

RCMP

# National Guidebook – Grievances Procedures

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Recourse Services Branch

8/1/2014

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This guide explains the rules of practice and procedure that participants involved in the grievance process must follow.

Final Version

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### *Definitions*

<b>Act</b>	means the <i>Royal Canadian Mounted Police Act</i> .
<b>adjudicator</b>	means a person who renders a decision in the grievance process.
<b>administrative time limits</b>	means those time frames that are established pursuant to the Rules of Practice and Procedure for Grievances manual.
<b>assistant</b>	means a person, authorized by a grievor or respondent, who is providing support with the administration of a grievance.
<b>case conference</b>	means a without prejudice meeting between a grievor, respondent, or their representatives, and an adjudicator to discuss issues relating to a grievance.
<b>case meeting</b>	means a meeting between a grievor, respondent, or their representatives, and an adjudicator in which an adjudicator may hear submissions and review evidence and reach a binding decision on any preliminary or collateral issue or the merits of the grievance.
<b>collateral issue</b>	means those matters concerning the processing of the grievance or issues not directly connected to the merits of the grievance (e.g., access to relevant material, identification of the respondent).

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<b>Commissioner</b>	means the Commissioner of the Royal Canadian Mounted Police.
<b>CSO</b>	means Commissioner's Standing Orders.
<b>designated officer</b>	means an officer designated by the Commissioner for the purposes of the grievance policy.
<b>final level</b>	means the final level in the grievance process.
<b>Force or RCMP</b>	means the Royal Canadian Mounted Police.
<b>grievance</b>	means a grievance presented under section 31 of the Act.
<b>grievor</b>	means a member who presents a grievance.
<b>initial level</b>	means the initial level in the grievance process.
<b>line officer</b>	means the first officer or senior manager above the respondent in the respondent's chain of command.
<b>member</b>	means a member as defined under section 2 of the Act.
<b>merits</b>	means the core matters at issue in the grievance (e.g., issues related to the contested decision, act, or omission).
<b>office for the coordination of grievances and</b>	means the office of the RCMP that is responsible for administrative matters relating to grievances & appeals.



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### appeals (OCGA)

<b>panel</b>	means a panel consisting of three level I adjudicators established to decide a grievance.
<b>parties</b>	mean the grievor and the respondent.
<b>party</b>	means a grievor or a respondent.
<b>preliminary issue</b>	means an issue related to the jurisdiction of an adjudicator, the standing of a grievor to present a grievance, or the timeliness of a grievance.
<b>redress</b>	means the remedy decided by an adjudicator .
<b>Regulations</b>	means the <i>Royal Canadian Mounted Police Regulations</i> , 2014.
<b>representative</b>	means a person authorized, by a grievor or respondent, to act on behalf, and have the full authority, of a grievor or respondent during the grievance process.
<b>respondent</b>	means the person who made the decision, act or omission that is the subject of a grievance, or the person who replaces them in that position, or the person designated by the adjudicator.
<b>standardized test</b>	means a test that is used by the Force to assess an individual's behavior, knowledge and experience in order to evaluate job-relevant competencies, and includes the marking rationale, the scoring keys and any materials prepared for the purpose of developing the test.

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<b>standing</b>	means that the grievor meets the criteria established by subsection 31(1) of the Act.
<b>statutory time limits</b>	means those time limitation periods that are established by statute and defined in subsection 31(2) of the Act.

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## 1. INTRODUCTION

### 1.1. Objective

The objective of this guide is to explain, in plain language, what the RCMP grievance process is, their rule of practice and procedure, and the steps employees must follow in relation to a grievance.

### 1.2. For Grievors and Respondents

This guide is written for members presenting a grievance (grievor), employees responding to a grievance (respondent) and the persons who help them (representative and assistant) in the course of a grievance.

### 1.3. Jurisdiction to Render Decisions

The *Act* is the statute (law passed by Parliament/legislature) that establishes all aspects of the administration of the RCMP. Under Part III of the *Act*, the Parliament set out rules for the RCMP to create a labour dispute system to resolve grievances presented by members. As permitted by the *Act*, the Commissioner established additional rules on how to process grievances under the *Regulations* and the *CSO (Grievances and Appeals)*.

The adjudicator's authority to render a grievance decision comes from the Commissioner who has the power, as defined by the *Act*, to designate or delegate any person under his or her command to decide grievance matters.

The grievance process includes two levels for review by adjudicators. Adjudicators decide work-related disputes between employees or between employees and the RCMP over rights based in law, entitlements, and duties.

### 1.4. Procedural Fairness

The grievance process falls under the public administrative body of law which governs the relationships between individuals and government. As such, adjudicators must follow the principle of procedural fairness when rendering their decisions.

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The duty of procedural fairness is a general common law principle which applies to every administrative body making a decision affecting the rights, privileges or interests of an individual.

This principle also applies to the RCMP grievance process, which provides the parties involved with:

- the right to be heard;
- the right to a decision from an unbiased adjudicator;
- the right to a decision from the person who hears the grievance; and
- the right to reasons for the decision.

## **1.4.1. The Right to be Heard**

A member who may be directly affected by a decision has the right to receive notice that a decision may be made, the right to know what matters will be decided, and the right to be given a fair opportunity to state their case and to correct or contradict relevant statements or evidence with which they disagree.

## **1.4.2. The Right to a Decision from an Unbiased Adjudicator**

Adjudicators work independently from administrative and operational sectors of the RCMP. They must exercise their duties and responsibilities in a neutral, impartial manner and approach decisions with an open mind, act in good faith and avoid conflicts of interest.

It is the adjudicator's responsibility to consider circumstances which might raise a perception of bias or conflict of interest regarding their ability to exercise their duties with respect to deciding a grievance. If it is determined that a possible bias or conflict of interest exists the grievance will be reassigned for decision by a different adjudicator.

## **1.4.3. The Right to a Decision from the Person Who Hears the Case**

Safeguarding the independence of adjudicators must be balanced with the value of consistency in decision making. The *Act* grants the adjudicator the power to hear and decide grievances. This power cannot be delegated to someone else.

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## 1.4.4. The Right to Reasons for the Decision

In *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817, the Supreme Court of Canada decided that reasons form part of procedural fairness. The courts have set aside tribunal decisions on the basis of a breach of procedural fairness where the decision maker either did not provide reasons, or provided inadequate reasons, for the decision.

Subsection 31(6) of the *Act* requires that an adjudicator provide reasons in writing for his or her decision.

## 2. GRIEVANCE PROCESS: STRUCTURE AND JURISDICTION

### 2.1. Role of Recourse Services Branch (RSB) and Recourse Appeals & Review Branch.

Recourse Services Branch and Recourse Appeals & Review Branch are responsible for all internal RCMP adjudicative services, which include member representation, appropriate officer representation, administration of grievances and appeals, and adjudication of grievances, appeals, and conduct proceedings.

#### 2.1.1. Adjudicator

The adjudicator is responsible for rendering a decision on the grievance. In reaching a decision, the adjudicator has jurisdiction over all matters that may arise during the processing of the grievance. For example, the adjudicator can:

- meet the parties to try to resolve the grievance as informally and quickly as possible;
- request additional information from the parties or any other person;
- give directions to the parties;
- extend statutory or administrative time limits;
- render a decision in the absence of submissions;
- conclude an abandoned grievance; and
- determine the appropriate corrective measure.

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### 2.1.2. Grievance Analyst

The grievance analyst provides support to the adjudicator. He or she analyzes grievance files, conducts research related to the subject of the grievance and writes reports which are used by the adjudicator to render a decision.

### 2.1.3. Office for the Coordination of Grievances and Appeals (OCGA)

The OCGA is responsible for:

- receiving grievances;
- identifying missing information needed to continue with the process;
- instructing the parties of their responsibilities at each step of the process;
- responding to the parties' process-related questions and concerns;
- ensuring statutory and administrative time limits are met;
- extending administrative time limits;
- liaising with the adjudicator's office;
- preparing the adjudicator's grievance material for a decision; and
- communicating the adjudicator's decision.

In addition, the OCGA bears the responsibility to record grievance-related data in compliance with the RCMP reporting requirements.

### 2.1.4. Panel

For the specific circumstances stated in the *CSO (Grievances and Appeals)*, the RSB Director General may authorize the Director of the initial level adjudicators to appoint a three-member panel consisting of initial level adjudicators when the Director General believes an issue grieved may be subject of numerous grievances and the relevant law or policy is vague or inconsistent.

## 2.2. Grievance Participants

Grievance participants include the member presenting the grievance and the RCMP employee who will respond to the grievance. Each party may enlist the help of a person if they are unable to meet their responsibilities (i.e., actively take part in the grievance process) or require assistance during the process. In addition, a copy of the grievance will be forwarded to the person holding position of officer or its equivalent in the respondent's chain of command.

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### 2.2.1. Grievor

The grievor is the member presenting a grievance. He or she is responsible for:

- becoming familiar with the provisions of the *Act, Regulations*, CSOs, policies and legislation related to the object of his or her grievance;
- requesting access to documentary information required by him or her;
- proving his or her grievance;
- submitting all documentation that support his or her position;
- meeting statutory and administrative time limits;
- notifying in writing the OCGA of the name of the person representing or assisting him or her;
- notifying in writing the OCGA of any changes made to his or her mailing address, e-mail address, and any other contact information; and
- notifying in writing the OCGA that he or she is withdrawing the grievance.

### 2.2.2. Respondent

The respondent is the RCMP employee who made the decision, act or omission being grieved, his or her replacement or the person designated by an adjudicator. He or she is responsible for:

- becoming familiar with the provisions of the *Act, Regulations*, CSOs, policies and legislation related to the object of the grievance;
- providing access to documentary information required by the grievor;
- submitting all documentation that support his or her position;
- meeting statutory and administrative time limits;
- notifying in writing the OCGA of the name of the person representing or assisting him or her; and
- notifying in writing the OCGA of any changes made to his or her mailing address, e-mail address, and any other contact information and if he or she retires.

### 2.2.3. Respondent's Line Officer

The OCGA will provide a copy of the grievance to the respondent's line officer. The line officer's role consists of making sure that the respondent:

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- makes every effort to informally resolve the grievance;
- participates at every step of the grievance process;
- complies with the directions given by the OCGA or adjudicator; and
- respects the grievance process's administrative time limits.

### 2.2.4. Representative

A representative is a person authorized, in writing, by a party to act on his or her behalf. As such, the party agrees that his or her representative will assume the party's role and responsibilities in the grievance process. The representative can:

- present a grievance for the grievor;
- participate in the initial stage of the process, which includes discussing the grievance with the other party, explaining the party's position, negotiating an agreement, signing and implementing the reached agreement;
- make oral and written submissions; and
- implement the corrective action ordered by an adjudicator.

A representative will be the point of contact for the OCGA. He or she is also responsible for complying with statutory and administrative time limits.

Note: The written authorization must be forwarded to the OCGA. If the representative is an RCMP employee (other than a Staff Relations Representative), he or she must seek written authorization from his or her line officer.

### 2.2.5. Assistant

An assistant is a person authorized, in writing, by a party to help him or her during the grievance process. An assistant provides limited support to the party who remains fully engaged in the grievance process. The assistant can:

- participate in the initial stage of the process, which includes discussing the grievance with the other party and explaining the party's position;
- advise the party;
- research and draft submissions; and
- accompany a party during case conferences.

The OCGA may contact an assistant and copy him or her when communicating with the party. An assistant is not responsible for complying with statutory and administrative time limits.



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Note: The written authorization must be forwarded to the OCGA. If the assistant is an RCMP employee (other than a Staff Relations Representative), he or she must seek written authorization from his or her line officer.

## 2.3. Jurisdiction: Grievable and Non-Grievable Matters

The grievance process is not designed to remedy all problems and issues in the RCMP. Part III of the *Act* gives members the right to grieve specifically any decision, act or omission made in the administration affairs of the RCMP and which falls under its authority for which there is no other process for redress.

Individual members who wish to present a grievance must meet specific requirements. These are known as standing and are explained further in Chapter 3. For example, a member may not grieve a decision, act or omission that can be resolved through another process set out in the *Act*, the *Regulations*, or the various other CSOs. The *Act* also prescribes limits on what can be grieved.

Here are some examples of non-grievable matters:

- initial level grievance decision;
- outcome of a harassment complaint;
- imposed conduct measure;
- decision to stop pay and allowances of a member; and
- decision to discharge a member.

For more information on what constitutes non-grievable matters, see Appendix 3.

## 2.4. Overview of the Grievance Process

The grievance process allows for two levels of review by an adjudicator. A grievance is concluded at the initial level when the grievor accepts the adjudicator's decision. If the grievor believes the decision was reached in a manner that contravened the applicable principles of procedural fairness, was based on an error of law, or was clearly unreasonable, the grievor may present the grievance at the final level.

**Grievance Process**

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Level 1 (Initial Level)	1. Presentation of Grievance
	2. Initial Stage
	3. Level 1 Submissions
	4. Decision at Level 1
Level 2 (Final Level)	5. Presentation to Level 2
	6. Level 2 Submissions
	7. Decision at Level 2

### 2.4.1. Initial Level

The initial level begins with the presentation of the grievance, in writing, by the member contesting a decision, act or omission. At the initial stage, the grievor is given the opportunity to informally resolve the grievance. If the grievor chooses to bypass the initial stage or is unable to reach an agreement with the respondent, the parties are invited to present submissions to support their respective position. The adjudicator renders a decision based on the parties' arguments and supporting documentation, and any additional information obtained by the adjudicator. The decision is final and binding unless the grievor presents his or grievance at the final level.

### 2.4.2. Final Level

The final level begins with the presentation of the grievance, in writing, by the grievor. The parties will be given an opportunity to submit their arguments and explain why they believe the initial level adjudicator's decision was or was not: reached in a manner that contravened the applicable principles of procedural fairness; based on an error of law; was clearly unreasonable. After considering the parties' submissions, the final level adjudicator renders a final decision, which concludes the grievance process.

In the event that a respondent believes the redress determined by the adjudicator at the initial level is contrary to law and should not be implemented, he or she will notify his or her line officer. If the line officer agrees with the respondent, he or she will ask the designated officer to review the matter. The designated officer may request a review of the decision at the final level.

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## 2.5. Withdrawal of Grievances

A grievor, or the grievor's representative, may withdraw the grievance at any time up until the time an adjudicator renders a final decision, by submitting a written request to the OCGA. This will conclude the grievance file.

### Chapter 2

#### RULES on Withdrawal of Grievances:

1. Only a grievor, or his or her representative, may withdraw the grievance.
2. The grievor or representative must notify the OCGA in writing.

## 3. HOW TO PRESENT A GRIEVANCE

This chapter describes the steps a grievor must follow to present a grievance.

### 3.1. Essential Requirements: Standing and Statutory Time Limit

In order to present a grievance, the grievor must meet the legislated requirements of the grievance process as outlined in subsections 31(1) and 31(2) of the Act. These requirements are known as standing and statutory time limits, i.e. preliminary issues that may be determinative of the grievor's ability to present a grievance.

#### 3.1.1. Only Members May Grieve

The grievor must be a member as defined by section 2 of the Act. In cases where a grievor is no longer a member, is affected by a decision, act or omission and presents a grievance within the statutory time limits, an adjudicator will decide whether or not the grievor meets this requirement.

#### 3.1.2. Must be Aggrieved

The decision, act or omission must have directly and personally affected the member.

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To address the "aggrieved" requirement when presenting a grievance, the grievor must indicate how he or she was personally affected by the decision, act or omission. For example, if the RCMP refuses to pay a member's travel expense, the grievor need only indicate that, as a result of a respondent's decision to refuse his or her travel expense claim, the grievor suffered a financial detriment and therefore the decision personally affected him or her.

### **3.1.3. Decision, Act or Omission Made by the RCMP**

The grievor may present a grievance challenging a final decision, act or omission. It is only when the decision, act or omission is final (determinative, enforceable, executive) that it can personally affect the member.

A member may present a grievance against a decision, act or omission made in the administration of RCMP affairs, i.e., a decision, act or omission that the RCMP chooses to do and that falls under its authority. The RCMP is responsible for how it applies and interprets its own policies and other higher authorities' policies and/or directives, e.g., the RCMP screens out a member from a promotion process created by the RCMP, the RCMP denies the reimbursement of a relocation benefit set by Treasury Board.

Decisions, acts or omissions that are imposed by higher authorities, e.g., Treasury Board or the Privy Council Office, and for which the RCMP has no margin for interpretation, have not been found to be grievable: these higher authorities left the RCMP no choice in applying the decisions, acts or omissions, or how to interpret them. For example, Treasury Board's refusal to offer members a benefit not included in its directive, its unwillingness to declare a housing market depressed, or its decision to change an entitlement under a government policy.

### **3.1.4. No Other Redress Process Available**

A member may not grieve a decision, act or omission that can be resolved through another process set out in the *Act*, the *Regulations*, or the Commissioner's Standing Orders. For example, a member will not have standing to grieve:

- a finding that a contravention of a provision of the Code of Conduct is established, as conduct measures are dealt with in another process set out in the *Act*;

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- a discharge on the grounds of a term of imprisonment, as the *CSO (Employment Requirements)* establishes a process for appealing such a matter; and
- a decision, act or omission made in the course of the classification of the member's position, as the *CSO (Classification Redress Process for Members)* establishes a separate procedure for handling those issues.

### 3.1.5. Presentation of Grievance Must be in Writing

The member must present the grievance in writing to the OCGA or the grievor's supervisor. The RCMP has created a Grievance Presentation form, which is available on the Infoweb and the external RCMP's website. The form meets all the presentation requirements stated in the *CSO (Grievances and Appeals)*.

### 3.1.6. 30-Day Statutory Time Limit to Grieve

In accordance with section 31 of the *Act*, there is a 30-day statutory time limit for presenting a grievance. The grievor must present the grievance, in writing, within 30 days after the day on which the grievor knew or reasonably should have known of the decision, act or omission being grieved or that it caused a prejudice.

## 3.2. Presentation of Grievance at the Final Level

After an adjudicator decides a grievance, the grievor may present it to the second and final level of the grievance process by using the Grievance Presentation form submitted at the initial level, completing the requested information under the section "Final Level Grievance Presentation" and sending it to the OCGA or the grievor's supervisor.

### 3.2.1. 14-Day Statutory Time Limit to Present at the Final Level

A grievor has 14 days from the date of service of the initial level grievance decision to request a review of the initial level decision by a final level adjudicator.

## 3.3. Grievance Presentation Form

A member may present a grievance using the Grievance Presentation form. After the grievor completes the form, he or she may deliver it in person or send it by mail, e-mail

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or facsimile transmission (fax) to the OCGA. The form may also be presented to the grievor's supervisor.

A grievance presented under section 31 of the Act must specify:

- the member's name and employee number;
- the decision, act or omission that is being grieved;
- a brief statement of the grounds of which the grievance is based including the relevant law or Treasury Board or RCMP policy applicable to the grievance;
- the prejudice suffered as a result of the decision, act or omission;
- the redress requested;
- the date on which the member learned of the decision, act or omission;
- the name of the person whom the member believes to be the respondent; and
- the person holding the first position of officer or its equivalent in the respondent's chain of command.

A grievor may object to the respondent's line officer's participation by providing written reasons with the Grievance Presentation form. This becomes a collateral issue and an adjudicator will decide the matter. If the adjudicator allows the grievor's objection, he or she will designate an alternate line officer.

If the grievance is sent by fax, email, it is not necessary to forward the original document to the OCGA. If the grievor also sends the original document, the OCGA will add it to the grievance record.

If the grievance is presented to the grievor's supervisor, the supervisor must note the time and date it was presented to him or her, and forward the Grievance Presentation form by delivering, mailing, e-mailing or sending the form by facsimile transmission (fax) to the OCGA.

Depending on the means of transmission, the date of presentation of the form is determined as follows:

- by e-mail, the date of communication (OCGA's or grievor's supervisor's computer-generated date on transmission);
- by fax, the date of communication (the OCGA's or grievor's supervisor's fax machine-generated date on receipt of the submission); or
- by regular or registered mail, internal mail, courier or hand delivery, the date received by the OCGA or the grievor's supervisor unless the mailing date can be confirmed.

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NOTE: If the grievance presentation form is accompanied by clear proof of the date it was mailed, e.g. signature of the supervisor attesting the mailing date, the date of presentation for a submission by regular or internal mail will be the mailing date.

A member may present a grievance in the official language of his or her choice. The OCGA will process the grievance in the member's chosen official language.

### **3.3.1. Incomplete Grievance Presentation Form**

If there is missing information on the Grievance Presentation form, the OCGA will give the grievor 7 days to complete it. If the grievor does not correct the deficiencies within the time allowed the OCGA will move on to the next step of the grievance process.

### **3.4. Collective Grievances**

If two or more grievors present separate grievances, for which the decisions, acts or omissions are substantially similar, the adjudicator may consolidate the grievances into a collective grievance.

If the adjudicator consolidates the grievances, he or she will consider what steps, if any, are required to protect the privacy of the parties. He or she may require each party to sign an authorization to release information to the other parties in the grievance.

Depending on the circumstances, the adjudicator may issue:

- a "generic" decision, addressing all of the consolidated grievances;
- a "generic" decision dealing with a common issue raised by the consolidated grievances, together with individualized decisions on each grievance; or,
- an "individual decision" on each grievance which takes into account the common evidence or submissions.

In cases where one grievor presents multiple grievances related to similar issues or stemming from one decision, the adjudicator may choose to consolidate all grievances and render one decision.

### **3.5. Authorizations for Representatives and Assistants**

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A party to a grievance may be represented or assisted by another person. The grievor or respondent wishing to be represented or assisted will obtain the consent from the representative or assistant and notify the other party and the OCGA in writing.

Note: If the representative or assistant is an RCMP employee (other than a Staff Relations Representative), he or she must seek written authorization from his or her line officer and forward it to the OCGA.

A grievor's representative may initiate a grievance but the representative must include the grievor's written authorization with the Grievance Presentation form sent to the OCGA.

The OCGA will assume that a representative continues to act for the grievor or respondent for the duration of the grievance process unless the party indicates otherwise.

### **3.5.1. Limits on Who Can Represent or Assist**

A member or person that would be considered to be in a conflict of interest (e.g., an adjudicator, a grievance analyst) in the RCMP cannot represent or assist a grievor or respondent.

## **3.6. Delivery of Documents**

### **3.6.1. Change of Address**

Parties must inform the OCGA of any change of address and other contact information. If a party fails to do so, evidence that they did not receive a document because it was mailed or otherwise delivered to a prior address or contact point will not nullify the presumption of service.

### **3.6.2. Returned Mail**

If mail or e-mail to a party is returned as undeliverable, the OCGA will make attempts to locate the party.

In cases where the OCGA is unable to locate the party, the OCGA will consider that the party has failed to comply with the rule described in 3.6.1. (Change of Address) and the following will apply:



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- the OCGA will send a final notice to the party's last known address advising that, in the absence of a response within 21 days, the OCGA will refer the grievance to an adjudicator to conclude the grievance.

### Chapter 3

#### **RULES on Presenting a Grievance:**

1. A member must submit a completed Grievance Presentation form to the OCGA or the member's supervisor.
2. The grievor will attach written reasons to the Grievance Presentation form if he or she objects to the respondent's line officer being involved in the grievance.
3. A party must notify in writing the OCGA and the other party of the identity of the person representing or assisting them.
4. A representative who presents a grievance on behalf of a member must attach a copy of the member's written authorization naming the representative to the Grievance Presentation form and, if the representative is an employee of the RCMP, the representative's line officer written authorization to act as a representative.
5. A party must notify the OCGA of any change of address and other contact information.

## 4. REGISTRATION OF GRIEVANCES

### 4.1. Registration

The OCGA receives grievances and ensures Grievance Presentation forms comply with the necessary presentation requirements. When registering a grievance, the OCGA will determine whether:

- the grievance is complete; or
- additional information is required.

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### **4.2. Acknowledging Receipt**

After receiving a grievance, the OCGA will send a written acknowledgement to the grievor. Acknowledgement will be sent by e-mail or regular mail to the address(es) provided on the form.

Acknowledgement does not mean that the OCGA accepts that the grievance was presented within time or that it meets the presentation requirements for the grievance to be accepted as complete.

### **4.3. Representatives**

If the grievance was filed by a grievor's representative, the OCGA will send the written acknowledgement to the representative with a copy to the grievor.

Acknowledgement will be sent by e-mail or regular mail to the address(es) provided on the form.

### **4.4. Instructions for the Grievor and Respondent**

After the OCGA sends an acknowledgement of receipt to the grievor, the OCGA registers and assigns a file number to the grievance and provides the first written instructions to the grievance parties. The instructions include information on the grievance process and the steps the parties need to follow. The grievor and respondent are reminded to forward their questions and concerns directly to the OCGA throughout the grievance process.

## **5. INFORMAL RESOLUTION OF GRIEVANCES**

### **5.1. Initial Stage**

The OCGA starts processing a grievance after it receives the Grievance Presentation form. It advises the respondent and provides him or her with a copy of the grievance and any related materials.

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At the beginning of the grievance process, known as the Initial Stage, the OCGA provides the grievor and respondent with an opportunity to resolve informally the grievance. If the parties accept, they may:

- discuss the grievance with or without the help of a representative or assistant; or
- request services offered by the Informal Conflict Management Program (ICMP).

The Initial Stage is optional. However, the grievor may choose to proceed directly to the exchange of submissions by notifying the respondent and the OCGA in writing. If the respondent is unable to take part in the Initial Stage, his or her line officer will replace the respondent during the Initial Stage, instruct the respondent to participate in the informal resolution discussions or identify a replacement for the respondent for that purpose. The OCGA will remind the parties that they may engage in informal resolution discussions and request ICMP services at any time during the grievance process, and ensure that there are no collateral issues to address prior to the exchange of submissions.

### **5.1.1. Respondent's Line Officer**

In addition to providing the respondent with a copy of the grievance, the OCGA will provide a copy of the grievance to the respondent's line officer. The line officer's role is limited to review the respondent's decision to determine it was made according to the applicable law or applicable Treasury Board or RCMP policy, and ensuring that the respondent meets all of his or her responsibilities in the grievance process.

### **5.1.2. Discussions Between the Grievor and Respondent**

The parties will be given 30 days to discuss and attempt to resolve the grievance. It is the respondent's responsibility to contact the grievor within 7 days of being notified of the grievance to commence attempts to resolve the grievance.

Communications passing between the parties and any other person during attempts to resolve a grievance informally will be without prejudice, except where communications or agreements are reflected in the Informal Resolution Outcome form agreed to between the parties or otherwise relied upon by the parties by express consent.

If the parties engage in ICMP, the OCGA will hold the grievance in abeyance until an agreement is reached or the parties wish to proceed to the exchange of submissions.

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The parties will notify the OCGA if they come to a full, partial or no agreement by completing the form. Only a full agreement will conclude the grievance.

If the grievor decides to end the discussions, the grievor will notify the respondent and the OCGA in writing. The grievance will then proceed to the submission phase of the grievance process.

### 5.1.3. Informal Conflict Management Program Services

The ICMP provides an alternative method of resolving conflicts or disputes between RCMP employees at the lowest level. ICMP services include an initial consultation, mediation, conflict coaching and facilitated discussion.

Because participation in ICMP services is voluntary, both the grievor and the respondent must contact an ICMP practitioner themselves. This demonstrates that they are actually willing to engage in an informal process. The ICMP practitioners' phone number will be readily available on the information sheet provided by the OCGA at the beginning of the grievance process.

If the parties contact an ICMP practitioner and are actively participating in ICMP services, they will notify the OCGA without delay. The OCGA will hold the grievance in abeyance until the grievance is resolved with the assistance of ICMP or the parties wish to proceed to the next step in the grievance process.

If the parties successfully resolve the grievance, they will complete the Informal Resolution Outcome form and send it to the OCGA. This will conclude the grievance.

If the parties are unable to reach a full agreement, they will complete the Informal Resolution Outcome document and send it to the OCGA. The grievance process will continue.

### 5.2. Access to Information

In accordance with the provisions of the *Access to Information Act*, sections 7 and 8 of the *Privacy Act*, subsection 31(4) of the *Act*, and the *CSO (Grievances and Appeals)*, a member presenting a grievance may request access to written or documentary information needed to support his or her position. This is also known as disclosure.

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The requested written or documentary information must meet specific requirements. The information must:

- be in existence;
- be controlled by the RCMP;
- be relevant to the grievance; and
- be reasonably required to prove the member's grievance.

Furthermore, the information must not be expected to cause harm to Canada's defence or its allies, or law enforcement. Finally, disclosure of the following documents are not permitted: standardized tests, information the disclosure of which is contrary to a provision of any contract entered into by the Crown, information about a person's financial or personal affairs if the person's interest or security outweighs the grievor's interest in the information, or information the disclosure of which is prohibited by law.

The respondent is responsible for providing to the grievor access to the agreed-upon and uncontested written or documentary information. The information will be provided in its original language.

### **5.2.1. Be in Existence**

A grievor requesting a document must know that the documents exist instead of supposing that it is in existence. For example, documents regarding the promotional process include the application form, résumé, candidate list for an advertised position, and the line officer's rationale for the final candidate selection.

The respondent is not required to create new documents or translate documents.

### **5.2.2. Controlled by the RCMP**

A document under the control of the RCMP means that any member or employee of the RCMP can have access to the documents. Information should originate from within the RCMP or, if it originates from outside sources, it should be in the RCMP's possession. Some documents controlled by a third party such as a doctor or psychologist's office, an external agency or government department, Treasury Board minutes or documents classified as cabinet confidence are not controlled by the RCMP.

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### **5.2.3. Relevant to the Grievance**

A document is deemed to be relevant to the grievance if it is linked to the subject of the grievance or to the facts raised by the member in support of his or her grievance and if it assists the member in proving his or her case. The adjudicator has no obligation to consider evidence or material that has no logical connection to the issue to be decided.

### **5.2.4. Reasonably Required to Properly Present the Grievance**

If the information requested is relevant to the grievance, it normally would be reasonably required to properly present the grievance. It is conceivable, however, that there may be relevant information under the RCMP's control that is not reasonably required for the presentation of the grievance, for example where the RCMP does not contest the particular fact or issue for which the information is requested.

### **5.3. Preliminary & Collateral Issues**

Preliminary or collateral issues are questions or issues that are not directly connected with the merits of the grievance and may arise at any time during the grievance process. They occur when policy, OCGA instructions or an adjudicator's directions are not being followed by a party, or when matters such as the identity of the correct respondent or access to relevant material needed by the grievor cannot be resolved between the parties. A party may raise a preliminary or collateral issue during the course of the grievance by notifying the OCGA in writing.

If a preliminary or collateral issue cannot be resolved between the parties, a grievor or respondent may request an adjudicative decision. The adjudicator may, on notice to the parties: seek written submissions on the issue or conduct a case conference to meet and discuss the issue. An adjudicator may also elect to conduct a case meeting to hear submissions, consider evidence, and reach a decision.

If written submissions are sought, it will take place in the following order: first, a submission from the party who raised the issue; second, a response to the submission from the other party; and third, a rebuttal to the response. The adjudicator may set and vary timelines for the presentation of submissions.

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Where an adjudicator rules in favour of providing access to disputed information, it is the responsibility of the respondent to provide access to that information as soon as feasible after receipt of the adjudicative decision. The respondent will not forward documents to the OCGA, but will provide them directly to the grievor, unless otherwise directed by the adjudicator.

### **5.4. Extension of Time for Informal Resolution**

The parties may request a one-time extension of 30 days to the OCGA in writing. The OCGA must receive the request before the end of the 30-day time limit provided for informal resolution at the initial stage of the grievance process.

If the parties engage in ICMP, the OCGA will hold the grievance in abeyance until an agreement is reached or the parties wish to proceed to the exchange of submissions. The grievor will notify the OCGA in writing whether the parties were successful or not in resolving informally the grievance.

### **5.5. Complete or Partial Agreement**

The grievor and respondent will complete the Informal Resolution Outcome form if they reach a partial or full agreement on the core matters of the grievance (also known as the merits) or no agreement.

A partial agreement means that the parties have resolved some of the contentious issues about the merits but not all of them. As such, they still need an adjudicator to decide on the remaining disputed issues. The adjudicator will only look at any outstanding issues with regards to the merit of the grievance. The adjudicator may still look at standing and/or statutory time limit. Before they can proceed to the next step of the grievance process, the parties will indicate the issues where no agreement has been reached on the form and send it to the OCGA.

A full agreement means that the parties have reached a consensus and have resolved the grievance. The parties will send the completed form to the OCGA. If full agreement is reached, the grievor will notify the OCGA that he or she is withdrawing the grievance, and the OCGA will then conclude the grievance.

In cases where a redress is agreed upon, the grievor or respondent may request that an adjudicator review the agreement to ensure that the redress is consistent with the

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applicable law and Treasury Board or RCMP policies, approve the agreement or resolve any issue or concerns related to its implementation.

The parties are not required to list the outstanding issues if no agreement has been reached.

### **Chapter 5**

#### **RULES on Informal Resolution of Grievances**

1. Parties have 30 days to resolve informally the grievance.
2. Parties may request a single 30-day time extension to reach an agreement.
3. If the parties wish to use ICMP the grievor and respondent will each contact ICMP services to request their assistance.
4. The respondent will provide the grievor with access to the agreed-upon and uncontested written or documentary information.
5. The parties will request an adjudicator's decision to resolve contested preliminary and collateral issues.
6. Parties will complete an Informal Resolution Outcome form and provide it to the OCGA.
7. If the parties come to a full agreement, the grievor will withdraw his or her grievance.

## **6. SUBMISSIONS**

### **6.1. Written Submissions**

A written submission allows a grievance party to explain in writing his or her position, provide documentary evidence to support it and demonstrate if the decision, act or omission was: consistent with law, Treasury Board or RCMP policies; and, caused a prejudice to the grievor.



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In accordance with the adjudicator's instructions, the OCGA will invite the parties to provide written submissions when a decision is needed to settle collateral or preliminary (essential requirements of standing and statutory time limits) issues and the merits of the grievance.

### 6.1.1. General Requirements

The grievance process has established a set of rules to help parties frame their written submissions. The requirements explain how to present a submission and which information should be included whether it is a submission on collateral or preliminary issues or the merits of a grievance. The requirements are listed in this section.

If a party supplements his or her written submission with supporting documentation, the party will:

- refer to the supporting document in his or her submission;
- append only relevant sections of the supporting document; and
- provide the document's reference, which includes the title, author, section or page number (if applicable) and date, or web link.

All attached documents and information contained in written submissions will comply with security requirements established in the policy on Government Security and RCMP security policies (hyperlink to PGS and DSB page since all security policies apply to safeguarding sensitive information - <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=16578> <http://infoweb.rcmp-grc.gc.ca/to-ot/ds-sm/index-eng.htm>). For example, a party who provides a submission that contains Protected B information will mark each page (top right corner) of his or her submission as Protected B and encrypt the submission if sent by e-mail to the OCGA. A list of examples of what constitutes national interest and other sensitive information is available in the *Administration Manual* APP. XI-1-3.

Administrative time limits stated in this chapter are calculated in consecutive days, they exclude the first day the party is made aware of the due date but include the last day. If the due date falls on a Saturday, Sunday or other statutory holiday the time frame will be extended to the next normal business day that is not a Saturday, Sunday or other statutory holiday.

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Parties may send their written submissions to the OCGA by e-mail, fax, registered mail, courier, regular mail, internal mail or hand delivery. To ensure that submissions are sent within the administrative time limits, the OCGA will use the following dates when submissions are sent by e-mail, fax, mail or delivered in person:

- by e-mail, the date of communication (OCGA's computer-generated date on transmission);
- by fax, the date of communication (the OCGA's fax machine-generated date on receipt of the submission); or
- by regular or registered mail, internal mail, courier or hand delivery, the date received by the OCGA unless the mailing date can be confirmed .

NOTE: If the submission is accompanied by clear proof of the date it was mailed, e.g. signature of the supervisor attesting the mailing date, the date of presentation for a submission by regular or internal mail will be the mailing date.

### 6.1.1.1. Preliminary & Collateral Issues

A written submission of a collateral issue(s) will:

- not exceed 5 pages, excluding attachments which will be a maximum of 25 pages(e.g., relevant policy sections, supporting documents);
- fit on letter size (8 ½ x 11) paper; and
- be written with a minimum font size 11.

The parties need to address only the raised collateral issue(s). For example, if the respondent refused to provide access to a document requested by the grievor, the parties' written submissions will focus solely on the grievor's right to have access to the sought information. Parties will refrain from explaining their respective position on the core matters of the grievance as the merits of the grievance will be decided later in the grievance process, i.e. after the OCGA seeks submissions on the merits from the parties. The OCGA will seek written submissions from the parties in the following order:

- first, a submission from the party who raised the issue;
- second, a response to the submission from the other party; and
- third, a rebuttal to the response.

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Parties will have 14 days to present their written submissions but only 7 days to provide a rebuttal.

If a preliminary or collateral issue is raised by the OCGA or an adjudicator, the grievor will be given first the opportunity to provide a written submission.

Where neither party provided submissions, the adjudicator will decide the issue based on what is included in the grievance file.

Note: A rebuttal is a counterargument to the other party's submission.

### **6.1.1.2. Merits**

A written submission on the merits of the grievance will:

- not exceed 10 pages, excluding attachments which will be a maximum of 100 pages (e.g., relevant policy sections, supporting documents);
- fit on letter size (8 ½ x 11) paper; and
- be written with a minimum font size 11.

Parties will start their written submissions by stating clearly the object of the grievance and addressing the essential requirements of standing and statutory time limits (see Chapter 3) that a grievor must meet in order to have the right to present a grievance under Part III of the Act.

The second part of a party's submission will focus on the merits of the grievance, i.e., the core issues related to the decision, act or omission being grieved by the grievor. The grievor and the respondent should describe how the decision, act or omission in question:

- was inconsistent or consistent with the law that applies to the grievance;
- was inconsistent or consistent with Treasury Board or RCMP policies that apply to the grievance; and
- has caused a prejudice or not to the grievor.

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Finally, parties should explain how the redress sought by the grievor is related to his or her prejudice stated in the Grievance Presentation form.

The grievor will be invited first to provide a submission followed by the respondent and, again, the grievor. The exchange of the parties' written submissions will be deemed complete when:

- the respondent did not provide a written submission by the due date; or
- the grievor provided a rebuttal to the respondent's submission or the grievor did not file a rebuttal by the due date.

If neither party provided submissions, the adjudicator may consider the grievance based on the Grievance Presentation form or dismiss the grievance.

### **6.1.2. Grievor's Written Submission on the Merits**

The grievor will have 14 days to provide a submission. If the grievor chooses not to provide a submission, his or her Grievance Presentation form will be sent to the respondent in lieu of a written submission.

The grievor may supplement his or her written submission up until the OCGA receives the respondent's submission. Any supplement must comply with the presentation requirements listed in 6.1.1.2. (Merits), and may not be used to increase the total maximum submission length beyond 10 pages (letter size 8 ½" by 11") excluding attachments which is a maximum of 100 pages.

### **6.1.3. Respondent's Written Submission on the Merits**

Following the grievor's written submission, the respondent will have 14 days to respond and provide a submission. The respondent does not need to append documents previously submitted by the grievor as these will be included in the adjudicator's package. It is sufficient for the respondent to refer to the grievor's attached documents in his or her submission.

The respondent may supplement his or her submission until the OCGA receives the grievor's rebuttal. Any supplement must comply with the presentation requirements

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listed in 6.1.1.2. (Merits), and may not be used to increase the total maximum submission length beyond 10 pages (letter size 8 ½" by 11") excluding attachments which is a maximum of 100 pages.

If the respondent chooses not to provide a submission, the grievance will be sent to the adjudicator for a decision.

### **6.1.4. Grievor's Rebuttal on the Merits**

If the respondent forwards a written submission, the grievor will have 7 days to provide a rebuttal. The grievor does not need to append documents previously submitted by him or her or the respondent as these will be included in the adjudicator's package. It is sufficient for the grievor to refer to the previously attached documents in his or her submission.

The grievor may supplement his or her rebuttal within 7 days after it has been submitted to the OCGA. Any supplement must comply with the presentation requirements listed in 6.1.1.2. (Merits).

If the grievor chooses not to provide a rebuttal, the grievance will be sent to the adjudicator for a decision.

Note: A rebuttal will be requested only if the Respondent made a submission.

### **6.1.5. Final Level Submissions**

After an adjudicator renders a decision, which concludes the first level of the grievance process, the grievor may present the grievance at the second and final level of the process by completing the final level presentation portion of the originally submitted Grievance Presentation form. The OCGA will then seek written submissions from the parties and include the Grievance Presentation form and any submissions in the final level adjudicator's grievance package.

A final level written submission will:

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- not exceed 10 pages, excluding attachments (e.g., relevant policy sections, supporting documents) which is a maximum of 100 pages;
- fit on letter size (8 ½ x 11) paper; and
- be written with a minimum font size 11.

Parties' submissions should address the following questions:

- in deciding the grievance, did the initial level adjudicator contravene the principles of procedural fairness described in Chapter 1?
- did the initial level adjudicator misapply a law which was to the detriment of the grievor?
- were the grounds on which the initial level adjudicator decided the grievance clearly unreasonable?

In addition, parties may introduce new evidence or information in their submissions but only if it could not have been known by them at the time they provided written submissions at the initial level of the grievance process.

As with the exchange of written submissions on the merits at the initial level, the grievor will have 14 days to forward his or her submission. If the grievor chooses to waive his or her right to present a submission, the OCGA will send the grievor's Grievance Presentation form in place of a submission to the respondent. The respondent will also be given 14 days to respond and forward a written submission to the OCGA. If the respondent fails to submit one, the OCGA will forward the grievance to a final level adjudicator for a decision. Lastly, if the respondent sends a submission, the OCGA will allow the grievor 7 days to rebut the respondent's submissions before sending the grievance to a final level adjudicator.

Parties need not attach documents to their submissions that were presented either in their initial level submissions or by the other party during the exchange of final level written submissions as these will be already included in the final level adjudicator's package. A party is only required to reference the previously submitted documents in his or her submission.

### **6.1.5.1. Submissions on the Enforcement of Redress**

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If a respondent, his or her line officer and designated officer believe that the redress ordered by an initial level adjudicator is contrary to law, the designated officer has 14 days, starting after the day on which the respondent was served with a copy of the initial level decision, to request a review of the decision by an adjudicator at the final level of the process. The designated officer will complete the Designated Officer Request for Redress Review form and send it to the OCGA. The designated officer must:

- indicate his or her name and employee number;
- identify the initial level grievance decision that is the subject to his or her request;
- specify the redress he or she believes is contrary to law that is directed by the initial level adjudicator;
- specify briefly the facts and grounds that support his or her belief that the redress is contrary to law and;
- include the redress he or she feels is appropriate;
- indicate the date on which the respondent was served with the initial level decision; and
- append a copy of the initial level decision.

The OCGA will forward the designated officer's submission to the grievor and invite the grievor to respond to it. The grievor will have 14 days to provide a submission in response. The grievor's submission will be provided to the designated officer, who will have 7 days to provide a rebuttal. If the grievor decides not to present a submission, the grievance package will be sent to a final level adjudicator for a decision. The presentation requirements and time frames specified in 6.1.5. (Final Level Written Submissions) also apply to submissions on the enforcement of a redress determined by an initial level adjudicator.

### **6.1.6. Extension of Time for Written Submissions**

Parties may request a one-time extension to provide their written submissions, with the exception of rebuttals. They must present the request:

- to the OCGA in writing;
- before the initial administrative time frame expires (14 days); and
- include an explanation as to why the deadline cannot be met.

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The OCGA will give 14 additional days for submissions on: preliminary and collateral issues, the merits of a grievance, and the enforcement of a redress. The additional time will run from the end of the initial 14-day administrative time period.

### **6.1.7. Late or Unsolicited Submissions**

The OCGA will process late or unsolicited written submissions after the due date has passed but parties will be advised that the adjudicator may choose not to consider them.

### **6.1.8. Submissions on New or Additional Evidence**

Once the exchange of written submissions is complete, the parties may raise new facts or grounds with the permission of an adjudicator.

A request to raise new facts or grounds will be provided to the OCGA, and will include:

- a summary of the new facts or grounds; and
- an explanation as to why the facts or grounds were not previously known or available to the party.

If the adjudicator permits a party to raise new facts or grounds, the OCGA will seek submissions from the grievor and respondent as directed by the adjudicator.

Submissions on the new facts or grounds will:

- not exceed 5 pages, excluding attachments which is a maximum of 25 pages;
- fit on letter size (8 ½ x 11) paper; and
- be written with a minimum font size 11.

### **6.1.9 Confidentiality and Security**

Parties will take all reasonable measures to preserve the confidentiality and integrity of sensitive information and safeguard it against accidental or unauthorized access, use, or disclosure.



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### **6.1.9.1 Third Party Information**

Parties who include personal information about a third party must ensure they handle it in a confidential manner. They should obtain the third party's consent to include the personal information or, whenever feasible, vet the information in question. To know more about what constitutes personal information, see Administration Manual APP III-11-7 and chapter 10 of this guidebook.

### **6.1.9.2 Handling Sensitive Information**

Parties will mark information with the appropriate security classification. In the case of the RCMP, this means either Protected Information (A, B, or C) or Classified Information (Unclassified, Confidential, Secret, or Top Secret).

Parties will treat all information received from the other party in accordance with the designated security marking and provide the equivalent protection.

Parties will limit access to the information to those individuals whose duties require such access and who have the appropriate security clearance.

If a party chooses to name a representative or assistant, it will be the responsibility of the original party to ensure that the representative or assistant understands and abides by the above rules.

To learn more about how to classify and protect information, visit the RCMP Departmental Security website.

## **6.2. Oral Submissions**

Oral submissions are presented during a case meeting (see Chapter 8) in which an adjudicator hears, instead of reading, the parties' arguments. As such, parties are invited to provide orally their arguments and evidence to support their position.

### **6.2.1. Requests for Oral Submissions**

After parties have exchanged written submissions, an adjudicator may mandate the parties to take part in a case meeting in which oral submissions will be sought from

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them. These submissions may be presented in person, by videoconference or teleconference. A party engaged in a case meeting cannot refuse to present orally his or her arguments. However, a party may choose to have his or her representative or assistant speak on the party's behalf or consult the representative or assistant during the case meeting.

### **6.2.2. Information and Evidence Presented in Oral Submissions**

Parties will address the same issues they discussed in their written submissions presented prior to the case meeting but in greater detail. The case meeting provides ample time for the parties to articulate their arguments and answer any questions the adjudicator may have without being interrupted. If a party comes across new information or evidence before the case meeting, with the permission of the adjudicator he or she may present it during the case meeting.

### **6.2.3. Order of Oral Submissions**

Parties will be invited to present their submissions in the same order in which their written submissions were sought by the OCGA. For example, the party who raised a collateral issue will go first and have an opportunity to rebut the other party's submission. If a case meeting addresses preliminary issues and merits of a grievance, the grievor's oral submission will precede the respondent's and the grievor will be invited to present a rebuttal.

### **6.2.4. Record of Oral Submissions**

Oral submissions are not recorded using an electronic device. The adjudicator conducting the case meeting and his or her grievance analyst, if present, may take notes. These notes are taken for adjudicative purposes and will be included in the grievance file. The parties will have 7 days to review any notes taken by the adjudicator and grievance analyst.

## **Chapter 6**

### **RULES on Submissions**

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1. Parties must send their written submissions to the OCGA within the administrative time limits stated in National Guidebook - Grievances (14 days for submissions and 7 days for rebuttals).
2. Parties can request a one-time extension to provide their written submissions to the OCGA. The request must be made in writing, include reasons for the extension request, and be received by the OCGA before the original due date. No extensions will be granted for rebuttals.
3. Parties are responsible for providing the documentation used to support their position.
4. Parties must include references of the supporting documentation attached to their submissions.
5. Parties who include third party information in their written submissions must do so in a confidential manner.
6. Parties' written submissions will comply with security requirements established in the policy on Government Security and RCMP security policies.
7. Parties must adhere to the presentation requirements stated in the Rules of Practice and Procedure for Grievances manual, including the number of pages permitted per type of submission (e.g., collateral, merits, final level).
8. In their submissions, parties will address only the issues relevant to the type of submission requested (e.g., collateral, merits, final level).
9. During the exchange of written submissions, parties may supplement their submissions up until the OCGA receives the other party's written submission.
10. After the exchange of written submissions is completed, parties may submit new evidence or information with the permission of an adjudicator, up until the adjudicator renders a decision.
11. Late or unsolicited submissions will be processed by the OCGA but the adjudicator may choose not to consider them.

### 7. CASE CONFERENCE

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A case conference is an informal discussion that takes place between a grievor, a respondent, and an adjudicator. A party's representative or assistant may also attend. The purpose of the discussion is mainly to reach an agreement on the object of the grievance and address preliminary and collateral issues. An adjudicator facilitates the discussion and assists the parties to reach an agreement on all or part of the grievance. During a case conference, an adjudicator may offer his or her views on the contentious issues but will not decide them. Participation in a case conference may accelerate the grievance process by allowing the parties to resolve issues relating to the grievance during a single meeting.

### 7.1. Objectives

The objectives of a case conference are the following:

- answer questions related to the grievance process;
- bring focus on the issues in dispute;
- explain and address preliminary and collateral issues;
- get consensus on the agreed-upon facts and those in dispute;
- get consensus on the relevant legislation and policy applicable to the grievance;
- comment on the merits of the grievance (if requested by the parties); and
- completion of an Informal Resolution Outcome form.

### 7.2. Confidentiality

Discussions during a case conference are confidential and do not create obligations on the grievor, the respondent, their representatives or assistants, or the adjudicator. Any discussion by the parties of terms for resolving the grievance is protected by statutory privilege and is without prejudice pursuant to subsection 9(5) of the CSO (*Grievances and Appeals*). The Informal Resolution Outcome form will be the only document arising from the case conference that will be used during the next steps of the grievance process unless otherwise expressly agreed by the parties.

### 7.3. Requesting a Case Conference

A grievor, a respondent, or their representatives, or an adjudicator may request a case conference by contacting the OCGA in writing.

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Depending on the number of disputed collateral issues and when they arise in the process, the processing of a grievance may require more than one case conference.

### **7.4. Attendance**

If an adjudicator determines that there is a need to conduct a case conference, the parties will attend the case.

#### **7.4.1. Representatives and Assistants**

During a case conference, a party may be accompanied by his or her representative or assistant. A represented or assisted party will send a written notice to the OCGA to confirm the presence of his or her representative or assistant at least 5 days in advance of the case conference.

### **7.5. Roles and Responsibilities**

#### **7.5.1. Adjudicator**

In a case conference, the adjudicator begins by explaining the role of each person participating in the meeting and reminds them of their responsibilities, rights and obligations. During a case conference, the adjudicator ensures that each party has an opportunity to present his or her position and reply to the other party's comments, concerns or questions. Furthermore, the adjudicator ensures that the parties' arguments are limited to commentary about the position taken or argument advanced by the other party rather than commentary about, for example, other grievances, past issues not relevant to the grievance or interpersonal conflict that exists between the parties.

#### **7.5.2. Grievance Analyst**

During a case conference, the grievance analyst may be present to assist the adjudicator if needed.

### **7.6. Scheduling a Case Conference**

Once an adjudicator approves a request for a case conference or determines the need for one, the parties will be notified and given instructions in writing. The case

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conference may be conducted by way of a teleconference, videoconference, in-person meeting, or a combination of these methods.

The parties will be contacted to:

- establish a date, time and, if a party attends in person, location convenient to all parties (parties are responsible to ensure attendance to the case conference does not interfere with the performance of their work duties);
- inform the parties that they may be represented or assisted at the case conference, and that they remain responsible to ensure their representative or assistant is available to take part in the case conference; and
- confirm the grievor's choice of official language for the case conference and convey the information to the respondent in case he or she needs to enlist the assistance of an interpreter.

The case conference will be scheduled for three hours, during which time the parties will be able to request short breaks when they need to consult with their representative or assistant. If the adjudicator finds that the scheduled time is insufficient, and it is not possible to complete the case meeting, he or she may extend the allocated time if all parties are available or continue the meeting at a later date.

No electronic devices will be used by the adjudicator, the analyst, the parties or their representatives or assistants to record the case conference.

### 7.6.1. Postponements

An adjudicator will postpone a case conference if a party is unable to attend due to unexpected circumstances related to operational or personal emergencies such as immediate deployment, serious medical problems or hospitalization, family crises, and bereavement. To suspend and reschedule a case conference, a party will notify and provide reasons by e-mail to the grievance analyst without delay.

### 7.7. Procedures

The parties will be provided with written instructions to help them prepare for the case conference, to respond to the parties' queries and address their concerns about the case conference before it takes place.

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### **7.7.1. Preparing for a Case Conference**

There is minimal preparation required from a grievor and a respondent. Parties need to determine if they will be accompanied by their representatives or assistants and decide which person will speak on their behalf during the case conference (themselves or their representatives or assistants). Because parties will have the opportunity to ask for the adjudicator's informal view on the merits of the grievance, they are encouraged to bring a copy of the relevant law and/or policy applicable to the respondent's decision, act or omission being grieved.

Prior to a case conference, the adjudicator and the grievance analyst will examine the grievance file. They may also research applicable law and policy related to the merits of the grievance.

### **7.7.2. Late Appearance**

If a party, including a representative, fails to appear or call-in after 15 minutes of the start of the scheduled case conference, the adjudicator may postpone the meeting. A grievor or respondent who did not show up at the meeting will have 7 days from the day of the case conference to provide written reasons for his or her absence to the grievance analyst. The adjudicator will decide whether or not to reschedule a case conference or let the grievance process continue.

### **7.7.3. Conducting a Case Conference**

At the beginning of a case conference, the adjudicator will introduce him/herself, the grievance analyst and ask that the parties and representatives or assistants do the same. The adjudicator will remind the parties to treat each other with courtesy and respect and wait for the adjudicator's invitation to speak.

An adjudicator starts a conference by asking the parties to determine the object of the grievance and which law and/or policy is applicable to the grievance, i.e., identifying the law and/or policy that the grievor claims the respondent's decision, act or omission is inconsistent with. The conference continues only after the parties agree on this issue.

Preliminary matters are the second issue to be examined by the parties. The adjudicator will help them understand the meaning of each preliminary matter, their importance to the grievance and the consequence for a grievor who fails to establish

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one of these essential requirements. Parties will also be invited to consider if the grievance is still valid as in some cases, a grievance that may have been legitimate when presented will have ceased to be contentious by the time it comes for adjudication.

The next step of a case conference is to address collateral issues. The case conference may cease if it appears to the adjudicator that the proper respondent has not been named.

The adjudicator will discuss with the parties the remedy requested by the grievor. By clarifying what an adjudicator can order as a remedy and what constitutes an appropriate remedy for the specific context of a grievance, the explanation may result in the parties having to reconsider their respective position on the merits of the grievance.

After the parties have had the opportunity to discuss the grievance's appropriate remedy, the adjudicator will offer the parties the option to request his or her informal opinion on the likely success or failure of the grievance on its merits, keeping in mind that the adjudicator's views are not binding on them or any other adjudicator who may subsequently decide the matter. If both parties refuse, the adjudicator will proceed to the final stage of the case conference.

To conclude the case conference, the adjudicator will discuss the completion of the Informal Resolution Outcome form by the parties. If the parties are ready and wish to fill out the form, the adjudicator can assist them with this task at the end of the case conference but they may choose to complete the form on their own after the conference is concluded.

A party will be able to request short breaks when he or she needs to consult with their representative or assistant.

Due to its informal character, the adjudicator, the grievance analyst, the parties or their representatives or assistants may not record the case conference by any audio, video or other electronic means. Any notes taken by the adjudicator or grievance analyst during the session will be destroyed once the case conference is concluded and only the documented agreement reached between the parties will be added to the grievance file.



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### 7.8. Next Step

The parties will have 7 days starting from the day after the case conference took place to send the completed Informal Resolution Outcome form to the OCGA. If the grievor and respondent are unable to jointly complete the form, they will each have 7 days to submit the form to the OCGA.

If one or more outstanding issues remain for adjudication or the OCGA does not receive a completed form, the grievance will proceed to the next stage of the grievance process.

In instances where the parties have reached a full agreement, the grievor will take the additional step to advise the OCGA in writing that he or she is withdrawing the grievance. The grievance will be concluded by the OCGA.

### Chapter 7

#### RULES on Case Conference

1. Parties may request a case conference by contacting the OCGA in writing.
2. Parties and their representatives or assistants may participate in a case conference.
3. If a party is represented or assisted, the party will confirm the presence of the representative or assistant to the OCGA at least 5 days before the case conference takes place.
4. During the case conference, only one person may speak on behalf of a party.
5. Case conferences are not recorded. The adjudicator and the grievance analyst may take notes which will not be included in the grievance file.
6. A party may request that a scheduled case conference be suspended or rescheduled by notifying the designated person in writing, as soon as possible and providing reasons for the request.
7. A party that does not show up to a case conference has 7 days to provide a written explanation to the designated person from the day of the case conference.

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8. After a case conference is concluded, parties have 7 days to send a completed Informal Resolution Outcome form to the OCGA.
9. The Informal Resolution Outcome form will be the only document arising from the case conference that will be included in the grievance file unless agreed to by the parties.

### 8. CASE MEETING

A case meeting is a meeting at which an adjudicator gives a grievor, a respondent, or their representatives or assistants, a chance to present oral submissions that will be used by the adjudicator to render a binding decision on any preliminary or collateral issue or the merits of a grievance. By attending a case meeting, the parties can answer questions an adjudicator may have regarding the arguments and evidence they have presented.

#### 8.1. Requesting a Case Meeting

A grievor, a respondent or an adjudicator may request a case meeting by contacting the OCGA in writing. A case meeting can take place at any stage of the grievance process.

Depending on the number of disputed collateral issues and at what stage they arise in the process, more than one case meeting may be required. For a case meeting to proceed, an adjudicator must be satisfied that it is the most efficient way to settle the dispute and reach a decision.

#### 8.2. Attendance

##### 8.2.1. Parties

If an adjudicator agrees with a request for a case meeting or determines the need for one, the grievor and respondent will attend the case meeting.

##### 8.2.2. Representatives or Assistants

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During a case meeting, a party may be accompanied by his or her representative or assistant. A represented or assisted party will send a written notice to the OCGA to confirm the presence of his or her representative at least 5 days in advance of the case meeting.

### **8.3. Roles and Responsibilities**

#### **8.3.1. Adjudicator**

In a case meeting, the adjudicator begins by explaining the role of each person participating in the case meeting and reminds them of their responsibilities, rights and obligations. In order for the adjudicator to rule on the grievance, the parties will each take turns in presenting their submissions on the contentious issue(s) identified only in the grievance put forward to the adjudicator. The adjudicator may ask questions to better understand a party's position or direct a party to limit his or her arguments on the matters presented for adjudication.

An adjudicator who renders a decision that does not dispose of the grievance may rule on any ensuing matter which arises in the course of the grievance process.

#### **8.3.2. Grievance Analyst**

During a case meeting, the grievance analyst's may be present to assist the adjudicator if needed.

### **8.4. Scheduling a Case Meeting**

Once an adjudicator approves a request for a case meeting or determines the need for one, he or she will instruct the designated person to schedule a case meeting.

The designated person will contact the parties and:

- establish a date, time and, if a party attends in person, location convenient to all parties (parties are responsible to ensure attendance to the case meeting does not interfere with the performance of their work duties);

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- inform the parties that they may be represented or assisted at the case meeting, and that they remain responsible to ensure their representative or assistant is available to take part in the case meeting; and
- confirm the grievor's choice of language for the case meeting and convey the information to the respondent in case he or she needs to enlist the assistance of an interpreter.

The adjudicator will set aside two hours to hear the parties' oral submissions during which they will be able to request short breaks when they need to consult with their representatives or assistants. If the adjudicator finds that the scheduled time is insufficient, and it is not possible to complete the case meeting, he or she may extend the allocated time if all parties are available or continue the meeting on a later date. No electronic devices will be used by the adjudicator, the analyst, the parties or their representatives or assistants to record the case meeting.

Notes taken by the adjudicator or the grievance analyst may be used later by the adjudicator to render a decision and will be included in the grievance file.

### **8.4.1. Postponements**

An adjudicator will postpone a case meeting if a party is unable to attend due to unexpected circumstances related to operational or personal emergencies such as immediate deployment, serious medical problems or hospitalization, family crises, and bereavement. To suspend and reschedule a case meeting, a party will notify and provide reasons by e-mail to the designated person without delay.

## **8.5. Procedures**

The designated person will provide written instructions to the parties to help them prepare for the case meeting. He or she will be available to respond to the parties' queries and address their concerns about the case meeting before it takes place.

### **8.5.1. Preparing for a Case Meeting**

During a case meeting, parties are expected to discuss in greater detail the same issues they addressed in their written submissions. As such, they will have the opportunity to present a more comprehensive argument to support their position. If they plan to raise

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new grounds or present new information at the case meeting, the parties are required to notify the grievance analyst by e-mail at least 5 days in advance of the meeting and provide the supplemental information, which the grievance analyst will forward to the other party, the OCGA and the adjudicator. Parties will receive an electronic copy of the grievance material presented to the adjudicator for them to print and bring to the case meeting if needed.

The adjudicator and the grievance analyst will examine the grievance file, note any challenges, research applicable policy, legislation, case law and other grievance decisions on which the adjudicator will rely to conduct the case meeting and render a decision.

### **8.5.2. Late Appearance**

If a party, including a representative, fails to appear or call-in after 15 minutes of the start of the scheduled case meeting, the adjudicator may postpone the case meeting, proceed and hear the other party's arguments or cancel the case meeting and rely solely on the parties' written submissions to render a decision. A grievor or respondent who did not show up at the case meeting will have 7 days from the day of the case meeting to provide written reasons for his or her absence to the designated person. The adjudicator will decide whether or not to reschedule a case meeting or let the grievance process continue.

### **8.5.3. Conducting a Case Meeting**

At the beginning of a case meeting, the adjudicator will introduce him/herself, the grievance analyst, and ask that the parties and representatives do the same. Parties will be given time to decide who will make oral submissions (their representatives or themselves) with the understanding that they may consult each other during the meeting. The adjudicator will remind the parties to treat each other with courtesy and respect and wait for the adjudicator's invitation to speak. After introductions are made and procedural instructions are given, the adjudicator will ask the parties if they intend to present new evidence that could not have been known by them 5 days prior the case meeting. If so, they are requested to share the information so that the other party and adjudicator may be aware of it and have sufficient time to respond to it. Once this step is completed, the adjudicator will state the object of the grievance and ask the parties to confirm it, i.e., the decision, act or omission being challenged by the grievor.

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If there are disagreements, the adjudicator will give the parties an opportunity to comment before he or she decides what issue(s) to consider.

In cases where an adjudicator must decide on one or more collateral issues, he or she will invite the party who first raised the issue(s) to make his or her submission. The other party will be given an opportunity to respond. Finally, the first party's rebuttal will be requested by the adjudicator.

For case meetings that deal with the merits of a grievance, the adjudicator will seek initially the parties' submissions on the essential requirements (standing and statutory time limits) starting with the grievor, followed by the respondent, and back to the grievor for a rebuttal. If the adjudicator is satisfied the grievor has standing and that he or she presented the grievance within the statutory time limits, the adjudicator will ask the parties to address the merits of the grievance and the redress sought by the grievor. As done previously, the grievor will have the first opportunity to make his or her submission. Next, the respondent will respond and make his or her submission. Lastly, the grievor may rebut.

A party will be able to request short breaks when he or she needs to consult with their representative or assistant.

After the parties have presented their submissions, the adjudicator ends the case meeting by informing them that he or she will decide the disputed collateral issue(s) or grievance in a written decision that will include reasons.

No electronic devices will be used by the adjudicator, the grievance analyst, the parties or their representatives or assistants to record the case meeting. Notes taken by the adjudicator or the grievance analyst may be used later by the adjudicator to render a decision and will be included in the grievance file. The parties will have 7 days to review a copy of the notes taken by the adjudicator.

### **8.6. Decision Following a Case Meeting**

The adjudicator will render a written decision within 21 days after the case meeting is concluded.

If the parties agree to a decision that is summary in nature, the adjudicator will render the decision within 14 days after the case meeting is concluded.

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## Chapter 8

### RULES on Case Meeting

1. Parties may request a case meeting to the OCGA in writing.
2. If an adjudicator agrees with a request for a case meeting or determines the need for one, a party must participate.
3. Parties' representatives or assistants may take part in a case meeting.
4. If a party is represented or assisted, the party will confirm the presence of the representative or assistant to the OCGA at least 5 days in advance of the case meeting.
5. During the case meeting, only one person may speak on behalf of a party.
6. Case meetings are not recorded. The adjudicator and the grievance analyst may take notes which will be included in the grievance file.
7. If parties intend to raise new grounds or present new information at the case meeting, parties will notify the designated person and provide the supplemental information at least 5 days before the case meeting takes place.
8. Parties will receive an electronic copy of the grievance file presented to the adjudicator in advance of the case meeting.
9. A party that does not show up to a case meeting has 7 days to provide a written explanation to the designated person from the day of the case meeting.

## 9. DECISIONS

The Commissioner has given the powers to an adjudicator to decide on all matters related to a grievance.

### 9.1. Adjudicator's Powers

When an adjudicator is presented with a grievance, he or she can use some discretion, as permitted by the *Act* and the *CSO (Grievances and Appeals)*, in choosing how to

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proceed before rendering decisions or providing directions. The adjudicator's discretionary powers include but are not limited to:

- determining collateral, preliminary matters and merits of a grievance;
- extending statutory or administrative time limits;
- splitting or combining grievances;
- conducting a case conference to discuss collateral, preliminary and merit issues relating to the grievance;
- giving directions to the parties so that the grievance process may continue;
- reviewing and approving agreements reached by the grievance parties and retaining jurisdiction when there are issues or concerns relating to the implementation of an agreement;
- requesting written submissions and/or oral submissions and determining how to proceed with oral submissions (e.g. meeting in person, teleconference, videoconference);
- requesting additional information from any person other than the parties;
- accepting or refusing late or unsolicited written submissions after the due date has passed;
- correcting administrative errors made while processing the grievance;
- making a decision that applies to very similar grievances;
- making a decision without a party's submission or comments if reasonable notice has been provided to him or her;
- dismissing a grievance because it is determined: moot, an abuse of process, frivolous or vexatious, or abandoned by the grievor; and
- amending or overturning an adjudicator's own decision in specific circumstances.

### 9.2. Adjudicator's Interventions

An adjudicator may intervene at different steps of the grievance process at the request of the OCGA or parties or where an adjudicator determines it is necessary. The adjudicator will intervene when: the OCGA or parties identify collateral and procedural matters that cause the grievance process to halt; the adjudicator needs additional information to render a decision; the process can be accelerated by case conference or case meeting; the adjudicator decides on preliminary issues and merits of the



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grievance, which disposes of the grievance; and, the adjudicator provides supplemental directions on the implementation of a previously ordered redress.

### 9.2.1. Initial Stage

At the Initial Stage of the grievance process, parties have the opportunity to discuss the grievance and informally resolve it. It is during this step that, for example, the grievor may request access to information or that the respondent may question his or her role as the correct respondent. If disagreements on collateral issues arise between the parties that cannot be resolved, an adjudicator will decide the matter. An adjudicator will also intervene if a party refuses to comply with instructions given by the OCGA by providing directions to the OCGA. An adjudicator will conclude a grievance if a grievor abandons his or her grievance. Finally, if requested by a party, an adjudicator may review an agreement reached by the parties during the Initial Stage or later in the grievance process.

### 9.2.2. Request for Additional Information

When an adjudicator is presented with a grievance and must render a decision, he or she may request additional information from the parties or any other person in the form of written or oral submissions. The adjudicator may request a case conference or case meeting to meet the parties (in person, by videoconference or teleconference), hear the parties' respective position and asks questions for clarifications.

### 9.3. Written Decisions

In making a decision, the adjudicator follows a fair process where parties are heard (in person or in writing), and reasons are provided which explain the basis on which the decision was made. An adjudicator will use the grievor's Grievance Presentation form, the parties' submissions and supporting documents, and any other additional information sought by the adjudicator to render a written decision.

An adjudicator will write the decision in the language of the grievance presentation form. In the written decision, the adjudicator will:

- identify the issues at the outset;
- identify relevant findings drawn from the evidence presented by the parties and any additional information sought by the adjudicator;

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- briefly summarize the parties' arguments;
- determine if he or she has jurisdiction to hear the grievance and, in cases where an adjudicator decides on the merits, if the grievor meets all essential requirements (standing and statutory time limits);
- where there is conflicting relevant evidence, identify the findings on which the conclusion is based and the reasons for the findings, i.e., why some evidence was preferred over other evidence;
- respond to the relevant submissions and arguments;
- identify and apply relevant law and policy;
- use plain language; and
- make his or her reasoning clear and understandable.

The adjudicator will forward the original signed copy of the decision to the OCGA.

### 9.4. Redress

If the grievor is able to demonstrate that the decision, act or omission made by the respondent was:

- inconsistent with applicable law; or
- inconsistent with Treasury Board or RCMP policies; and
- caused prejudice to the grievor

an adjudicator will determine the appropriate redress, which the respondent must implement.

The redress, which is binding on the respondent, may be different from what the grievor was seeking.

### 9.5. Panel Decisions

In very specific circumstances at the initial level of the grievance process, a panel may be created to decide an issue that is likely to be the subject of numerous grievances, where the relevant law or policy is vague or inconsistent, or the relevant law or policies are contradictory or internally inconsistent. The panel has the same decision making powers as an adjudicator and the majority's decision is the panel's decision.

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The panel is comprised of three level I adjudicators selected by the Director of the initial level adjudicators and approved by the Director General, Recourse Services Branch. One of the adjudicators will be designated by the Director General to act as the chair of the panel.

### 9.6. Presentation to Final Level

A grievor may present the grievance to the final level if he or she believes the initial level decision was:

- reached in a manner that contravened the applicable principles of procedural fairness;
- based on an error of law but for which the decision would have been to the benefit of the grievor; or
- was clearly unreasonable.

The grievor will have 14 days, after the day on which he or she was served with the initial level decision, to present the grievance to the final level. This is done by completing the relevant portion of the Grievance Presentation form and presenting it to the OCGA or the grievor's supervisor.

If a respondent believes that the redress determined by the initial level adjudicator is clearly contrary to law, he or she may request a review of the redress by notifying his or her line officer. If the line officer is also of the view that the redress is contrary to law, the line officer will notify the designated officer. Should the designated officer wish to request a review of the redress, he or she will complete the Designated Officer Request for Redress Review form, and present it to the OCGA within 14 days after the day on which the respondent was served with a copy of the initial level decision.

The respondent, line officer or designated officer can use the review process only if he or she believes the redress is clearly contrary to law.

### 9.7. Final Level Decision

A final level adjudicator has the same powers and follows the same decision making process as an adjudicator at the initial level.

The final level decision is final and binding on the parties.

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### 9.8. Notice of Decision

After an adjudicator renders a decision, the OCGA serves a copy of the decision on the grievor and respondent. Service of the decision can be done by email, registered mail or in person.

Whether the grievor accepts or refuses service of the decision, or did not provide a valid email or home address, the person serving the decision will document the outcome in a form called *Certificate of Service for Grievances and Appeals*. After two failed attempts of service of the decision, the grievance will be deemed to have been served.

### 9.9. Federal Court

Once the grievor has exhausted the grievance process (after a final level decision has been rendered), a grievor may apply for a review of the final level adjudicator's decision by the Federal Court of Canada. This is called a judicial review. The Federal Court of Canada has its own rules, processes and practices, which the grievor has to follow when requesting a judicial review. For example, the grievor must apply for a review within 30 days of being served with the final level adjudicator's decision. For further information, the Federal Court of Canada has created a guide to procedures that is accessible through its website (<http://cas-ncr-nter03.cas-satj.gc.ca/fct-cf/index.html>).

## Chapter 9

### RULES on Decisions:

1. The grievor has 14 days, after the day on which he or she was served with the initial level decision, to present the grievance at the final level.
2. If the respondent believes the redress determined by the initial level adjudicator is clearly contrary to law, the respondent will notify his or her line officer. If the line officer agrees, the line officer will notify the designated officer. If the designated officer agrees, he or she has 14 days, after the day on which the initial level decision was served on the respondent, to request a review at the

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final level by completing the Designated Officer Request for Redress Review form and presenting it to the OCGA.

## 10. CONFIDENTIALITY

### 10.1. *Privacy Act*

A grievance may contain personal information. The *Privacy Act* defines what constitutes personal information and how the RCMP can collect, store and use the information for administrative purposes.

Section 7 provides the following:

7. Personal information under the control of a government institution shall not, without the consent of the individual to whom it relates, be used by the institution except

(a) for the purpose for which the information was obtained or compiled by the institution or for a use consistent with that purpose; or

(b) for a purpose for which the information may be disclosed to the institution under subsection 8(2).

Subsection 8.(2) lists the grounds for which the RCMP is permitted to disclose personal information. Here are some of them:

8.(2) Subject to any other Act of Parliament, personal information under the control of a government institution may be disclosed

(a) for the purpose for which the information was obtained or compiled by the institution or for a use consistent with that purpose;

(b) for any purpose in accordance with any Act of Parliament or any regulation made thereunder that authorizes its disclosure;

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[...]

(d) to the Attorney General of Canada for use in legal proceedings involving the Crown in right of Canada or the Government of Canada;

(e) to an investigative body specified in the regulations, on the written request of the body, for the purpose of enforcing any law of Canada or a province or carrying out a lawful investigation, if the request specifies the purpose and describes the information to be disclosed;

[...]

(h) to officers or employees of the institution for internal audit purposes, or to the office of the Comptroller General or any other person or body specified in the regulations for audit purposes;

[...]

RCMP employees may access and use grievance-related information and data but only for the proper performance of their duties and in compliance with the *Privacy Act*, the *Library and Archives of Canada Act* and Policy on Government Security. If they cease to hold office, or leave the RCMP, they remain bound by the obligations of confidentiality in respect of any grievance matter arising while they were performing those duties or as an RCMP employee.

### 10.2. Disclosure of Third Party Information

Third party information may be used by a grievance party if it is relevant and necessary to substantiate a party's argument. Parties who include personal information about a third party, in their submissions, must be mindful of the provisions of the *Privacy Act*. As such, a party should obtain the individual's consent or, when feasible, vet the information according to policy guidelines found in the Administration Manual III.//. INFORMATION ACCESS.

#### Chapter 10

##### RULES on Confidentiality

1. Parties must be mindful of sections 7 and 8 of the *Privacy Act* when they include

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personal information about a third party in their written submissions.

2. If a party chooses to include personal information about a third party and cannot obtain his or her consent, a party should vet the personal information according to RCMP policy.

### 11. EXPECTED BEHAVIOUR

#### 11.1. Grievors and Respondents

These rules are intended to inform parties of the expected standards of behaviour. Parties will comply with the following rules:

1. A party will not present information known to be untrue, nor will they misrepresent facts.
2. A party must meet deadlines for written submissions, for scheduled case conferences and case meetings.
3. A party must be prepared. Being prepared includes gathering evidence and preparing his or her position on the grievance based on the relevant law and Treasury Board or RCMP policies.
4. A party must observe the rules of practice and procedure established for grievances.
5. A party must behave courteously and respectfully to all participants of the grievance process. This includes written correspondence and submissions.
6. The adjudicator assigned to decide a grievance or settle a collateral issue during the grievance process may give directions necessary for the maintenance of a respectful work environment. If a party fails to comply with the adjudicator's direction, the adjudicator may impose restrictions on the person's continued participation in or attendance at a case conference or case meeting.

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7. A party must respect the confidentiality of information disclosed during the grievance process and not use that information for other purposes without the consent of the other party.
8. A party's contact with an adjudicator or grievance analyst is restricted to participation in either a case conference or case meeting.
9. Following an adjudicator's decision, a party will not write to or otherwise contact the adjudicator or the grievance analyst concerning the decision. Any request for clarification will be sent directly to the OCGA.

### **11.2. Representatives and Assistants**

The rules listed in section 11.1. equally apply to representatives and assistants.

## **APPENDIX 1: Summary of Rules of Practice and Procedure**

### **CHAPTER 2**

#### **Rules on Withdrawal of Grievances:**

1. Only a grievor, or his or her representative, may withdraw the grievance.
2. The grievor or representative must notify the OCGA in writing.

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### **CHAPTER 3**

#### **Rules on How to Present a Grievance**

1. A member must submit a complete Grievance Presentation form to the OCGA or the member's supervisor.
2. The grievor will attach written reasons to the Grievance Presentation form if he or she objects to the respondent's line officer being involved in the grievance.



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3. A party must notify the OCGA and the other party of the identity of the person representing or assisting them.
4. A representative who presents a grievance on behalf of a member must attach a copy of the member's written authorization naming the representative to the Grievance Presentation form and, if the representative is an employee of the RCMP, the representative's line officer written authorization to act as a representative.
5. A party must notify the OCGA of any change of address and other contact information.

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### **CHAPTER 5**

#### **RULES on Informal Resolution of Grievances**

1. Parties have 30 days to resolve informally the grievance.
2. Parties may request a single 30-day time extension to reach an agreement.
3. The grievor and respondent will each contact ICMP services to request their assistance.
4. The respondent will provide the grievor with access to the agreed-upon and uncontested written or documentary information.
5. The parties will request an adjudicator's decision to resolve contested collateral issues.
6. Parties will complete an Informal Resolution Outcome form and provide it to the OCGA.
7. If the parties come to a full agreement, the grievor will withdraw his or her grievance.

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### **CHAPTER 6**

#### **RULES on Submissions**

1. Parties must send their written submissions to the OCGA within the administrative time limits stated in the Rules of Practice and Procedure for Grievances manual (14 days for submissions and 7 days for rebuttals).

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2. Parties can request a one-time extension to provide their written submissions to the OCGA. The request must be made in writing, include reasons for the extension request, and be received by the OCGA before the original due date. No extensions will be granted for rebuttals.
3. Parties are responsible for providing the documentation used to support their position.
4. Parties must include references of the supporting documentation attached to their submissions.
5. Parties who include third party information in their written submissions must do so in a confidential manner.
6. Parties' written submissions will comply with security requirements established in the policy on Government Security and RCMP security policies.
7. Parties must adhere to the presentation requirements stated in the Rules of Practice and Procedure for Grievances manual, including the number of pages permitted per type of submission (e.g., collateral, merits, final level).
8. In their submissions, parties will address only the issues relevant to the type of submission requested (e.g., collateral, merits, final level).
9. During the exchange of written submissions, parties may supplement their submissions up until the OCGA receives the other party's written submission.
10. After the exchange of written submission is completed, parties may submit new evidence or information with the permission of an adjudicator, up until the adjudicator renders a decision.
11. Late or unsolicited submissions will be processed by the OCGA but the adjudicator may choose not to consider them.

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### CHAPTER 7

#### RULES on Case Conference

1. Parties may request a case conference by contacting the OCGA in writing.
2. Parties and their representatives or assistants may participate in a case conference.

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3. If a party is represented or assisted, the party will confirm the presence of the representative or assistant to the OCGA at least 5 days before the case conference takes place.
4. During the case conference, only one person may speak on behalf of a party.
5. Case conferences are not recorded.
6. A party may request that a scheduled case conference be suspended or rescheduled by notifying the designated person in writing, as soon as possible and providing reasons for the request.
7. A party that does not show up to a case conference has 7 days to provide a written explanation to the designated person from the day of the case conference.
8. After a case conference is concluded, parties have 7 days to send a completed Informal Resolution Outcome form to the OCGA.
9. The Informal Resolution Outcome form will be the only document arising from the case conference that will be included in the grievance file.

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### CHAPTER 8

#### **RULES on Case Meeting**

1. Parties may request a case meeting to the OCGA in writing.
2. If an adjudicator agrees with a request for a case meeting or determines the need for one, a party must participate.
3. Parties' representatives may take part in a case meeting.
4. If a party is represented, the party will confirm the presence of the representative to the OCGA at least 5 days in advance of the case meeting.
5. During the case meeting, only one person may speak on behalf of a party.
6. Case meetings are not recorded. The adjudicator and grievance analyst may take notes which will not be included in the grievance file.
7. If parties intend to raise new grounds or present new information at the case meeting, parties will notify the designated person and provide the supplemental information at least 5 days before the case meeting takes place.
8. Parties will receive an electronic copy of the grievance file presented to the adjudicator in advance of the case meeting.

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9. A party that does not show up to a case meeting has 7 days to provide a written explanation to the designated person from the day of the case meeting.
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### CHAPTER 9

#### RULES on Decisions

1. The grievor has 14 days, after the day on which he or she was served with the first level decision, to present the grievance at the final level.
  2. If the respondent believes the redress determined by the initial level adjudicator is clearly contrary to law, the respondent will notify his or her line officer. If the line officer agrees, the line officer will notify the designated officer. If the designated officer agrees, he or she has 14 days, after the day on which the initial level decision was served on the respondent, to request a review at the final level by completing the Designated Officer Request for Redress Review form and presenting it to the OCGA.
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### CHAPTER 10

#### RULES on Confidentiality

1. Parties must comply with sections 7 and 8 of the *Privacy Act* when they include personal information about a third party in their written submissions.
  2. If a party chooses to include personal information about a third party and cannot obtain his or her consent, a party will vet the personal information according to RCMP policy.
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## **APPENDIX 2: Grievance Forms**

Insert:

- Grievance Presentation form
- Informal Resolution Outcome form
- Designated Officer Request for Redress Review form

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## APPENDIX 3: Non-Grievable Matters

### PART I

Matters for which a specific process for recourse, i.e., review or appeal, is provided under the *Act* and *Regulations*, or Commissioner's Standing Orders (CSO).

NON-GRIEVABLE DECISION OR MATTER	ARTICLE (1)
Level I grievance decisions are not grievable as the <i>Act</i> provides for a review of level I decisions by a final level in the grievance process.	Reference: Sec. 32(1), <i>Act</i> .  The Commissioner constitutes the final level in the grievance process and the Commissioner's decision in respect of any grievance is final and binding.
An allegation of harassment or a complaint of any decision, act or omission relating to the handing of a harassment complaint may not be the subject of a grievance.	Reference: <i>CSO (Harassment)</i> and <i>CSO (Grievances and Appeals)</i> .  A member may not present a grievance under Part III of the <i>Act</i> in respect of an allegation of harassment. A member may not present a grievance in respect of any decision, act or omission relating to or arising from the administrative actions, decisions or processes related to a harassment process provided for by the <i>Act</i> , the <i>Regulations</i> , the CSOs, or RCMP policies.
Findings or conduct measure imposed, or both, of a conduct authority are not grievable as the <i>Act</i> provides for an appeal.	Reference: Sec. 45.11(3), <i>Act</i> .  A member who is the subject of a conduct authority's decision may, within the time provided for in the rules, appeal the decision to the Commissioner in respect of (a) any finding that an allegation of a contravention of a provision of the Code of Conduct by the member is established; or (b) any conduct measure imposed in consequence of a finding that an allegation referred to in paragraph (a) is established.

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Findings or conduct measure imposed, or both, of a conduct board are not grievable as the Act provides for an appeal.	<p>Reference: Sec. 45.11(1), Act.</p> <p>A member who is the subject of a conduct board's decision, or the conduct authority or review authority who initiated the hearing by the conduct board that made the decision, may within the time provided for in the rules, appeal the decision to the Commissioner in respect of (a) any finding that an allegation of a contravention of a provision of the Code of Conduct by the member is established or not established; or (b) any conduct measure imposed in consequence of a finding referred to in paragraph (a).</p>
Notice of Intention to discharge or demote, or to recommend the discharge of a deputy commissioner; or, outcome of a review of recommendation to discharge or demote.	<p>Reference: <i>CSO (Employment Requirements)</i> and <i>CSO (Grievances and Appeals)</i>.</p> <p>No member may submit a grievance under Part III of the Act in respect of any decision, act or omission relating to a Notice of Intention to discharge or demote.</p> <p>Any decision, act or omission relating to an administrative discharge or demotion process may form a ground of appeal to a final decision to recommend the discharge of a deputy commissioner, or to discharge or demote a member.</p>
Decision to discharge a member or recommendation to discharge a deputy commissioner.	<p>Reference: <i>CSO (Employment Requirements)</i> and <i>CSO (Grievances and Appeals)</i>.</p> <p>No member may submit a grievance under Part III of the Act in respect of any decision, act or omission relating to an administrative discharge or demotion process.</p> <p>A member who is discharged or demoted for grounds specified in paragraphs 20.2(1)(e), (g), or (k) of the Act, or a deputy commissioner who is recommended for discharge for grounds specified in paragraphs 20.2(1)(d), (f) or (j) of the Act, may appeal the decision.</p>
Notice of Intention to	Reference: <i>CSO (Employment Requirements)</i> and <i>CSO</i>

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discharge a probationary member.	<p><i>(Grievances and Appeals).</i></p> <p>No probationary member may submit a grievance under Part III of the Act in respect of any decision, act or omission relating to a Notice of Intention to discharge. Any decision, act or omission relating to a probationary member discharge process may form a ground of appeal to a final decision to discharge a probationary member.</p>
Decision to discharge a probationary member.	<p>Reference: <i>CSO (Employment Requirements)</i> and <i>CSO (Grievances and Appeals).</i></p> <p>No probationary member may submit a grievance under Part III of the Act in respect of any decision, act or omission relating to a discharge process. A probationary member who is discharged pursuant to subsection 9.4(1) of the Act may appeal the decision by presenting a written complaint to the OCGA.</p>
Decision to revoke an appointment of a member	<p>Reference: <i>CSO (Employment Requirements)</i> and <i>CSO (Grievances and Appeals).</i></p> <p>No member may submit a grievance under Part III of the Act in respect of any decision, act or omission relating to the revocation of an appointment of a member. A member whose appointment has been revoked may appeal the decision. Any decision, act or omission relating to a revocation process may form a ground of appeal to a final decision to revoke a member.</p>
Decision to relieve a member from duty.	<p>Reference: <i>CSO (Employment Requirements)</i> and <i>CSO (Grievances and Appeals).</i></p> <p>No member may submit a grievance under Part III of the <i>RCMP Act</i> in respect of any decision, act or omission relating to a relief from duty. A member who has been relieved from duty may appeal the decision. Any decision, act or omission relating to a relief</p>



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	from duty process may form a ground of appeal to a final decision to relieve a member from duty.
Decision requiring a member to undergo a medical examination or an assessment by a qualified person.	<p>Reference: Sec. 20.2(c), <i>Act</i>, <i>CSO (Employment Requirements)</i> and <i>CSO (Grievances and Appeals)</i>.</p> <p>No member may submit a grievance under Part III of the <i>RCMP Act</i> in respect of any decision requiring a member to undergo a medical examination or an assessment by a qualified person, if the decision requiring the medical examination or assessment was made in relation to a conduct process or employment requirements process. Any decision, act or omission related to a decision requiring a member to undergo a medical examination or assessment may form a ground of appeal to a final decision in either the conduct process or employment requirements process as the case may be.</p>
Decision to temporarily reassign a member to other duties during a conduct process.	<p>Reference: <i>CSO (Conduct)</i> and <i>CSO (Grievances and Appeals)</i>.</p> <p>No member may submit a grievance under Part III of the <i>Act</i> in respect of any decision, act or omission relating to a conduct process.</p> <p>A member who has been temporarily assigned pursuant to section 7.2 of the <i>CSO (Conduct)</i> may appeal the decision.</p>
Decision to suspend a member.	<p>Reference: <i>CSO (Conduct)</i> and <i>CSO (Grievances and Appeals)</i>.</p> <p>No member may submit a grievance under Part III of the <i>Act</i> in respect of any decision, act or omission relating to a conduct process.</p> <p>A member who has been suspended pursuant to subsection 12(1) of the <i>Act</i> may appeal the decision.</p>
Notice of Intention to stop pay and allowances.	Reference: <i>CSO (Employment Requirements)</i> , <i>CSO (Conduct)</i> and <i>CSO (Grievances and Appeals)</i> .

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	<p>No member may submit a grievance under Part III of the Act in respect of any decision, act or omission relating to a Notice of Intention to stop pay and allowances.</p> <p>Any decision, act or omission relating to a stoppage of pay and allowances process may form a ground of appeal to a final decision to stop a member's pay and allowances.</p>
Decision to stop pay and allowances.	<p>Reference: <i>CSO (Employment Requirements)</i>, <i>CSO (Conduct)</i> and <i>CSO (Grievances and Appeals)</i>.</p> <p>No member may submit a grievance under Part III of the Act in respect of any decision, act or omission relating to a decision to stop pay and allowances.</p> <p>A member whose pay and allowances have been stopped may appeal the decision.</p>
Refusal to assist or represent, or to discontinue assisting or representing a subject member.	<p>Reference: <i>CSO (Conduct)</i> and <i>CSO (Grievances and Appeals)</i>.</p> <p>No member may submit a grievance under Part III of the Act in respect of any decision, act or omission relating to a decision to refuse to assist or represent, or to discontinue assisting or representing a subject member.</p> <p>A member may appeal the refusal to assist or represent or to discontinue assisting or representing.</p>
Decision by an employee not to permit a member to assist or represent another member.	<p>Reference: <i>CSO (Conduct)</i> and <i>CSO (Grievances and Appeals)</i>.</p> <p>No member may submit a grievance under Part III of the Act in respect of any decision, act or omission relating to a decision not to permit a member to assist or represent another member.</p> <p>A member may appeal a decision by an employee not to permit a member to assist or represent another member.</p>
Decision, act or omission made in the course of the	<p>Reference: <i>CSO (Classification Redress Process for Members)</i>.</p>

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classification of a position.	<p>No member may submit a grievance under Part III of the <i>Act</i> in respect of any decision, act or omission made in the course of the classification of a position.</p> <p>The <i>CSO (Classification Redress Process for Members)</i> applies instead of Part III of the <i>Act</i> to the presentation and resolution of all grievances based on a decision, act or omission made in the course of the classification of a position, which decision, act or omission is in respect of (a) the group to which the position has been allocated; (b) the rating, level or rank attributed to the position; or (c) the effective date of the classification of the position.</p>
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(1) The articles are excerpts from respective sections of the *Act*, *Regulations* and *CSOs*.

### PART II

Decisions that are considered final and binding under the *Act* or the *CSO (Grievances and Appeals)*.

NON-GRIEVABLE DECISION	ARTICLE (1)
Level II grievance decision.	<p>Reference: Sec. 32(1), <i>Act</i>.</p> <p>The Commissioner constitutes the final level in the grievance process and the Commissioner's decision in respect of any grievance is final and binding.</p>
Decision on an appeal against findings or a conduct measure imposed, or both, stemming from a conduct authority or a conduct board.	<p>Reference: Sec. 45.16(9), <i>Act</i>.</p> <p>A decision of the Commissioner on an appeal is final and binding.</p>
Decision on an appeal	Reference: Sec. 41(3), <i>CSO (Grievances and Appeals)</i> .

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against grounds or findings stemming from the:	A decision of an adjudicator that disposes of an appeal is final and binding.
(a) revocation of appointment of a member	
(b) discharge or demotion of a member, or recommendation to discharge a deputy commissioner;	
(c) discharge of a probationary member;	
(d) relief from duty;	
(e) stoppage or pay and allowances or temporary stoppage of pay and allowances;	
(f) temporary reassignment of a member;	
(g) suspension of a member;	
(h) denial or discontinuance of assistance to or representation of subject member;	
(i) decision of what constitutes reasonable costs and expenditures necessary to subject member's defence;	

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| <p>(j) denial to permit other member to represent another member; or</p> <p>(k) investigation and resolution of a harassment complaint.</p> |  |
|---|--|

(1) The articles are excerpts from respective sections of the *Act*, *Regulations* and CSOs.

### PART III

Matters that cannot be contested nor covered by other possible recourse. These are specific matters that have intentionally been excluded by legislation.

NON-GRIEVABLE DECISION	ARTICLE (1)
Appointment by the Commissioner to positions that report to the Commissioner either directly or through one other person.	<p>Reference: Sec. 31(3), <i>Act</i>.</p> <p>No appointment by the Commissioner to a position prescribed pursuant to subsection 7 may be the subject of a grievance under this Part (Part III, <i>Act</i>).</p> <p>Reference: Sec. 17, <i>Regulations</i>.</p> <p>Positions that, under the rules, report to the Commissioner either directly or through one other person, are prescribed for the purposes of subsection 31(3) of the <i>Act</i>.</p>
The right to equal pay for work of equal value.	<p>Reference: Sec. 31(1.2), <i>Act</i>.</p> <p>A member is not entitled to present a grievance in respect of the right to equal pay for work of equal value.</p>

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Any action taken under instruction, direction or regulation given or made by or on behalf of the Government of Canada in the interest of the safety or security of Canada or any state allied or associated with Canada.

Reference: Sec. 31(1.3), *Act*.

A member is not entitled to present a grievance relating to any action taken under any instruction, direction or regulation given or made by or on behalf of the Government of Canada in the interest of the safety or security of Canada or any state allied or associated with Canada.

(1) The articles are excerpts from respective sections of the *Act*, *Regulations* and CSOs.

### APPENDIX 4: OCGA Contact Information

Office for the Coordination of Grievances and Appeals

Mailing and e-mail address, and other contact information to be determined and inserted.

### APPENDIX 5: References and Useful Links

- *Royal Canadian Mounted Police Act, R.S.C. 1985, c. R-10 as amended*
- *Royal Canadian Mounted Police Regulations, 2014*
- *Commissioner's Standing Orders (Grievances and Appeals)*
- Grievance policy InfoWeb link
- Grievance Online Course (in development)
- SRR Program