

# Governance and Independence Framework

Date: April 1, 2024

Version 4.0

Next Review Date: March 31, 2025



## 1. Background

The Appeals Commission for Alberta Workers' Compensation ("Appeals Commission") is an independent public body established under the *Workers' Compensation Act* ("WCA").

The Appeals Commission is the final level of appeal for Workers' Compensation Board ("WCB") matters in Alberta. In addition to its role as a tribunal, the Appeals Commission is mandated to facilitate two core programs in the workers' compensation system: free advocacy services through the Advisor Office and independent medical review through the Medical Panels Program. To assist the Appeals Commission and its programs in delivering their services, the Appeals Commission provides shared administrative support through a corporate services secretariat (the "Secretariat").

Operational independence and impartiality are crucial to the successful functioning of the Appeals Commission, its programs and the Secretariat.

This document sets out how the Appeals Commission, its programs and the Secretariat are administered to ensure independence and impartiality in adjudication, advocacy, medical panel administration and corporate services.

This document recognizes that:

- The Appeals Commission is a tribunal that provides an independent appeal process within the worker's compensation system;
- The Advisor Office has separate teams respectively providing independent representation and assistance to workers and employers involved in WCB claims and appeals of WCB decisions;
- The Medical Panels Program facilitates independent panels of physicians upon request to deal with medical issues as set out in the WCA; and
- The Secretariat provides administrative support to the Appeals Commission and its programs, while supporting and respecting their independence.

For the purposes of clarity, in this document:

- Where a reference is made to the tribunal only, that will be indicated by "Appeals Commission (Tribunal)";
- The Appeals Commission (Tribunal), the Advisor Office, the Medical Panels Program and the Secretariat will be referred to as "branches".;
- Where a reference is made to the Minister, it refers to the Minister responsible for the Appeals Commission (currently, the Minister of Jobs, Economy and Trade).

## Revisions to this Document

This is a living document. It was created in advance of the April 1, 2021 legislative amendments that bring the Advisor Office and Medical Panels Program within the scope of the Appeals Commission.

This document is reviewed annually on or around April 1, or as needed.

## Review History

Review Date	Summary of Amendments
April 29, 2021	n/a
May 31, 2021	Section 4.2 amended to confirm that the Medical Panels Commissioner reports to the CEO.
June 30, 2021	n/a
July 30, 2021	Section 5.17 added to address situations where a team member is involved in an appeal to the Appeals Commission (Tribunal).
August 31, 2021	Section 5.18 added to address the Service Standards and Complaints Process and its application across all branches of the Appeals Commission.
September 30, 2021	n/a
October 29, 2021	Section 5.18 added to address situations where a team member seeks to access the services of the Advisor Office. Former Section 5.18 renumbered to Section 5.19.
November 30, 2021	n/a
December 23, 2021	n/a
January 31, 2022	n/a
March 30, 2022	General editorial updates throughout. Substantive changes include: <ul style="list-style-type: none"> <li>• Section 5.1 amended to reflect application of vision, mission and values across the organization.</li> <li>• Section 5.5 amended to include reference to Advisor Office policy manual.</li> <li>• Section 5.8 amended to include reference to conflict and independence controls in internal recruiting processes.</li> <li>• Section 5.16 updated regarding the provision of privacy advice and support.</li> <li>• Section 5.20 added to address breach reporting.</li> <li>• Section 5.21 added to address annual audits.</li> </ul>
March 30, 2023	General editorial updates throughout. Substantive changes include: <ul style="list-style-type: none"> <li>• Section 1 amended to add explanatory note for "Minister".</li> <li>• Section 3 updated.</li> <li>• Section 4.2 amended to clarify the role of the Medical Panels Commissioner.</li> <li>• Section 4.6 amended to clarify the role of legal counsel.</li> <li>• Section 5.3 updated to reflect the Secretariat's unique brand identity.</li> <li>• Section 5.4 amended to provide more examples of system-related communications.</li> <li>• Section 5.11 amended to recognize the ability of Secretariat team members to attend training and team building with all other branches as well as updates to recognition programs.</li> </ul>

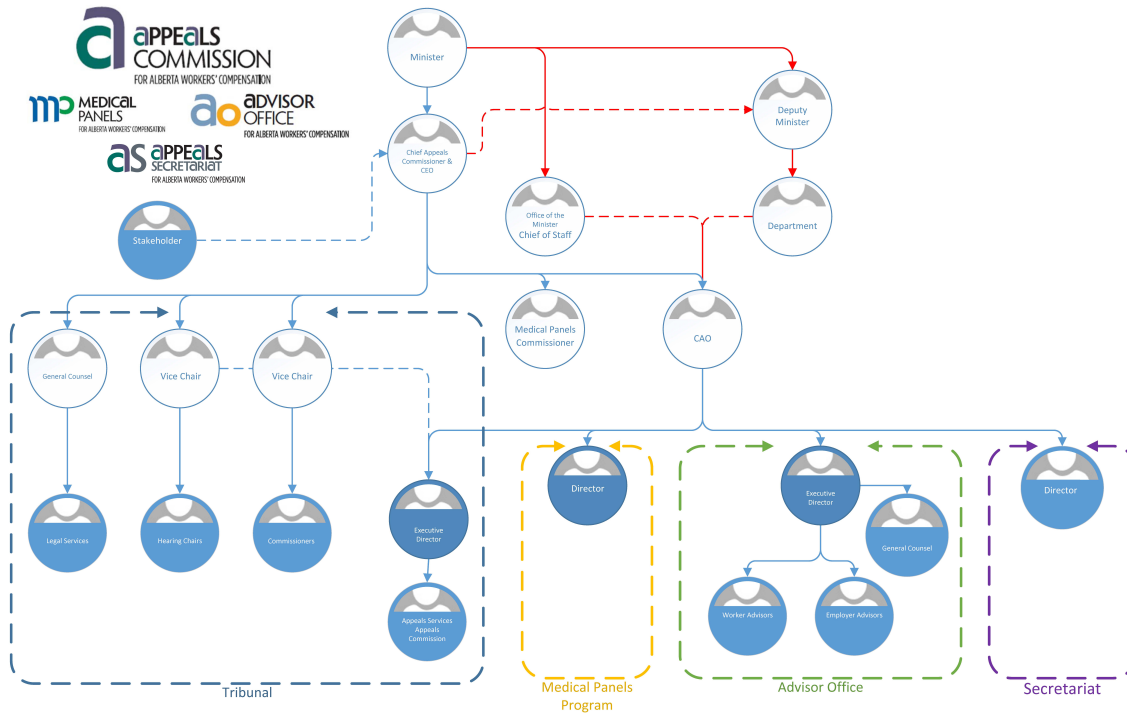
	<ul style="list-style-type: none"> <li>• Section 5.12 amended to expressly permit cross-branch collaboration in appropriate circumstances.</li> <li>• Section 5.14 added to address safety and security.</li> <li>• Section 5.16 updated to address Secretariat shared drives.</li> <li>• Section 5.17 amended to reflect updates in the provision of privacy services.</li> </ul>
March 29, 2024	<p>General editorial updates throughout. Substantive changes include:</p> <ul style="list-style-type: none"> <li>• Sections 4.2, 4.3 and 5.6 amended to clarify the role of the Medical Panels Commissioner.</li> <li>• Section 4.5 amended to include Directors.</li> <li>• Section 5.4 amended to expressly permit communications between branches for training and investigations.</li> <li>• Section 5.10 amended to expressly permit cross-branch training and development where appropriate.</li> <li>• Section 5.11 added to expressly permit cross-branch investigations.</li> <li>• Section 5.13 amended to reference the Governance Committee.</li> </ul>

## 2. Guiding Principles

Each branch of the Appeals Commission has its own purpose and mandate. The following core principles govern all branches and their inter-relationships:

- **Independence:** each branch of the Appeals Commission provides its mandated services to the expected standards of excellence, in an unbiased, impartial manner, free of any outside or cross-branch influence;
- **Service:** each branch of the Appeals Commission understands that it provides important services to Albertans and to the workers' compensation system;
- **Efficiency:** wherever possible and appropriate, the Appeals Commission, its programs and the Secretariat seek to reduce red tape and streamline how services are provided within the system.

### 3. Organizational Structure



## 4. Executive Management

### 4.1 Chief Appeals Commissioner & Chief Executive Officer (CEO)

The *Workers' Compensation Act* assigns dual functions to this role: Chief Appeals Commissioner and CEO. As Chief Appeals Commissioner, this role has legislated responsibilities related to the adjudication of appeals. As CEO, this role has responsibility for, and the authority to manage and direct, the Appeals Commission (Tribunal), its programs and the Secretariat.

This role is accountable and reports to the Minister and is responsible for the operation and management of the Appeals Commission, its programs and the Secretariat, including administering and directing its statutory powers, duties and functions.

Regarding the administration of the Advisor Office, Medical Panels Program and the Secretariat, this role:

- Achieves results through the establishment of corporate objectives;
- Delegates authority, implements policy, establishes procedures, makes decisions, takes actions, establishes practices and develops activities to ensure that mandates are fulfilled;
- Represents and manages the organization's public image and credibility, including the public image and credibility of the programs it establishes and administers.

For greater clarity, and to support independence, as Chief Appeals Commissioner, this role does not:

- Sit on appeals where an Advisor Office representative is participating;
- Sit on appeals where a medical panel report is on file or where some issue regarding a medical panel is raised. The Chief Appeals Commissioner will recuse when on an appeal where a medical panel issue unexpectedly arises.

For greater clarity, and to support independence, as CEO, this role does not:

- Directly oversee the Appeals Commission's programs and Secretariat. The CEO sets broad goals and objectives but provides significant latitude to the CAO and to program and Secretariat leadership as to how those are achieved.

For the purposes of this document, this role will be referred to simply as the "CEO".

### 4.2 Medical Panels Commissioner

The Medical Panels Commissioner is appointed by the Minister. This individual provides senior leadership and is responsible for the operation of the medical panel process in accordance with applicable legislation. This role reports to the CEO.

### 4.3 Chief Administrative Officer (CAO)

The CAO has delegated authority from the CEO and is responsible for overseeing the administration of the operational aspects of each branch of the Appeals Commission. The CAO does so in accordance with the policies, procedures, practices and activities established by the CEO to fulfil the respective mandates of the branches.

Critically, the CAO is responsible for safeguarding the independence of the Appeals Commission's branches and acts as a buffer between the CEO and the Advisor Office and Medical Panels Program. The CEO sets broad objectives and direction which the CAO operationalizes in conjunction with the programs.

The CAO provides high-level oversight for the operations and administration of the Appeals Commission (Tribunal) and the Advisor Office. The CAO supports the Medical Panels Commissioner in day-to-day operations and administration of the Medical Panels Program and provides, as necessary, supervision of staff assigned to the program. The CAO is directly responsible for the day-to-day operations and administration of the Secretariat.

### 4.4 Vice Chairs

Vice Chairs report to the CEO and provide senior leadership at the Appeals Commission (Tribunal). All adjudicators report to one of two Vice Chairs. Vice Chairs do not supervise any non-adjudicative staff members.

### 4.5 Executive Directors and Directors

Reporting to the CAO, the Executive Directors and Directors are responsible for the day-to-day operations and administration of the Appeals Commission (Tribunal), Advisor Office, Medical Panels Program and Secretariat. Most non-adjudicative staff at the Appeals Commission report, directly or indirectly, to the Executive Directors or Directors.

### 4.6 Legal Counsel

There is separate legal counsel for the Appeals Commission (Tribunal) and Advisor Office.

Appeals Commission legal counsel provide advice exclusively to the Appeals Commission (Tribunal) and Secretariat. Advisor Office legal counsel provide legal advice exclusively in respect to the Advisor Office.

The Appeals Commission (Tribunal) has a General Counsel and Legal Counsel who are responsible for all litigation, solicitor work, and general legal and advisory services required by the Appeals Commission (Tribunal) and, unless independence concerns arise, the Secretariat. In the event that independence concerns arise in respect of legal work or advice required by the Secretariat, external or government counsel will be retained.

The Advisor Office has its own General Counsel who fulfils a similar role.



The Medical Panels Program does not have in-house counsel and does not receive legal advice from Appeals Commission (Tribunal) counsel or Advisor Office counsel. The Medical Panels Program may collaborate with Appeals Commission (Tribunal) counsel or Advisor Office counsel on general matters of process or procedure.

## 5. Operational Independence

### 5.1 Vision, Mission and Values

All branches of the Appeals Commission adhere to the same vision, mission and values, modified slightly as appropriate to reflect the unique operations of each branch.

### 5.2 Code of Conduct

All team members from across the Appeals Commission are expected to sign and adhere to the Appeals Commission's [Code of Conduct](#).

### 5.3 Brand Identity

Each branch of the Appeals Commission has its own unique brand identity.

### 5.4 Communications

All appeal-related communications (including medical panel communications) are carried out on the record and through established channels. Team members from across branches must not correspond with each other regarding an appeal outside of these channels. Unacceptable communications include:

- Appeal-related instant messaging across branches;
- Direct communication with adjudicators by team members from the Advisor Office or Medical Panels Program;
- Direct appeal-related communication with the Medical Panels Commissioner by team members from the Appeals Commission (Tribunal) or Advisor Office.

Certain communications are necessary to ensure the efficient and effective execution of the mandate of each branch of the Appeals Commission. Any system-related communication must be limited to management-level employees and kept at a high level, where practical.

Examples of acceptable system-related communication are as follows:

- Roundtable meetings for CEO, CAO and branch leadership to discuss areas of mutual interest and opportunities for improvement;
- Regular meetings between Vice Chairs and Advisor Office Executive Director to discuss areas of mutual interest and opportunities for improvement;
- As-needed meetings between branch leadership to discuss operational issues as well as policies and programs that have impacts across the organization;
- As-needed meetings between Legal Counsel to discuss operational issues;
- Cross-branch training and development sessions on areas of mutual interest, operational issues, or policies and programs that have impacts across the organization;

- Investigations into operational deficiencies conducted by cross-branch Executive Directors and Directors; and
- As-needed meetings between branch Executive Assistants to discuss best practices and operational issues.

The CEO will not typically communicate directly with team members of the Advisor Office or the Medical Panels Program. Communication will be delivered through the CAO or the Advisor Office Executive Director. When the CEO deems it necessary to issue specific operational directions to either program, this will be accomplished by way of Executive Order delivered to the CAO for implementation.

## 5.5 Independence in Advocacy and Adjudication

Advisors from the Advisor Office do not receive preferential treatment from the Appeals Commission (Tribunal) in terms of appeal processes, hearing scheduling, decision timelines, appeal outcomes, hearing practices or adjudication in general. For clarity, and to support independent adjudication by the Appeals Commission (Tribunal) and strong advocacy by the Advisor Office, the following applies:

- While we track overall confirm/vary/reverse rates with respect to decisions appealed to the Appeals Commission (Tribunal), those results are not a performance measure for adjudicators;
- Success rate before the Appeals Commission (Tribunal) is not a performance measure for Advisors.

The Advisor Office has its own policy manual that addresses its unique operations and services.

## 5.6 Reporting

Reporting expectations for the Appeals Commission's programs and Secretariat are as follows:

CEO to Minister	Monthly written update and meetings as required.
Medical Panels Commissioner to CEO	Monthly meetings and written updates as required.
CAO to CEO	Weekly meetings and written updates as required.
Tribunal and Advisor Office Executive Directors to CAO	Weekly meetings and written updates as required.
Medical Panels and Secretariat Directors to CAO	Weekly meetings and written updates as required.

## 5.7 Performance Objectives and Standards

Performance objectives and standards are set as follows:

Appeals Commission as a whole	Minister sets objectives and communicates those to CEO.
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Appeals Commission (Tribunal)	CEO defines performance objectives and standards. Adjudicative standards are communicated through Vice Chairs; operational standards are communicated through CAO/ED.
Advisor Office	CEO sets broad performance objectives and standards which are communicated through CAO. ED operationalizes standards and objectives.
Medical Panels	CEO sets broad performance objectives and standards which are communicated to Medical Panels Commissioner by CEO and to the Medical Panels Director by CAO.
Corporate Services Secretariat	CEO sets broad performance objectives and standards which are communicated and operationalized through the Secretariat Director.

## 5.8 Human Resources

All branches of the Appeals Commission are subject to Government of Alberta human resource directives and policies. The CAO is the most senior *Public Service Act* employee at the organization and is responsible for compliance with Public Service Commission policies. Those policies will be applied consistently across branches. Any Appeals Commission-specific human resources policies and procedures will also be applied consistently across branches, whenever appropriate.

Vacant positions that are posted by way of internal expression of interest will be posted across the branches of the Appeals Commission, whenever possible, and with appropriate conflict and independence controls in place.

## 5.9 Respectful Workplace Policy

The Appeals Commission is committed to a safe and respectful workplace. All team members at the organization are subject to the Government of Alberta's Respectful Workplace Policy.

Any issues or concerns that arise as between Appeals Commission (Tribunal) adjudicators and advisors from the Advisor Office in the context of a hearing are to be dealt with in the course of the hearing or through the Appeals Commission's service standards and complaint policy. The service standards and complaint policy is available to all parties and representatives that appear before the Appeals Commission (Tribunal).

## 5.10 Training

The branches of the Appeals Commission may participate in the same or similar training courses, some of which may be mandated by the Government of Alberta, the CEO or the CAO. For cost-saving and efficiency purposes, this training may be taken by the branches at the same time and in the same location. If the training is taken together:

1. the training should be limited to areas of mutual interest, operational issues or organization-wide policies and programs; and
2. the terms of this document shall be respected at all times.

The Appeals Commission (Tribunal) and the Advisor Office have team members who are responsible for identifying and coordinating training opportunities. Those team members may collaborate on training opportunities for cost savings purposes.

Acknowledging the limited opportunities for external training, team members from across branches are not precluded from participating in the same external training courses; however, the expectation is that their behaviour while on those courses supports the independence of each branch of the Appeals Commission.

### **5.11 Investigations**

Situations may arise that require Executive Directors or Directors from across branches, and/or the Vice Chairs, to conduct investigations into operational deficiencies and report the findings to the CEO or CAO. Cross-branch communications are permitted for these investigations to the extent necessary to ensure independence, service excellence and efficiency.

### **5.12 Team Building and Recognition**

There will be no cross-branch team building, conferences or social activities as between the Appeals Commission (Tribunal), Advisor Office, and Medical Panels Program. Secretariat team members may attend team building, conferences or social activities with other branches.

The Appeals Commission's recognition program will be applied across all branches. However, it is acknowledged that in some instances, branch-specific modifications may be required.

On a case-by-case basis, the CEO and CAO may choose to recognize individuals or teams from across the branches of the Appeals Commission as they consider appropriate.

### **5.13 Operational Policies**

The CAO is accountable for operational policies across all branches of the Appeals Commission. General operational policies will be consistent across the organization. However, it is acknowledged that in some instances, branch-specific policies will be required.

The Governance Committee is a cross-branch committee with representatives from each branch, whose purpose is to review operational policies and programs that have an organization-wide impact.

Where policies and programs may have impacts across the organization, Executive Directors and Directors work collaboratively with the CAO and the Governance Committee to ensure effective program design and implementation across branches.

### **5.14 Facilities**

The Appeals Commission (Tribunal), the Advisor Office, and the Medical Panels Program will not share office space. Each will be housed in a separate office space. For client service, cost savings and efficiency purposes, they may be housed in the same building.

The Secretariat will be housed with the Appeals Commission (Tribunal). All Secretariat staff will be required to sign a Confidentiality Agreement confirming that they will not share information about one branch of the Appeals Commission with any other branch.

For cost savings and efficiency purposes, it may be determined that it is appropriate for certain service providers (for example, cleaning) to provide services across branches. For the same purposes, where appropriate, joint orders for equipment may be placed and items such as office supplies and surplus equipment may be shared. Any sharing of services or equipment will be coordinated through the Secretariat.

### **5.15 Safety and Security**

The Appeals Commission considers the safety and security of its team members, clients and other stakeholders critically important. To maintain a safe and secure environment for everyone involved, safety and security information and resources are shared across branches.

### **5.16 Case Management Systems**

The Appeals Commission (Tribunal), Advisor Office and Medical Panels Program will not share information via case management systems.

### **5.17 Shared Drives**

Each branch of the Appeals Commission has its own drive located on the Government of Alberta server. The drives are not accessible by anyone within the Government of Alberta (with the exception of IT support personnel). With the exception of certain administrative drives that are accessible by Secretariat team members and a shared Commission-wide Resources drive, there is no shared drive access between branches. The Commission-wide Resources drive will contain documents, policies and procedures used across the branches.

When files or documents are shared as between the branches of the Appeals Commission, this sharing takes place by email or through file transfer protocols, as appropriate in the circumstances. Files are not shared by way of shared drives.

### **5.18 Privacy**

The Appeals Commission acknowledges that it accesses and uses confidential personal information in the course of carrying out its mandate. Legal counsel provides privacy advice and support for their respective branch, with legal counsel for the Appeals Commission

(Tribunal) also providing general privacy support for the Secretariat. Government of Alberta privacy consultants may also provide privacy advice and support as needed.

Whenever possible, privacy policies and procedure will be consistent across the entire organization.

### **5.19 Team Member Appeals to the Appeals Commission (Tribunal)**

The Appeals Commission acknowledges the possibility that team members from all branches may have personal involvement in a WCB claim that proceeds to an appeal at the Appeals Commission (Tribunal). Those appeals will be managed on a case-by-case basis in order to support independent and fair adjudication, as well as the privacy of the team member. Steps that may be taken by the Appeals Commission (Tribunal) in these circumstances include, but are not limited to:

- Excluding the CEO and Vice Chairs from participating in the hearing;
- Assigning panel members who are less likely to have had exposure to the team member involved in the hearing (for example, panel members based in a different city), or where necessary, seeking to appoint, on a short-term basis, panel members who have not interacted with the team member;
- Assigning the pre-hearing work on the matter to a supervisor who is less likely to have had exposure to the team member involved in the hearing (for example, a supervisor based in a different city);
- Preparing the matter using paper only, rather than storing information within network drives or a case management system;
- Not publishing the decision.

### **5.20 Representation on Team Member WCB Claims and Appeals**

The Appeals Commission acknowledges that in the event that a current or former team member has personal involvement in a WCB claim or an appeal to the Appeals Commission (Tribunal), they may wish to be represented. If a current or former team member from any branch of the Appeals Commission seeks representation from the Advisor Office, the matter will be reviewed by the Advisor Office's Executive Director and General Counsel to determine if representation consistent with the Advisor Office's Service Commitment can be provided. The review may result in:

- A determination that the Advisor Office can represent the team member;
- A determination that the Advisor Office can represent the team member, with conditions;
- A determination that the Advisor Office cannot represent the team member. In this instance, the Advisor Office will assist the team member in finding alternate representation.

### **5.21 Service Standards and Complaints Process**

The Appeals Commission has a public-facing [Service Standards and Complaints Process](#) which applies to all branches of the Appeals Commission. Complaints are referred to the CAO and directed to the appropriate branch for a response.

### **5.22 Breach Reporting**

Any breaches of Section 5.4 of this document must be reported immediately to the CAO. The CAO will monitor, mitigate and report on breaches as appropriate.

### **5.23 Annual Audit**

The CAO will arrange for annual Governance and Independence audits to ensure compliance and consistency, and identify areas of improvement. Auditors may be internal or external, as appropriate.