



Frequently Asked Questions About the Mediation Process (2-Party Appeals)

This document applies to 2-party appeals. There is a separate frequently asked questions document for 1-party appeals.

Q1. Why do we have mediation at the WSIAT?

- A.** Mediation allows us to explore ways of resolving appeals that are less formal and may suit the parties' needs. It is part of the WSIAT's Early Intervention Program (EIP).

Q2. What appeals are suitable for mediation?

- A.** There must be two parties to the appeal (worker and employer) and both parties must agree to participate. If the facts are not in dispute, all the medical information is on file, and testimony is not necessary, your appeal may be suitable for mediation. The WSIAT decides if the appeal is suitable for mediation.

Q3. What happens if I request mediation, but my file is not suitable?

- A.** If we find your appeal not suitable, we will write to you. We will then process your appeal for an oral hearing or hearing in writing.

Q4. How do I request mediation?

- A.** You may request mediation on the Notice of Appeal (NOA) Form, or on the Response Form. If either party asks for mediation, we will contact the other party to see if they are interested in mediation. Either party may write or call us to ask for mediation, as long as they do so before a hearing date has been set.

Q5. After I request mediation, how will I know if the WSIAT agrees my appeal is suitable?

- A.** If your appeal is suitable, staff in the Alternative Dispute Resolution (ADR) department, will contact you and ask you to sign a [Consent to Participate in Mediation – 2 Party Appeal](#) form. When we receive your signed form, the WSIAT's Scheduling Department will arrange a videoconference, in-person, or telephone mediation.

Q6. What happens in a mediation?

- A.** The mediator and the parties will explore whether resolution of the appeal is possible. Any resolution must be
- supported by the evidence
 - agreeable to both parties
 - consistent with law and policy.

During the mediation, the mediator may give either or both parties a neutral, off-the-record opinion of the strengths and weaknesses of the appeal. The mediator may also point to gaps in the evidence (medical or other information). The mediator will not provide you with legal advice.

Q7. What happens if the parties agree on a resolution?

- A.** The mediator must be satisfied the resolution is supported by the evidence and is in line with all applicable law and policy. If it is, the mediator will send both parties a written Proposed Resolution (PR) Agreement that sets out the proposed agreement. If the parties agree, both parties (and their representative if they have one) must sign and return the PR. The mediator will then refer the PR, the case

materials, and a brief memo to an EIP Vice-Chair for review. If the Vice-Chair agrees, the Vice-Chair will issue a written decision.

Q8. What happens if the Vice-Chair does not accept the PR?

A. The mediator will let you know the PR was not accepted by the Vice-Chair. We will then refer your appeal for an oral hearing or hearing in writing. Everything discussed during the mediation remains confidential and is not shared with the Vice-Chair or Panel hearing the appeal. If any evidence, including medical reports, is submitted during the mediation process, that information will be added to the case information that will go to the Vice-Chair or Panel hearing the appeal.

Q9. What happens if no agreement is reached during the mediation?

A. We will remove your appeal from the EIP and refer it for an oral hearing or hearing in writing. Everything discussed during the mediation process remains confidential and is not shared with the Vice-Chair or Panel hearing your appeal.

Q10. Who are the mediators?

A. Mediators are either WSIAT staff members called Dispute Resolution Officers (DRO) or Vice-Chairs. All mediators have training in mediation techniques and know how to assist in the early resolution of appeals. If a Vice-Chair is the mediator, and the mediation is successful, that Vice-Chair will also write the decision.

Q11. Is mediation a confidential process?

A. Yes. Confidentiality is essential to the process. When you sign the [Consent to Participate in Mediation – 2-Party Appeals](#) form, you promise to maintain confidentiality. This means that anything you or the other party says to the mediator is covered by confidentiality.* This means

- anything said does not form part of the WSIAT's formal record
- it will not be shared with any other party or institution without the consent of the party who communicated the information
- nothing said can be used in any other proceeding at the WSIAT or elsewhere.

* Confidentiality does not apply to anything that relates to illegal activity. It also does not apply to written evidence (such as medical reports) you provide in the course of the mediation.

Q12. What happens to any written evidence provided during the mediation if an agreement is not reached?

A. Any information* sent to the WSIAT during a mediation (such as medical reports, paystubs, or attendance records) will be included in our case materials and given to the Vice-Chair or Panel hearing the appeal.

* If you have prepared a chronology, or a summary of events to help with the mediation process, we do not consider this evidence and will not forward it to the Vice-Chair or Panel hearing the appeal.

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