

➤ **ANNUAL REPORT**
2016-2017



APPEALS
COMMISSION
FOR ALBERTA WORKERS' COMPENSATION



Alberta



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ALBERTA
LABOUR

*Office of the Minister
MLA, Edmonton - Mill Woods*



The Appeals Commission for Alberta Workers' Compensation is the final level of appeal for workers' compensation matters in Alberta. Its mission is to provide a timely, fair, and independent appeals process consistent with legislation, policy, and the principles of natural justice. The Appeals Commission is independent of the Workers' Compensation Board (WCB), and is accountable to the Minister of Labour.

The Ministry of Labour protects workers' rights by ensuring fair and modern legislation, and regulating Alberta's workplaces to provide a better quality of life for Albertan workers. Our Ministry also ensures that Alberta is equipped with a skilled workforce and an efficient labour market to support a thriving and diverse economy.

During the upcoming months and years, I look forward to seeing the Appeals Commission continue to expand on the accomplishments outlined in the 2016/2017 Annual Report that follows. I am pleased with the Appeals Commission's commendable achievements, and look forward to future successes that will support the Ministry of Labour in shaping Alberta's economy into a safe, fair, and healthy environment for all workers.

I would like to thank the Appeals Commission for its dedication to providing Albertans with fair and timely appeals services, and I look forward to continuing to work together and making a difference in the lives of Albertans.

The Hon. Christina Gray

Minister of Labour



Introduction to the Appeals Commission

➤ **This** document reports on the performance of the Appeals Commission as it relates to the deliverables outlined in its 3-year rolling business plan. It covers the time period from April 1, 2016 and March 31, 2017 inclusive.

Who we are

The Appeals Commission for Alberta Workers' Compensation is a quasi-judicial tribunal operating under the authority of the Workers' Compensation Act as the final level of appeal for decisions made by a review body appointed by the system administrator, the WCB. Our mission is to provide a timely, fair, and independent appeals process consistent with legislation, policy, and the principles of natural justice. The Appeals Commission is independent of the WCB and reports to the Minister of Labour. This reporting relationship is guided by the Appeals Commission's Mandate and Roles Document, which is housed with the Agency Governance Secretariat.

Our people

Adjudicators, including the Chief Appeals Commissioner, are merit-based appointments recruited through public competition. The competition process is based on a competency matrix which ensures that our adjudicators meet a high standard of clear and unbiased decision making. Adjudicators are appointed by the Lieutenant Governor in Council as representative of either the interests of employers or the interests of workers.

Presently, there are 49 adjudicators consisting of 19 full-time hearing chairs and 30 part-time commissioners. The Chief Appeals Commissioner also acts as the CEO of the Appeals Commission, directing its operations with the support of an executive team comprised of two Vice Chairs, General Counsel, and the Executive Director.

Appeals process

Appeals are heard by panels made up of three adjudicators, who issue a decision that must be implemented by the WCB within 30 days. Decisions of the Commission are published on the Canadian Legal Information Institute website, CanLII (www.canlii.org).



Letter from the Chief Appeals Commissioner

➤ **Our** annual report is an opportunity to reflect on our achievements during the 2016/17 fiscal year. I am proud of the Appeals Commission's accomplishments over the past year. We strive towards excellence by pursuing the objectives established by our annual strategic plan.

The quality of our decisions remains high. This year we received support for our decisions from the Office of Ombudsman and the Courts. Within the fiscal year, Appeals Commission decisions were the subject of three Court of Appeal decisions, four Court of Queen's Bench decisions, and twenty-four concluded Ombudsman investigations – with one exception, all of our decisions were supported. The exception was a decision returned to us by the Court of Queen's Bench that dealt with a narrow issue of historical benefits calculation.

During the 2016/17 year, we continued to see the positive impact of the Electronic Information Access Project. That project was implemented in 2015 and focused on ensuring efficient and secure electronic document exchange between the Appeals Commission and the WCB. Our timelines for scheduling an appeal is now within 130 days of its receipt – almost three weeks faster than our original target of 150 days.

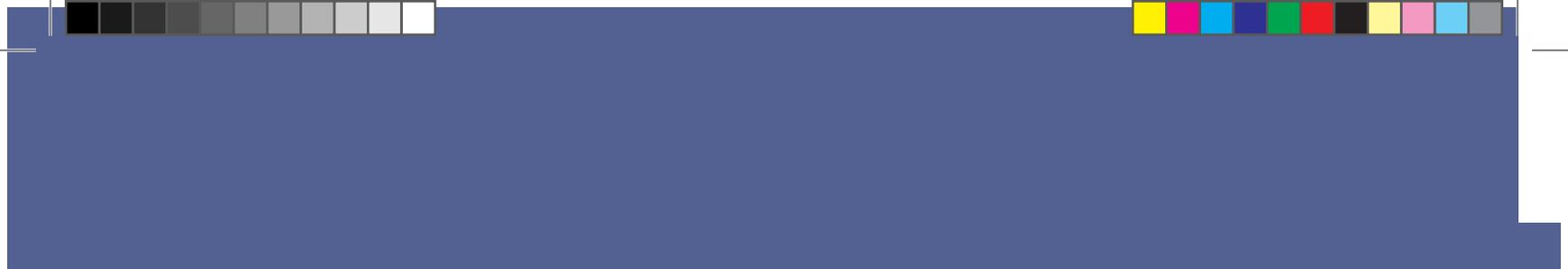
Following feedback from internal and external focus groups about the documentary records for our hearings, known as Appeal Documents Packages (ADPs), a proof of concept for an electronic ADP was presented to an internal working group for testing. The response was extremely positive – over half of our adjudicators now use electronic ADPs in hearings bringing us to the point where a truly paperless appeal process is imminent.

In March 2016, the Government of Alberta commenced a formal review of agencies, boards, and commissions in Alberta, including the Appeals Commission. As part of the review, an independent panel evaluated the WCB system to ensure fair compensation and meaningful rehabilitation for all workers. The Appeals Commission had the opportunity to present to the panel and provide our perspective and to work closely with colleagues in the Ministry of Labour, the Medical Panel Office, and the WCB.

Legislative and policy changes are impending. We are looking forward to adapting to the changes while continuing to provide a fair, timely, and independent appeals process.

Yours very truly,

Douglass M Tadman, QC
CEO and Chief Appeals Commissioner



REVIEW BY THE COURTS



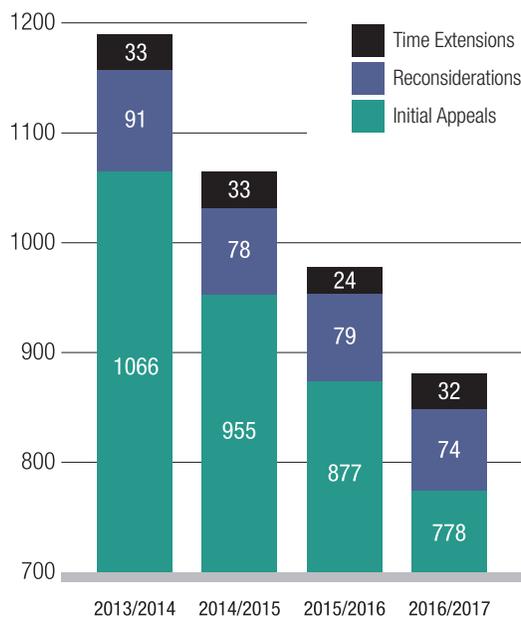
➤ **From** April 1, 2016 to March 31, 2017, the Alberta courts issued seven decisions in respect of judicial review/appeal of decisions of the Appeals Commission. All other court applications were struck at a preliminary stage or discontinued.

1. In *Seweryn v Alberta (Appeals Commission for Workers' Compensation)*, 2016 ABCA 202 (June 27, 2016), Mr. Seweryn applied to have the Court appoint counsel for two separate applications. The Court found that the ability to appoint counsel for unrepresented litigants was limited and Mr. Seweryn was unable to provide a reasonable explanation as to why the Court should appoint counsel. The application was denied.
2. In *Yuill v Alberta (Workers' Compensation Appeals Commission)*, 2016 ABQB 369 (June 30, 2016), the Court found that Ms. Yuill's failure to serve the employer with a notice of application for statutory appeal and judicial review was fatal to the application proceeding. The judge proceeded with the analysis regardless of the service issue, and found the Appeals Commission's decision to deny responsibility for Ms. Yuill's injury was reasonable. The application was dismissed.
3. In *Seweryn v Alberta (Appeals Commission for Alberta Workers' Compensation)*, 2016 ABCA 239 (August 12, 2016), Mr. Seweryn advanced three separate applications. He sought an extension of time to file a judicial appeal, leave to argue constitutional issues, and permission to compel the Appeals Commission to provide audio recordings. The application for an extension of time was denied because it lacked merit. Leave to argue constitutional issues were denied because the claim lacked particulars. Lastly, the application to compel production of audio recordings was denied because it lacked relevancy. All three applications were dismissed.
4. In *Schulte v Alberta (Appeals Commission for Alberta Workers' Compensation)*, 2016 ABCA 304 (October 10, 2016), Mr. Schulte appealed a Court of Queen's Bench decision upholding the reasonableness of the Appeals Commission decision. The Court found that Mr. Schulte's arguments relating to allegations of bias, bath faith, and abuse of process lacked merit. Further, the Court found the Court of Queen's Bench decision was reasonable. The application was dismissed.
5. In *Sobeys West Inc v Alberta (Appeals Commission for Alberta Workers Compensation)*, unreported (November 25, 2016), the Court reviewed the Appeals Commission's decision relating to whether or not the parking lot where the worker was injured was considered the employer's premises. It was held that it was the employer's premises. Sobeys West argued that the Appeals Commission erred in taking an alternative interpretation than previous decisions, which held that parking lots do not form part of an employer's premises. The Court held that the Appeals Commission was not bound by previous decisions and the departure was reasonable. The application was dismissed.
6. In *Cordeiro v Alberta (Appeals Commission for Alberta Workers' Compensation)*, 2017 ABQB 22 (January 13, 2017), the Court reviewed the Appeals Commission's decision to refuse to exercise jurisdiction over issues raised at the appeal. Mr. Corderio argued that the Appeals Commission erred when it declined to hear issues relating to alleged procedural defects at the WCB. The Court held that the Appeals Commission appropriately exercised its jurisdiction and any procedural defects were cured at the appeal hearing. The application was dismissed.

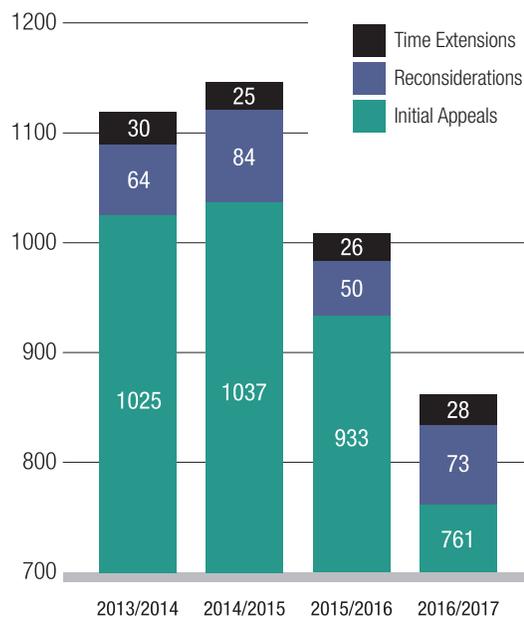


7. In *Alberta (Workers' Compensation Board) v Alberta (Appeals Commission for Alberta Workers' Compensation)*, 2017 ABQB 127 (February 23, 2017), the Court reviewed the Appeals Commission's calculation of a worker's Earnings Loss Supplements (ELS) and Cost of Living Allowance (COLA) for injuries sustained in 1976 and 1979. The Court held that the ELS calculation based on section 158 of the *Workers' Compensation Act (2000)* was reasonable. However, the Court also held that the COLA calculation based on section 57(2) of the WCA, 2000 was unreasonable. The ELS calculation was upheld and the COLA calculation was quashed and returned to the Appeals Commission.

Appeals Received

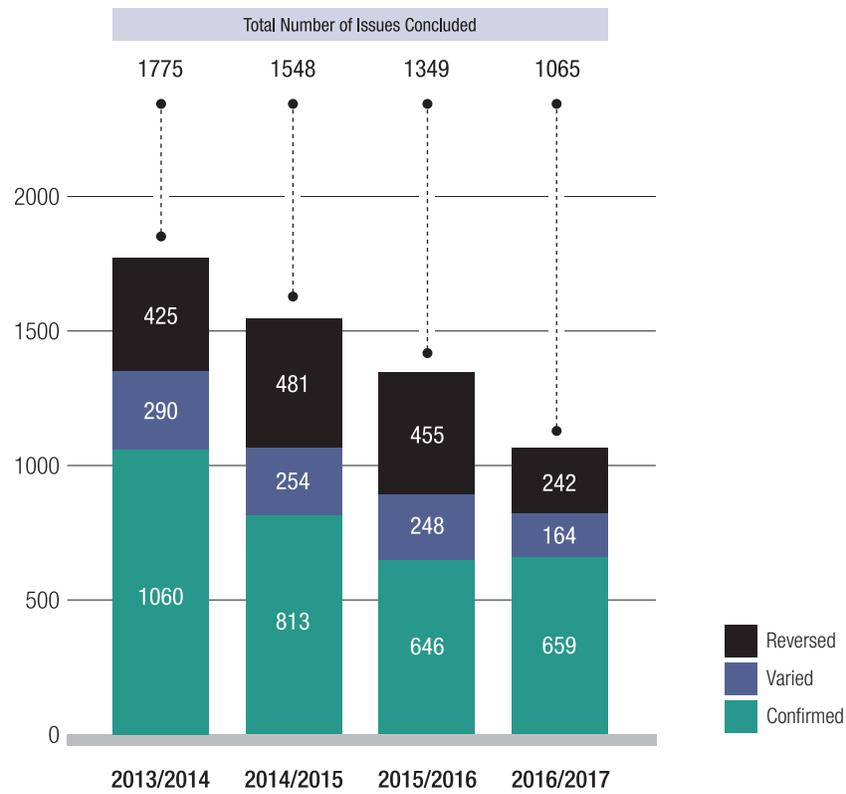


Appeals Concluded





Finalized Issues of Appeal



REVIEW BY THE OMBUDSMAN



➤ **From** April 1, 2016 to March 31, 2017, the Appeals Commission was notified of 15 complaints to the Office of the Ombudsman regarding decisions made by the Commission. In the same time period, the Ombudsman concluded 24 investigations dealing with Appeals Commission matters.

One of the above investigations resulted in a recommendation from the Ombudsman. That recommendation has resulted in the creation of a “Post-Decision FAQ” document that is provided to the parties to every decision that we release. The FAQ answers common questions relating to options available to parties once the Appeals Commission has issued a decision.

Another investigation resulted in a suggestion (although not a formal recommendation) that each Appeals Commission decision includes the Appeals Commission’s legislative authority to hear the appeal. The Appeals Commission has shared this suggestion with our adjudicators.

2016/2017	Concluded	Actions
Ombudsman	24	2
Court (QB and Appeal)	18	1
Reconsideration Requests	73	9



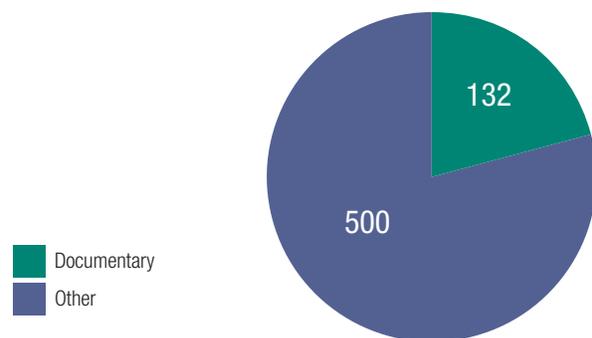
Top Five Issues of Appeal

2015/2016

2016/2017

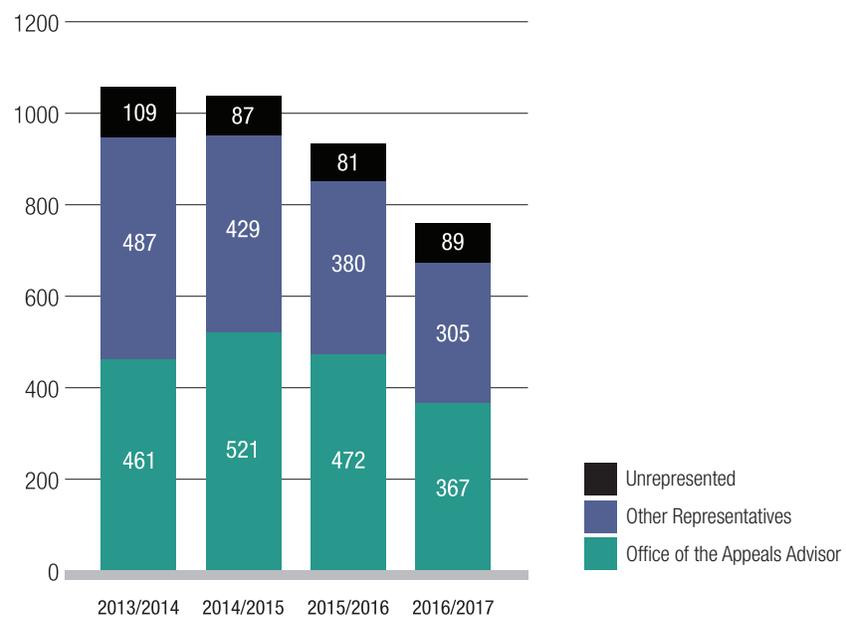
1 Temporary Total Disability	227	1 Acceptability of Claim	189
2 Acceptability of Claim	210	2 Additional Entitlement	214
3 Additional Entitlement	224	3 Temporary Total Disability	180
4 Rehabilitation Services	110	4 ELP Calculation	117
5 ELP Calculation	141	5 Medical Aid Responsibility	97

Types of Hearings





Representation Before the Commission



APPEALS SERVICES ACCOMPLISHMENTS



> Timelines

In the 2016/2017 fiscal year, the Appeals Commission saw continued improvements in how quickly appeals were processed. The impact of the Electronic Information Access Project was realized as we saw our timelines shortened, allowing parties to appear at an Appeals Commission panel within 130 days of filing an appeal. This was a decrease of two full weeks since the year prior and nearly three weeks faster than our target of 150 days. We continue to review processes and procedures, and use technology to ensure that appeals are processed in the most effective and efficient manner possible.

Appeals Timelines

Target	2014/2015	2015/2016	2016/2017
150 days	155.40 days	144.92 days	130.91 days

Average number of days from the date the appeal is filed to the first hearing date offered

Target	2014/2015	2015/2016	2016/2017
30 days	31.28 days	28.06 days	30.16 days

Average number of days from hearing to the decision issue date

Institute of Public Administration of Canada (IPAC) Nomination

The Electronic Information Access Project was nominated for IPAC's Innovative Management award and was selected as a finalist in the summer of 2016. A team of Appeals Commission staff presented our case to a panel of judges in Toronto. Additionally, representatives from the Appeals Commission attended IPAC's annual conference where they had the opportunity to network with leaders in government from across Canada.

Staff Engagement

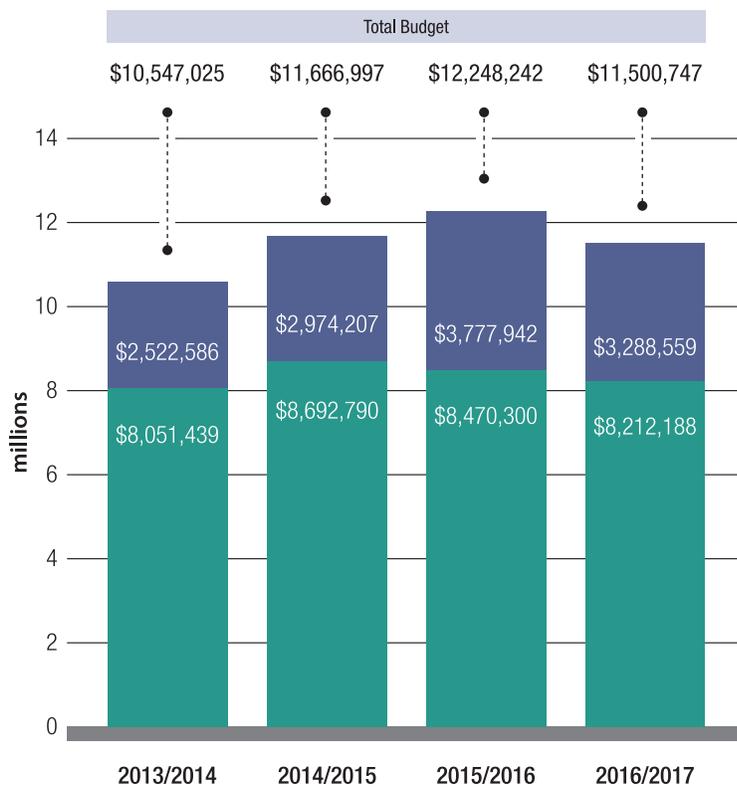
Throughout the year, there were several opportunities for staff to be involved in activities and projects. One of the most notable projects this year was the redesign and content update to the Appeals Commission's website. Several brainstorming sessions were conducted and working groups were created to solicit input from stakeholders, adjudicators, and staff on design and content for the new website.

The Appeals Commission also has a very active and engaged staff club. Club members plan activities throughout the year to encourage collaboration amongst adjudicators and staff. There is never a shortage of activities or projects to keep our team actively engaged.

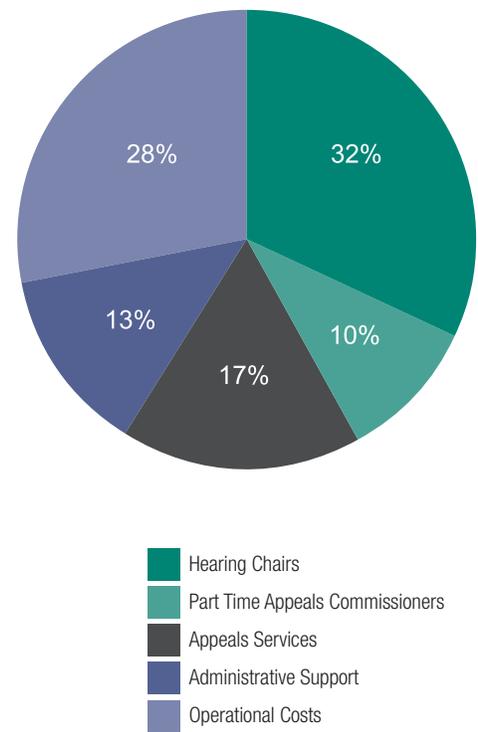
FINANCE ACCOMPLISHMENTS



Budget Overview



Budget Details





LEGAL SERVICES ACCOMPLISHMENTS



> **Commitment to Knowledge Management, Quality, and Training**

In June 2016, the Appeals Commission's Legal Services team welcomed a new Manager of Knowledge, Quality, and Training. This position supports all levels of the Appeals Commission in our pursuit of excellence, and responds to our increased need for succession planning and education.

Exemplary Support from the Courts and Ombudsman

Appeals Commission decisions were the subject of three Court of Appeal decisions, four Court of Queen's Bench decisions, and 24 concluded Ombudsman investigations. All but one court decision and one Ombudsman investigation upheld the decision of the Appeals Commission. The matter that was returned to the Appeals Commission by the Court of Queen's Bench dealt with a narrow issue of historical benefits calculation. The recommendation from the Ombudsman aligns with the Appeals Commission's ongoing commitment to transparency and creating resources that respond to the needs of the Albertans that we serve.

INFORMATION TECHNOLOGY (IT) ACCOMPLISHMENTS



➤ **The Appeals Commission Electronic System (ACES)**

The claims management application used by the Appeals Commission to manage and maintain all appeal-related information is called ACES. It was implemented in November 2012 and has since been updated to align with the continued improvements the Appeals Commission has made to its business processes and procedures.

Since 2012, ACES has become quite outdated. In 2016, we developed plans to upgrade ACES to the latest version of Customer Relationship Management Dynamics (technology platform). The upgrade will provide the Appeals Commission with the latest technology, increased collaboration, improved functionality, and the ability to use the application on mobile devices. The upgrade is expected to be completed by the end of 2018.

In 2016, the Appeals Commission also planned to undertake phase 2 of its ongoing website project, which will include the introduction of an online document portal. The portal will allow users to electronically exchange documentation and communications with the Appeals Commission in a secure environment. This will occur in parallel to the ACES upgrade project.

Auditing ACES

For four months in 2016, the data within ACES underwent an intense and rigorous auditing process. Subsequently, some of the results from the statistical reporting in 2013/2014 were rebuilt and updated accordingly.

The audit process has now been standardized and is done on a monthly basis, followed by an intensive auditing process after the fiscal year-end.

Providing IT Options and Support to Adjudicators

In June 2016, the Appeals Commission provided all adjudicators with laptops. The goal was to enable the adjudicators to work remotely efficiently and effectively, using a common technology that was secure and reliable.

Shortly following the deployment of laptops, a focus group of adjudicators was created to explore the potential use of laptops in hearing preparation, hearings, and decision writing. This resulted in a proof of concept for an electronic Appeal Documents Package (ADP) with electronic indexing that was presented to the group for testing. Each member of the focus group has used one in a hearing with positive results. Over 50% of adjudicators have requested to have an electronic file to use in upcoming hearings. Next year, we will continue to provide training and support in the use of electronic ADPs in hearings.



Consistent Wireless Coverage and IT Support in Hearings

In January 2016, it was determined that wireless coverage at the Appeals Commission was inconsistent. An external consultant performed an analysis of the wireless signal coverage in the Edmonton and Calgary offices and recommended the installation of additional Wireless Access Points. The installation took place in March 2017. Wireless internet access is now available to guests in the Edmonton and Calgary offices.

IT support is available to clients who may come to the hearings requiring technical resources. Each of our hearing rooms is outfitted with technology that provides the ability to display documents, presentations, internet sites, or various other media during a hearing.

EDUCATIONAL ACCOMPLISHMENTS



➤ **Educational** and professional development is a vital part of the Appeals Commission's commitment to ensuring that our team has opportunities to further cultivate their talents and develop new skills in their areas of expertise.

The Appeals Commission encourages participation in educational courses and programs focused on learning and gaining experience that will help keep work skills current, meet fluctuating business needs, and contribute to the success of the Appeals Commission.

Continuous training and formal education boost motivation and morale, and is an important part of the Appeals Commission's culture. Yearly performance management sessions occur with an emphasis on training plans and opportunities to expand skills. The Appeals Commission believes that educational development creates a supportive environment where individuals feel valued, appreciated, and challenged.

The Appeals Commission's educational and professional development opportunities include:

- Job shadowing
- University courses
- Committee work
- Short-term acting assignments
- Position enhancement
- Secondments
- Job swaps
- Job rotation
- Cross-training

EDUCATIONAL HIGHLIGHTS



➤ **The** Appeals Commission is proud of our team members who have completed the following courses to further enhance their role and develop their skills:

Dale Wispinski (General Counsel) completed the Business Leadership Program for In House Counsel (University of Toronto) and received the Certified In House Counsel (CIC.C) designation. The program provides an overview of the essential knowledge and skills required by those who strive to be recognized as strategic partners within their organizations. Topics covered include strategic planning, financial literacy, effective negotiations, business communications, team and performance management, and substantive legal education in areas such as governance and risk management.

Jay Williamson (Legal Counsel) completed a course in Health and Safety Law (University of Alberta, Faculty of Extension). This course provides training and instruction on the key elements of the regulatory environment governing workplace safety, including the framework of occupational health and safety in Alberta, obligations of all parties covered by the Occupational Health and Safety Act, jurisdictional considerations, and ethical and legal responsibilities of safety professionals.

Michelle Lang (Manager of Knowledge, Quality, and Training) completed course work in Managing Organizational Change (University of Alberta, Faculty of Extension). The course examines the change process, and tools and techniques to manage organizational change. Students examine key concepts of change and how to utilize a structured method to approach, plan, and sustain a change program.

Jeffrey Griep (Senior Appeals Secretary) and Kaitlyn Young (Appeals Officer) completed the Supervisors Certificate Program (Government of Alberta Learning Centre) and earned their certificates. The program provides a training curriculum for aspiring supervisors, new supervisors, and experienced supervisors. The Supervisors Certificate Program focuses on developing the skills, knowledge, and competencies identified as the keys to success in the Alberta Public Service. The program is comprised of nine courses, which must be completed to receive the certificate.

Fosia Abdi (Appeals Officer) began taking courses towards her Certificate in Tribunal Administrative Justice (Foundation of Administrative Justice). The certificate assists tribunals and participants to evaluate and support competencies in administrative justice roles. There are three streams that participants can choose from that matches their role and career path: tribunal member (for the appointed or elected board members and decision-makers), administrator (for staff and other support personnel), and advocate (for clients, presenters, and counsel).

STAFF RECOGNITION



➤ **The** Appeals Commission employs staff from a variety of backgrounds and disciplines. We are able to meet our standards of excellence because of the diverse knowledge base and strong work ethic of the talented individuals who work here. We value our staff and the passion with which they serve Albertans.

Meet Our Team



Stephanie Bossio, Executive Assistant

Stephanie worked as a teacher before she joined the Appeals Commission in 2014. Working as a substitute junior high and elementary teacher helped her develop a diverse range of skills, which have contributed to her success at the Appeals Commission. Stephanie began working as a temporary Records Clerk while searching for teaching opportunities, but she quickly realized how great the Appeals Commission truly is. Later, she started a permanent position as an Administrative Assistant, and has recently begun working as an Executive Assistant. The unique work environment and supportive staff at the Appeals Commission motivated Stephanie to continue her career in public service.



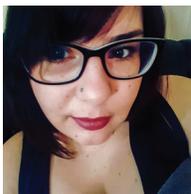
Flordeliza Wallis, Receptionist

Flordeliza has worked with the Appeals Commission since last fall. Prior to joining the Appeals Commission, she worked for seven years at the Marriott Hotel in downtown Calgary. Since she is a “people person,” working as a Receptionist comes naturally. Flordeliza enjoys meeting new people in person, as well as meeting them over the phone. “I also love being a part of a team – the team at the Appeals Commission is so interesting and fun that I couldn’t be more proud.”



Jeffrey Griep, Senior Appeals Secretary

Jeffrey spent 10 years in the customer service industry in various roles such as sales and servicing photocopiers for the University of Alberta. In February 2012, Jeffrey began working for the Appeals Commission as an Appeals Secretary. After two and a half years, he began the role of a Senior Appeals Secretary. Since Jeffrey has worked at the Appeals Commission for the past five years, he has grown significantly because of the opportunities that have been provided. He was nominated for two IPAC leadership awards in 2017 and shortlisted as a finalist. “I was truly shocked and humbled. Though I did not end up being the recipient of either award, receiving this recognition truly felt like winning anyhow.” Jeffrey is currently working towards completing a Bachelor of Business Administration degree at Northern Alberta Institute of Technology (NAIT). This year marks a major milestone for him in several ways: the awards, five years of service at the Appeals Commission, as well as his return to the education system pursuing a degree.



Kat Gariepy, Appeals Officer

In January 2014, Kat began the role of an Appeals Officer at the Appeals Commission. She has a diverse background, which includes working as a Paralegal, specializing in Indian Residential School claims, and developing her talents in culinary arts where Kat later focused on baking pastries. She has used her skills to adapt quickly to the ever-changing, challenging environment at the Appeals Commission. Kat directs social and fundraising committees to ensure Appeals Commission staff don't just work hard, but play hard, and give back to the community while doing so. "The sense of family here at the Appeals Commission is what makes me feel at home. Every employee is supportive of every endeavour and you are always encouraged to seek out learning opportunities and always continue to reach for professional growth."



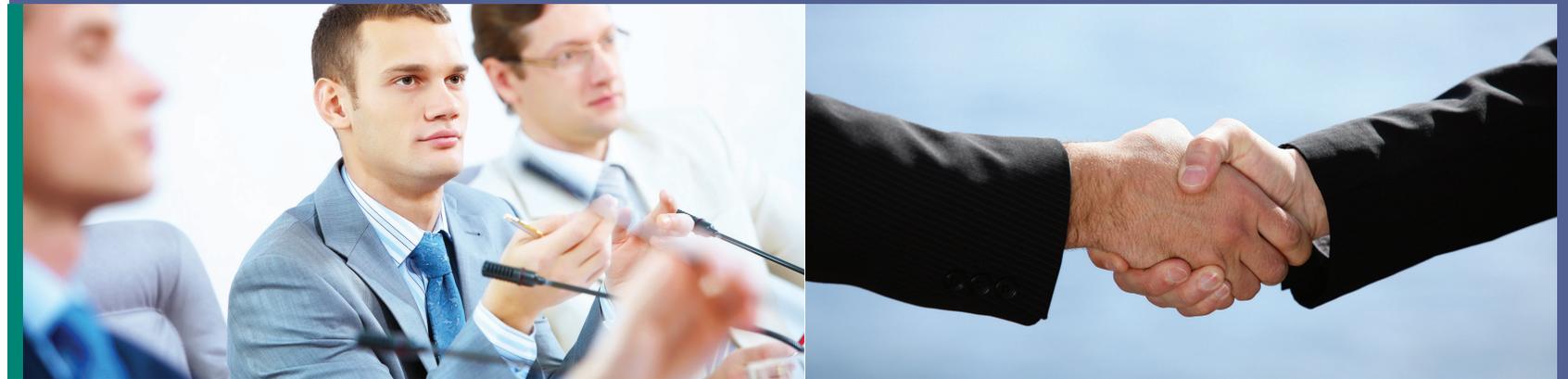
Margot Naranjilla, IT Manager

Margot began working with the Appeals Commission on January 13, 2014. As the IT Manager, she manages a cross-functional team. Her responsibilities include providing leadership and technical direction for the Appeals Commission's claims management application, acting as the intermediary between the business users and Application Maintenance Service (AMS) provider; managing and maintaining effective relationships with Government of Alberta counterparts and vendors; strategically planning the technical direction of the Appeals Commission; managing the implementation of IT initiatives; and providing timely and accurate statistical information to the Executive team. Margot has managed several projects at the Appeals Commission, including the successful transition of the Appeals Commission's IT environment from a standalone entity to being a part of the Government of Alberta's infrastructure and data security policies. Margot holds an undergraduate degree in International Studies from the University of Saskatchewan and is currently pursuing her Executive MBA at the University of Alberta.



Grace Brittain, Hearing Chair

Grace has been with the Appeals Commission since 2005. She began working as a part-time Commissioner, and then transitioned to a full-time Hearing Chair position in 2017. Grace worked as a Registered Nurse for 39 years and has extensive experience in health-care management, program development, and education. She has served on many administrative tribunals and boards that deal with health, human services, disability, cross-cultural, and professional conduct and performance issues. She has a keen interest in mental health and forensics, and continues to pursue education in these areas. Grace has been a volunteer at the Medicine Hat YMCA for 11 years. "The Appeals Commission is an enriching environment both professionally and personally doing important work for the workers and employers of the Province of Alberta. I enjoy my time here immensely."



Gregory Kelly, Hearing Chair

Gregory started his career with the Workers' Safety and Compensation Commission (WSCC) of the Northwest Territories and Nunavut in 2004 where he held several positions, including that of an Entitlement Officer, Adjudicator, and Case Manager. In 2007, Gregory was appointed Chair of the WSCC's first level of appeal known as the Review Committee. During his time in the Northwest Territories, Gregory also held appointments on the Student Financial Assistance Appeal Board and the Social Assistance Appeal Board. In 2016, he commenced the position of Hearing Member with the Immigration and Refugee Board of Canada's Refugee Protection Division. Gregory's work experience is complemented by several post-secondary degrees and certificates: a Bachelor of Arts in History and Sociology from Memorial University, a Bachelor of Arts in Law (Highest Honours) from Carleton University, a Master of Criminology from the University of Ottawa, and certificates in Law from Hallam University, Professional Leadership Development from Vancouver Community College, and Tribunal Administrative Justice for the Tribunal Member from the Foundation of Administrative Justice.





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