

**Operational
Policy**Section
Adjudication PrinciplesSubject
Audio/Visual Recordings

Policy

The WSIB accepts audio/visual recordings as evidence, if they:

- provide new or more complete information than is already in the claim file
- are relevant and pertain to the WSIB's duty to hear, examine, and decide issues under the *Workplace Safety and Insurance Act, 1997* and
- are authenticated.

Guidelines

Definition

Audio/visual recordings - audio/visual recordings include audiotapes, videos, films, and photographs. Visit [wsib.ca](http://www.wsib.ca) for information about other types of evidence used in the appeals process, see the "[Appeal System – Principles and Procedures](#)" document on the WSIB website (www.wsib.on.ca).

When recordings are used

On occasion, the WSIB is provided with audio/visual recordings by someone who has an interest in the claim.

The WSIB uses these recordings as evidence if:

- there is an issue in dispute
- the decision maker is presented with information to support the investigation of an issue
- staff in [Regulatory-Stakeholder Compliance Services](#) or [Legal Services](#) are investigating an issue or considering legal action, (see [refer to 22-01-05, Offences and Penalties - General](#)), and/or
- it is necessary to assess a worker's ergonomic needs.

Authenticity

Audio/visual recordings

The WSIB only accepts recordings that are accompanied by a signed statement from the author:

- setting out when (date and time) and where the recording was made, and
- confirming that the recording was not altered, and is a true representation of its subject.

If evidence is received that does not meet these guidelines, the WSIB returns the evidence to the sender and asks that it be authenticated and re-submitted.

The WSIB may ask the author to attend a hearing to establish the recording's authenticity through cross-questioning.

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WSIB staff must exercise caution when determining the weight to give information revealed in recordings, recognizing that:

- audio/visual recordings make a dramatic impact on the viewer, and
- in general, recordings may be selective, i.e., information relevant to the issue in dispute, such as when a worker rests or experiences pain, may not be recorded.

Evidence from audio/visual recordings is considered in conjunction with all other evidence.

Decision-makers may request a health examination if the portrayal of a worker's physical capabilities is inconsistent with health care reports in the claim file.

Review of evidence by workplace party

The workplace party who is the subject of the information, or the representative, is given the opportunity to review the information and provide an explanation.

Disclosure of evidence at a hearing

Parties submitting recordings for a hearing must make these materials available as early as possible before the hearing, since all parties must be given time to review this evidence.

If recordings are first submitted at a hearing, the decision-maker may:

- call a short recess to review the evidence, and give the other party an opportunity to review it, ~~or~~
- adjourn the hearing to give the other party time to review the evidence and prepare a submission, or
- if both parties agree, continue with the hearing and permit the other party to make a post-hearing submission on the new evidence.

Application date

This policy applies to all decisions made on or after ~~January 1, 1999~~ [December 5, 2024](#), for all accidents.

Document history

This document replaces 11-01-08 dated ~~June 15, 1999~~ [October 12, 2004](#).

~~Previously, t~~This document was [previously](#) published as:

[11-01-08 dated June 15, 1999](#)

[09-01-09 dated January 4, 1999](#).

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Section
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Audio/Visual Recordings

References

Legislative authority

Workplace Safety and Insurance Act, 1997, ~~as amended~~
Section 132(1)

Workers' Compensation Act, [R.S.O. Revised Statutes of Ontario](#) 1990, ~~as amended~~
Section 74(b)

MinuteApproval

~~Administrative
#7, June 24, 2004, Page 378~~