



YUKON WORKERS'
COMPENSATION
HEALTH AND
SAFETY BOARD

SUBJECT: _____

POLICY NO: GC-05

BOARD APPROVAL: _____

APPROVAL DATE: _____

BOARD ORDER NO.: _____

EFFECTIVE DATE: _____

[Handwritten signature]
29 April 99

1 June 99

*Revoked
October 20, 1999*

POLICY STATEMENT

SECTION **17, 18, 44, 68, 97**
REFERENCE: **1992 Workers' Compensation Act**

14, 15, 16, 29, 30, 31, 47.1
Occupational Health and Safety Act

POLICY: **REVIEWS AND APPEALS**

GENERAL INFORMATION

The *Workers' Compensation Act* gives a worker, a dependent of a deceased worker, and a worker's employer the right to request a review of a decision made concerning a claim for compensation. The review is conducted by senior staff of the board, appointed by the President to sit on the Internal Review Committee. The parties have the right to appeal the Internal Review Committee's decision to an Appeal Panel composed of members of the Board.

The *Workers' Compensation Act* gives employers the right to appeal board decisions relating to assessments to an Appeal Panel composed of members of the Board.

Under the *Occupational Health and Safety Act*, workers, employers, and trade unions representing workers may appeal decisions, orders and refusals to give orders relating to Occupational Health and Safety matters. An alleged offender who is served an administrative penalty may appeal it to an Appeal Panel.

The appeal process ensures that decisions made by the board are fair, just and consistent with the legislation and policies under which they were made.

[Handwritten signature]

POLICY

A. PRINCIPLES OF THE REVIEW AND APPEAL PROCESS

- (a) The Workers' Compensation Health and Safety Board is bound by the *Workers' Compensation Act*, the *Occupational Health and Safety Act* and Board policy.
- (b) Proceedings shall be conducted in accordance with the applicable Rules of Procedure (Appendices A and B).
- (c) The board shall endeavour to keep proceedings open and accessible to all parties.

B. CHANGING A DECISION BEFORE A HEARING

Nothing in this section removes the right of a party to request an internal review or to appeal a decision.

- (a) At the request of a party or upon receipt of a notice of review or appeal,
 - (i) the Supervisor may review and recommend changes to a **claims decision**;
 - (ii) the Supervisor may review and recommend changes or vary an **assessment decision**.
- (b) At the request of a party, upon the recommendation of the Supervisor, or upon receipt of a notice of review or appeal of their decision, Adjudicators and Financial Services Managers may review and vary their decisions.
- (c) When an Adjudicator or a Financial Services Manager changes a decision, they shall immediately inform their Supervisor and all parties of the changes to the decision.
- (d) The Supervisor shall inform the party of any changes they make or authorize to an assessment decision.

C. NEW EVIDENCE

- (a) A party who obtains new evidence concerning their **claims** or **assessment** matter may submit that evidence to:
 - (i) the Adjudicator or the Financial Services Manager who made the initial decision; or

Board Approval	
 _____ Signature	 _____ Date

- (ii) the Internal Review Committee, once a notice is filed for an internal review; or
 - (iii) the Appeal Panel, once a notice is filed for an appeal.
- (b) When an Adjudicator or Financial Services Manager receives new evidence, they may review and vary the original decision. This action does not remove the party's right of review or appeal.
- (c) When new evidence is requested during a hearing, the Internal Review Committee or the Appeal Panel may adjourn the hearing and reconvene at a later date when the evidence is obtained.

APPENDICES

A – Rules of Procedure for the Workers' Compensation Health and Safety Board

B – Rules of Procedure for the Internal Review Committee

Forms:

- A1 – Notice of Claim Review to the Internal Review Committee (IRC)
- A2 – Notice of Claims Appeal of an Internal Review Committee (IRC) decision
- A3 – Notice of Appeal of an Assessment decision
- A4 – Notice of Appeal of an Occupational Health and Safety matter
- A5 – Request for Reconsideration
- A6 – Authorization for Representative

REFERENCES

Yukon Workers' Compensation Health and Safety Board:

OH&S Penalties Policy Statement

Illiteracy Policy Statement

Transitional Clause Policy Statement

Appeal Panel Counsel Policy Statement

HISTORY

1. *Worker's Compensation Act*, Chapter 16, in force January 1, 1993.
2. Policy, Appeals Policy Statement, effective February 16, 1994.
3. Policy, Appeals Policy Statement, amended October 15, 1996; effective October 15, 1996.
4. Policy, Appeals Policy Statement, amended April 29, 1999; effective June 1, 1999.

Board Approval	
 Signature	 Date

APPENDIX "A"

Rules of Procedure

For proceedings before the

Workers' Compensation Health and Safety Board

Board Approval	
Signature	Date
	

Table of Contents

	Page
Introduction	1
1. General Application of the Rules	1
2. Interpretation	1
3. Delivery	3
4. Change of Address	4
5. Notice from a Party	4
6. Notification and Scheduling	5
7. Reply to Notification	5
8. Rejection of a Notice of Proceeding	6
9. Interpreters	6
10. Representatives	7
11. Pre-Hearing Conferences	7
12. Subpoenas	8
13. Written Submissions	8
14. Adequate Disclosure	9
15. Information Requests	9
16. Stays Pending Occupational Health and Safety Appeals	10
17. Hearings	11
18. Evidence	11
19. Postponements, Adjournments and Cancellations	12
20. Decisions	13
21. Staying a Decision of an Appeal Panel	14
22. Non-Compliance	14
23. Communications with the Board	14
Other References	15



Introduction

This handbook contains the Rules of Procedure adopted by the Workers' Compensation Health and Safety Board under section 88 of the *Workers' Compensation Act*. The Rules apply exclusively to the members of the Board in relation to all proceedings before them under the *Workers' Compensation Act* and the *Occupational Health and Safety Act*.

In addition to these Rules, the Board is bound by its policies, the *Workers' Compensation Act* and the *Occupational Health and Safety Act*.

General Application of the Rules

1. (1) Subject to the Act, these Rules shall apply to every proceeding before the Board.
- (2) The Rules shall be interpreted to ensure a fair determination of every proceeding.
- (3) When circumstances warrant it, the Board may modify any provision or timeframe fixed by these Rules.

Interpretation

2. In these Rules,
 - (a) “**Act**” means the *Workers' Compensation Act*, and includes Regulations and Board Orders enacted under the Act;
 - (b) “**Administration**” means the staff of the Workers' Compensation Health and Safety Board;
 - (c) “**Affidavit**” means a written statement of facts that is sworn or affirmed in accordance with the provisions of the *Evidence Act* and based on the personal knowledge or belief of the person submitting the affidavit. The source of

the information and the grounds for belief must be explained;

- (d) **“Appeal”** means an appeal under sections 18 or 68 of the Act, and under sections 15, 29 or 47 of the *Occupational Health and Safety Act*;
- (e) **“Appeal Panel”** means an Appeal Panel of the Board established under subsection 97(1) of the Act;
- (f) **“Board”** means the members of the Workers' Compensation Health and Safety Board appointed pursuant to subsection 92(2) of the Act, and includes an Appeal Panel of the Board;
- (g) **“Document”** means information recorded or stored in any way, including an audio or video recording, film, photograph, chart, drawing, graph, map, plan, survey, model, and book. It does not include a computer program or any other process or mechanism that produces records;
- (h) **“Evidence”** means anything that has the potential of establishing or proving a fact in issue. It does not include argument or submissions made by a party for the purpose of persuading or convincing the Board to decide the case a particular way;
- (i) **“Hearing”** means a session held by the Board to collect facts and make a determination;
- (j) **“Occupational Health and Safety Act”** includes the Regulations enacted under it;
- (k) **“Party”** means a person named in a proceeding or declared by the Board to have an interest in the proceeding, and who has communicated to the Board their intention to participate in a proceeding;



- (l) **“Presiding Officer”** means the Chair or the Alternate Chair of the Board presiding over a proceeding;
- (m) **“Proceeding”** means:
 - (i) an appeal;
 - (ii) an application for reconsideration of a matter pursuant to subsection 96(5) of the Act;
 - (iii) an application for a determination pursuant to subsection 41(5) of the Act; and
 - (iv) any other matter the Board considers to be in the public interest or necessary to be dealt with by way of a formal hearing process;
- (n) **“Record”** means the record of a worker or an employer maintained by the Administration under the Act, and the record of an employer maintained by the Administration in relation to the *Occupational Health and Safety Act*; and
- (o) **“Representative”** means an agent, solicitor, Worker Advocate, union representative, Employer Advocate or any other person authorized by any party to act on their behalf in a proceeding.

Delivery

- 3. Written communication to and from the Board or Administration shall be effected either by personal delivery, pre-paid mail, or by fax. The effective date of delivery shall be deemed to be:
 - (a) the date of personal delivery; or
 - (b) seven days after the date of the postmark , or



- (c) the date of the recipient's signature of receipt, where applicable; or
- (d) the date of the fax.

Change of Address

4. Parties are required to notify the Board of any changes to their mailing address or fax number.

Notice from a Party

5. (1) The Board shall not begin a proceeding until it receives written notice from a party.
- (2) A notice shall include the following information:
- (a) the name of the person requesting the proceeding, and an address, telephone number and fax number if applicable, of where that person may be contacted;
 - (b) identification of
 - (i) the appropriate claim number, employer account, occupational health and safety inspection report or penalty, and
 - (ii) the matter under appeal or reconsideration; or
 - (iii) the action for which determination on right of action is sought under subsection 41(5) of the Act;
 - (c) the reason(s) for the appeal, reconsideration or determination;
 - (d) if applicable, the changes or remedy sought;
 - (e) whether the person requesting the proceeding intends to appear and make representation;



- (f) if applicable, the name, address, telephone and fax numbers of the party's representative; and
- (g) the signature of the person requesting the proceeding.

Notification and Scheduling

- 6. (1) Upon receipt of a notice of proceeding, the Board shall:
 - (a) notify the appellant by registered mail that the Board is considering the matter for acceptance, or
 - (b) schedule the appellant's hearing for the next available date.
- (2) The Board shall notify the parties by registered mail of the date, time and location of the hearing. The notification of hearing shall include:
 - (i) a written acknowledgement of receipt of their notice to the appellant; and
 - (ii) to all other parties, a copy of the appellant's notice and a form for reply.
- (3) The Board may reschedule a hearing upon written application from a party.

Reply to Notification

- 7. (1) For hearings of matters under the *Occupational Health and Safety Act*, a party shall reply within seven days of being notified by the Board. The reply shall include:
 - (a) the party's written intention to participate in the proceeding; and
 - (b) the party's mailing address, and fax number if available.



- (2) For hearings of matters under the Act, a party shall reply within ten days of being notified by the Board. The reply shall include:
 - (a) the party's written intention to participate in the proceeding; and
 - (b) the party's mailing address, and fax number if available.
- (3) If a party fails to reply by the prescribed time, the Board may deem them not to be a party to the proceeding, or may proceed in their absence.

Rejection of a Notice of Proceeding

8. (1) The Board may reject a notice of proceeding if:
 - (a) the notice was filed after the time limitation set out in the Act or in the *Occupational Health and Safety Act* had expired;
 - (b) the person filing the proceeding is not legally authorized to make that request; or
 - (c) the Board does not have jurisdiction over the subject matter of the proceeding or the remedy sought.
- (2) Before the Board rejects a notice of proceeding, it shall explain its reasons in writing to the parties, and the parties shall have the opportunity to make written submissions within a timeframe directed by the Board.

Interpreters

9. Any party requiring interpretation services shall request them no later than 30 days before the hearing.



Representatives

10. (1) Parties may designate a representative by filing an “Authorization for Representative” form with the board.
- (2) There shall be only one representative per party. This does not prevent other people from helping the party or from attending the hearing.
- (3) Parties may revoke the authorization for their representative by submitting an authorization form for a new representative, or by notifying the board in writing.
- (4) The Board is prohibited by the *Workers’ Compensation Act* to pay for legal costs or expenses incurred by anyone other than the board.

Pre-hearing Conferences

11. (1) The Board may direct the parties or their representatives to make submissions in person or by telephone at a pre-hearing conference.
- (2) The Board may require the party to follow up oral submissions by telephone with written submissions, and shall fix a deadline.
- (3) Pre-hearing conferences may be held for the following purposes:
 - (a) to simplify and clarify issues to be dealt with at the hearing;
 - (b) to deal with any adjournments or postponements, or to set a new date for a hearing;
 - (c) to make admissions of certain facts not in dispute;



- (d) to identify documentary evidence that will be used at the hearing;
- (e) to identify witnesses;
- (f) to ensure proper procedure is followed at a hearing;
- (g) to generate a mutual exchange of the documents and exhibits to be submitted as evidence at the hearing;
- (h) to ensure that the parties are familiar with the procedure to be followed at the hearing; or
- (i) for other reasons deemed appropriate by the Board.

Subpoenas

- 12. (1) The Board may issue a subpoena in accordance with the Rules of Court.
- (2) A party may request the Board to issue a subpoena and in the application shall set out the reasons for the request.
- (3) A subpoena shall be served no later than ten days before the hearing.

Written Submissions

- 13. (1) Parties to a written hearing may file written submissions with the Board within a period of time directed by the Board.
- (2) The Board may require parties to address any issues in the form of written submissions within a time limit directed by the Board, when the Board finds that:
 - (a) any material filed with the Administration does not sufficiently address the matters in question; or



- (b) it would assist the Board in conducting a hearing; or
 - (c) it would assist the parties in participating more effectively in the proceeding.
- (3) Parties shall deliver copies of their written submissions to all other parties at least 12 days before the hearing.
- (4) The Board may grant a time extension to a party who requests one in writing before the specified deadline. The request shall include the length of the extension required and the reasons for the delay.

Adequate Disclosure

14. (1) Parties intending to present new evidence at a hearing shall deliver a summary of that evidence to the Board and to other parties at least 12 days before the hearing.
- (2) The Board may postpone a hearing until it is satisfied that the parties have made adequate disclosure of the evidence and of the issues they intend to present at the hearing.

Information Requests

15. (1) The Board may deliver an information request to a party, and shall deliver a copy of the request to all other parties.
- (2) A party may deliver an information request upon a party, and shall deliver copies to the Board and to all other parties.
- (3) Information requests shall:
- (a) be numbered consecutively in respect of each item of information requested;



- (b) be relevant to the matters set out in the notice of proceeding;
 - (c) indicate an address or fax number for delivery; and
 - (d) be delivered no later than 25 days before the hearing.
- (4) Within 12 days of receiving an information request, or as directed by the Board, a party shall deliver a response to the Board and to all parties.
- (5) Replies to information requests shall:
- (a) be numbered consecutively in respect of each item of information requested; and
 - (b) contain a full and adequate response to each information request on a separate page or pages;
- (6) If a party objects to an information request, the party may apply in writing to the Board for a direction on the validity of the request.

Stays Pending Occupational Health and Safety Appeals

16. (1) A party seeking a stay under subsection 29(5) of the *Occupational Health and Safety Act* while awaiting the outcome of an appeal shall apply to the Board in writing and provide a copy of the application to other parties. In the application, the party shall explain why a stay should be ordered.
- (2) Other parties may make submissions on the application and explain to the Board why they believe the Board should grant or refuse a stay, within a timeframe directed by the Board.
- (3) The Board shall convene to determine whether to grant a stay and shall provide a written decision to all



parties as soon as possible, but no later than 7 days after hearing the application.

Hearings

17. (1) A hearing shall be conducted by way of oral presentation unless all parties agree to a hearing by way of written submissions.
- (2) All parties shall have an opportunity to make representations and to make oral and written submissions.
- (3) Parties may:
 - (a) present evidence;
 - (b) call witnesses;
 - (c) question any witness in accordance with directions given by the Board; and
 - (e) argue how the evidence, the law, and policy should be interpreted.
- (4) The Board may call a recess during a hearing to consult with legal counsel or to consider other matters.

Evidence

18. (1) The Board may receive evidence by:
 - (a) documents filed with the Administration;
 - (b) affidavits;
 - (c) oral testimony, which shall be taken under oath or affirmation pursuant to the provisions of the *Evidence Act*;
 - (d) oral testimony by way of conference calls or videoconferencing; and



- (e) any other manner the Board considers appropriate.
- (2) The Board may ask questions with respect to any evidence filed, including the record.
- (3) At the request of a party, or of its own motion, the Board may require cross-examination on an affidavit.
- (4) The Board may reject an affidavit when the evidence is opposing, and it is not possible to cross-examine the person who produced the affidavit.
- (5) The Board may question any witness called by the parties or by the Board.
- (6) The Board may require that witnesses be excluded from the hearing room until they have given evidence.

Postponements, Adjournments and Cancellations

- 19. (1) On its own motion or at the request of a party, the Board may adjourn or postpone a hearing at any time, and reschedule it to a new date, time or location, upon conditions that it considers appropriate.
- (2) A party may deliver a written application for a postponement no later than seven days before the hearing, and shall specify the reasons why the postponement is sought and the length of the proposed postponement.
- (3) Upon receiving a request for a postponement or an adjournment, the Board shall assess the appropriateness of the request, and shall consider whether:
 - (a) the request is reasonable under the circumstances;
 - (b) granting the request would unreasonably delay or impede the proceeding;



- (c) the request was made as soon as practicable;
 - (d) any of the parties would be prejudiced if the request were granted or not granted;
 - (e) previous postponements or adjournments were granted and why;
 - (f) the purpose for which the postponement or adjournment is sought would contribute to the resolution of the proceeding; and
 - (g) other parties have consented to the request.
- (4) If the Board believes that a party is unable to adequately represent themselves, the hearing may be adjourned and that party provided the opportunity to seek a representative.
- (5) When no date for reconvening is set for an adjourned hearing, the Board shall:
- (a) within six months of the date of the adjournment, set a new date for the hearing; or
 - (b) no later than four months after the date of the adjournment, advise the parties to request the Board to reschedule the hearing.
- (6) When, six months from the date of the adjournment, the parties have not requested the Board to reconvene and no date has been set, the hearing may be considered withdrawn.

Decisions

20. (1) Only the members of the Board who participated in the proceeding shall participate in the decision for that proceeding.
- (2) In addition to evidence presented at the hearing, the Board shall consider the record in rendering its decision.



- (3) A decision of an Appeal Panel requires two agreeing votes.
- (4) The Presiding Officer shall not vote on a decision. When there is a tie, the Chair of the Board shall strike a new hearing before a new panel.
- (5) The Board shall render a written decision as soon as practicable.

Staying a Decision of an Appeal Panel

21. (1) On its own motion or on the application of a party, the Board may stay the decision of an Appeal Panel and direct a new hearing before a new panel when it considers the Appeal Panel to have improperly applied legislation or policy.

Non-compliance

22. Where a party fails to comply with any provision in these Rules, the Board may:
 - (a) declare the proceeding to be abandoned; or
 - (b) impose a date by which compliance must be achieved; or
 - (c) make any order that it deems appropriate.

Communications with the Board

23. (1) Members of the Board shall not contact a party, accept personal telephone calls from a party or attend private meetings with a party on any matter relevant to a proceeding.
- (2) Parties directing correspondence to a member of the Board, in relation to a proceeding, shall send it to the Board office and shall send a copy to all other parties.



OTHER REFERENCES

Yukon Workers' Compensation Health and Safety Board Policy Manual

WCHS Board Section

Policy Statement BD-05 : *Rules governing conflict of interest for Board members*

General and Corporate Section

Policy Statement GC-05 : *Reviews and Appeals*

General and Corporate Section

Policy Statement GC-05-01 : *Role of Appeal Panel Counsel*

Yukon Workers' Compensation Health and Safety Board Directives and Procedures Manual

Directive DR-06 : *Reviews and Appeals*

Board Training Manual (revised June 1995)

Yukon Workers' Compensation Health and Safety Board

chapter 6: *Workers' Compensation Appeals*

chapter 7: *Occupational Health and Safety Appeals*

chapter 8: *Appeal Hearing Guidelines*

APPENDIX "B"

Rules of Procedure

For proceedings before the

Internal Review Committee

WORKERS' COMPENSATION HEALTH AND SAFETY BOARD

Board Approval	
Signature	Date
	

Table Of Contents

	Page
Introduction	1
1. General Application of the Rules.....	1
2. Interpretation.....	1
3. Delivery.....	3
4. Change of Address.....	3
5. Notice of Review.....	4
6. Notification and Scheduling	4
7. Reply to Notification	5
8. Rejection of a Notice of Review.....	5
9. Interpreters	6
10. Representatives	6
11. Attendance of Witnesses.....	6
11. Written Submissions	6
12. Adequate Disclosure.....	7
13. Information Requests.....	7
14. Hearings.....	8
15. Evidence.....	9
16. Postponements, Adjournments and Cancellations.....	10
17. Non-Compliance.....	12
18. Decisions.....	12
Other References	14



Introduction

This appendix contains the Rules of Procedure that have been adopted as policy of the Workers' Compensation Health and Safety Board in relation to all proceedings before the Internal Review Committee. The Internal Review Committee is bound by all policies of the Workers' Compensation Health and Safety Board, and by the *Workers' Compensation Act*.

General Application of the Rules

1. (1) Subject to the Act, these Rules shall apply to all proceedings before the Internal Review Committee.
- (2) The Rules shall be interpreted to ensure a fair determination of every matter before the Internal Review Committee.
- (3) When circumstances warrant it, the Internal Review Committee may modify any provision or any timeframe fixed by these Rules.

Interpretation

2. In these Rules,
 - (a) **“Act”** means the *Workers' Compensation Act* and includes Regulations and Board Orders enacted under the Act;
 - (b) **“Administration”** means the staff of the Workers' Compensation Health and Safety Board;
 - (c) **“Adjudicator”** means the person who decides on entitlement to compensation under Section 11 of the Act;
 - (d) **“Affidavit”** means a written statement of facts that is sworn or affirmed in accordance with the provisions of the *Evidence Act* and based on the personal knowledge or belief of the person



submitting the affidavit. The source of the information and the grounds for belief must be explained;

- (e) **“Appellant”** means the person requesting the review;
- (f) **“Chair”** means the Chair of the Internal Review Committee;
- (g) **“Document”** means information recorded or stored in any way, including an audio or video recording, film, photograph, chart, drawing, graph, map, plan, survey, model, and book. It does not include a computer program or any other process or mechanism that produces records;
- (h) **“Evidence”** means anything that has the potential of establishing or proving a fact in issue. It does not include argument or submissions made by a party for the purpose of persuading or convincing the Internal Review Committee to decide the case a particular way;
- (i) **“Hearing”** means a session held by the Internal Review Committee to collect facts and make a determination on a decision made concerning a claim for compensation;
- (j) **“Internal Review Committee”** means the panel that reviews decisions made concerning claims for compensation. The President appoints senior staff as members of the Internal Review Committee;
- (k) **“Party”** means the worker or the dependent of a deceased worker, and the worker’s employer, who has either:
 - (i) filed a notice of review with the Internal Review Committee; or



- (ii) replied to a notification from the Internal Review Committee;
- (l) **“Proceeding”** means a proceeding before the Internal Review Committee to review a decision made concerning a claim for compensation;
- (m) **“Record”** means the entire record maintained by the Administration under Part II of the Act. Nothing else forms part of the record;
- (n) **“Representative”** means an agent, solicitor, Worker Advocate, union representative, Employer Advocate or any other person authorized by any party to act on their behalf in a proceeding; and
- (o) **“Review”** means a review under Section 17 of the Act.

Delivery

- 3. Written communication to and from the Administration shall be effected either by personal delivery, pre-paid mail, or by fax. The effective date of delivery shall be deemed to be:
 - (a) the date of personal delivery; or
 - (b) seven days after the date of the postmark , or
 - (c) the date of the recipient's signature of receipt, where applicable; or
 - (d) the date of the fax.

Change of Address

- 4. Parties are required to notify the Administration of any changes to their mailing address or fax number.




Notice of Review

5. (1) The Internal Review Committee shall not begin a proceeding until it receives a written notice of review from a party.
- (2) A notice of review shall include the following information:
 - (a) the appellant's name, and an address, telephone number, and fax number if applicable, of where that person may be contacted;
 - (b) the claim number;
 - (c) the decision under review;
 - (d) a clear explanation of the issue(s) to be reviewed;
 - (e) whether the appellant intends to appear and make representation;
 - (f) if applicable, the name, address, telephone and fax numbers of the appellant's representative; and
 - (g) the appellant's signature.

Notification and Scheduling

6. (1) Upon receipt of a notice of proceeding, the Internal Review Committee shall
 - (a) notify the appellant by registered mail that the Internal Review Committee is considering the matter for acceptance, or
 - (b) schedule the appellant's hearing for the next available date.



- (2) The Internal Review Committee shall notify the parties by registered mail of the date, time and location of the hearing. The notification of hearing shall include:
 - (i) a written acknowledgement of receipt of their notice to the appellant; and
 - (ii) to all other parties, a copy of the appellant's notice and a form for reply.
- (3) The Internal Review Committee may reschedule a hearing upon written application from a party.

Reply to Notification

7. (1) A party shall reply within ten days of receiving notification. The reply shall include:
 - (a) the party's written intention to participate in the proceeding; and
 - (b) the party's mailing address, and fax number if available.
- (2) If a party fails to reply by the prescribed time, the Internal Review Committee may deem them not to be a party to the proceeding, or may proceed in their absence.

Rejection of a Notice of Review

8. (1) The Internal Review Committee may reject a notice of review if:
 - (a) the person filing the notice is not legally authorized to make that request; or
 - (b) the Internal Review Committee does not have jurisdiction over the proceeding or the remedy sought.



- (2) Before the Internal Review Committee rejects a notice of review, it shall explain its reasons in writing to the appellant, and the appellant shall have an opportunity to make written submissions within a timeframe directed by the Internal Review Committee.

Interpreters

9. Any party requiring interpretation services shall request them no later than 30 days before the hearing.

Representatives

10. (1) Parties may designate a representative by filing an "Authorization for Representative" form with the board.
- (2) There shall be only one representative per party. This does not prevent other people from helping the party or from attending the hearing.
- (3) Parties may revoke the authorization for their representative by submitting an authorization form for a new representative, or by notifying the board in writing.
- (4) The Board is prohibited by the Workers' Compensation Act to pay for legal costs or expenses incurred by anyone other than the board.

Attendance of Witnesses

10. The Internal Review Committee may, with the consent of the President, request the members of the Workers' Compensation Health and Safety Board to issue a subpoena pursuant to subsection 96(7) of the Act.

Written Submissions

11. (1) Parties to a hearing may file written submissions with the Internal Review Committee within a period of time directed by the Internal Review Committee.



- (2) The Internal Review Committee may require parties to address any issues in the form of written submissions within a period of time directed by the Internal Review Committee, when the Internal Review Committee finds that:
 - (a) any material filed with the Administration does not sufficiently address the matters in question; or
 - (b) it would assist the Internal Review Committee in conducting a hearing; or
 - (c) it would assist the parties in participating more effectively in the proceeding.
- (3) Parties shall deliver copies of their written submissions to all other parties at least 12 days before the hearing.
- (4) The Internal Review Committee may grant a time extension to a party who requests one in writing before the specified deadline. The request shall include the length of the extension required and the reasons for the delay.

Adequate Disclosure

12. (1) Parties intending to present new evidence at a hearing shall deliver a summary of that evidence to the Internal Review Committee and to other parties at least 12 days before the hearing.
- (2) The Internal Review Committee may postpone a hearing until it is satisfied that the parties have made adequate disclosure of the evidence and of the issues they intend to present at the hearing.

Information Requests

13. (1) The Internal Review Committee may deliver an information request to a party, and shall deliver copies to all other parties.



- (2) A party may deliver an information request to another party, and shall deliver copies to the Internal Review Committee and to all other parties.
- (3) Information requests shall:
 - (a) be numbered consecutively in respect of each item of information requested;
 - (b) be relevant to the matters set out in the notice of review;
 - (c) indicate an address or fax number for delivery; and
 - (d) be delivered no later than 25 days before the hearing.
- (4) Within 12 days of receiving an information request or as directed by the Internal Review Committee, a party shall deliver a response to the Internal Review Committee and to all parties.
- (5) Replies to information requests shall :
 - (a) be numbered consecutively in respect of each item of information requested; and
 - (b) contain a full and adequate response to each information request on a separate page or pages.
- (6) If a party objects to an information request, the party may apply in writing to the Internal Review Committee for direction on the validity of the request.

Hearings

14. (1) The Internal Review Committee shall conduct a hearing after receiving a notice of review under subsection 17(1) of the Act.



- (2) Before the Internal Review Committee reviews a claim, the Chair shall verify that the committee has the authority to hear the matter, and that no conflict of interest exists.
- (3) A hearing shall be conducted by way of oral presentation unless all parties agree to a hearing by way of written submissions.
- (4) All parties shall have an opportunity to make representations and to make written and oral submissions.
- (5) Parties may:
 - (a) present evidence;
 - (b) call witnesses;
 - (c) question any witness in accordance with directions given by the Internal Review Committee; and
 - (d) argue how the evidence, law and policy should be interpreted.
- (6) The Internal Review Committee may call a recess during a hearing to consider procedural matters or other matters as deemed appropriate.
- (7) The Chair controls all procedural aspects of the hearing, and is the spokesperson of the Internal Review Committee.

Evidence

15. (1) The Internal Review Committee may receive evidence by:
 - (a) documents filed with the Administration;
 - (b) affidavits;



- (c) oral testimony, which shall be taken under oath or affirmation pursuant to the provisions of the *Evidence Act*;
 - (d) oral testimony by way of conference calls or videoconferencing; and
 - (e) any other manner the Internal Review Committee considers appropriate.
-
- (2) The Internal Review Committee may ask questions with respect to any evidence filed, including the record.
 - (3) At the request of a party, or of its own motion, the Internal Review Committee may require cross-examination on an affidavit.
 - (4) The Internal Review Committee may reject an affidavit when the evidence is opposing, and it is not possible to cross-examine the person who produced the affidavit.
 - (5) The Internal Review Committee may question any witness called by the parties or by the Internal Review Committee.
 - (6) The Internal Review Committee may require that witnesses be excluded from the hearing room until they have given evidence.

Postponements, Adjournments and Cancellations

- 16. (1) On its own motion or at the request of a party, the Internal Review Committee may adjourn or postpone a hearing at any time, and reschedule it to a new date, time or location, upon conditions that it considers appropriate.
- (2) A party may deliver a written application for a postponement no later than seven days before the hearing, and shall specify the reasons why the



postponement is sought and the length of the proposed postponement.

- (3) Upon receiving a request for a postponement or an adjournment, the Internal Review Committee shall assess the appropriateness of the request, and shall consider whether:
 - (a) the request is reasonable under the circumstances;
 - (b) granting the request would unreasonably delay or impede the proceeding;
 - (c) the request was made as soon as practicable;
 - (d) any of the parties would be prejudiced if the request were granted or not granted;
 - (e) previous postponements or adjournments were granted and why;
 - (f) the purpose for which the postponement or adjournment is sought would contribute to the resolution of the proceeding; and
 - (g) other parties have consented to the request.
- (4) If the Internal Review Committee believes that a party is unable to adequately represent themselves, the hearing may be adjourned and that party provided the opportunity to seek a representative.
- (5) When no date for reconvening is set for an adjourned hearing, the Internal Review Committee shall either:
 - (a) within six months of the date of the adjournment, set a new date for the hearing; or
 - (b) advise the parties, no later than four months after the date of the adjournment, to request the



Internal Review Committee to reschedule the hearing.

- (6) When six months from the date of the adjournment, the parties have not requested the Internal Review Committee to reconvene and no date has been set, the hearing may be considered withdrawn.

Non-compliance

17. Where a party fails to comply with any provision in these Rules, the Internal Review Committee may:
- (a) declare the proceeding to be abandoned; or
 - (b) impose a date by which compliance must be achieved; or
 - (c) make any order that it deems appropriate.

Decisions

18. (1) The Internal Review Committee shall consider the entire record of the claim in the Administration's possession before making a decision. Parties have a responsibility to ensure that:
- (a) all information on record is correct;
 - (b) any additional information or evidence they want considered is put before the Internal Review Committee; and
 - (c) any applicable medical documents are on record.
- (2) The Internal Review Committee may confirm, vary or reverse a decision made in respect of a claim by an Adjudicator.



- (3) Only the members of the Internal Review Committee who participated in the review shall participate in the decision for that review.
- (4) A decision of the Internal Review Committee requires a majority vote.
- (5) Within thirty days of the conclusion of the hearing, the Internal Review Committee shall deliver to the parties:
 - (a) a written decision; or
 - (b) a statement of when the Internal Review Committee's decision may be expected.
- (6) A decision of the Internal Review Committee may be appealed to the members of the Workers' Compensation Health and Safety Board.



Other References

Yukon Workers' Compensation, Health and Safety Board Policy Manual

General and Corporate Section

Policy Statement GC-05 : *Reviews and Appeals*

General and Corporate Section

Policy Statement GC-05-01 : *Role of Appeal Panel Counsel*

Yukon Workers' Compensation, Health and Safety Board Directives and Procedures Manual

Directive DR-06 : *Reviews and Appeals*



Board Approval

Signature _____ Date _____

DATE

IMPORTANT NOTICE

NAME
MAILING ADDRESS
MAILING ADDRESS
POSTAL CODE

Dear **NAME**:

This letter serves to notify you that **APPELLANT** has appealed a decision of the Internal Review Committee regarding a claim for compensation. The appellant's notice of appeal is attached.

The Workers' Compensation Health and Safety Board has identified you as a potential party to the appeal. As a party, you would have the right to make submissions, present evidence, submit and respond to written information requests, and question the other party's evidence.

If you wish to receive party status, please fill in the form below and mail it to the Workers' Compensation Health and Safety Board within 10 days of receiving this notice.

If you have questions regarding the appeal process, please telephone me at 667-8872, or visit the Workers' Compensation Health and Safety Board website at **www.wcb.yk.ca**.

Thank you,

NAME
Appeal Registrar

Fill in below and return this letter to the Workers' Compensation Health and Safety Board at 401 Strickland Street in Whitehorse, Yukon (Y1A 5N8), or fax to (867) 393-6279.

I wish to participate in this appeal.

Name: _____

Phone number: _____ Fax number: _____

E-mail address: _____

Mailing address: _____

Signature _____ Date _____



Board Approval

Signature _____ Date _____

DATE

IMPORTANT NOTICE

NAME
MAILING ADDRESS
MAILING ADDRESS
POSTAL CODE

Dear **NAME**:

This letter serves to notify you that **APPELLANT** has appealed a decision of the Workers' Compensation Health and Safety Board regarding an occupational health and safety matter. The appellant's notice of appeal is attached.

The Workers' Compensation Health and Safety Board has identified you as a potential party to the appeal. As a party, you would have the right to make submissions, present evidence, submit and respond to written information requests, and question the other party's evidence.

If you wish to receive party status, please fill in the form below and mail it to the Workers' Compensation Health and Safety Board within 7 days of receiving this notice.

If you have questions regarding the appeal process, please telephone me at 667-8872, or visit the Workers' Compensation Health and Safety Board website at www.wcb.yk.ca.

Thank you,

NAME
Appeal Registrar

Fill in below and return this letter to the Workers' Compensation Health and Safety Board at 401 Strickland Street in Whitehorse, Yukon (Y1A 5N8), or fax to (867) 393-6279.

I wish to participate in this appeal.

Name: _____

Phone number: _____ Fax number: _____

E-mail address: _____

Mailing address: _____

Signature _____ Date _____



Board Approval

Signature _____ Date _____

DATE

IMPORTANT NOTICE

NAME
MAILING ADDRESS
MAILING ADDRESS
POSTAL CODE

Dear **NAME**:

This letter serves to notify you that **APPELLANT** has requested an internal review of a decision made by the Workers' Compensation Health and Safety Board concerning a claim for compensation. The appellant's notice of review is attached.

The Workers' Compensation Health and Safety Board has identified you as a potential party to the review. As a party, you would have the right to make submissions, present evidence, submit and respond to written information requests, and question the other party's evidence.

If you wish to receive party status, please fill in the form below and mail it to the Workers' Compensation Health and Safety Board within 10 days of receiving this notice.

If you have questions regarding the review and appeal process, please telephone me at 667-8872, or visit the Workers' Compensation Health and Safety Board website at www.wcb.yk.ca.

Thank you,

NAME
Appeal Registrar

Fill in below and return this letter to the Workers' Compensation Health and Safety Board at 401 Strickland Street in Whitehorse, Yukon (Y1A 5N8), or fax to (867) 393-6279.

I wish to participate in this review.

Name: _____

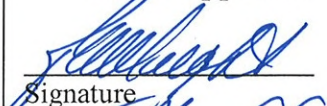
Phone number: _____ Fax number: _____

E-mail address: _____

Mailing address: _____

Signature _____ Date _____




 Signature
 5 May 99
 Date

Authorization for Representative

- Claim review or appeal:** Claim number: _____
- Assessment appeal:** Employer account number: _____
- Occupational Health and Safety Appeal:** Name of company: _____

Name of representative	_____
Firm or organization	_____
Telephone number	_____ Fax number _____
Mailing address	_____ _____ _____

I, _____, authorize the person named above to act on my
 (please print your name)

behalf during proceedings before the Workers' Compensation Health and Safety Board.

I understand that:

- the Workers' Compensation Health and Safety Board will direct all correspondence to my representative;
- my representative is entitled to information on my record and that this information may be used only for the purpose of the review or appeal (*please complete a Disclosure Form, available at the board office or by calling (867) 667-8837*);
- the *Workers' Compensation Act* (subsection 44(3)) prohibits the Workers' Compensation Health and Safety Board from paying any legal costs or expenses I or my representative may incur; and
- if I submit a subsequent authorization form for a different representative, the authorization for the current representative will be revoked.

Signature of party

Date

I accept my responsibilities as representative for the above party in this proceeding.

Signature of representative

Date





**YUKON WORKERS'
COMPENSATION
HEALTH AND
SAFETY BOARD**

401 Strickland Street
Whitehorse, Yukon Y1A 5N8
(867) 667-5645
1-800-661-0443

Notice of Claim Review – Level 1 to the Internal Review Committee (IRC)

A review by the IRC is the first level of the claims appeal process. You are requesting this review under section 17 of the *Workers' Compensation Act* (1992). The Internal Review Committee will review the claim and may reverse, vary or confirm the decision of the adjudicator.

Name: _____

Worker

Address: _____

Employer

City, Town: _____

Postal Code: _____

Tel. (H) _____

(W) _____

Company: _____

Claim Number: _____

Name of your worker or employer

when the disability occurred: _____

You disagree with the decision dated: _____
(Y/M/D)

A. Reason for the review *(please use extra paper for more space)*

Please list and explain the part(s) of the decision with which you disagree.

What change(s) are you seeking? _____

For more information, please call:
WCHSB: (867) 667-8872 or 1-800-661-0443 toll free

Note: The Information collected from you is used only for the purpose of your review.

B. Method of Review

Would you prefer:

- A documentary review based on the information on file (*you do not have to attend*);
or
 An oral hearing in front of the committee.

Will you be providing additional written submissions, information or evidence?

- No
 Yes. Please attach it to this form or provide it to the board and other parties at least 12 days before the hearing. Otherwise, the hearing may be postponed or adjourned.

C. Representation

Do you intend to represent yourself during the appeal process?

- Yes
 No. Please complete and attach form **A6 "Authorization for Representative"**.

D. Access to File

Workers (or the dependent of a deceased worker) and employers involved in a review, or their representative, are entitled to one free copy of the claim file upon request. Additional copies are available for a fee.


To obtain a copy of the file, you must submit a Disclosure Form to the board. These forms may be obtained at the board office or by calling 667-8837.

Please allow up to 30 days to process your request, depending on the volume of the file.

Signature of person requesting the review

Date

For more information, please call:
 WCHSB: (867) 667-8872 or 1-800-661-0443 toll free

Board Approval	
 Signature	 Date

Note: The information collected from you is used only for the purpose of your review.



**YUKON WORKERS'
COMPENSATION
HEALTH AND
SAFETY BOARD**

401 Strickland Street
Whitehorse, Yukon Y1A 5N8
(867) 667-5645
1-800-661-0443

Notice of Claims Appeal – Level 2 of an Internal Review Committee (IRC) decision

An appeal of an IRC decision to an Appeal Panel of the Board is the second and final level in the claims appeal process. You are appealing under section 18 of the *Workers' Compensation Act* (1992). An Appeal Panel of the Board may reverse, vary or confirm the decision of the IRC.

Name: _____ **Worker**

Address: _____ **Employer**

City, Town: _____ **Postal Code:** _____

Tel. (H) _____ **(W)** _____

Company: _____ **Claim Number:** _____

**Name of your worker or employer
when the disability occurred:** _____

You are appealing the IRC decision dated: _____
(Y/M/D)

A. Reason for Appeal *(please use extra paper for more space)*

Please list and explain the part(s) of the decision with which you disagree.

What change(s) are you seeking? _____

For more information, please call:
WCHSB: (867) 667-8872 or 1-800-661-0443 toll free

Note: The information collected from you is used only for the purpose of your appeal.

B. Method of Appeal

Would you prefer:

- A documentary review based on the information on file (*you do not have to attend*);
or
 An oral hearing in front of the panel.

Will you be providing additional written submissions, information or evidence?

- No
 Yes. Please attach it to this form or provide it to the board and other parties at least 12 days before the hearing. Otherwise, the hearing may be postponed or adjourned.

C. Representation

Do you intend to represent yourself during the appeal process?

- Yes
 No. Please complete and attach form **A6 "Authorization for Representative"**.

D. Access to File

Workers (or dependents of deceased workers) and employers involved in an appeal, *or* their representative, are entitled to one free copy of the claim file upon request. Additional copies are available for a fee. If you (or a member of your party) already received your free copy during the IRC review, you may obtain free updates.

To obtain a copy of the file, you must submit a Disclosure Form to the board. These forms may be obtained at the board office or by calling 667-8837.

Please allow up to 30 days to process your request, depending on the volume of the file.

Signature of person making the appeal

Date

For more information, please call:
 WCHSB: (867) 667-8872 or 1-800-661-0443 toll free

Board Approval	
Signature	Date
	

Note: The information collected from you is used only for the purpose of your appeal.



**YUKON WORKERS'
COMPENSATION
HEALTH AND
SAFETY BOARD**

401 Strickland Street
Whitehorse, Yukon Y1A 5N8
(867) 667-5645
1-800-661-0443

Notice of Appeal of an Assessment decision

An Appeal Panel of the Board is the only level of appeal for assessment decisions. You are appealing under section 68 of the *Workers' Compensation Act* (1992). An Appeal Panel of the Board may reverse, vary or confirm the original assessment decision.

Name: _____ **Account Number:** _____

Company Name: _____

Address: _____

City, Town: _____ **Postal Code:** _____

Tel. (H) _____ **(W)** _____

Date of original decision: _____ *(you must appeal within 180 days of this date)*
(Y/M/D)

A. Reason for Appeal *(please use extra paper for more space)*

Please list and explain the part(s) of the decision with which you disagree.

What change(s) are you seeking?

For more information, please call:
WCHSB: (867) 667-8872 or 1-800-661-0443 toll free

Note: The information collected from you is used only for the purpose of your appeal.

B. Method of Appeal

Would you prefer:

- A documentary review based on the information on file (*you do not have to attend*);
or
 An oral hearing in front of the panel.

Will you be providing additional written submissions, information or evidence?

- No
 Yes. Please attach it to this form or provide it to the board at least 12 days before the hearing. Otherwise, the hearing may be postponed or adjourned.

C. Representation

Do you intend to represent yourself during the appeal process?

- Yes
 No. Please complete and attach form **A6 "Authorization for Representative"**.

D. Access to Information on Record

Employers (or their representative) are entitled to one free copy of their record upon request. Additional copies are available for a fee.

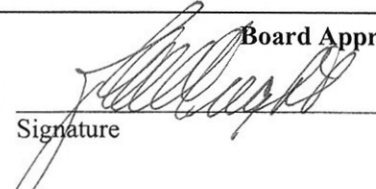

To obtain a copy of the record, you must submit a Disclosure Form to the board. These forms may be obtained at the board office or by calling 667-8837.

Please allow up to 30 days to process your request, depending on the volume of the file.

Signature of person making the appeal

Date

For more information, please call:
 WCHSB: (867) 667-8872 or 1-800-661-0443 toll free

Board Approval	
 Signature	 Date

Note: The information collected from you is used only for the purpose of your appeal.



**YUKON WORKERS'
COMPENSATION
HEALTH AND
SAFETY BOARD**

401 Strickland Street
Whitehorse, Yukon Y1A 5N8
(867) 667-5645
1-800-661-0443

Notice of Appeal of an Occupational Health and Safety matter

An Appeal Panel of the Board is the only level of appeal for occupational health and safety matters. An Appeal Panel of the Board may reverse, vary or confirm an occupational health and safety decision or order, make any order that ought to have been made, or revoke, decrease or confirm an administrative penalty.

Name: _____ **Worker**

Address: _____ **Employer**

City, Town: _____ **Postal Code:** _____

Tel. (H) _____ **(W)** _____

Name of Company: _____

Date of the decision, penalty, order, or order not given that you are appealing: _____
(unless otherwise indicated, you must appeal within 21 days of this date) (Y/M/D)

A. Type of appeal *(Please mark your response)*

You are appealing under section 16, 29 or 47.1 of the *Occupational Health and Safety Act*:

- A decision or an order issued; **or**
- An administrative penalty; **or**
- A decision or order regarding an employee's refusal to perform hazardous work (**you must appeal within 7 days**); **or**
- An order not made. Please describe the circumstances: _____

For more information, please call:
WCHSB: (867) 667-8872 or 1-800-661-0443 toll free

Note: The information collected from you is used only for the purpose of your appeal.

B. Reason for Appeal

Please explain why you are appealing. *(Use extra paper if required.)*

C. Method of Appeal

Would you prefer:

- A documentary review based on the information on file *(you do not have to attend)*;
or
- An oral hearing in front of the panel.

Will you be providing additional written submissions, information or evidence?

- No
- Yes. Please attach it to this form or provide it to the board and to other parties at least 12 days before the hearing. Otherwise, the hearing may be postponed or adjourned.

D. Representation

Do you intend to represent yourself during the appeal process?

- Yes
- No. Please complete and attach form **A6 "Authorization for Representative"**.

E. Access to Information on Record

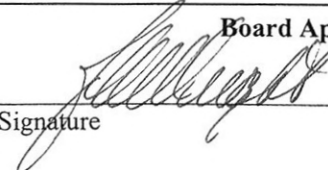
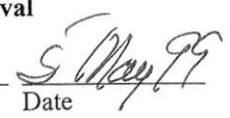
One free copy of the record will be provided to either the person appealing *or* their representative upon request. Additional copies are available for a fee.

To obtain a copy of the record, you must submit a Disclosure Form to the board. These forms may be obtained at the board office or by calling 667-8837.

Please allow up to 30 days to process your request, depending on the volume of the file.

Signature of person making the appeal

Date

Board Approval	
 _____ Signature	 _____ Date

For more information, please call:
 WCHSB: (867) 667-8872 or 1-800-661-0443 toll free

Note: The information collected from you is used only for the purpose of your appeal.



**YUKON WORKERS'
COMPENSATION
HEALTH AND
SAFETY BOARD**

401 Strickland Street
Whitehorse, Yukon Y1A 5N8
(867) 667-5645
1-800-661-0443

Request for Reconsideration

An Appeal Panel is the final level of appeal.

Under section 97 of the *Workers' Compensation Act* (1992), the Board may stay the decision of an Appeal Panel and direct a new hearing if it considers that the Appeal Panel improperly applied the law or Board policy. Section 96 gives the Board the authority to reconsider any decision previously made.

Name: _____ **Worker**
Address: _____ **Employer**
City, Town: _____ **Postal Code:** _____
Tel. (H) _____ **(W)** _____

You are requesting the Board to reconsider : *(please mark your answer)*

A compensation claim

Claim number: _____

An assessment matter

Name of company: _____ Account number: _____

An occupational health and safety matter

Name of company: _____

Date of the original Appeal Panel decision: _____
(Y/M/D)

A. Reason *(please mark your choice and explain. Use extra paper for more space.)*

- You believe the Appeal Panel made a mistake in interpreting the Act. Please identify the section(s) of legislation and explain. _____

For more information, please call:
WCHSB: (867) 667-8872 or 1-800-661-0443 toll free

Note: The information collected from you is used only for the purpose of the reconsideration.

You believe the Appeal Panel incorrectly applied Board policy. Please identify the policy or policies and explain. _____

You have new, substantive evidence that you believe will change the original Appeal Panel decision. (Reconsiderations of OH&S decisions must be decided within 21 days of the original Appeal Panel order or decision). Please give a brief summary. _____

B. Representation

Do you intend to represent yourself?

Yes

No. Please complete and attach form **A6 "Authorization for Representative"**.

Signature of person requesting a reconsideration

Date

For more information, please call:
WCHSB: (867) 667-8872 or 1-800-661-0443 toll free

Board Approval
[Signature] *5 May 99*
Signature Date

Note: The information collected from you is used only for the purpose of the reconsideration.