

Written Submission Guide

WHAT IS A WRITTEN SUBMISSION?

A written submission is your opportunity to tell us in writing why, if you are the appellant, you should win your appeal and what benefits you think you should receive. If you are the respondent, it is your opportunity to tell us in writing why the appellant should not win their appeal. As a respondent, you may also support the appellant's position.

With your written submission, you have the opportunity to provide new information or evidence to the vice chair, whose responsibility is to make a fair decision on your appeal. The method of appeal by written submissions is often suitable for appeals that deal with medical, legal, or policy issues.

Since the appeal to WCAT is your last appeal opportunity, it is a good idea to prepare yourself as fully as you can. This guide shows you how to do so.

Note: We cannot decide any issue or question that was not contained in the WorkSafeBC or Review Division decision. If you want a decision on something new, you must ask WorkSafeBC for it.

WHAT IS THE PURPOSE OF A WRITTEN SUBMISSION?

The purpose of your written submission is to persuade WCAT to see the evidence in a way that favours your position on the appeal. This is called your argument. When making your argument in your written submission, refer to your evidence. You can make your submission in point form if you wish. Try to make your points as clearly as you can. After we decide the appeal, you cannot ask us to consider

evidence or points of view that you forgot to mention in your written submission.

HOW LONG DO I HAVE TO PREPARE MY WRITTEN SUBMISSION?

After WorkSafeBC sends you disclosure of the file, we will first ask the appellant for their written evidence and submission, which we must receive within **21 days**. If your first language is not English, please have your written evidence and submission translated before sending them in to us because we do not translate documents.

If you need more time, you can ask us for up to **45 more days**. If you want to ask for more time, please write us to explain why. If we give the appellant more time, the respondent can have the same.

We will send a copy of the appellant's evidence and submission to any participating respondent and give them 21 days to respond. If they do, we will send their information to the appellant. You then have **14 days** to reply to their comments.

WHAT IF I HAVE NOTHING MORE TO SUBMIT?

If you are the appellant, you do not need to send anything further to us after the *Notice of Appeal*. In that case, you may be able to get your decision faster if you call us to tell us that you will not be sending anything further. If we do not receive any further evidence and submission from you by the 21-day deadline, we will not usually accept anything further from you. We will consider your *Notice of Appeal* to be your entire submission.

If the respondent sends in more evidence and submission, WCAT will send them to the appellant for reply.

WHAT IF MY WRITTEN EVIDENCE OR SUBMISSION IS LATE?

We will not generally accept late written evidence or submissions unless you ask us for more time before sending it in and we agree.

HOW THE VICE CHAIR WILL ASSIST YOU ON THE APPEAL

The vice chair will read the WorkSafeBC file and will know about the WorkSafeBC policies that apply to the case, other WCAT decisions that involve similar issues, and WCAT rules, practices and procedures. If you want to prepare a written submission, here are some other things you can do.

WHAT WE RECOMMEND YOU DO TO PREPARE YOUR WRITTEN SUBMISSION

Read the file

You should first read all of the material in the WorkSafeBC file. You will then know what evidence and policies WorkSafeBC or the Review Division relied on to make the decision appealed. You can then decide what new evidence you might want to provide us together with your written submission that you did not give at an earlier stage.

You do not need to send us any of the material from the WorkSafeBC file because we already have a copy.

Gather your evidence

We do not translate documents. If the evidence you gather is not in English, please have it translated before sending it in to us along with a signed translator's declaration. You cannot use a friend or relative as a translator. If you have to pay for the translation,

you can ask us to order WorkSafeBC to repay you. For further information on appeal expenses, see *What appeal expenses will WCAT order WorkSafeBC to pay?* on page 7 of this Guide.

Your evidence may include witness statements, medical reports, financial records, or expert opinions. It might also include photographs, videotapes, and digital recordings. If you include photographs, write on the back of them what they show.

Include all evidence that may assist the vice chair in making a decision and send it in together with your written submission by the deadline.

For further information on obtaining medical evidence, see WCAT's *Medical Evidence Guide* on our website. You may also call us and ask us to send it to you.

What makes a good written submission?

If you are the appellant, begin by briefly identifying the decision that is under appeal and the precise issues or questions you want us to consider. Clearly state what you want from the appeal (such as a certain amount of compensation) and why we should decide in your favour.

A good submission points out the important evidence in the appeal. To decide if a piece of evidence is important, ask yourself if it helps you prove a particular fact.

Organize your written submission by date so we do not overlook anything. Tell us where to find each piece of evidence. For example, is it in the WorkSafeBC file or in the new evidence you are providing with your submission? Explain how you think each piece of evidence supports your position on the appeal. For

example, if you have obtained a new statement from a witness that supports your appeal, tell us which one it is and how it supports your position.

A good submission identifies the evidence both for and against your position. It shows that you understand the strengths and weaknesses of your case. Explain why the evidence that supports your position is better than the evidence that does not. For example, the evidence of someone who saw something happen is better than the evidence of someone who only heard about it from someone else.

Many appeals are decided on the basis of the evidence alone. Sometimes, the law and the policy become particularly important. In that case, WorkSafeBC or the Review Division will usually have identified the legal or policy issues in their decision. In your submission, refer to the WorkSafeBC policies that apply to the appeal and explain how they apply.

Although you will naturally feel strongly about the circumstances of your appeal, it is a good idea to avoid strongly emotional language, such as sarcasm about another person's point of view. A plain tone is most effective.

Some practical “don'ts”:

- Don't refer to other people's names or claim numbers in your written submission. This is a violation of their privacy.
- Don't use a highlighter pen to emphasize a point in your written submission because it will not show up on WorkSafeBC's electronic file. Instead, underline the point you want to emphasize.
- Don't send us any of the material from the WorkSafeBC file. We already have a copy.

Read our noteworthy decisions on similar appeals

You can learn how to make the best case for your position by looking at WCAT decisions involving issues like yours. You will find these decisions on our website under the **Preparing an Appeal** tab. You can then refer to the policies that apply to and perhaps support your position on the appeal.

Read WorkSafeBC policies

You can find what WorkSafeBC policies apply to the appeal by reading WorkSafeBC's *Rehabilitation Services and Claims Manual* (for compensation appeals). This manual is available under the **Regulation and Policy** tab at www.worksafefbc.com.

You can also use WorkSafeBC's practice directives to help you make your case. Look under the **Regulation and Policy** tab at www.worksafefbc.com.

CAN WCAT OBTAIN MORE EVIDENCE?

We have the right to collect information such as employment, income, and medical records. We may also request WorkSafeBC to investigate matters, including doing ergonomic and employability assessments.

We may request information or an opinion from a worker's own doctor. We may also request independent medical advice or assistance from a doctor or other health professional who is not employed by WorkSafeBC. The doctor or other health professional may ask a worker to attend for an examination.

If the vice chair obtains any additional evidence, we will send the appellant and the participating respondent a copy for comment.

Although we have the right to seek out additional information, please do not assume that the vice chair will investigate further.

WHAT APPEAL EXPENSES WILL WCAT ORDER WORKSAFEBC TO PAY?

We may order WorkSafeBC to repay you for expenses related to an appeal, such as expenses for obtaining a letter or report from a doctor, or for new written evidence, or for getting a document translated into English.

If you have such expenses, send copies of the bills along with your written submission.

Even if you are not successful in the appeal, we will generally order WorkSafeBC to repay you for your expenses for obtaining written evidence (such as a medical report) if the evidence was useful or helpful in deciding the appeal, or it was reasonable for you to have obtained the evidence for the appeal. We put limits on the amount of reimbursement which you will find on our website under the **MRPP** tab in the *Manual of Rules of Practice and Procedure*. If your bill is higher, and you want to be repaid for all your expenses, please explain the reason why you think we should order payment of the full amount.

If the vice chair orders WorkSafeBC to pay you for your appeal expenses, please send all your bills and receipts to WorkSafeBC.

We do not order WorkSafeBC to pay for your photocopying expenses, your representative's fees, or an employer's lost wages.

HOW DOES WCAT MAKE ITS DECISION?

The vice chair who hears the appeal will consider the evidence on the WorkSafeBC file and the evidence and submissions the appellant and any respondent provide.

The vice chair must apply the policies of WorkSafeBC's board of directors relevant to the appeal. If the evidence is evenly balanced on a compensation issue, the vice chair must decide the issue in favour of the worker. On other issues, the vice chair will make their decision on a balance of probabilities.

The vice chair will write a decision with reasons which we will mail to the appellant and the respondent. We also send a copy of the written decision to WorkSafeBC, who will then implement our decision.

WHERE CAN I FIND MORE INFORMATION?

You will find more information about us on our website (www.wcat.bc.ca). This includes the *WCAT Manual of Rules of Practice and Procedure* which you will find under the **MRPP** tab. You will find previous WCAT decisions under the **Search Our Decisions** tab. You can then refer to the policies that apply to and perhaps support your position on the appeal. You will also find more information about the basic principles of evidence under the **Preparing for an Appeal** tab.

For further information about a WorkSafeBC claim or a review at the Review Division, please contact:

WorkSafeBC: 1 888 967-5377

Review Division: 1 888 922-8804

WHERE CAN I GET MORE HELP?

You can get free help from a workers' or employers' adviser at one of these locations:

WORKERS' ADVISERS

Website: www.labour.gov.bc.ca/wab

VANCOUVER/LOWER MAINLAND REGION

Abbotsford

204 - 32555 Simon Avenue
Abbotsford, BC V2T 4Y2
Telephone: 604 870-5488
Fax: 604 870-5494
Toll Free within BC:
1 888 295-7781

Richmond

500 - 8100 Granville Avenue
Richmond, BC V6Y 3T6
Telephone: 604 713-0360
Fax: 604 713-0311
Toll Free within BC:
1 800 663-4261

VANCOUVER ISLAND REGION

Campbell River

205 - 1040 Shoppers Row
Campbell River, BC V9W 2C6
Telephone: 250 830-6526
Fax: 250 830-6528
Toll Free within BC:
1 888 643-0013

Nanaimo

504 - 495 Dunsmuir Street
Nanaimo, BC V9R 6B9
Telephone: 250 741-5504
Fax: 250 741-5516
Toll Free within BC:
1 800 668-2117

Victoria

403 - 3960 Quadra Street
Victoria, BC V8X 4A3
Telephone: 250 952-4393
Fax: 250 952-4399
Toll Free within BC:
1 800 661-4066

INTERIOR REGION

Kamloops

102 - 70 Second Avenue
Kamloops, BC V2C 6W2
Telephone: 250 371-3860
Fax: 250 371-3820
Toll Free within BC:
1 800 663-6695

Kelowna

101 - 1726 Dolphin Avenue
Kelowna, BC V1Y 9R9
Telephone: 250 717-2096
Fax: 250 717-2010
Toll Free within BC:
1 866 881-1188

Nelson

310 Ward Street
Second Floor
Nelson, BC V1L 5S4
Telephone: 250 354-6933
Fax: 250 354-6944
Toll Free within BC:
1 866 354-6933

Prince George

208 - 1577 7th Avenue
Prince George, BC V2L 3P5
Telephone: 250 565-4280
Fax: 250 565-4283
Toll Free within BC:
1 800 263-6066

EMPLOYERS' ADVISERS

Website: www.labour.gov.bc.ca/eao

VANCOUVER/LOWER MAINLAND REGION

Abbotsford

207 - 32555 Simon Avenue
Abbotsford, BC V2T 4Y2
Telephone: 604 870-5492
Fax: 604 870-5498
*Toll Free within BC and
Alberta:* 1 866 870-5492

Richmond

620 - 8100 Granville Avenue
Richmond, BC V6Y 3T6
Telephone: 604 713-0303
Fax: 604 713-0345
*Toll Free within BC and
Alberta:* 1 800 925-2233

VANCOUVER ISLAND REGION

Nanaimo

404 - 495 Dunsmuir Street
Nanaimo, BC V9R 6B9
Telephone: 250 741-5500
Fax: 250 741-5508
*Toll Free within BC and
Alberta:* 1 866 827-2277

Victoria

400 - 3960 Quadra Street
Quadra Centre
Victoria, BC V8X 4A8
Telephone: 250 952-4821
Fax: 250 952-4822
*Toll Free within BC and
Alberta:* 1 800 663-8783

INTERIOR REGION

Kamloops

101 - 70 Second Avenue
Kamloops, BC V2C 6W2
Telephone: 250 828-4397
Fax: 250 828-4563
*Toll Free within BC and
Alberta:* 1 866 301-6688

Kelowna

102 - 1726 Dolphin Avenue
Kelowna, BC V1Y 9R9
Telephone: 250 717-2050
Fax: 250 717-2051
*Toll Free within BC and
Alberta:* 1 866 855-7575

Nelson

503 - 310 Ward Street
Nelson, BC V1L 5S4
Telephone: 250 354-6139
Fax: 250 354-6138
*Toll Free within BC and
Alberta:* 1 877 877-5524

Prince George

206 - 1577 7th Avenue
Prince George, BC V2L 3P5
Telephone: 250 565-4285
Fax: 250 565-4288
*Toll Free within BC and
Alberta:* 1 888 608-8882

WCAT INFORMATION GUIDES

*Appealing a Review Division Decision -
Worker's Guide**

*Appealing a Review Division Decision -
Employer's Guide**

*Respondent's Guide**

*Oral Hearing Guide**

*Written Submission Guide**

*Medical Evidence Guide**

*Post Decision Guide**

Judicial Review Guide

Legal Action Guide

(Section 257 Certificate)

Direct Appeal Guide for Workers

Direct Appeal Guide for Employers

* These Guides are also available on our website in Punjabi, Chinese (Traditional) and Chinese (Simplified)

WCAT CONTACT INFORMATION

Website: www.wcat.bc.ca

Telephone: 604 664-7800

Fax: 604 664-7898

Toll Free within BC: 1 800 663-2782

Mailing Address:

Workers' Compensation Appeal Tribunal

150 - 4600 Jacombs Road

Richmond, BC V6V 3B1