Guide to the Responsible Use of Generative AI in WSIAT Proceedings

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This Guide applies to representatives and self-represented parties, and explains:

- The WSIAT's expectations for the responsible use of generative artificial intelligence (generative AI) by parties and representatives in Tribunal proceedings
- How professional, ethical, and procedural responsibilities apply when generative AI tools are used to prepare or present a case
- Key considerations when using generative AI, including accuracy, human oversight, confidentiality, transparency, and accountability

This Guide is intended to support the responsible use of generative AI in WSIAT proceedings while maintaining the fairness and integrity of the Tribunal's processes. Parties and representatives remain responsible for the content and conduct of their case, whether or not they use generative AI tools.

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1. Context

The Workplace Safety and Insurance Appeals Tribunal (WSIAT or Tribunal) is committed to accessibility, impartiality, and fairness in every proceeding. As generative artificial intelligence (generative AI) tools, such as ChatGPT and Microsoft Copilot, become more common in legal and administrative settings, the Tribunal recognizes that parties might choose to use them to assist with hearing preparation. Generative AI is a type of artificial intelligence that can create text or other content in response to user prompts.

Generative AI tools may, in some circumstances, assist with organizing information or improving the clarity of written materials. However, their use also raises potential concerns related to accuracy, fairness, confidentiality, and transparency. Improper or uncritical use of generative AI tools may compromise the quality and integrity of submissions and introduce risks to personal or sensitive information. This Guide outlines the Tribunal's expectations regarding the ethical and responsible use of generative AI by individuals appearing before the WSIAT. Although this Guide focuses on generative AI tools, the underlying principles may also apply, where appropriate, to other AI-enabled applications or technologies. Consistent with the Tribunal's AI Governance Framework, AI is not used to influence or substitute for adjudicative decision-making at the WSIAT.

2. Purpose

This Guide clarifies how existing responsibilities under the Tribunal's Practice Directions and broader professional or procedural rules apply when generative AI tools are used in connection with Tribunal proceedings. It does not create new obligations. Rather, it reaffirms that parties and representatives remain responsible for the content and conduct of their case, regardless of whether generative AI tools are used. The Guide also supports transparency, accountability, and public confidence in the fairness of the Tribunal's processes.

3. Scope

This Guide applies to anyone who participates in a Tribunal proceeding in a way that involves preparing, presenting, or assisting with materials or submissions, including:

- Self-represented parties; and
- Lawyers, paralegals, or others authorized to provide legal services (e.g., union representatives, Office of the Employer Adviser, Office of the Worker Adviser) in accordance with the *Law Society Act*, R.S.O. 1990, c. L.8 ("*Law Society Act*") and its regulations and by-laws.

4. General Principles

All parties and representatives are expected to ensure that any use of generative AI upholds the integrity of the Tribunal's processes and complies with applicable professional, ethical, and procedural standards. Improper use of generative AI, including reliance on inaccurate, misleading, or unverifiable content, may compromise the fairness of the proceeding and result in negative credibility findings or other procedural consequences.

Whether a party is represented or self-represented, the following principles apply to the preparation and use of AI-generated content in connection with a Tribunal appeal or application:

Ensure Accuracy and Maintain Human Oversight

Parties and representatives are responsible for verifying that any AI-generated content they rely on is factually correct, legally accurate, and appropriate in the context of their case.

Generative AI tools may assist with tasks such as organizing information, summarizing lengthy materials, or helping to draft or edit materials. However, they should not be used without careful human oversight. Parties are expected to review and confirm that any AI-generated content aligns with the facts of the case, applicable legal principles, and the Tribunal's procedures.

Sole reliance on AI-generated case law, legal analysis, or factual summaries, without independent verification, is inappropriate and may affect the weight or credibility of the submission. For example, a party should not simply copy and paste case citations or legal arguments provided by a generative AI tool without confirming that the cases exist, are accurately summarized, and are relevant to the issues in the appeal or application.

Protect Confidential Information

Parties and representatives have obligations to protect the confidentiality of personal information obtained or used in the course of Tribunal proceedings. These obligations arise under applicable legislation, including the *Workplace Safety and Insurance Act, 1997* and the *Freedom of Information and Protection of Privacy Act*, as well as, where applicable, professional conduct rules and the Tribunal's Practice Directions. The Tribunal's approach to access to and protection of personal information is also reflected in Practice Direction #3, "Consent for the WSIAT to Release a Worker's Information".

Generative AI tools must not be used in ways that jeopardize personal or other confidential information arising in the context of a Tribunal proceeding. Even where direct identifiers have been removed, there may still be a risk that information could be linked back to an individual, particularly when combined with other details.

Parties and representatives must not input case-specific or personal information into generative AI tools that may store user inputs or use them to train their models

(e.g., public or consumer-grade tools). Such information should only be entered into any generative AI tool if the tool provides clear and reliable safeguards to prevent the storage, reuse, or disclosure of that information.

Many parties and representatives now use enterprise or organization-licensed generative AI tools (e.g., Microsoft Copilot deployed within a secure tenant). While such tools may provide stronger privacy protections, parties and representatives must still ensure that any tool they use is configured and governed in a way that complies with their confidentiality and privacy obligations. Representatives who are licensees of the Law Society of Ontario must also ensure that their use of generative AI complies with their professional confidentiality obligations, including those set out in the *Rules of Professional Conduct* and *Paralegal Rules of Conduct*.

If a party or representative becomes aware that confidential information may have been entered into a generative AI tool in a way that could have compromised privacy, they should consider advising any affected person and should notify the Tribunal if the issue could affect the fairness or integrity of the proceeding (e.g., if it relates to materials filed, disclosure, or the conduct of the hearing). The Tribunal may provide procedural directions as needed.

Do Not Submit False, Fabricated, or Misleading Content

Parties and representatives must not submit AI-generated content that includes false, fabricated, or misleading case law, legal citations, or factual summaries.

If the Tribunal identifies concerns that AI has been used to generate false or misleading content, it may take steps such as disregarding or excluding the affected materials, requesting an explanation of how the content was prepared, or requesting corrected or supporting materials. It may also lead to review and consequences under Practice Direction #29, “WSIAT Code of Conduct for Representatives”.

In considering any credibility or procedural consequences, the Tribunal may consider the circumstances, including whether the issue appears inadvertent or deliberate and the significance of the content to the outcome of the case. Where serious consequences are being considered, the party or representative will generally be given an opportunity to respond.

Disclose Generative AI Use When Appropriate

Generally, the Tribunal does not require parties or representatives to disclose their use of generative AI where it is used only for clerical or organizational support tasks (e.g., formatting documents, correcting grammar, organizing a party's own notes, or generating internal checklists that are not filed with the Tribunal).[1]

Disclosure may be appropriate where generative AI has been used to generate substantive content that is filed with or presented to the Tribunal, such as written legal analysis, case citations or summaries, or factual summaries or chronologies that the party is asking the Tribunal to rely on.

In these situations, parties and representatives are encouraged to include a brief statement indicating which generative AI tool was used and how it contributed to the submission (e.g., "Paragraphs 8-11 were prepared with the assistance of Microsoft Copilot and reviewed by the author"). Such notations can help prevent confusion, clarify the source, and support the integrity of the proceeding.

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1 Some courts, such as the Federal Court of Canada, now require parties to formally disclose the use of AI-generated content in litigation documents. While the Tribunal does not impose such a requirement, this Guide reflects similar principles of transparency, accountability, and responsible use.

Act Honestly and Fairly in All Proceedings

All parties and representatives are expected to participate in Tribunal proceedings respectfully, honestly, and in good faith. The duty to act fairly applies throughout the hearing process, regardless of whether a party is represented or self-represented.

Generative AI tools must not be used to obscure relevant facts, distort the presentation of evidence, or generate submissions that are intended to overwhelm the other party or the Tribunal.

Using generative AI in a way that undermines the orderly conduct of proceedings may be considered an abuse of process and could result in procedural consequences.

5. Expectations for Representatives

Representatives who are licensed by the Law Society of Ontario, or otherwise authorized to provide legal services under the *Law Society Act* and its regulations and by-laws (in particular, the exemptions set out in By-Law 4), are required to comply with the WSIAT's Practice Direction #29, "Code of Conduct for Representatives"[2]. This includes obligations to

- honestly represent their clients and not knowingly put forward false information, or assist or encourage a party to misrepresent the facts;
- be knowledgeable about relevant law, policy, and procedure;
- respect the confidentiality of information disclosed during the Tribunal's processes and use that information for other purposes only with the consent of the parties and the Tribunal;

2 See also Practice Direction #28, "Representatives".

- be aware of and comply with the Tribunal's Practice Directions and appeal procedures;
- refrain from behaviour that the Tribunal considers an abuse of process (the misuse of the Tribunal's procedures that would be unfair to a party or would hinder justice).

Use of generative AI does not diminish these duties. Representatives remain fully responsible for all materials submitted on their client's behalf, regardless of how those materials were prepared or whether generative AI tools were used. This includes situations where generative AI is used directly or tasks involving these tools are delegated to others. In all cases, representatives should exercise their own judgment before filing materials and obtain appropriate instructions from their clients about the use of new technologies where this may affect confidentiality, privacy, or the scope of the services provided.

These expectations also reflect the professional responsibilities set out in the Law Society of Ontario's *Rules of Professional Conduct* and *Paralegal Rules of Conduct*, which apply to all licensees and extend to the use of new technologies, including generative AI. Representatives who are licensees of the Law Society are encouraged to consult the Law Society of Ontario's guidance on generative AI when deciding whether and how to use these tools.

6. Expectations for Self-Represented Parties

Although self-represented parties are not subject to the same professional responsibility obligations as representatives, they are still expected to participate in the Tribunal's processes in good faith. If a self-represented party uses generative AI tools, they should ensure that

- Their submissions are truthful and based on facts supported by the case materials;
- Any legal references or summaries are accurate and properly cited;
- Confidential information is not entered into generative AI platforms lacking adequate privacy protections;
- The generative AI tool has not introduced errors or distorted their understanding of Tribunal procedures.
- They do not assume that generative AI outputs are correct, and they take reasonable steps (e.g., checking case names, dates, and summaries) to confirm that any case law or legal information generated by these tools is accurate before relying on it.

All participants in Tribunal proceedings are expected to be honest with the Tribunal and other parties and to correct inaccuracies once they are identified. Where concerns arise about how a self-represented party has used generative AI, the Tribunal may take the party's circumstances into account, including their level of legal experience and their response once any errors are identified.

7. Ongoing Developments and Updates

As generative AI tools and professional standards continue to evolve, parties and representatives are encouraged to stay informed about developments in this area. The Tribunal may revise this Guide as needed to reflect emerging technologies, legal obligations, or procedural expectations.

8. References and Resources

Legislative Authority

Workplace Safety and Insurance Act, 1997, sections 57, 58, 59 (access to records sections) 131 (the Tribunal can determine its own practice and procedure), 150 (employer duty to keep information confidential), 181 (duty not to disclose information)

Freedom of Information and Protection of Privacy Act

Law Society Act, sections 1(1) (definition of “licensee” and “person who is authorized to provide legal services in Ontario”), 27 (licensing authority), and 62 (authority to make by-laws governing licensee conduct and professional obligations)

Related WSIAT Practice Directions and Resources

Practice Direction #3 – Consent for the WSIAT to Release a Worker’s Information

Practice Direction #28 – Representatives

Practice Direction #29 – Code of Conduct for Representatives

Practice Direction #31 – Powers of Practice and Procedure

WSIAT AI Governance Framework

Other Resources

Law Society of Ontario, *Rules of Professional Conduct*

Law Society of Ontario, *Paralegal Rules of Conduct*