

**NATIONAL
POLICE
FEDERATION**



**FEDERATION
DE LA POLICE
NATIONALE**

MEMBERS' RIGHTS AND RESPONSIBILITIES

**QUICK REFERENCE
HANDBOOK**

**Conduct Proceedings:
Conduct Meetings**

**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: CONDUCT MEETINGS

Right to a Procedurally Fair Conduct Meeting

The conduct authority must hold a conduct meeting as this is the subject member's only opportunity to respond to the allegation(s) in person with the conduct authority, and to make written and oral submissions on the allegations and the conduct measures (*RCMP Act*, s. 42(1); Conduct Policy, s. 7.1.1, 7.2.1, 9.1.1; see **C-011**, ERC, at paras. 76-84; Conduct Appeal Adjudicator's decision, at paras. 28-33).

Right to Adequate Advance Notice of the Conduct Meeting

The subject member must be served with a Notice of Conduct Meeting, which **must be served at least seven days prior to the meeting**, unless the subject member requests an earlier meeting (Conduct Policy, s. 4.2.1.11, 7.1.1, 7.2.1.7; see also **C-012**, Conduct Appeal Adjudicator's decision, para. 82).

Official Language of Choice: Obligation to Advise

After receiving the Notice of Meeting, the subject member must inform the conduct authority of their official language of choice for the conduct meeting (Conduct Policy, s. 7.2.2.4).

Right to an Unbiased Conduct Authority / Right to Object

The subject member may object to the conduct authority who issued the Notice of Conduct Meeting taking any further action in the matter. To do so, the subject member must file a written objection with the conduct authority (Conduct Policy, s. 8).

Right to Provide Written Submissions Before the Meeting

At least two days before the conduct meeting, a subject member may provide written submissions and documentation, which the conduct authority must consider (Conduct Policy, s. 7.2.2.2).

Written submissions should address any aspects of the case that the subject member should challenge, including preliminary issues, the merits of the case, and conduct measures.

Right to Provide Oral Submissions at the Meeting

Although subject members have the right to provide oral submissions, there is **no obligation** to do so.

NOTE: There is no statutory requirement for a conduct authority to audio record and transcribe a conduct meeting or to create any other record of the meeting.

THE DECISION

Right Not to Have the Case Prejudged or the Decision Made Prior to the Meeting (see ERC C-011, Conduct Appeal Adjudicator's decision, at paras. 37-39)

Right to a Decision Based on the Conduct Authority's Own Review of the Evidence, and Not Based on a Mere Reading of the Investigator's Summary (see ERC C-012, Conduct Appeal Adjudicator's decision, at para. 83)

Right to Timely Service of a Written Decision with Sufficient Reasons

The conduct authority's decision must (*Conduct CSOs*, s. 8; *Conduct Policy*, s. 9.2.1):

- be in writing;
- be served on the subject member, and should be served no later than seven days after the final conduct meeting;
- set out the findings of fact;
- apply the proper legal test for determining whether an allegation is established (see ERC C-006);
- set out the finding(s) on the allegation(s);
- provide sufficient reasons for the decision on the allegation(s) (see ERC C-006, C-007, C-008);
- set out the conduct measure(s) imposed, if any; and
- employ the proper process for determining an appropriate measure, and provide sufficient reasons for the conduct measure(s) imposed (see ERC C-006, C-007, C-008, C-012, C-013).

Right Not to Have the Decision or Any Conduct Measures Take Effect Until the Subject Member Is Served with the Written Decision (*Conduct CSOs*, s. 8)

Right Not to Have Conduct Measures Imposed After the Expiry of the Limitation Period

A conduct authority cannot impose conduct measures after the expiry of "one year from the time the contravention and the identity of that member became known to the conduct authority that investigated the contravention or caused it to be investigated" (*RCMP Act*, s. 42(2); *Conduct Policy*, s. 9.1.5).

The conduct authority imposing the conduct measures may seek an extension of the one-year time limit, and the Commissioner may grant an extension only if satisfied that the circumstances justify doing so (*RCMP Act*, s. 47.4(1)).

Right to Proportionate Conduct Measures

If an allegation is established, and if conduct measures are imposed, they must be (*RCMP Act*, s. 36.2(e); *Conduct CSOs*, s. 2 and 3; *Conduct Policy*, s. 3.3.2, 9.2.1):

- authorized by the conduct authority's designation;
- proportionate to the nature and circumstances of the contravention; and
- where appropriate, educative and remedial, rather than punitive.

Right to Waive Procedural Rights

A subject member may waive, in writing to the conduct authority:

- a right provided for under the *Conduct CSOs* (*Conduct CSOs*, s. 28); or
- any conduct process timeframe or service requirement found in policy or guidance documents (*Conduct Policy*, s. 7.2.2.7).

CAUTION: Members are urged to seek legal advice before waiving any procedural rights.

Right Not to Have Contravention Used Against the Subject Member in ANY Criminal Proceeding

Section 47.5 of the *RCMP Act* states:

No evidence that a conduct measure has been imposed under Part IV against a member shall be used or receivable against the member in any criminal proceeding.

Right to Appeal

Within 14 days after being served with the conduct authority's written decision, a subject member may appeal, on any ground (*RCMP Act*, s. 45.11(3)):

- any finding that an allegation was established; and/or
- any conduct measure imposed.

Procedures for Appealing: *Grievances and Appeals CSOs*, s. 22-34.

ABBREVIATIONS AND REFERENCES

| | |
|------------------------|---|
| <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</i> , 2014. (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 | Conduct – AM ch. XII.1 (Jan. 22, 2019) Available on the RCMP Infoweb. |
| <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) |
| <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) |