

# INDUSTRY TRAINING APPEAL BOARD

## PREPARING THE APPEAL RECORD

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Once the industry training authority (the respondent) is notified that a new appeal has been filed, it must put together and file with the board a complete copy of the appeal record.

The “appeal record” consists of the decision being appealed, the respondent’s reasons for the decision, and all supporting documentary evidence, reports, policies, legislative provisions and submissions considered by the respondent in making the decision. Subject to certain exemptions for examination questions: Rule 8(2), **the information contained in the record must not be edited or severed**, but it does not include solicitor client privileged communications between the respondent and the respondent’s lawyer. If the respondent believes there is information in the appeal record that should not be disclosed to the appellant, the respondent must make a written application under section 42 of the *Administrative Tribunals Act* for an order directing that the information be received by the board in confidence. The board will only make such an order in exceptional circumstances where it is satisfied that the nature of the information requires such an order to ensure the proper administration of justice.

The appeal record only includes information up to and including the reconsideration decision under appeal. The purpose is to give to the appeal board and the appellant, as a starting point for the appeal, a complete and full copy of all information that was used or considered in making the decision that is being reviewed.

Any later correspondence regarding the appeal to the appeal board is not part of the appeal record that the respondent must prepare. Other documents and information that the respondent or appellant wish to produce to the board as evidence to support their case on the appeal may be provided to the board separately leading up to the hearing of the actual appeal itself. The ‘appeal record’ is meant only to be a complete record of the decision below that led up to the appeal.

The respondent is required by Rule 8(4) to deliver the appeal record **to both the appellant and the appeal board within 14 days** after delivery of the appellant’s notice of appeal. If the appeal record cannot be delivered within that time, the respondent may make a written request to the board for an extension of time. The request must explain why more time is needed.

The appeal record must contain clearly **legible**, photocopied documents, with sequential page numbering and a detailed table of contents. When it contains more than 25 pages, each copy of the appeal record must be bound or secured in a binder or similar book: Rule 8(5).

When the appeal record is sent to the appeal board, it must include a cover letter that provides **the respondent’s written certification that the appeal record is complete and accurate in all respects**: Rule 8(6)

The complete and accurate compilation and timely delivery of the appeal record is critical to the effectiveness and fairness of the appeal process.