

GS-13/14 PAP – FREQUENTLY ASKED QUESTIONS

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15. Does the new PAP allow examining attorneys to take vacations, even lengthy ones (three or more consecutive weeks)?
16. Do deficiencies found by the Office of Trademark Quality Review (OTQR) automatically count as errors against me under the new PAP?
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18. What happens when I am promoted to a higher GS level?
19. How will the new PAP change how we record time on our timesheets?
20. For cases received on or before May 14, what is the due date?
21. Does the new PAP represent an increase in production?

1. What specific work behaviors can I adopt to maximize my ability to succeed under the new PAP?

- A. Familiarize yourself with the OTQR standards for excellence in Office Actions and write your actions to match them. This will minimize any errors, and any excellent findings on statutory issues in your actions will offset any possible statutory errors that may be found. Examples of excellent and deficient actions will be distributed to you shortly.
- B. Identify all issues that can be raised in your first office action and support everything with sufficient evidence to enable you to go final on your second action.
- C. Be careful when approving something for publication. Double-check the data in TRAM to make sure that it is correct and accurately matches the data in TICRS. This will help you avoid OG bounce errors.
- D. Use the phone to make examiner's amendments at any and all stages of prosecution. Instead of doing a final action when an applicant misses the identification of goods you suggested by a few words, call them and work it out. Under the new PAP, you get credit on your phone action usage for examiner's amendments at *any stage* and you need to have this usage be at least at 15% to receive a Fully Successful for this portion of the E-government, Customer Service and Organizational Effectiveness element of your rating.
- E. Try to produce work as consistently as possible. The new PAP strongly encourages even workflow and avoiding significant ebbs and flows of work will help you and the Office.
- F. Clean out your amended and suspended dockets as much as possible prior to May 15, 2005 so that you can start with a clean slate under the new PAP.

2. Can I really earn a bonus of up to \$5,000.00 to be paid in July?

Yes. If you are credited with sufficient BDs (as per the new Article 31 of the contract) in the period between 4/1/05 and 6/30/05 and you are either: a) rated outstanding or commendable in the Production element and at least a fully successful rating in all other elements of the 'old' PAP on 5/14/05; or b) you receive at least a fully successful rating in all elements of the 'old' PAP on 5/14/05, and perform at the outstanding or commendable level in the Pendency element under the new PAP for the period of 4/1/05 through 6/30/05.

The following chart shows the credits per paid class you will receive for the ‘old’ PAP and the new Bonus during the period from 4/1/05 through 5/14/05.

4/1/05 - 5/14/05 Action	Credit	
	Rating	Bonus
Initial Exam		
1st action	1.0	1.0
Final Action	1.0	0.0
Approval for pub or allowance on Supp.	1.0*	1.0
Abandonment	1.0*	1.0
Statement of Use exam		
1st action	0.5	0.0
Final Action	1.0	0.0
Approval for pub or allowance on Supp.	0.5*	0.0
Abandonment	0.0	0.0
* except if after Final		

3. When exactly does the new PAP take effect?

At 10 p.m. on Saturday, May 14, 2005, TRAM will be switched over to end the biweek running from May 1, 2005 through May 14, 2005 for **all** trademark employees. **PLEASE NOTE** that the cutoff for that biweek is 10 p.m. on Saturday, May 14, 2005 and **not** Noon on Monday, May 16, 2005.

For GS-13 and GS-14 examining attorneys, all points trammed prior to that time will count towards the ‘old’ PAP, for which they will be rated. Anything trammed after 10 that night that is eligible to be credited as a BD will be counted towards the new PAP and the rating under it.

For GS-11 and GS-12 examining attorneys, all points trammed prior to that time will count towards the biweek that ends on May 14. Anything trammed after 10 that night will be counted towards the following biweek, which starts on May 15 and ends on May 28.

4. What counts as a Balanced Disposal (BD) towards my production rating under the new PAP?

A Balanced Disposal (BD) is counted for each paid class in an application for all 1st actions, approvals for publication and abandonments done on initial examination. Initial examination is any action taken *before* publication. These specifically include:

- First actions; and
- Approvals for publication (even after Final); and
- Abandonments (even after Final); and
- Allowances on the Supplemental Register (even after Final).

Note that you still receive a BD credit for pubs and abandonments done after Finals even in the circumstances where you already received credit for the Final previously under the 'old' PAP.

You do not get credit towards your production goals for any actions taken at the Statement of Use stage, nor do you get credit for any Finals at any stage.

5. What are my production goals for the period from 5/15/05 through 9/30/05?

Overall BD goals for this period are as follows:

	<u>GS-13</u>	<u>GS-14</u>
OUTSTANDING	810 or more BDs	862 or more BDs
COMMENDABLE	772 – 809	825 – 861
FULLY SUCCESSFUL	660 – 771	712 – 824
MARGINAL	622 – 659	675 – 711
UNACCEPTABLE	Fewer than 622	Fewer than 674

First action (FAs) class goals for this period are as follows:

<u>GS-13</u>	<u>GS-14</u>
311 or more FAs	337 or more FAs

Part-time attorneys' goals for this period (and in the future) will be prorated as follows: $\text{New goal} = \text{PAP goal} \times (\text{Weekly hours on part-time schedule} / 40)$

Any hours worked in addition to a part-time attorney's normal schedule would be treated in the same fashion as overtime hours.

6. At what rate will my quarterly BD and FA goals be increased for each hour of overtime or maternity/paternity comp time that I work?

The following chart shows the approximate BD and FA per hour adjustments, based on the GS level and level of performance. It is the same as the level of decrease for any adjustment. Your level of production at the time you work the OT or maternity/paternity comp time is irrelevant – these increases simply reflect your new goals at each rating level so that at the end of the quarter, you have to achieve a higher level at each rating to qualify for that rating. These differ by level to keep each level proportional so that they are as fair as possible across all levels. As an example, if you work 10 hours of OT, each level of production, from Marginal up to Outstanding is revised upwards by the hourly multiplier listed below multiplied by 10. A GS-13 attorney would thus have to achieve 11.4 more BDs to achieve the Fully Successful level and 14 more BDs to achieve the Outstanding level.

Adjustment rates for BDs:

	<u>GS-13</u>	<u>GS-14</u>
Outstanding	1.40	1.49
Commendable	1.34	1.43
Fully Successful	1.14	1.23
Marginal	1.08	1.17

Adjustment rates for FAs:

<u>GS-13</u>	<u>GS-14</u>
0.54	0.58

7. When am I eligible for adjustments to my quarterly and/or yearly goals?

Your managing attorney *will normally* provide adjustments for the following types of activities:

- Extended absence (including intermittent absences) from the Office where sick leave or FMLA-related leave is used, or there is otherwise an absence due to maternity/paternity, illness, injury, or disability
- Maternity and/or paternity compensatory time
- Approved leave without pay
- For those earning 8 hours of annual leave per biweek, annual leave used in excess of 160 hours over the course of a year, although the adjustment is limited to a maximum of 48 hours for the year
- For the first 90 days following implementation (that is, from 5/15/05 through 8/15/05), supervisors will provide adjustments for all attorney advisors for *all annual leave used in excess of 40 hours*
- Union time
- Mentoring
- Details and work projects
- Military leave
- Jury duty

In extraordinary circumstances, with the approval of the group director, your managing attorney may provide additional adjustments.

Adjustments are generally not appropriate for time that is within the ordinary scope of the examination process or otherwise job-related, *because they have been accounted for in your goals*. Adjustments are generally *not appropriate* for the following:

- Annual leave (except as indicated above)
- Sick leave (except as indicated above)
- Regular compensatory time, religious compensatory time, and credit hour leave
- Holiday leave
- Administrative leave due to government closures
- Administrative leave due to blood donation
- System downtime
- Time for correcting examination, data entry or workflow errors of others
- Time for examining difficult or complex applications
- Time for meeting with applicants and applicants' attorneys
- Time for writing appeal briefs
- Time for oral arguments
- Workflow processing time (such as "TRAM", "TICRS", and "TLTIA" time)
- Meeting time, including conferences with management
- Training, including legal lectures, electronic training modules, and conferences
- Time for preparing financial disclosure forms
- Time for participation in Office-wide events, such as PTO Community Day and the Combined Federal Campaign

8. Why are there adjustments for maternity and paternity compensatory time but not for regular or religious compensatory time?

Maternity/Paternity comp time is meant to help those in need of leave for the birth and/or care of an infant and up to 320 hours can be earned, saved, and then used at the appropriate time.

Since you may earn and save a much more limited number of regular comp time hours at any one time and doing so is entirely within your control, you can plan the use of it better and the Office did not see a need to make adjustments. Religious comp is also earned and used in small amounts.

For maternity/paternity comp time, remember that production goals will be increased when the time is worked and decreased when the time is taken. For religious or regular comp time, no adjustments will be made so production goals will not increase when it is worked nor decrease when it is used.

9. At what rate will my quarterly BD and FA goals be decreased for any adjustment that I receive?

The following chart shows the approximate BD and FA per hour adjustments, based on the GS level and level of performance. It is the same as the level of increase for overtime or maternity/paternity comp time. Your level of production at the time you receive any adjustment is irrelevant – these decreases simply reflect your new goals at each rating level so that at the end of the quarter, you have to achieve a lower level at each rating to qualify for that rating. These differ by level to keep each level proportional so that they are as fair as possible across all levels. As an example, if you took 10 hours of maternity comp, each level of production, from Marginal up to Outstanding, is revised downwards by the hourly multiplier listed below multiplied by 10. A GS-13 attorney would thus have to achieve 11.4 less BDs to achieve the Fully Successful level and 14 less BDs to achieve the Outstanding level.

Adjustment rates for BDs:

	GS-13	GS-14
Outstanding	1.40	1.49
Commendable	1.34	1.43
Fully Successful	1.14	1.23
Marginal	1.08	1.17

Adjustment rates for FAs:

GS-13	GS-14
0.54	0.58

10. Why don't I get credit for Finals or Statements of Use under the new PAP if they are still an important part of my job?

The new PAP changes the way we count credits for rating purposes. It is merely another way of measuring productivity that is more in alignment with our Congressional goals. Agency measurements are reported in terms of First Actions and Disposals. Nevertheless, issuing appropriate Finals and examining Statements of Use are both still very important parts of your job. They simply are not elements that will be measured towards the Production element of your rating. Even under the present 'old' PAP, you did not receive a point for every important action taken in a file including TTAB Appeal Briefs or, after you have already issued a Final, for approving cases for publication, for approving cases for registration on the Supplemental Register or for abandoning cases, and yet those all are important and all still must be completed. The same thing applies for Finals and Statements of Use under the new PAP.

Additionally, while you do not receive a BD count towards the Production element of your rating for Finals and Statements of Use, they will be reviewed under the Quality element of the new PAP. Specifically, your managing attorney and/or senior attorney will be reviewing six randomly selected applications per quarter for the quality of your writing. These may include Finals and actions taken on Statements of Use. The Office of Trademark Quality Review and Training (OTQR) will also be reviewing the quality of such actions, which your manager may then also review in determining your quality rating. Remember, a finding of excellence on a statutory issue in a Final or any other action may be used to offset any statutory error that you might make on another application.

11. How exactly will my end of year rating be calculated?

You will be rated under the 'old' PAP for the period from 10/1/04 through 5/14/05, which represents 62.5% of the year. You will thus receive a final rating under the 'old' PAP by June 13, 2005 and you should do everything in your power to ensure that your performance is where you want it to be as of May 14 so that you receive the rating that you wish to receive as a result. You will be rated under the new PAP from the period from 5/15/05 through 9/30/05, which represents 37.5% of the year. These two ratings will be combined to figure out your FY'05 rating, with the 'old' PAP being weighted at nearly 2/3 of the rating total for the year and the new PAP at a little more than 1/3 of the rating total for the year.

As an example, if you were to receive 480 points out of the possible 500 available under the 'old' PAP on 5/14/05, you would receive credit for 62.5% of those points at the end of the year, or 300 points. If you were to receive 400 points out of the possible 500 available under the new PAP, you would receive credit for 37.5% of those points at the end of the year, or 150 points. Your rating for the year would thus be 450 points – 300 from the old plus 150 from the new.

12. How were the quarterly production goals devised?

The model used to create the production goals for the new PAP presumes that each quarter contains 520 work hours and that you will be producing work for 74% of those hours, for a total of 385 hours. As you can see from the chart below, the typical examining attorney actually examines for nearly 78% of the time in a quarter and the model is quite generous in regards to computer downtime, training time, meeting time, time for briefs and oral arguments and miscellaneous administration time. Points generated for Statements of Use were then factored out, since credit will not be given for them any longer.

EXAMINING TIME PRESUMPTIONS
Hours already factored into the production standard

	Actual - FY03		Model	
	Fiscal Year	Quarter	Fiscal Year	Quarter
Total	2080	520	2080	520
Holidays	80	20	80	20
Annual Leave	165	41.25	160	40
Sick Leave	88	22	88	22
Misc. Admin. Leave	37	9.25	36	9
Computer Downtime	11	2.75	40	10
Training Time	19	4.75	48	12
Meeting Time	10	2.5	16	4
Briefs and Oral Arguments	21	5.25	32	8
Misc. Admin. Time	35	8.75	40	10
Examining Time	1614	403.5	1540	385

13. Since the model only presumes that someone will earn and take 160 hours of annual leave, which is what those in the 6 hours per biweek category earn, what happens to those of us in the 8 hour per biweek category? Do we get adjustments to our production goal to make us whole for the difference?

Yes. For those in the 8 hour leave category, you will be entitled to adjustments to your production goals for the total 208 hours of annual leave that you accrue in a year. You will thus receive adjustments for an additional 48 hours of annual leave, the adjustment being given as 12 hours per quarter.

14. Does the new PAP allow examining attorneys faced with personal issues (childbirth, illness, etc.) to be rated fairly?

Absolutely. Adjustments will be made for sick leave or FMLA-related leave used for extended absences; for maternity/paternity comp time; for approved Leave Without Pay (LWOP); and for those in the 8 hour leave category, up to 48 hours of annual leave accrued and used over the model's 160 hours.

Additionally, up to 50 BDs (approximately 1 weeks' worth) may be borrowed from the 2nd quarter of the year into the 1st quarter or earned in the 1st, 2nd or 3rd quarters of the year and used in the subsequent quarter. This will enable you to account for a week's production over and above any adjustments to which you may be otherwise entitled. No BDs may be transferred from one Fiscal Year to another however.

Also, if you are out on approved leave from the Office such that it reduces the hours available to work in any given Quarter below 100, your goals will be based on the number of actual examining hours multiplied by the adjustment rates for each level of performance. (See question #9.) In appropriate circumstances, if an attorney advisor has too few examining hours in a quarter, no rating will be given for that quarter. The hours and BDs earned may be shifted to the next or previous quarter, as appropriate.

Lastly, your managing attorney always has the right to assign an overall rating that accurately reflects your work, regardless of the actual rating produced under the PAP.

15. Does the new PAP allow examining attorneys to take vacations, even lengthy ones (three or more consecutive weeks)?

Yes. While it will require advance planning on your part, especially in regard to your giving careful consideration to the handling of cases that will become due during the time you are away from the office, it is possible to take an extended vacation under the new PAP and still achieve a desirable rating at the end of the year.

First, your rating in the Production element of the new PAP will be quarterly. These quarters are averaged together so that you may have a weaker quarter (e.g. a Fully Successful) and 3 strong quarters and still be rated Outstanding in this element for the year.

Additionally, up to 50 BDs (approximately 1 weeks' worth) may be borrowed from the 2nd quarter of the year into the 1st quarter or earned in the 1st, 2nd or 3rd quarters of the year and used in the subsequent quarter. This will enable you account for a week's production.

These two items, coupled with some careful planning in advance on your part, will enable you to take a lengthy vacation should you wish to do so.

PLEASE NOTE – BD shifting will not be possible until next year. You *cannot* request that any BDs be shifted until the biweek that begins on January 1, 2006. Also note that BD shifts affect your rating, but the additional number of BDs will not count for bonus purposes.

16. Do deficiencies found by the Office of Trademark Quality Review (OTQR) automatically count as errors against me under the new PAP?

No. Your managing attorney is your rating official and makes the final determination as to whether a deficiency found by OTQR is an error under the new PAP.

17. Errors from all sources now count against me. What's to stop a fellow examining attorney from specifically targeting me?

Any errors that you may have committed that are first brought to the attention of your managing attorney or senior attorney by yourself or another examining attorney **do not** count as errors under the new PAP.

18. What happens when I am promoted to a higher GS level?

At the time you are promoted from a GS-12 to a GS-13, you will be given a rating under the 'old' PAP for your work as a GS-12. While you will receive the pay increase upon the effective date of your promotion and should begin working towards the quarterly goal in the GS-13/14 PAP at the same time, you will not be rated under the GS-13/14 PAP until the beginning of the next quarter following your promotion. The two ratings will be combined to produce your overall yearly rating.

When you are promoted from a GS-13 to a GS-14, you will receive the pay increase upon the effective date of your promotion and should begin working towards the increased quarterly goal at the same time. You will not be rated under the increased quarterly goal until the beginning of the next quarter following your promotion. Thus, if you are promoted within a quarter, your pay will go up but your required production will not do so until the start of the next quarter.

19. How will the new PAP change how we record time on our timesheets?

Time keeping will be very similar to what it is now. As you do now, you must seek approval from your managing attorney for any time that does not reflect examination – e.g. leave, training time, system downtime, etc. Once you have received approval, this time will be tracked on your timesheets accordingly. The recordation of such approved time will not generally result in any adjustments to your quarterly or yearly goals but is necessary for the Office’s record keeping. A new timesheet that properly reflects the codes that the Office needs to properly track and categorize your time will be distributed in advance of the PAP and will be mandatory for GS-13 and 14 examining attorneys. It is critical that all time be accurately reflected on your timesheet.

20. For cases received on or before May 14, what is the due date?

Any cases that you receive on or before May 14, 2005 that need to be worked upon are due the date that they would be due under the ‘old’ PAP – e.g. a new case that you received via FAST on May 14, 2005 would be due 14 days later, on May 28, 2005. Any cases that you receive on or after May 15, 2005 that need to be worked upon are due the date that they would be due under the new PAP – e.g. a new case that you received via FAST on May 15, 2005 would be due 7 days later on May 22, 2005.

21. Does the new PAP represent an increase in production?

Yes, a typical examining attorney working 1540 hours in a year will have to produce about 5% more work under the new PAP than they do under the ‘old’ PAP. However, an examining attorney who works more than 1540 hours in a year will have less of an increase. Some examining attorneys with a high number of examination hours will find that they already comfortably exceed the BD requirements under the new PAP.