medical condition.

1.2.3 Process irregularities

Agents in training may request an appeal due to process irregularities that are beyond their control and that adversely affect their ability to navigate the examination.

Process irregularities include examination process issues that are outside of the registrant's control and are the responsibility of the exam administrator and any sub-contractors of the exam administrator involved in the administration of the exam.

Process irregularities must be significant enough to affect the ability of the registrant to effectively navigate the examination and may include, but are not limited to:

- software features not working correctly*;
- software connectivity issues*;
- power failures**;
- loud construction**;
- lengthy internet outages**;
- the proctor failing to follow standard protocols; or
- the agent in training was not provided with agreed upon accommodation.

*Applicable only to issues related to the examination software that is the responsibility of the exam administrator and any sub-contractors of the exam administrator involved in the administration of the exam. It does not include software issues occurring based on user misuse of features. Unmet minimum standards for technological requirements as set out in the applicable Guide will not be grounds for appeal.

**Unmet minimum standards for environmental requirements as set out in the applicable Guide will not be grounds for appeal.

Substantiated process irregularities will be assigned a severity rating which will guide the Registrar in determining the outcome. Severity ratings will be assigned as follows:

Rating	Details of Process Irregularity	Impact on Examination Results	Possible Outcomes
-	<p>No process irregularity occurred (e.g., request based on exam content, format, exam preparation resources, or technological or environmental requirements that are the responsibility of the agent in training)</p> <p>Minor software issues originating from the agent in training's personal computer configuration (e.g., applications that conflict with the exam software that cannot be disabled)</p> <p>User errors (e.g., registrant navigation errors)</p>	None	Request denied
Level 1	A process irregularity occurred, but not severe enough to affect the examination outcomes (e.g., request based on queuing delays; delays caused by agent in training having not previously undertaken Internet speed checks or required downloads or not having administrator rights; failing to plug in devices as required resulting in power loss or functionality loss; or slow exam loading)	Low	Request denied
Level 2	More than one Level 1 process irregularity occurred or one Level 2, that affected the total examination experience (e.g., request based on two occurrences of software or hardware failure unrelated to Internet, software or hardware failure in which there was no successful solution to the software or hardware malfunction)	Moderate	Request considered
Level 3	More than one Level 2 process irregularity occurred or one Level 3, that significantly affected the examination outcome (e.g., request based on two major occurrences of software failure unrelated to Internet connectivity or software failure that could not be resolved)	High	Request granted

Procedures

1. The agent in training will submit a request to nullify an examination attempt based on the grounds described above.
 - a. If the circumstances arise prior to attempting the examination, the agent in training will notify the Director of Registration at registration-inscription@cpata-cabamc.ca.
 - i. The Director of Registration will review the information, take steps to withdraw the agent in training from the examination, and submit the information to the Registrar for consideration.
 - b. If the circumstances arise during the examination, the agent in training will notify the proctor, who will document the situation in the proctor's report, which will be provided to the Director of Registration after the examination administration.
2. The Registrar will review the request, along with any supporting documentation, and will make a decision to approve or deny the request within 7 days from receipt of the request.
3. If the Registrar approves the request, the examination attempt will be nullified and will not count toward the maximum number of examinations, as described above. The agent in training will be notified of the decision in writing.
4. If the Registrar denies the request, the agent in training will be notified of the decision, in writing, with reasons, and with information about requesting a review of the decision by the Registration Committee.

References

[CPATA College By-laws](#)

[CPATA Act](#)

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