

**NATIONAL
POLICE
FEDERATION**



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DE LA POLICE
NATIONALE**

MEMBERS' RIGHTS AND RESPONSIBILITIES

QUICK REFERENCE HANDBOOK

PART II: Conduct Proceedings

Chapter 1: Rights to Representation or Assistance

The mission of the National Police Federation is
to provide strong, professional, fair and progressive representation
to promote and enhance the rights of RCMP members.

**The National Police Federation
encourages all members to be aware of their
rights and responsibilities in conduct proceedings.**

***The information in this handbook does not constitute legal advice.
Members who become involved in a conduct process are advised to
immediately consult a lawyer or representative.***

CONDUCT PROCEEDINGS: RIGHTS TO REPRESENTATION OR ASSISTANCE

SUBJECT MEMBER RIGHTS TO REPRESENTATION OR ASSISTANCE	
STAGE OF CONDUCT PROCEEDINGS	WHO MAY PROVIDE REPRESENTATION OR ASSISTANCE
Interim Administrative Measures: <ul style="list-style-type: none"> - Temporary Reassignment and/or Suspension - Stoppage of Pay and Allowances (RCMP Act, s. 22(2)(b)) 	<ul style="list-style-type: none"> - Private Legal Counsel or Representative - NPF / MWA - <u>no</u> right to MR assistance or representation - Private Legal Counsel or Representative - NPF / MWA - MR may represent (<i>Conduct CSOs</i>, s. 30(1)(a))
Investigation	<ul style="list-style-type: none"> - Private Legal Counsel or Representative - NPF / MWA - <u>no</u> right to MR assistance or representation
Conduct Meeting	<ul style="list-style-type: none"> - Private Legal Counsel or Representative - NPF / MWA - MR may assist before the meeting <i>only if</i> subject member is subject to serious conduct measures (<i>Conduct CSOs</i>, s. 30(2)(a))
Conduct Board Hearing	<ul style="list-style-type: none"> - May be represented by and have privileged communications with <u>any person</u> (<i>RCMP Act</i>, s. 47.1(1)(b) and (2)): <ul style="list-style-type: none"> - Private Legal Counsel or Representative - NPF / MWA (AM 28.1.10.2) - a non-MR, non-MWA authorized person under the Commissioner's jurisdiction (<i>General Admin CSOs</i>, s. 8 & 9) - MR may represent (<i>Conduct CSOs</i>, s. 30(1)(b))

WITNESS MEMBER RIGHTS TO REPRESENTATION OR ASSISTANCE	
STAGE OF CONDUCT PROCEEDINGS	WHO MAY PROVIDE REPRESENTATION OR ASSISTANCE
Conduct Investigation	No statutory right to representation - Private Legal Counsel or Representative - NPF / MWA <u>CAUTION:</u> For witness members, communications with an MWA are <u>not protected</u> by any confidentiality privilege (Conduct Policy, s. 15.3)
Giving Evidence at a Conduct Board Hearing	Right to representation (RCMP Act, s. 45.1(3)) by: - Private Legal Counsel or Representative - NPF / MWA <u>CAUTION:</u> For witness members, communications with an MWA are <u>not protected</u> by any confidentiality privilege (Conduct Policy, s. 15.3)

Member’s Right to Privileged Communications with Their Representative

Communications relating to the conduct process that pass in confidence between a member and the person who is acting as their representative or assistant are, for the purposes of the *RCMP Act*, privileged as if they were confidential communications passing in professional confidence between the member and their legal counsel (*RCMP Act*, s. 47.1(2); AM 28.1, s. 10.2).

STRATEGY: Members are strongly encouraged to exercise their rights to representation or assistance immediately upon learning that they may be the subject of, or a witness in, a *Code of Conduct* investigation.

ABBREVIATIONS AND REFERENCES

- AM 28.1 Administrative Manual, ch. 28.1 Member Workplace Services Program (available on the RCMP Infoweb)

- Assistance Providing legal guidance and information (see *Conduct CSOs*, s. 29)

<i>Code of Conduct</i>	<i>Code of Conduct of the Royal Canadian Mounted Police</i> , Schedule to the <i>Royal Canadian Mounted Police Regulations, 2014</i> . (online: https://laws-lois.justice.gc.ca/eng/regulations/SOR-2014-281/page-6.html#h-30)
<i>Conduct CSOs</i>	<i>Commissioner's Standing Orders (Conduct)</i> , SOR/2014-291. (online: https://laws-lois.justice.gc.ca/eng/regulations/SOR-2014-291/index.html)
Conduct Policy	Administrative Manual, ch. XII.1 Conduct (available on the RCMP Infoweb)
MR	Member Representative – a person who is authorized by the Director of the RCMP's Member Representative Directorate to provide representation or assistance to a subject member.
MWA	Member Workplace Advisor – a member selected to a position as a result of a Member Workplace Advisor selection process under the Member Workplace Services Program.
NPF	National Police Federation
<i>RCMP Act</i>	<i>Royal Canadian Mounted Police Act</i> , RSC 1985, c R-10, as amended on November 28, 2014 by the <i>Enhancing Royal Canadian Mounted Police Accountability Act</i> , SC 2013, c 18. (online: https://laws-lois.justice.gc.ca/eng/acts/R-10/index.html)
Representation	Includes providing legal advice, litigation or advocacy (see <i>Conduct CSOs</i> , s. 29)

The National Police Federation gratefully acknowledges
Jill Gunn, LL.B., LL.M., Barrister and Solicitor, for compiling this Handbook.