

ALBERTA

**OFFICE OF THE INFORMATION AND PRIVACY
COMMISSIONER**

ORDER ATIA2026-12

April 13, 2026

WORKERS' COMPENSATION BOARD

Case File Number 040687

Office URL: www.oipc.ab.ca

Summary: An individual (the Applicant) made an access request to the Workers' Compensation Board (the Public Body) under the *Access to Information Act* (ATIA) for certain information. The Public Body provided the Applicant with a fee estimate of \$4198.50.

The Applicant requested a full fee waiver based on fairness and public interest grounds under sections 96(5)(a) and (b) of ATIA. The Public Body denied the fee waiver request. The Applicant asked the Commissioner to review the Public Body's calculation of fees and its refusal to waive the fees. Following the review, the Applicant requested an inquiry.

The Adjudicator found that the Public Body had properly estimated the fees and affirmed the Public Body's decision to deny the Applicant's fee waiver request.

Statutes Cited: AB: *Access to Information Act*, S.A. 2024, c. A-1.4, ss. 64, 96; *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, ss. 93.

Regulations Cited: AB: *Access to Information Act Regulation*, AR 133/2025, ss. 12 – 16, and Schedule 1, *Freedom of Information and Protection of Privacy Regulation*, AR 186/2008, ss. 10 – 14.

Authorities Cited: AB: Orders 99-012, F2006-032, F2013-01, FOIP2025-23.

I. BACKGROUND

[para 1] On July 17, 2025, an applicant (the Applicant) made an access request to the Workers' Compensation Board (the Public Body) for the following information:

Type of Request: Personal Request

Subject: Request for Policies and Directives Regarding the Weighing of Medical Evidence

Pursuant to the Freedom of Information and Protection of Privacy Act, I request access to and copies of all records that guide WCB decision-makers on how to weigh differing medical opinions.

Scope of Request:

All current and historical records, including but not limited to:

Formal WCB policies and procedures.

Internal-only directives, guidelines, and memoranda.

Training materials, manuals, and presentations for adjudicators, case managers, resolution specialists, and medical advisors.

These records pertain to the process of assigning weight to, and resolving conflicts between, medical evidence from external specialists (such as a claimant's treating physician or a specialist retained by the claimant) and evidence from medical advisors or consultants employed by or contracted by the WCB.

Time Period:

This request covers all relevant records in effect from January 1, 2010, to the date this request is processed.

Preference for Record Delivery:

Email transfer of records is preferred. All PDF documents should remain unflattened with their metadata intact.

[para 2] On June 11, 2025, the *Freedom of Information and Privacy Act*, R.S.A. 2000, c. F-25 (the FOIP Act) was repealed and replaced with the *Access to Information Act*, S.A. 2024, c. A-1.4 (ATIA or the Act). As the Applicant made their access request on July 17, 2025, their access request was subject to ATIA and not the FOIP Act.

[para 3] The Public Body assigned the access request the file number ATIA Request #2025-086.

[para 4] On August 20, 2025, the Public Body provided the Applicant with a fee estimate of \$4198.50 under ATIA (the Fee Estimate Decision), which was for the time estimated to search for responsive records (\$6.75 per ¼ hour; 148 hours estimated for a cost of \$3996) and for preparing and handling a record for disclosure (6.75 per ¼ hour; 7.5 hours estimated for a cost of \$202.50).

[para 5] The Public Body advised the Applicant that if they accepted this estimate, a deposit of fifty percent of the fee was required. It asked the Applicant to reply in writing within 20 days of receipt of the estimate indicating whether the Applicant accepted the estimate, and if so, to provide the deposit. It informed the Applicant that when it had received the Applicant's reply and deposit, processing of the Applicant's request would continue.

[para 6] The Public Body further advised the Applicant that their request was now on hold, and that they had four options available to them:

- 1) You may choose to pay the required fees and we will complete processing your request for access to the records.
- 2) You may contact our Office to discuss ways that might be able to narrow the scope of your request to reduce the fees. Some narrowing options are:
 - a. Reducing the time frame of the request
 - b. Excluding historical records from the request
 - c. Narrowing the request to a specific record type "policies, procedures, presentations, etc."
- 3) You may submit a written request to apply for a fee waiver along with the necessary information (described in attachment). Section 96(5) of the ATIA provides some limited situations in which fees can be waived entirely. You will be advised of our decision regarding your request for a fee waiver within 30 business days.
- 4) You may take no action (provide no written response to this letter) and, after thirty business days from the date of this letter, your request will be closed. You will receive a notice advising you that your request has been closed and that a new request must be submitted to access your records.

[para 7] The Applicant did not contact the Public Body to narrow the scope of the Applicant's access request to reduce fees; instead, the Applicant requested a full fee waiver based on fairness and public interest grounds under sections 96(5)(a) and (b) of ATIA.

[para 8] On October 2, 2025, the Public Body denied the Applicant's fee waiver request stating:

1. Based on our review of the rationale provided in your fee waiver request. There was not enough information to support your submission to excuse the fee on the grounds of fairness.
2. Based on our review of the criteria established by the Office of the Information and Privacy Commissioner to determine public interest, and other relevant factors, we've determined the requested records do not relate to a matter of public interest.

[para 9] The Public Body informed the Applicant that their options were to pay the fees or take no action, in which case the request would be closed 20 business days from the date of the letter.

[para 10] The Public Body also informed the Applicant that under section 58 of ATIA, the Applicant could ask this Office to review any decision, act, or failure to act by the WCB that related to the Applicant's request, including its decision to deny the Applicant's fee waiver request.

[para 11] On October 2, 2025, the Applicant asked the Commissioner to review the Public Body's calculation of fees and its refusal of the fee waiver request. In their Request for Review Form submitted to this Office, the Applicant stated that they were not seeking to narrow the scope of their access request.

[para 12] The Commissioner assigned a Senior Information and Privacy Manager (SIPM) to investigate and mediate the matter.

[para 13] Following the SIPM's review, the Applicant requested an inquiry.

[para 14] The Commissioner agreed to conduct an inquiry and delegated her authority to conduct the inquiry to me.

II. RECORDS AT ISSUE

[para 15] As this matter involves a review of the Public Body's fee estimate and its decision to deny the Applicant's fee waiver request, there are no records at issue.

III. ISSUES

[para 16] The Notice of Inquiry dated January 16, 2026, set out the following issues for the inquiry:

1. Did the Public Body estimate the fees in accordance with section 96?
2. If the Public Body properly estimated the fees under section 96, is the Applicant entitled to be excused from paying all or part of a fee under section 96(5)?

IV. DISCUSSION OF ISSUES

Preliminary Matter

[para 17] As a preliminary matter, I note that the Public Body referred to, and included the findings of the SIPM in its submission.¹ Prior Orders of this Office under the FOIP Act have said that as an inquiry is a *de novo* process, the findings during the investigation and mediation phase are not considered in the inquiry (see, for example Order FOIP2025-23 at paragraphs 10 – 15). I find the same reasoning applies to inquiries conducted under ATIA and have therefore not considered the findings of the SIPM in reaching my conclusions herein.

¹ Public Body's submission on page 4 at paragraph 12, and Tab B. There are errors in the paragraph numbering in the Public Body's submission. I have reproduced the paragraph numbers herein exactly as they appear on the page number of the submission referenced in these footnotes.

1. Did the Public Body estimate the fees in accordance with section 96?

[para 18] Section 96 of ATIA states:

96(1) The head of a public body may require an applicant to pay to the public body fees for services as provided for in the regulations.

(2) Subsection (1) does not apply to a request for the applicant's own personal information, except for the cost of producing the copy.

(3) If an applicant is required to pay fees for services under subsection (1), the public body must give the applicant an estimate of the total fee before providing the services.

(4) An applicant may, in writing, request that the head of a public body excuse the applicant from paying all or part of a fee for services under subsection (1).

(5) The head of a public body may excuse the applicant from paying all or part of a fee if, in the opinion of the head,

(a) The applicant cannot afford the payment or for any other reason it is fair to excuse payment, or

(b) The record relates to a matter of public interest, including the environment or public health or safety.

(6) If an applicant has, under subsection (4), requested the head of a public body to excuse the applicant from paying all or part of a fee, the head must give written notice of the head's decision to grant or refuse the request to the applicant within 30 business days after receiving the request.

(7) If the head of a public body refuses an applicant's request under subsection (4), the notice referred to in subsection (6) must state the applicant may ask for a review under Part 3.

(8) The fees referred to in subsection (1) must not exceed the actual costs of the services.

[para 19] Sections 12 – 16 of the *Access to Information Regulation*, AR 133/2025 (the ATIA Regulation) address how fees are to be paid:

12 Where an applicant is required to pay a fee for services, the fee is payable in accordance with sections 13 to 16.

13(1) This section applies to a request for access to a record that does not contain personal information of the applicant.

(2) An applicant is required to pay

(a) an initial fee of \$25 when a non-continuing request is made, or

(b) an initial fee of \$50 when a continuing request is made.

(3) An applicant must pay the initial fee before a public body begins processing the applicant's request.

(4) In addition to the initial fee, fees in accordance with Schedule 1 may be charged if the amount of the fees, as estimated by the public body responsible for responding to the request, exceeds \$150.

(5) Where the amount of the fees estimated by the public body exceeds \$150, the amount determined in accordance with Schedule 1 is to be charged by the public body.

(6) A fee may not be charged for the time spent in reviewing a record.

14(1) This section applies to a request for access to a record that contains the personal information of the applicant.

(2) Only fees for producing a copy of a record in accordance with items 3 to 6 of Schedule 1 may be charged by a public body and only if the amount of the fees, as estimated by the public body responsible for responding to the request, exceeds \$10.

(3) Where the amount of the fees estimated by the public body exceeds \$10, the amount determined in accordance with Schedule 1 is to be charged by the public body.

15(1) An estimate provided under section 96(3) of the Act must set out, as applicable,

(a) the time and cost to search for, locate and retrieve a record,

(b) the cost of converting a record into a redactable format,

(c) the cost of reformatting audiovisual files into a redactable format,

(d) the cost to produce a copy of the record,

(e) the time and cost for preparing and handling the record for disclosure,

*(f) the time and cost to supervise an applicant who wishes to examine the original record,
and*

(g) the cost of shipping the record or a copy of the record.

(2) An estimate for access to a record of the personal information of the applicant must only include the cost of producing a copy of the record in accordance with section 14(2).

(3) In the case of a continuing request, the estimate is to include the total fees payable over the course of the continuing request.

(4) An applicant has up to 30 business days to accept the fee estimate or to modify the request to change the amount of fees assessed.

16(1) Processing of a request ceases once a notice of estimate has been forwarded to the applicant by the public body responsible for responding to the request and recommences immediately on the receipt by the public body of an agreement by the applicant to pay the fee and

(a) at least 50% of an estimate fee that exceeds \$150, and

(b) in the case of a continuing request if the estimate fee for the entire request exceeds \$150, at least 50% of the portion of the estimate applicable to the delivery of the first instalment of the request.

(2) Processing of a subsequent instalment of a continuing request may be commenced by a public body only on the receipt of at least 50% of the portion of the estimate applicable to the delivery of that instalment.

(3) The balance of a fee owing is payable at the time the information is delivered to the applicant.

(4) Fees, other than an initial fee, or any part of those fees will be refunded if the amount paid is higher than the actual required to be paid.

[para 20] Schedule 1 of the ATIA Regulation sets out the fees that a public body may charge. In particular, it states:

1 For searching for, locating and retrieving a record \$6.75 per ¼ hr

2 For converting or reformatting records:

...

(b) reformatting audiovisual files into a redactable format \$6.75 per ¼ hr

...

7 For preparing and handling a record for disclosure \$6.75per ¼ hr

[para 21] Section 96 of ATIA is substantially the same as section 93 of the repealed FOIP Act. Sections 12 – 16 of the ATIA Regulation are substantially the same as sections 10 – 14 of the repealed *Freedom of Information and Protection of Privacy Regulation*, AR 186/2008 (FOIP Regulation).

[para 22] Consequently, Orders which this Office has issued considering fee estimates and fee waiver requests under the FOIP Act and FOIP Regulation provide guidance on determining whether a public body has properly estimated fees and properly made a decision regarding a fee waiver request under ATIA.

[para 23] At paragraph 65 of Order F2013-01, the adjudicator determined that when an applicant requests a review of a fee estimate, the public body has the burden of proof, as it is in the best position to

explain the processes and standards that it used to calculate the fees for service. The adjudicator further stated:

... at the same time, it is in the applicant's best interest to provide arguments and evidence regarding the appropriateness of the fee estimate (Order 99-014 at paras. 9-11).

[para 24] I find the same burden of proof applies when an applicant requests a review of a fee estimate under ATIA.

[para 25] In its submission, the Public Body stated that the information requested by the Applicant was not personal information, as it related to general information concerning how the WCB weighs differing medical opinions and not information recorded about the Applicant themselves. Therefore, the Public Body stated, the WCB was entitled to require a fee for service.² I agree with this assessment.

[para 26] The Applicant did not provide a submission for the inquiry; however, in the Applicant's fee waiver request to the Public Body (the Fee Waiver Request), which the Applicant attached to their Request for Review to this Office, they argued that the 148 hours the Public Body estimated it would take to search for responsive records was unreasonable for the following reasons (footnotes omitted):

The estimate allocates 148 hours of staff time simply to search for the requested records. This is the equivalent of nearly four full work weeks for one employee. The records sought are not obscure, historical artifacts scattered across unindexed archives. They are "Formal WCB policies and procedures, "internal-only directives, guidelines, and memoranda," and "Training materials, manuals, and presentations". A modern, statutory body like the WCB is expected to have a reasonably organized and searchable records management system for such foundational institutional documents.

The time period (January 1, 2010, to July 21, 2025) is extensive, but a significant portion of these records must exist in searchable electronic formats (e.g. SharePoint, network drives, policy databases, learning management systems). A 148-hour estimate suggests either a complete lack of an organized information system or a deliberate intent to conduct an unnecessarily manual, page-by-page search where electronic keyword searching would be vastly more efficient and appropriate.

[para 27] The Applicant further argued in their Fee Waiver Request that the Public Body's estimate of 7.5 hours for "records preparation time" was unreasonable for the following reason (footnotes omitted):

The estimate allocates a further 7.5 hours for preparing and handling records for disclosure. While more plausible than the search time, this figure is presented without any context or basis for its calculation. A good-faith estimate would provide a basis for this figure, such as the estimated number of pages to be reviewed for potential redactions and the specific exemptions that are anticipated to apply to policy and training documents. Without this information, the figure appears arbitrary.

[para 28] In its submission, the Public Body provided the following explanation for how it arrived at its Fee Estimate Decision:³

² Public Body's submission on page 7 at paragraph 20.

³ Public Body's submission on pages 7 - 8.

21. The WCB issued the Fee Estimate Decision having consideration for the estimates provided by Medical Services, Quality Assurance, Business Training and Coaching and Resource Teams; each team would be involved in the search for records responsive to the July 17, 2025 Request re: Weighing. Those estimates were provided having consideration for:

- a. The broad scope of the July 17, 2025 Request re: Weighing.
- b. The need to conduct manual searches within the WCB Business OLP Procedures and PARP systems, the internal electronic drive, and outlook to identify relevant procedures and to convert corresponding files into PDF format.
- c. The lengthy time period applicable to the review, from 2010 to July of 2025. The WCB's training catalog during this timeframe includes 214 courses – both instructor-led and e-learning formats. Each course may contain multiple learning components including, but not limited to, training manuals, lesson plans, participant guides, activity guides, PowerPoint presentations, handouts, and e-learning modules.
- d. Many of the 2014 courses reference supplementary resources hosted on the WCB's internal webpages (in excess of 400), which must also be reviewed. Due to limitations in the WCB's ability to search through these resources, the WCB can only search by file title. As a result, each document must be opened and manually reviewed for relevant terms that would be responsive to the July 17, 2025 Request re: Weighing.
- e. Many of the 213 courses have undergone multiple updates and revisions over the years. Archived versions must be examined individually, as changes to course content, whether additions, removals, or modifications, are not always documented in a way that allows for quick comparison.
- f. Resources from a further approximate 100 projects must also be reviewed. These projects may include training deliverables, handouts, or other resources depending on the scope and nature of each initiative.
- g. The need to conduct a comprehensive manual review of 25 record labs and presentations, each ranging from 1 to 1.5 hours in length. The WCB must examine 24 CRT folders, which contain 249 subfolders of potential resources. Due to limitations in the electronic drive's search functionality, this process requires manual inspection to ensure accuracy and completeness.
- h. An internal resource database will also need to be reviewed manually as there is no ability to search for resources electronically. A recent inventory was completed on the CRT site in July of 2025 and 48 documents need to be manually reviewed.

Exhibits 'D' and 'E' to the Affidavit of [Name], affirmed February 5, 2026 [TAB A]

21. On the whole, the July 17, 2025 Request re: Weighing is broad in scope: it requires the search for documents spanning a 15 year period from January 1, 2010 to July 2025, it requires the search of modern and historical records and seeks records from multiple WCB program areas.

22. Additionally, responsive video files from training materials would have to be reviewed and edited so that non-responsive information is removed and the remaining responsive record is disclosed to the Applicant.

23. Based on the information provided to the WCB by the relevant WCB program areas regarding the complexity of the search and the associated time estimates for conducting the search and production of materials, the WCB issued the Fee Estimate Decision which required the Applicant to pay \$4,198.50 in fees. This amount was based solely on the approved costs outlined in Schedule 1 of the Regulations:

- i. Under section 13 of the *ATIA*, the WCB issued a fee for search time: 148 hours (or 592 ¼ hours) at \$6.75 per ¼ hour, for a total of \$3, 996.00.
- ii. Under section 13 of the *ATIA*, the WCB issued a fee for preparing and handling a record for disclosure: 7.5 hours (or 30 ¼ hours) at \$6.75 per ¼ hour, for a total of \$202.50.
- iii. The total fee estimate was \$4,198.50.

24. The Fee Estimate Decision was made in accordance with Schedule 1 of the *ATIA Regulation* which authorizes fees to be charged at a maximum rate of \$6.75 per ¼ hour:

- “For searching for, locating and retrieving a record”; and
- “For preparing and handling a record for disclosure”.

25. The maximum value of \$6.75 per ¼ hour set out in the *ATIA Regulation* is appropriate in this case.

26. A public body may also charge the actual costs to it “for producing a copy of a record by any process or in any medium or format not listed in sections 3 to 5 above”, those costs are not included in the Fee Estimate Decision.

[para 29] The Applicant’s access request was broad scope and spanned several years. I find the Public Body’s explanation of the search that would need to be conducted and the estimated time to search for, locate and retrieve records to be reasonable.

[para 30] I further find the Public Body’s explanation of the time it estimated would be needed for preparing and handling a record for disclosure to be reasonable.

[para 31] I find that the Public Body properly estimated the fees in accordance with ATIA and the ATIA Regulation.

2. If the Public Body properly estimated the fees under section 96, is the Applicant entitled to be excused from paying all or part of a fee under section 96(5)?

[para 32] In Order 99-012, former Commissioner Clark determined that the burden of proof where an applicant has requested a fee waiver, is on the applicant. At paragraph 26, former Commissioner Clark stated:

[para 26] I also note that in Order 96-002, I stated that an applicant has the burden of proof in a fee waiver application because an applicant is in the best position to argue as to why a fee waiver should be granted. As such, the Applicants have the burden of proof in this inquiry.

[para 33] The Applicant did not provide a submission in this inquiry; however, in their fee waiver request to the Public Body, the Applicant stated in part (footnotes omitted):

...

This application is made pursuant to Section 96(5) of the Access to Information Act (ATIA), which grants the head of a public body the discretion to excuse payment where (a) it is fair to do so, and (b) the record relates to a matter of public interest.

This application will demonstrate that this request meets both criteria to an overwhelming degree. It will establish that:

- The records sought are of profound public interest, as they concern the fundamental integrity of the Workers' Compensation Board's (WCB) adjudicative process and its adherence to evidence-based principles.
- The imposition of any fee, regardless of its nominal amount, is fundamentally unfair in light of the WCB's documented, multi-year pattern of systemic obstruction and bad-faith conduct in response to the applicant's legitimate requests for information.

...

Part I: The Public Interest Mandate: Scrutinizing the Integrity of a Public Institution

The core argument of this section is that the records sought are not of mere private interest but are essential for public scrutiny of the WCB's decision-making processes, its response to formal rebukes, and its commitment to transparency and accountability, particularly concerning medically complex injuries.

A. The Subject Matter: Responding to a Crisis of Institutional Credibility

The request for records on the WCB weighs medical evidence is directly linked to a documented institutional failure of the highest order. In Decision No. 2019-0456, the WCB's own final adjudicative body, the Appeals Commission, found that the opinion of WCB medical consultant Dr. [Name] was directly and unequivocally refuted by [the Doctor's] own peer-reviewed article on the long-term sequelae of electrical injury.

The contradiction was stark. In a July 2013 memo to the WCB, Dr. [Name] opined "Electrical injury does not result in delayed symptomatology in this manner." Just two months later, in a September 2013 published article, [the Doctor] stated the exact opposite: "The appearance of these delayed consequences of electrical injury may be significantly delayed, with onset one to five more years after the electrical injury." The Appeals Commission's formal finding that it must place "less weight on the medical consultant's opinion" constitutes a public rebuke of the WCB's internal medical advice, creating a matter of significant and urgent public interest. The central question for the public is: how does a public body tasked with the health and safety of Alberta's workers respond when its own expert advice is proven to be scientifically unreliable and is officially discredited by its highest appeal body?

The release of internal policies, directives, and training materials is the only mechanism through which the public can assess whether the WCB has taken corrective action to align its practices with modern science or if it continues to rely on flawed and outdated adjudicative frameworks. This goes to the heart of the WCB's credibility and its fitness to adjudicate complex claims.

The contradiction involving Dr. [Name] is not merely an isolated incident but a perfect microcosm of the larger systemic issue facing injured workers. Dr. [Name] provided an opinion to the WCB that minimized long-term, delayed symptoms, aligning with an institutionally convenient narrative that contains costs. Simultaneously, [the Doctor] co-authored a scientific paper acknowledging the reality of these same symptoms. This mirrors the exact conflict an injured worker with a complex injury faces: the WCB's internal narrative, which often favors claim denial, versus external, evidence-based medical science. The public interest in these records is not just about one doctor's error; it is about assessing whether the WCB's entire system for weighing medical evidence is prone to the same bias demonstrated in the [Doctor's] case, where internal narratives can trump objective science.

B. The Broader Context: Systemic Barriers for Vulnerable Claimants

The requested records are critical to understanding how the WCB adjudicates "invisible injuries," a systemic issue with broad public implications for thousands of Albertans. The research report "Barriers to Access: How Alberta's New Information Laws Systemically Disadvantage Workers with Invisible Injuries," establishes the scientific basis for these injuries, noting the "objective evidence paradox" where administrative systems are structured to rely on the very type of objective, measurable data that the injury itself often fails to produce.

This request for internal policies directly probes how the WCB navigates this paradox. Does it have fair and evidence-based procedures for weighing a claimant's credible subjective evidence and their treating specialist's opinion against the contrary opinion of an internal, non-specialist file reviewer? This question is of vital interest to any Albertan with a condition like chronic pain, post-traumatic stress disorder (PTSD), mild traumatic brain injury, or the complex sequelae of electrical trauma.

The applicant's need for these specific records is not arbitrary; it is a direct and necessary consequence of the scientific nature of his injury. The medical literature confirms that the sequelae of electrical injury are often "invisible" to standard tests and have a delayed onset, creating a "diagnostic dilemma". This disconnect between the claimant's severe, life-altering experience and the absence of clear objective findings becomes the central battleground in such claims. Therefore, the request for policies on weighing evidence is not a "fishing expedition" but a necessary and direct attempt to understand the rules governing the precise point of conflict created by the injury's pathophysiology. The public interest lies in understanding how the WCB handles the systemic challenges posed by these modern medical realities.

Furthermore, the new, more restrictive *Access to Information Act* (ATIA), which came into force on June 11, 2025, has exacerbated these challenges by narrowing the "duty to assist," expanding exemptions to disclosure, and granting public bodies like the WCB greater discretionary power to refuse requests. This legislative shift makes public access to the WCB's internal "rules of the game" more critical than ever to ensure a baseline of fairness for the province's most vulnerable claimants.

C. Fulfilling the Purpose of the *Access to Information Act*

The Office of the Information and Privacy Commissioner has established in its jurisprudence that any record permitting scrutiny of how a public body makes decisions affecting the rights of citizens is, by its nature, in the public interest. This request falls squarely and unambiguously within that definition. The records will contribute to open, transparent, and accountable government by allowing the public to understand the non-public rules that govern WCB decision-making – a process that has a profound impact on the health, well-being, and financial stability of injured workers and their families across Alberta.

Part II: The Fairness Mandate: A Documented Pattern of Systemic Obstruction

It is a contravention of the principles of administrative fairness for the WCB to levy a fee in this context, particularly given its documented history of using the fee provisions of access legislation as a tool to frustrate information access and impede legitimate public scrutiny.

A. The Foundational Unfairness of “Paying to Prove a Foul”

The applicant is seeking records to assess the procedural fairness of the WCB’s adjudication process. For the WCB to then charge a fee for access to the very records needed to assess that fairness creates a profound and inequitable power imbalance. It weaponizes the fee provision to insulate the institution from accountability, effectively allowing the WCB to charge a citizen for the ability to hold it accountable for its own procedural integrity. As argued in the applicant’s July 18, 2025 fee waiver request, this practice is fundamentally unfair and has a significant “chilling effect,” deterring citizens from questioning potential irregularities for fear of incurring prohibitive costs to obtain the necessary evidence.

B. A Multi-Year Strategy of Adaptive Obstruction

The current \$4,198.50 fee estimate is not an isolated administrative decision but the latest escalation in a multi-year pattern of conduct that demonstrates institutional bad faith. This pattern is characterized by a calculated evolution in tactics, adapting to legal frameworks and applicant responses with the consistent objective of frustrating access to sensitive information.

- Tactic 1: The 2021 “Sledgehammer” (FOIP Request #21-G-34). In response to a request for the highly sensitive “[Doctor’s Name] Memo”, the WCB issued a prohibitive fee estimate of \$5,400.00. This fee was justified by a single, facially implausible line item: 200 hours of “Records Search time” for a single, known document that was central to a recent Appeals Commission decision. The WCB’s own letter acknowledged that the real work was in redaction, yet it allocated zero hours to preparation time, suggesting a calculated misrepresentation designed to create a prohibitive and less verifiable barrier. This was a crude, discretionary high-cost barrier designed to make a critical piece of evidence financially inaccessible.
- Tactic 2: The July 2025 “Scalpel” (ATIA Requests). Following the proclamation of the new ATIA, the WCB shifted tactics. In response to a new series of requests on the same sensitive topic, it refused to waive four \$25 initial application fees, creating a cumulative \$100 barrier. The WCB justified this by claiming it was a “legal compulsion” and that it “cannot waive the initial fee” – a legally erroneous position that ignored its clear

discretion under ATIA s. 96(5). This was a subtle, legally insulated tactic that weaponized the mandatory nature of the initial fee to create a new administrative hurdle while feigning adherence to the letter of the law. This tactic was documented in formal complaints to both the OIPC and the Alberta Ombudsman.

- Tactic 3: The August 2025 “Bludgeon” (ATIA Request #2025-086). The current \$4,198.50 fee estimate represents a deliberate and immediate return to the initial high-cost barrier strategy. Having attempted the scalpel approach in July and faced an immediate and robust formal challenge, the WCB has reverted to a massive fee estimate under the new, more institution-friendly ATIA. This demonstrates that its objective – obstruction by financial means – has remained constant, and it is now testing its new powers under the ATIA to achieve that end.

...

Conclusion and Formal Request for a Full and Unconditional Waiver

In summary, this application has established, with extensive documentary evidence, that a full fee waiver is not only justified but necessary.

- Public Interest: The records requested are of clear and compelling public interest, seeking to shed light on the WCB’s adjudicative integrity in the wake of a formal, public finding by its own Appeals Commission that its internal medical advice was flawed and contrary to science.
- Fairness and Bad Faith: The imposition of any fee is fundamentally unfair, as it would require a citizen to pay the WCB for the ability to hold it accountable. This unfairness is magnified by the WCB’s documented, multi-year pattern of adaptive obstruction, where fee provisions have been consistently weaponized to frustrate access. The current fee is merely the latest iteration of this bad-faith strategy.
- Unreasonableness: The fee estimate is, in and of itself, facially unreasonable, grossly inflated, and unsubstantiated, and the process by which it was delivered fails to meet the WCB’s duty to assist.

Based on the overwhelming evidence that this request satisfies both the public interest and fairness grounds articulate in Section 96(5) of the *Access to Information Act*, a full and unconditional waiver of the entire estimated fee of \$4,198.50 is formally requested.

[para 34] In its submission, the Public Body provided the following general statements regarding fee waivers:⁴

27. A public body may grant a fee waiver to an applicant, if in the opinion of the head of a public body or their delegate, it is fair to do so, the applicant cannot afford the payment, or the record relates to a matter of public interest.

ATIA s 96(5)

⁴ Public Body’s submission on pages 8 – 9.

28. A fee waiver shifts the cost of processing the request to the public and in this case, the WCB stakeholders. Therefore, it is the responsibility of the public body to determine whether the circumstances of the request and the records requested justify waiving an applicant's fees.

29. The WCB is the administrative body that has exclusive legislative authority to administer *Alberta's Worker's Compensation Act*, RSA 2000, c W-15. The workers' compensation system in Alberta is a system of no-fault compensation rooted in the "historic tradeoff":

This refers to the policy decision of establishing a no-fault compensation scheme for injured workers, funded by premiums paid by employers, and administered by a public agency . . . [A] key aspect is that workers have prompt access to benefits, irrespective of fault. In exchange, workers give up their right to sue their employers, and any other employer or worker covered by the [Act], for work-related injuries.

Vujicic v Estate of Leona Donna MacEchern, 2022 ABCA 263 at para 18 [Hyperlinked]

30. The WCB is responsible for ensuring that the workers' compensation system is "sustainable, affordable and fair in order to benefit workers and employers now and in the future". Thus, the WCB must carefully consider taking on the costs of processing a request under the *ATIA*.

Workers' Compensation Act, RSA 2000, c W-15, Preamble [Hyperlinked]

Fairness

[para 35] With respect to the Applicant's assertion that the fee ought to be waived in the interest of fairness, the Public Body advised that it reviewed the information provided by the Applicant and determined that a fee waiver was not appropriate because the Applicant had not supported that a fee waiver was required on the basis of fairness.⁵

[para 36] The Public Body correctly noted in its submission that, as per the comments of the Director of Adjudication in Order F2006-032 at paragraph 44, in order for a fee waiver to be supported on the basis of fairness, consideration may be given to the following factors:⁶

- a. If others have asked for similar records, have they been given at no cost?
- b. Would the waiver of the fee significantly interfere with the operations of the public body, including other programs of the public body?
- c. Are there less expensive sources of the information?
- d. Is the request as narrow as possible?
- e. Has the public body helped the applicant to define [their] request?

[para 37] The Public Body explained how it had considered these factors in arriving at its conclusion as follows:⁷

⁵ Public Body's submission on page 9 at paragraph 31.

⁶ *Ibid.*, at paragraph 32.

⁷ Public Body's submission on pages 9 – 10 at paragraphs 33 – 39.

33. The WCB has not previously received a request for the same records requested in the July 17, 2025 Request re: Weighing. Accordingly, there is no history of these records being given at no cost to other applicants.

34. It is plain and obvious that the significant time required to search for records responsive to the July 17, 2025 Request re: Weighing would interfere with operations of the WCB. The various program areas have indicated that undertaking this request would take a substantial amount of time and pull them away from their day-to-day work. Fulfilling the July 17, 2025 Request re: Weighing, will interfere with the operations of the WCB, and it would not be fair to pass that cost onto WCB stakeholders.

35. There are less expensive sources of some of the information requested by the Applicant. The Applicant expressed concerns about the WCB's adjudication process and has sought current and past WCB policies. All current and many past WCB policies are publicly accessible online for free. At a minimum, the public access to these documents would enable the Applicant to narrow the July 17, 2025 Request re: Weighing, thereby reducing the cost. However, the Applicant has not narrowed [their] request.

36. The WCB has offered to work with the Applicant to narrow the July 17, 2025 Request re: Weighing. Nevertheless, the Applicant has not attempted to narrow the July 17, 2025 Request re: Weighing. The scope of the July 17, 2025 Request re: Weighing is broad in scope both in terms of the time period referred to (15 years) and the material requested (WCB Policies and Procedures, Directives, Guidelines, Memoranda, Training Materials, Training Manuals, Presentations for Adjudicators, Case Managers, Resolution Specialists and Medical Advisors).

37. The Fee Estimate Decision was based solely on the large scope of the July 17, 2025 Request re: Weighing and the information given to the WCB by the various WCB program areas that would be required to search for responsive records.

38. In the Fee Estimate Decision, the WCB invited the Applicant to contact the WCB to discuss ways to narrow the scope of the request in order to reduce fees. Had the Applicant done so, the WCB could have helped the Applicant define the request. The Applicant elected not to contact the WCB to discuss narrowing the scope of the July 17, 2025 Request re: Weighing.

38. The Applicant made nine (9) requests under the *ATIA* in 2025. The WCB only assessed fees under section 13(4) of the *ATIA Regulation* in relation to two of those requests, and strictly in accordance with the relevant provisions of the *ATIA* and the *ATIA Regulation*. There is no evidence of systemic refusal to provide records by the Applicant, or at all.

[para 38] I understand the Applicant to be alleging in their fee waiver request to the Public Body that the Public Body routinely issues large fee estimates to applicants in order to dissuade or prevent applicants from accessing information and that this is unfair.

[para 39] I understand the Applicant to be arguing that this allegation should be taken into account in determining whether the fee estimate in this case should be waived on the basis of fairness.

[para 40] Whether the Public Body is routinely issuing large fee estimates to applicants in order to dissuade or prevent applicants from accessing information as the Applicant has alleged, is outside the scope of this inquiry and my authority to determine.

[para 41] The issues in this inquiry are solely whether the Public Body properly estimated the fee for the information requested by the Applicant in this particular access request, and if so, whether the Public Body properly denied the Applicant's fee waiver request in this specific case.

[para 42] If the Applicant made other access requests; received other fee estimates for those requests; and made other fee waiver requests to the Public Body, and was not satisfied with the Public Body's responses and decisions, the Applicant had the same opportunity to request separate reviews of those responses and decisions by this Office.

[para 43] How the Public Body has estimated fees or responded to fee waiver requests by the Applicant with respect to *other* access requests the Applicant has made is not relevant to a determination as to whether the Public Body properly decided *in this case* to deny the Applicant's fee waiver request on the basis of fairness.

[para 44] In their Request for Review to this Office, the Applicant specifically stated that they did not wish to narrow the scope of their access request.

[para 45] The Applicant did not provide a submission in this inquiry and did not address in their fee waiver request to the Public Body how any of the factors identified by the Director of Adjudication in Order F2006-032 referenced above, supported a waiver of the \$4198.50 fee on the grounds of fairness.

[para 46] The Applicant's arguments in their fee waiver request to the Public Body do not persuade me that the Public Body ought to have waived its fee estimate on the basis of fairness.

[para 47] Having reviewed the Public Body's analysis of the factors identified by the Director of Adjudication in Order F2006-032, I find that the factors weigh against granting a fee waiver on the basis of fairness and that the Public Body properly refused to waive the fee based on fairness.

Public Interest

[para 48] As noted above, the burden of proof where an applicant has requested a fee waiver, is on the applicant.

[para 49] The Applicant did not provide a submission in this inquiry; however, I have reviewed their arguments in their fee waiver request to the Public Body, part of which was reproduced above, and have considered their arguments in arriving at my conclusion.

[para 50] At paragraph 43 of Order F2006-032, the Director of Adjudication set out the following criteria for determining whether a record "relates to a matter of public interest":

1. Will the records contribute to the public understanding of, or to debate on or resolution of, a matter or issue that is of concern to the public or a sector of the public, or that would be, if the public knew about it? The following may be relevant:
 - Have others besides the applicant sought or expressed an interest in the records?
 - Are there other indicators that the public has or would have an interest in the records?

2. Is the applicant motivated by commercial or other private interests or purposes, or by a concern on behalf of the public, or a sector of the public? The following may be relevant:
 - Do the records relate to a conflict between the applicant and government?
 - What is the likelihood the applicant will disseminate the contents of the records?

3. If the Records are about the process or functioning of government, will they contribute to open, transparent and accountable government? The following may be relevant:
 - Do the records contain information that will show how the Government of Alberta or a public body reached or will reach a decision?
 - Are the records desirable for the purpose of subjecting the activities of the Government of Alberta or public body to scrutiny?
 - Will the records shed light on an activity of the Government of Alberta or a public body that have been called into question?

[para 51] The Public Body reviewed the above criteria and provided the following arguments as to why it was not in the public interest to waive the fee:⁸

45. The Fee Waiver Request submitted by the Applicant does not meet the requirements for a fee waiver in the public interest, based on the above-noted criteria. In denying the Applicant's Fee Waiver Request as being in the public interest, the WCB determined that:

- To date, no other applicant to the WCB has requested these same records.

Affidavit of [Name], affirmed February 5, 2026 at para 14 [TAB A]

- Based on the information provided by the Applicant, there is no other indicator that the public has or would have an interest in the responsive records.
- The Applicant has not indicated [they] have any intention, plan, platform or ability to share or to disseminate the records to any other members of the public.
- The WCB evaluates each claim on its own merits. The responsive records, while of interest to the Applicant, are not likely to be desirable by the public for scrutinizing the decisions made by the WCB as a whole.

Workers' Compensation Act, RSA 2000 c W-15, s 17(4) [Hyperlinked]

⁸ Public Body's submission on page 11.

- There are several other sources where the public can receive information regarding how decisions are made on a claim for workers' compensation benefits as there are legislated review and appeal procedures and publicly available decisions.

46. The Applicant's request itself fails to disclose a reason the July 17, 2025 Request re: Weighing would be in the public interest. [The Applicant's] subsequent related correspondence discloses a significant personal interest in the records, specifically with respect to the adjudication of [their] WCB claim:

- In the Applicant's July 18, 2025 correspondence, [the Applicant] writes "I am seeking these records to assess whether the WCB, a public body, afforded me a fair and impartial adjudication process."

Exhibit "B" to the Affidavit of [Name] affirmed February 5, 2026 [TAB A]

- In the Fee Waiver Request, the Applicant writes, "The applicant's need for these specific records is not arbitrary, it is a direct and necessary consequence of the scientific nature of **[the Applicant's]** injury" [emphasis added].

Exhibit "H" to the Affidavit of [Name] affirmed February 5, 2026 [TAB A]

47. While the records in question are of a personal interest to the Applicant, there is no evidence to suggest that the records meet the criteria for consideration of a fee waiver in the public interest under section 96(5) of the ATIA.

[para 52] At paragraph 39 of Order F2006-032, the Director of Adjudication stated (my emphasis):

[para 39] Finally, I note the principle relative to fee waivers that was expressed in Order 96-002, that "the Act contains the principle that the user should pay". I take this to mean that an Applicant is to pay fees for record requests in the usual course, and waivers on the basis of "public interest" are to be granted only when there is something about the records that clearly makes it important to bring them to the public's attention or into the public realm. The Applicant has not persuaded me that this is so in this case, and thus I conclude a fee waiver is not justified.

[para 53] Having reviewed the arguments the Applicant made to the Public Body regarding the waiver of the fee being in the public interest, and the Public Body's assessment of the criteria set out by the Adjudicator in Order F2006-032, I agree with the Public Body's analysis and decision.

[para 54] Although the Applicant made assertions in their fee waiver request to the Public Body that the public would be interested in the records, there is no evidence before me to support this claim.

[para 55] While the Applicant undoubtedly has a personal interest in the records, the Applicant's arguments in their fee waiver request to the Public Body have not persuaded me that there is something about the records that clearly makes it important to bring them to the public's attention or into the public realm.

[para 56] Accordingly, I find that the Applicant should not be excused from paying the fee and affirm the Public Body's decision to deny the Applicant's fee waiver request.

V. ORDER

[para 57] I make this Order under section 64 of the Act.

[para 58] I affirm the Public Body's fee estimate.

[para 59] I affirm the Public Body decision to deny the Applicant's fee waiver request.

Carmen Mann
Adjudicator