

Date	January 16, 2020		
Time	9:30 a.m. to 12:30 p.m.		
Location	WCAT Hearing Room #5		
Participants	<b>Internal</b>	<b>External</b>	<b>Regrets</b>
	Renee Miller Ning Alcuitas-Imperial Jim Sheppard Kim Halkett David Bird Jordan Rempel	Chris Hiebert Melissa Louie (via teleconference) Miranda Seymour (via teleconference)	Michelle Good Rosalind Campbell

	Topic	Action Items
A.	<p>Welcome and Introductions</p> <ul style="list-style-type: none"> <li>A land acknowledgement was given by <i>Ning</i></li> <li><i>Renee</i> introduced all participants</li> <li>WCAT agreed to send the feedback/minutes to all Council members</li> </ul>	
B.	<p>Review of the Recommendations of CAC and WCAT's Responses</p> <p>General Update</p> <ul style="list-style-type: none"> <li>WCAT performed a short review of our appeal statistics –there are currently 40 active and five completed appeals</li> <li>WCAT's optimization will be completed within a year of the determination of its response to the CAC</li> </ul> <p>Information Guides</p> <ul style="list-style-type: none"> <li><i>Miranda</i> stated that the guide is clearly set out and that the picture is nice</li> <li><i>Chris</i> brought up the terms used in the guide – respondent, etc. are not as simple/easy to understand as they could be</li> <li><i>Renee</i> asked at what level of reading comprehension an Indigenous person would typically be. She was of the understanding that it may be grade nine.</li> </ul>	<ul style="list-style-type: none"> <li><i>Renee</i> will research what level of reading comprehension an Indigenous person would typically be at</li> <li>WCAT will amend the Indigenous info guide to be more clear on the Navigator assignment process</li> <li>WCAT will work to adapt the Indigenous info guide to a lower reading comprehension level</li> <li>WCAT will expand its process of having the Navigator present during conferencing and in-person meetings with parties</li> </ul>

- *Miranda* stated she understood the answer to be grade eight
- *Renee* will perform some research on this
- *Chris* stated that the lowest level of comprehension he has seen is grade three
- *Melissa* liked the flowchart – she thought it was straightforward
  - She also stated that the language may be at too high of a reading comprehension level
  - She has cousins who have navigated through the process that were confused by parts of it
  - In a family that's impacted by residential schools, education may not be prioritized; especially with boys – they may be expected to work and “get on with life”
    - If a grandfather or father provided for the family without a formal education, this is the lens the family will see education through
  - The term vice chair could be replaced with decision-maker or something else that is less formal/intimidating
  - She asked how a Navigator is assigned – WCAT explained that it is an automatic assignment
    - Since the info guide is not clear on this regard, WCAT will amend it
  - WCAT will create a “glossary of terms” on its website – to be done concurrently with the info guide updates
  - *Chris* suggested the wording: “if you file a claim, you are a claimant” in order to help parties identify themselves within the system
  - *David* recommended the [Hemmingway App](#), that can be used to simplify language
  - WCAT may review editing the other info guides as well, in light of the feedback from this meeting

Navigators

- From the recommendations of the CAC, and feedback from representatives and parties, WCAT decided to create the Navigator position

- WCAT will develop a script for Navigators to inform parties that the special process is focused on Canadian Indigenous Peoples
- WCAT will reach out to the medical college to stress that only medical information relevant to the appeal should be released
- WCAT's legal department should look into the issue regarding release of irrelevant medical info to other parties (through disclosure); particularly, for records that are directly sent to WCAT
- Jim will share the [trauma-informed practice](#) course with the CAC members

<ul style="list-style-type: none"> <li>• WCAT started with an expression of interest and initial training to all staff</li> <li>• WCAT asked the potential candidates about their knowledge of the CTA, Indigenous issues, and about any personal experience with Indigenous people in their own life</li> <li>• WCAT informed the Navigators that one can't even assume that a party knows what "oral hearing (OH)" or "written submissions" means</li> <li>• WCAT looked at the barriers it was aware of and tried to form the position around this</li> <li>• One of the main challenges was that the process itself was not yet defined             <ul style="list-style-type: none"> <li>○ In response, the notion that the Navigator would be the central point of contact throughout the appeal process was developed</li> </ul> </li> <li>• WCAT thought there would be a handful of people self-identifying and that there would be time to figure out the process – the reality of the situation forced WCAT to develop a process very quickly</li> <li>• The Navigators were trying to let parties know that WAO and EAO are available             <ul style="list-style-type: none"> <li>○ However, parties weren't contacting those organizations or they were being denied representation</li> <li>○ WCAT reached agreement that the Navigator will offer to initiate an online inquiry on the party's behalf                 <ul style="list-style-type: none"> <li>▪ This removes the barrier of having the party navigate the system on their own, that they may feel is daunting</li> </ul> </li> <li>○ It's a challenge to straddle the line between assistance and advice                 <ul style="list-style-type: none"> <li>▪ <i>Renee</i> stated that she had issues with this as – how does one communicate the need for a certain type of information without leading the party to it</li> <li>▪ This is why WCAT needs WAO to help with this – they can give advice</li> <li>▪ The general practice is for WAO to at least provide an advice letter; however, parties will come to hearings with this letter instead of following up on the information contained therein</li> </ul> </li> </ul> </li> <li>• WCAT is holding planning sessions and hearings/pre-hearings with the Navigator present – their presence on the phone has been helpful</li> </ul>	
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<ul style="list-style-type: none"> <li>○ A benefit is that the Navigator can follow-up with points from the meeting right away</li> <li>● <i>Chris</i> stated that “Native court workers” in the B.C. court system do not usually participate in trials – their role is to discuss details with parties later on and keep track of important dates             <ul style="list-style-type: none"> <li>○ They do not advocate, they work in the background to remind them of dates/organize travel, documents</li> <li>○ <i>Renee</i> asked if the Navigator can be present during the OH to give the parties a level of comfort during the hearing and keep track of dates for post-hearing matters</li> <li>○ <i>Chris</i> stated that the Navigator can simplify details from hearings, obtain contact numbers, etc. – they should not become “gatekeepers” or advisers; they should stay away from qualitative work</li> <li>○ <i>Miranda</i> agrees with <i>Chris</i>’ points; it’s worth giving these ideas a try</li> <li>○ <i>Melissa</i> stated that if they are meant to be a comforting presence to the party, they should definitely be in the OH</li> <li>○ <i>Ning</i> stated that the Navigator can also advise the parties that they may bring other people to the hearings for support as well</li> <li>○ <i>Kim</i> stated WCAT can afford to send Navigators to attend OHs in other locations but, first, work needs to be done on resourcing</li> </ul> </li> <li>● The Navigator position has become more of an appeal coordinator position over time</li> <li>● EAO reached out to Jim this week for more information             <ul style="list-style-type: none"> <li>○ A combined effort needs to be made between the different organizations in the system</li> </ul> </li> </ul> <p>Other Process Adaptations</p> <ul style="list-style-type: none"> <li>● WCAT has been sending VCs to northern hearing locations in one-off circumstances instead of planning larger trips around them             <ul style="list-style-type: none"> <li>○ WCAT will also travel more to the localized community instead of the nearest “approved” location</li> </ul> </li> <li>● Videoconferencing is beginning to be used to accommodate parties</li> </ul>	
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Self-Identification from Group Outside of Canada

- *Chris* stated that this has occurred at his clinic as well – in his case, they clarified that the resources are focused specifically on Canadian Indigenous people
  - The self-id cases received in his clinic have been slightly “cheeky”
- *Jim* asked if WCAT could assist other Indigenous groups as well
- *Melissa* stated that Indigenous Canadians have special rights/legal protection in Canada – this is separate from UNDRIP
  - *Ning* agrees with *Melissa* – we need to recognize the special status/constitutional obligation regarding Indigenous Canadians; the Reconciliation (from the TRC) is between Canada and the Indigenous Peoples of that land
- Given the above, the identification of barriers may be applied to other groups as well; but for now, clarifying that WCAT’s resources (regarding the Indigenous appeal stream) are for Canadian Indigenous Peoples may be necessary
  - WCAT will still be adaptive to barriers, but these appeals will not enter a special Indigenous appeal stream
- How can WCAT limit the scope of these resources?
  - *Miranda* stated that legalese should be avoided in a justification of scope limitation
  - *Melissa* stated that a frame of reference for why WCAT is adapting it’s processes and why Canadian Indigenous Peoples are different from Indigenous people from other areas is important to have
- A script should be developed for the Navigators to inform parties that the special process is focused on Canadian Indigenous Peoples, although WCAT may adapt to other needs as well (adaption is part of our normal process)

Release of Medical Records

- WCAT had a case where a party did not want their medical records released to their representative, which is a family member – how should this be handled?
  - WCAT strives to vet records before they are sent out, but the Board does not do this

<ul style="list-style-type: none"> <li>○ WCAT advised the professional representatives that they can also vet records</li> <li>○ <i>Melissa</i> asked if WCAT is violating privacy laws by releasing unnecessary medical information; WCAT should contact the College of Physicians and Surgeons of British Columbia in order to have them advise their members that they should only send the relevant files when requested             <ul style="list-style-type: none"> <li>▪ WCAT can put this on its list of items for the Tribunal Council Office to accomplish</li> </ul> </li> <li>● WCAT is working on its forms to identify what disclosure means – this can also be explained by the Navigator             <ul style="list-style-type: none"> <li>○ The Navigator may advise the party that WCAT does not have complete control over the release of medical info</li> </ul> </li> <li>● WCAT has contacted the FOI team at Board to advise them about the release of sensitive, irrelevant information but this is very challenging to manage given the volume of information being reviewed</li> <li>● <i>Chris</i> stated there are serious privacy issues involved here – especially since WCAT is obliged to disclose these details to parties             <ul style="list-style-type: none"> <li>○ The party pay have a legal claim if irrelevant medical history has been disclosed to their employer</li> <li>○ This is a systemic issue – WCAT is obligated to disclose info one it has been received</li> <li>○ He agrees with the suggestion that WCAT should inform the party that disclosure of unintended info is possible</li> <li>○ WCAT should continue to send back info that is not relevant until the Board receives the message that info needs to be properly vetted</li> <li>○ There should be a policy that these organizations should not accept info that is not proper</li> </ul> </li> <li>● <i>Miranda</i> asked if the party is able to redact info before it's disclosed to the employer             <ul style="list-style-type: none"> <li>○ <i>Renee</i> responded, no – only the Board can vet this info</li> </ul> </li> </ul>	
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- There is a provision in the Act that states the employer can't use the info for any other purposes outside the WCB process
- *Renee* stated that in self-id cases, our VCs are accessing info before disclosure – WCAT can ensure they are aware of this issue and inform the Board to vet the records
- *Melissa* agrees that WCAT should be proactive and contact the medical college
  - What is the liability now that WCAT is aware of the issue? Can the party sue?
  - *Renee* stated that WCAT's legal department should look into this issue; particularly, for records that are sent directly to WCAT

Hearing Room #5 Renovation

- *Melissa* stated that the colour is calming and the round table is nice
- Should we do more?
  - *Chris* stated that the room has a good amount of artwork, WCAT should avoid inundating parties with too much artwork

Cultural Competency and Skills-Based Training

- *Jim* stated one of the challenges in the training is that it's mainly awareness training, not skill-based training
  - For e.g., intergenerational trauma may lead to parties avoiding eye contact or physicians (no "official" medical evidence would exist in these cases)
- There is a course on trauma-informed practice that may be helpful for Indigenous appeals – Jim will share this with CAC members
- Another relevant course is on mental disorders – WCAT may offer this to all decision-makers, not just lawyers
  - *Chris* stated that mental health training will be highly beneficial to our decision-makers
  - *Ning* stated that mental health training is very important – WCAT should look at more training for this
- *Renee* stated that WCAT could not find an Indigenous psychiatrist – it's difficult to find medical professionals who are also Indigenous

	<ul style="list-style-type: none"> <li>○ There are courses at UBC that focus on Indigenous medical issues (they have an Indigenous medical program)</li> <li>○ Taking the time to inquire into an individual Indigenous Person’s experience with medical issues is important (understanding their experience) <ul style="list-style-type: none"> <li>▪ There is a history of “gifting” Indigenous people (e.g. residential schools) – we need to be careful to listen to the individual experience and not send them to professionals who <u>we</u> think are qualified</li> <li>▪ Gladue factors are meant to consider an individual’s truth</li> </ul> </li> </ul> <p>Advocacy</p> <ul style="list-style-type: none"> <li>● WCAT has been pushing up, down, and laterally to have other areas of government to start thinking about how they will respond to the CTA</li> <li>● <i>Miranda</i> stated that WCAT should solidify its wording on the self-id question</li> <li>● <i>Chris</i> stated that the RD is interested in our info guide, the self-id wording, and creating a Navigator question</li> <li>● From the advocates point of view, they had talked about implementing these processes for a while; it’s now up to the various tribunals to take action <ul style="list-style-type: none"> <li>○ WCAT will make mistakes along the way, but it is important to begin the process</li> </ul> </li> </ul>	
C.	<p>Issues for Consideration</p> <p>Swearing-In</p> <ul style="list-style-type: none"> <li>● WCAT determined that it would follow the procedures adopted by the provincial court regarding this</li> <li>● <i>Chris</i> stated that B.C. recently adopted the option to be sworn in with an eagle feather <ul style="list-style-type: none"> <li>○ First Nations Court is a unique system that operates on a round table system as well <ul style="list-style-type: none"> <li>▪ Family members are invited into this process</li> <li>▪ It takes high recidivists and turns them into low recidivists, statistically</li> </ul> </li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>● WCAT should look to the First Nations Court (specifically, the one in North Vancouver) to inform its swearing-in process</li> <li>● WCAT should reach out to Sonia Pigman (a lawyer Miranda knows) for advice on UNDRIP training</li> <li>● WCAT will look into hiring an Indigenous law student</li> </ul>



- WCAT should look at how First Nations Court operates to regarding swearing-in – the North Vancouver court judge could be approached with this
      - Smudging could be an option as well
  - *Miranda* stated that a First Nations Court in Prince George will also ask how they can accommodate the parties – WCAT could sit in on a hearing

Land Acknowledgement

- What should WCAT do regarding the land acknowledgement in other areas of the province?
- *Chris* stated that there isn't a one size fits all approach – WCAT should speak to a local member of each area it holds hearings in for info
  - Everyone living in Canada is a party to the agreement between Indigenous Peoples and the settlers (either one side or the other) – the acknowledgement is, therefore, a reminder for everyone
- *Ning* attended a panel of universities and stated that we should look at what these groups do
  - She also noted that the acknowledgement can change over time as we learn and obtain feedback from consultation
- *Renee* inquired if the acknowledgement should be limited to Indigenous appeals
- *Miranda* stated that more people are making acknowledgements in all cases
- *Jim* stated that his church reached out to the community to determine what they should be acknowledging
- Can Melissa give WCAT advice on who to contact for this?
  - They do have a department that handles this – she will put us in contact with Mr. Grant
  - They had an entire panel on acknowledgements – a key point of discussion was about the next steps after making an acknowledgement (it shouldn't end there)
- *David* asked how to determine which location to use for a hearing as disputes may exist between different territories

	<ul style="list-style-type: none"> <li>○ <i>Chris</i> stated that these are broad political concerns that may not impact the individual party in a large way – parties may be used to managing these disputes already in daily live</li> </ul> <p>UNDRIP</p> <ul style="list-style-type: none"> <li>● <i>Miranda</i> – <i>Sonia Pigman</i> (a lawyer in Victoria) has done cultural competency training for band offices; she may be able to help us find UNDRIP training             <ul style="list-style-type: none"> <li>○ <i>Chris</i> has taken it upon himself to start reading materials on UNDRIP – it is highly theoretical at this point in B.C. and could take decades to be determined through the court system; WCAT may look at other jurisdictions for better guidance</li> <li>○ <i>David</i> stated that other ministries also have said that they don't know how UNDRIP will be adopted</li> <li>○ <i>Jim</i> stated that <i>Bob Joseph</i> offers a half-day course on UNDRIP that he took; although, it is not very specific</li> <li>○ CLE does have a course that is focused on UNDRIP's impact to businesses</li> </ul> </li> </ul> <p>Review of our Practices</p> <ul style="list-style-type: none"> <li>● Are the Navigators situated to perform a follow-up on WCAT's processes?</li> <li>● The Human Rights Tribunal has shared that they are identifying individuals who may be interested in providing feedback; the party then presents this to the entire tribunal, which is required to listen</li> <li>● A law student could do some research into what other jurisdictions/organizations are doing</li> <li>● <i>Chris</i> stated that Indigenous law students need to learn general law as well – they would be well served doing both at WCAT             <ul style="list-style-type: none"> <li>○ WCAT could set a task that at the end of their employment, they will audit how the special process/Navigator position is working</li> <li>○ They would tell WCAT where improvement could be made</li> </ul> </li> </ul>	
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D.	<p>Closing</p> <ul style="list-style-type: none"><li>• <i>Renee</i> stated that her biggest lesson from today is that people have their own agency and that we should be interested in their personal experience and not imposing our values onto them</li><li>• <i>Renee</i> stated that all the feedback and info from today has been very helpful</li></ul>	
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