

NEWSLETTER

FOCUS ON MILITARY GRIEVANCES

RIGHT TO GRIEVE

An officer or non-commissioned member who has been aggrieved by any decision, act or omission for which no other process for redress is provided is entitled to submit a grievance. There is no right to grieve in respect of a decision of a court martial or the Court Martial Appeal Court; a decision of a board, commission, court or tribunal; or a matter or case prescribed by the Governor in Council in regulations. There is no right to grieve in respect of a decision made under the Code of Service Discipline.

FORMAT

A grievance must be in writing, signed by the grievor and submitted to the grievor's Commanding Officer. A grievance includes:

1. A covering letter addressed to the member's Commanding Officer containing:

- a brief description of the decision, act or omission that is the subject of the grievance;
- any facts known to the grievor;
- a request for determination and the redress sought;

2. If a person can substantiate the grievance, a statement in writing from that person. Although a sworn statement is not

required by the regulations, such a document reinforces the evidentiary value of the member's statement.

3. A copy of any relevant document in the possession of the grievor.

TIME LIMITS

A grievance must be submitted within **six months** after the day that the member knew or ought reasonably to have known of the decision, act or omission in respect of which the grievance is submitted. [A grievance may not be submitted jointly with any other member.] If the Commanding Officer is not able to act as the initial authority for the grievance, the Commanding Officer must forward the grievance within **10 days** of receipt to the initial authority. Upon receipt of a grievance, the initial authority must, within **60 days** consider and determine the grievance.

Where a member has submitted a grievance and the decision of the initial authority does not afford the redress that, in the opinion of the member, is warranted, the member may submit the grievance to the Chief of the Defence Staff [CDS] for consideration and determination. The grievance must be in writing, signed by the grievor and submitted to the CDS within **90 days** of receipt by the grievor of the determination of the initial authority.

From beginning to end, the grievance process **may take up to two years** or more.

Final determination of the grievance either at the CF Grievance Board or the CDS is dependent upon the facts presented by the grievor in the original grievance. Although new facts that were unknown or could not reasonably have been known to the member at the time that the grievance was submitted to the initial authority can be introduced during the grievance process this is a rare occurrence and it should not be relied upon.

ASSISTANCE

A member may request assistance in the preparation of a grievance. On such occasion, the Commanding Officer must detail an officer or non-commissioned member to assist in its preparation of the grievance. Alternatively, a member may consult legal counsel. A member who consults legal counsel to assist in the preparation of a grievance will benefit from legal advice and the knowledge that the information provided by the member in the preparation of the grievance is protected by a client-solicitor privilege.

CF GRIEVANCE BOARD

The CDS must refer to the CF Grievance Board any grievance relating to the following matters:

- administrative action resulting in the forfeiture of, or deductions from, pay and allowances, reversion to a lower rank or release from the Canadian Forces;
- the application or interpretation of Canadian Forces policies relating to expression of personal opinions, political activities and candidature for office, civil employment, conflict of interest and post-employment

compliance measures, harassment or racist conduct;

- pay, allowances and other financial benefits; and
- the entitlement to medical care or dental treatment.

CDS HAS FINAL SAY

The CDS is the final authority in the grievance process. Also, the CDS is not bound by any finding or recommendation of the CF Grievance Board.

OUR SERVICES

We would be happy to assist you in drafting your grievance and, if you wish, to represent you before the CF Grievance Board or your Commanding Officer.