

**NATIONAL
POLICE
FEDERATION**



**FEDERATION
DE LA POLICE
NATIONALE**

MEMBERS' RIGHTS AND RESPONSIBILITIES

QUICK REFERENCE HANDBOOK

PART II: Conduct Proceedings

Chapter 7: Appeals of Conduct Authority or Conduct Board Decisions

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.***

APPEALS OF CONDUCT AUTHORITY OR CONDUCT BOARD DECISIONS

Rights of Appeal (RCMP Act, s. 45.11)

A subject member may, on any ground, appeal:

- a finding that a contravention is established; and/or
- any conduct measure imposed.

An appellant subject member must establish that the decision being appealed (*Grievances and Appeals CSOs*, s. 33(1)):

- contravened the principles of procedural fairness;
- was based on an error of law; or
- is clearly unreasonable.

Procedure for Filing an Appeal

Within 14 days after being served with the written decision being appealed, the subject member must file a Statement of Appeal with the OCGA (*Grievances and Appeals CSOs*, s. 22).

SUBJECT MEMBER APPEAL OF A CONDUCT AUTHORITY'S DECISION

No Access to MR Assistance or Representation (*Conduct CSOs*, s. 30)

Right to Materials that Were Before the Conduct Authority (*Grievances and Appeals CSOs*, s. 24 and 26; see also Conduct Appeal Adjudicator's decision **C-007**).

SUBJECT MEMBER APPEAL OF A CONDUCT BOARD'S DECISION

No Access to MR Assistance or Representation (Conduct CSOs, s. 30)

Right to a Transcript of the Conduct Hearing, Upon Request (Conduct CSOs, s. 22)

Right to File Reply Submissions if a Conduct Authority Files Response Submissions (Grievances and Appeals CSOs, s. 28)

CONDUCT AUTHORITY APPEAL OF A CONDUCT BOARD'S DECISION

Subject Member May Be Represented by an MR (Conduct CSOs, s. 30(1)(c))

Subject Member's Right to File Response Submissions (Grievances and Appeals CSOs, s. 28).

EXTERNAL CIVILIAN REVIEW

Right to External Civilian Review of Certain Conduct Appeals

Before considering a conduct appeal, whether it is the subject member or the conduct authority appealing, the **Commissioner must refer** the appeal to the RCMP External Review Committee (RCMP ERC) **if** the case involves the imposition of **a conduct measure more severe than a financial penalty of one day's pay deducted from the member's pay** (RCMP Act, s. 45.15(1)).

Right to Request that an Appeal Not Be Referred to the RCMP ERC

The subject member – whether they are the appellant or the respondent in the appeal – may request that the Commissioner **not** refer the case to the RCMP ERC for civilian review before rendering a decision on the appeal (RCMP Act, s. 45.15(3)).

WITHDRAWAL OF SUBJECT MEMBER'S APPEAL

Right to Withdraw Appeal Any Time Before Appeal Decision Is Rendered (Grievances and Appeals CSOs, s. 31)

THE APPEAL DECISION

Right to Procedural Fairness in the Rendering of an Appeal Decision (*Grievances and Appeals CSOs*, s. 30)

Right to Be Served with the Commissioner's Appeal Decision (*Grievances and Appeals CSOs*, s. 34)

COMMISSIONER RESCINDING OR AMMENDING OWN APPELLATE DECISION

The Commissioner, or the delegated conduct appeal adjudicator, may rescind or amend their own appellate decision if they (*RCMP Act*, s. 45.16(10)):

- are presented with new facts; or
- determine that, with respect to any finding of fact or interpretation of the law, an error was made in reaching the decision.

Right to Make Submissions Before Decision Rescinded or Amended

Before the Commissioner or the delegated conduct appeal adjudicator rescinds or amends a decision, the parties must be given an opportunity to make submissions (*Grievances and Appeals CSOs*, s. 35(1)).

Right to a Copy of the Notice of Rescission or the Amended Decision (*Grievances and Appeals CSOs*, s. 35(2)).

ABBREVIATIONS AND REFERENCES

Conduct CSOs	<i>Commissioner's Standing Orders (Conduct)</i> , SOR/2014-291. (online: https://laws-lois.justice.gc.ca/eng/regulations/SOR-2014-291/index.html)
<i>Grievances and Appeals CSOs</i>	<i>Commissioner's Standing Orders (Grievances and Appeals)</i> , SOR/2014-289. (online: https://laws-lois.justice.gc.ca/eng/regulations/SOR-2014-289/index.html)
OCGA	Office for the Coordination of Grievances and Appeals
<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)
RCMP ERC	RCMP External Review Committee

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