



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. Refer to your evidence when making your written submission. You can make your submission in point form if you wish. Try to make your points as clearly as you can. You must provide all your submissions and evidence prior to the appeal being decided.

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 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 submissions, 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 and we agree.

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HOW THE VICE CHAIR WILL PREPARE FOR 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 as soon as you are notified that it is available online. 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.

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 8 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.

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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.

You can also use WorkSafeBC's non-binding practice directives to help you make your case. Look under the **Regulation and Policy** tab at www.worksafebc.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 order the production of existing documents relevant to the appeal if a person is not willing or able to produce them and there is no other way to test the evidence. For further information on orders, see item #11.7 in the *Manual of Rules of Practice and Procedure* on our website under the **MRPP** tab.

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*, and under the **Appeal Expenses** tab. 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.

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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 weighted 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 WorkSafeBC or 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:

Workers' Advisers Office

Website: www.labour.gov.bc.ca/wao
Toll-free phone number: 1 800 663-4261

Employers' Advisers Office

Website: www.labour.gov.bc.ca/eao
Toll-free phone number: 1 800 925-2233

WCAT INFORMATION GUIDES

(available on our website – if you do not have access to the internet, call us and we will send you a copy)

- *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

Mailing Address:

Workers' Compensation Appeal Tribunal
150 - 4600 Jacombs Road
Richmond, BC V6V 3B1

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Email: appeals@wcat.bc.ca
Fax: 604 664-7898
Toll Free within BC: 1 800 663-2782

Website: www.wcat.bc.ca

If you have a smart phone, scan this code to access our website.

