

THE ARMY, NAVY & AIR FORCE VETERANS IN CANADA

GUIDE TO DISCIPLINARY PROCEDURES

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ANAVETS GUIDE TO DISCIPLINARY PROCEDURES

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ANAVETS GUIDE TO DISCIPLINARY PROCEDURES

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INTRODUCTION

1. Members of the Army, Navy and Air Force Veterans in Canada are assumed to be honourable in character and honest in behaviour, but being human this is not always the case. Therefore this guide establishes the procedures followed when a member is accused of committing an act contrary to the rules and regulations governing ANAVETS operations.
2. Formal disciplinary procedures represent serious circumstances and are to be applied only after due consideration and with full knowledge of the procedures.
3. The disciplinary process must be fair. Bias or a denial of natural justice must not occur. Justice has to be done and be seen to be done.
4. This guide is used in conjunction with Section IV of the ANAVETS by-laws. Should any discrepancy exist between the by-laws and this guide, the by-laws apply.
5. This Guide replaces the Disciplinary Matters Guide adopted at the Dominion Convention on 3 August 1972.
6. In most cases the first level of discipline occurs at the Unit level. The right to appeal extends to Provincial and in some circumstances, to Dominion Command.
7. The only punishments that can be administered to ANAVETS members are:
 - a. a **verbal or written warning**;
 - b. **suspension** of membership privileges **to a maximum of 364 days**;
 - c. **expulsion** from ANAVETS. **Expelled members cannot be reinstated before three (3) years from the date the expulsion was applied and only then by a majority vote of the Unit Executive and with the approval of the Provincial Command and Dominion Command. This decision is final.**
8. **If at any time during the disciplinary process it is believed that a criminal offense has occurred stop and report the matter to the police.**
9. Where the word President is used in this guide it may also refer to the Unit and Command Executive and in some Unit disciplinary matters are administered by a Disciplinary Committee who report to the Unit Executive.
10. This guide is written in gender neutral language and plain language English.

PRELIMINARY ACTIONS (UNIT LEVEL)

11. The disciplinary process originates with an act allegedly committed by an ANAVETS member which contravenes ANAVETS rules and regulations or is unacceptable behaviour of a social or criminal nature.
12. A member having grounds to initiate a complaint will make a written statement, referred to here as **The Incident Report**, to the Unit Secretary. The Incident Report must be submitted within 30 days of the incident. See Page 10 – A sample wording of the Incident Report.
13. The Unit Secretary will bring the incident report to the President who will determine if the complaint should be resolved through:
 - a. the mediation process or;
 - based on its severity, will:
 - b. issue the offender a verbal or written warning or;
 - c. initiate the process for a formal charge and Unit Hearing.

CONFLICT RESOLUTION – MEDIATION

14. When an incident occurs at a Unit or Command resulting in a difference of opinion or dispute between members, the President may resolve the matter using mediation before resorting to the disciplinary process. The mediation process involves a neutral third party, who may be the President or his appointed representative, who works with both sides in the dispute to resolve it. It is a voluntary process. Either party may withdraw at any time. Mediation is not a disciplinary procedure.
15. Mediation should be the first option considered to resolve an “incident.” The process is informal. Following these steps, the mediator:
 - a. meets with both parties at an agreed upon time, date and place;
 - b. outlines the purpose of the meeting and the process it follows, and the ground rules;
 - c. asks each party to make an oral statement. The mediator may ask questions but the parties do not question each other;
 - d. asks questions to clarify issues to provide each party with a greater understanding; and
 - e. talks to each party separately, making suggestions to reach a solution and commitment from each to arrive at a settlement. This may result in going back and forth, each time attempting to arrive at an agreement.
16. Should agreement not be achieved the mediator may have to initiate a disciplinary hearing.

WARNINGS

17. **Verbal Warning.** If it is decided that the offense is minor and a formal charge and hearing are not required, the President privately warns the member by outlining the transgressions and cautions that repeated incidents results in serious action being taken. A note is placed in the member's file.
18. **Written Warning.** For a repeat or more serious offense a written warning, signed by the President, is sent by registered mail or hand delivered to the member with the same information as in paragraph 17 and stating that continued unacceptable conduct may result in a suspension or expulsion. A copy of the letter is kept in the member's file.
19. Verbal or written warnings cannot be appealed.

CONDUCT LEADING TO A FORMAL CHARGE

20. When the offense is of sufficient seriousness that the member appears for a Unit Hearing, the Secretary completes a **Charge Sheet**. See:
 - a. Page 10 – Sample wording of a Charge Sheet;
 - b. Page 12 - The Charge Sheet.
21. The President sets the time, date and place for the Unit Hearing. The accused is sent written notice of the alleged offence and asked to appear at the hearing. **The Notice of Hearing** must be sent by registered mail or hand delivered letter and received seven (7) days before the hearing date.
22. The Notice of Hearing includes:
 - a. the Charge Sheet;
 - b. a copy of the Incident Report with the names of the complainant and witnesses removed;
 - c. the time, date and place of the Unit Hearing;
 - d. a statement that failure to appear at a hearing without just cause, results in the hearing taking place without the member present; and
 - e. if deemed necessary by the President, notice that membership privileges are suspended until the hearing date.
23. The Secretary prepares a witness list and advises them of the time, date and place of the hearing. A copy of the list is given to the Unit Sergeant-at-Arms who is responsible for assembling witnesses for the hearing.

THE UNIT HEARING

24. **Composition of the Unit Hearing.** The Unit Hearing is chaired by the Unit President or appointed representative. It consists of:
 - a. a quorum of the Unit Executive, one of whom is appointed as Secretary to record the minutes of the hearing;

- b. the Secretary, who should have a voice recorder to record a transcript of the proceedings. The recording must be retained until any appeals are heard;
 - c. the complainant and witnesses;
 - d. other persons as determined by the Chairman.
25. **The Hearing Sequence.** When the Sergeant-at-Arms reports that all are assembled the hearing follows this sequence:
- a. members of the Unit Hearing sit at a table with the accused directly in front of them. Witnesses wait outside the hearing room until called by the Sergeant-at-Arms;
 - b. call to order by the Chairman;
 - c. roll call of Officers;
 - d. reading the charge by the Secretary;
 - e. the Chairman asks the accused to plead guilty or not guilty;
 - 1) if the accused pleads guilty the hearing ends with a guilty verdict. The Chairman may question witnesses to obtain information relating to the sentence.
 - 2) if the accused pleads not guilty the hearing proceeds with the;
 - f. statement by the complainant and witnesses;
 - g. accused questioning witnesses;
 - h. statement by the accused and their witnesses if applicable;
 - i. the Chairman may question both the accused and the witnesses during their testimony;
 - j. when the evidence has been heard, the Chairman asks the accused and witnesses to wait outside the hearing room;
 - k. the Executive discusses the evidence and votes on the guilt or innocence of the accused. **A two thirds majority is required for a guilty verdict;**
 - l. the Executive votes on the punishment imposed. **A two thirds majority is required for expulsion;**
 - m. the Chairman tells the Sergeant-at -Arms to dismiss the witnesses and escort the accused to the hearing room. The Chairman reads the decision. In a guilty verdict the offender will be advised that he will receive written instructions pertaining to his case within 15 days; **Note:** If the Hearing is conducted by the Unit Disciplinary Committee on behalf of the Executive, the accused will be advised at the beginning of the hearing that its decisions must be approved by the Unit Executive before the accused can be advised of its decision. The decision must be announced with a minimum of delay; and
 - n. without further discussion the Sergeant-at-Arms escorts the accused from the room.

26. **Penalties.** The following penalties may be imposed:
- a. **Warning:**
 - 1) Verbal;
 - 2) Written;
 - b. **Suspension:** From a few days up to 364 days. The suspension duration, must be set at this time. If the offender's privileges were suspended prior to the hearing the time served will be considered as time served in the suspension. The effective date of the suspension will take effect when the membership card has been surrendered. If the membership card is not returned, the member loses all Association privileges, and the suspension begins when the current card expires at year's end. In the case where the member is unable to return card due to loss, the member must purchase a replacement card or suspension will not start until the current card has expired at year end.
Membership is automatically restored on the day following the last day of the suspension.
 - c. **Expulsion.** This is the ultimate punishment that ANAVETS can impose upon its members. An ANAVETS member who has been expelled is denied all membership rights and privileges indefinitely; (See paragraph 7. c.)
27. **Post Unit Hearing Actions.** The following takes place immediately after the hearing:
- a. an accused found not guilty is advised by letter. All rights and privileges are restored and all records of the case destroyed;
 - b. for a warning see paragraphs 17 to 19;
 - c. for a suspension, a registered mail or hand delivered letter signed by the President is sent to the offender within 15 days of the hearing. It states that:
 - 1) the Unit Hearing Members reached a guilty verdict;
 - 2) the suspension, specifying the number of days, is effective the date the membership card is surrendered. If privileges were suspended before the hearing, the time will be considered as part of the suspension.
 - 3) the membership card must immediately be surrendered to the Secretary. It is returned when the suspension ends; if the membership card has been lost, the member must purchase a replacement card or suspension will not start until the current card has expired at years end.
 - 4) if the offender has reasonable grounds, such as questioning the legality of the hearing or the severity of the sentence, a written appeal must be made to the Provincial Command within 15 days of the decision being received in writing;
 - d. for expulsion, a registered or hand delivered letter signed by the President is sent to the offender within 15 days of the hearing. It contains the following information:
 - 1) notice that the Unit Hearing members reached a guilty verdict;

- 2) the Unit Executive assigned the punishment of expulsion;
 - 3) the membership card must be immediately surrendered to the Secretary; (See the note at 27. c. 3) above.)
 - 4) notice that if the offender has reasonable grounds, such as questioning the legality of the hearing or the severity of the sentence, a written appeal must be made to the Secretary of the Provincial Command within 15 days of the decision being received in writing;
- e. When a decision to suspend or expel a member has been made, the Unit Secretary sends a letter to the Provincial Command Secretary and includes copies of:
- 1) the Incident Report;
 - 2) the Charge Sheet;
 - 3) the transcript and recording of the Unit Hearing;
 - 4) the suspension or expulsion letter;
 - 5) confirmation the member was advised of the right to appeal to Provincial Command;
 - 6) the letter confirming that notice of the time, date and place of the hearing was sent if the member did not appear at the hearing; and,

PROVINCIAL COMMAND RESPONSIBILITIES

28. The provincial Command Secretary reviews the Unit Report and confirms that it includes copies of the following documents:
- a. Incident Report;
 - b. Charge Sheet
 - c. Transcript and recording of the Unit Hearing;
 - d. Suspension or expulsion letter;
 - e. Confirmation that the member was advised of the appeal process; and
 - f. If the member did not appear at the Unit Hearing, confirmation that notice of its time and was sent to the member.
29. The Secretary advises the Provincial Command President that the Unit has suspended or expelled the member and in the case of suspected criminal activity forwards the Unit reports received as in paragraph 27 f above to Dominion Command.

APPEALS

30. **Grounds for Appeal.** Disagreement with the judgment of the Unit Hearing is not legitimate grounds for an Appeal. Appeals may only be made when:
- a. there is a clear misinterpretation of facts at the hearing;
 - b. there is a conflict of interest displayed by the hearing;
 - c. the judgment is inappropriate or unreasonable in light of the evidence; and
 - d. there is an error in law or lack of procedural fairness displayed at the hearing.

31. **The Appeal.** Appeals are made in writing within the specified time limits. The appeal must clearly state the grounds and give specific reference to the case.
32. **The Sentence Remains in Effect.** The sentence of a member who appeals remains in effect while the appeal process is carried out.
33. **Terms of Reference of the Appeal Committee.** The Appeal Hearing is not a re-trial. The Committee reviews relevant evidence that applies to the member's submission and renders a decision based on it.

THE PROVINCIAL COMMAND APPEAL COMMITTEE

34. If an appeal is received within the 15 day limit, the Secretary gives the documents to the President who appoints a Provincial Command Appeal Committee consisting of three members. One member is the Chair and another is the Committee Secretary.
35. The appellant and the Unit are advised of the time, date and place of the Command Appeal Hearing. They may be invited to attend at their own expense.
36. If an expelled member does not appeal before the time limit, the Provincial Command Secretary advises the Dominion Command Secretary of the expulsion. All ANAVETS Units are notified.

THE PROVINCIAL COMMAND APPEAL HEARING

37. The Provincial Command Appeal Hearing may be conducted in one of two forms:
 - a. **Paper Review** where the Committee, in the absence of the appellant, reviews the Unit Hearing transcript, other written reports and submissions and makes its decision.
 - b. **Oral Presentation** where the Hearing Committee meets with the appellant and other parties. It makes a decision based on written reports and oral presentations.
38. The Provincial Command President decides which of the above appeals procedures is used. The decision is influenced by the cost of assembling the witnesses and their availability.
39. **The Provincial Command Appeal Committee Hearing** meets to consider the appeal. It :
 - a. asks the Secretary to keep minutes. A voice recorder should be used. The voice recording must be retained until all appeals are completed;
 - b. reviews all documents relating to the case;
 - c. hears new evidence presented by the appellant and the Unit if relevant. Witnesses wait outside the room until called to give their testimony. When everyone has given statements they are dismissed. Each side is allowed to make closing

arguments;

- d. The Appeal Committee considers the material presented and renders a decision that:
- 1) overturns the decision;
 - 2) upholds the decision;
 - 3) upholds the punishment; or
 - 4) alters the punishment; **(The Provincial Command Appeal Hearing can only reduce the punishment.)**

40. **A verdict of suspension cannot be appealed to Dominion Command.**

41. Regarding a verdict of expulsion:

- a. the member or Unit have 15 days, from the notification date to appeal the decision of the Provincial Command Executive. Written appeals are sent to Dominion Command;
- b. the Provincial Command Secretary forwards copies of all documents including voice recordings and transcripts of the Provincial Appeal Committee Hearing to Dominion Command; and
- c. confirms that the member has been notified of the 15 day appeal period.

APPEALS TO DOMINION COMMAND

42. **The Dominion Command Hearing** is conducted by Paper Review.

43. The Dominion Command Hearing Committee consists of the Dominion President, the Dominion Secretary and a quorum of the Dominion Vice-Presidents.

44. After the Dominion Secretary receives the appeal, the Unit and the appellant are asked if they want to make written submissions. If submissions are not received within the time set by the Dominion President, the Dominion Executive Officers review the material on file.

45. The Dominion Secretary makes copies of all documents and sends them to the Dominion Executive Officers. If necessary, they will communicate by email, telephone, teleconference, video conference or any communications technology available.

46. The Dominion Command Hearing Committee renders its decision which is final.

NOTIFICATION OF EXPULSION

47. The Dominion Secretary notifies every Unit of the expulsion.

SPECIAL DISCIPLINARY CASES

48. **Complaint Against a Unit President.** When a written complaint against the President of a Unit is received the Unit Secretary immediately sends the Incident report to the

Provincial Command Secretary who forwards it to the Provincial Command President.

The President may:

- a. issue warnings: see paragraphs 17 to 19 above, or;
 - b. direct the Secretary to prepare a Charge Sheet for a Provincial Command Hearing.
49. **The Provincial Command Hearing for a Unit President.** The Command President establishes a Command Hearing Committee of at least three Provincial Command Vice Presidents or appropriate Executives and sets the time, date and place of the hearing.
50. The hearing process is initiated in the same manner as for a Unit Hearing.
51. It follows the same format as for the Unit Hearing except that the accused may appeal a sentence of suspension to Dominion Command.
52. **A Unit President found guilty and suspended, is automatically removed from office and is no longer a member of the Unit Executive. He cannot stand for any position on the Unit Executive for a period of at least three (3) years after the end of that suspension and only then with a majority vote of the Unit Executive and with the approval of Provincial Command.**
53. **Dominion Command Hearing for a Complaint Against the President of a Provincial Command.** When an Incident Report against the President of a Provincial Command is received by Dominion Command, the Dominion President convenes a Dominion Command Hearing composed of the Dominion Command President, the Dominion Secretary and a quorum of the Dominion Command Vice Presidents. The same procedures in paragraphs 48 to 53 are followed.

GUIDE FOR LAYING A CHARGE

54. Examples of behaviour that may lead to a charge are:
- a. misconduct in the Club Rooms such as swearing, shouting, fighting or being a general nuisance to the extent that it interferes with or inconveniences other members;
 - b. action by a member that is likely to bring discredit to the Unit or ANAVETS;
 - c. disregarding the by-laws of the Association which might be considered a breach of the obligations that each member assumes when he is initiated into the Unit.
(Note: Where criminal behaviour is suspected the Unit will refer the matter to the police).
55. **The Incident Report.** This is the written statement by the complainant describing the actions of the accused when the alleged offense was committed. The Unit Secretary assists the witness by ensuring the Incident Report contains the following information:
- a. time, date and location of where the alleged offense occurred;
 - b. name of the accused;

- c. description of the misdemeanour that took place; and
- d. names of witnesses.

56. Example:

Incident Report

At approximately 10:00 pm on 10 April 2013, John Doe entered the Unit Club Rooms, in a very agitated fashion. He shouted and swore at the bar staff and members and their guests and smashed several glasses. He was eventually subdued by some members and was escorted out of the building where he continued to shout and swear for some time before he left saying that he would be back and really cause some damage.

Signed: *Bill Smith*

19 February 2013

Other witnesses: Jane Jones and John James

57. The wording of the Charge Sheet, (See page 12.) prepared by the Unit Secretary accompanying the Incident Report reads:

Charge Sheet

John Doe, you have been charged that at approximately 10:00 pm on 10 April 2013, you entered the Unit Club Rooms in a highly agitated fashion, where you proceeded to shout and swear at the bar staff, members and their guests and smashed several glasses.

Several members escorted you from the building. You remained in front of the building shouting and swearing.

Your behaviour caused considerable discomfort to the members and their guests who were in the Club Rooms that night. Your actions have brought discredit to this Unit.

ADMINISTRATION OF JUSTICE

58. **Hearings.** All hearings must ensure that justice prevails by applying “natural justice,” which is, “the duty to act fairly and the right to a fair hearing.”
59. **No bias.** Members of hearings and committees must not display bias or perception of bias.

60. **Conflict of interest.** Hearing members must ensure they are not in conflict of interest with the disciplinary process. For example, if a member is related to the accused or the offended party the member must ask to be excused from the hearing.

61. **Extenuating Circumstances.** In certain circumstances there might be doubt that an offense has been committed or where the identity of the offender is unknown. In these instances the 30 day limit will commence when sufficient information is available to complete the Incident Report. An explanatory notice is to be attached to the report.

62. **Reinstatement.** Suspended members are automatically reinstated at the end of their period of suspension except as outlined in paragraph 52.

63. **Expelled members cannot be reinstated before three (3) years from the date the expulsion was applied and only then by a majority vote of the Unit Executive and with the approval the Provincial Command and Dominion Command. Failure to be reinstated cannot be appealed.**

64. Attached are schematics which show the disciplinary process. They are:
 - a. Page 13. - Disciplinary Process; and
 - b. Page 14. - Time Line of the Disciplinary Process.

The Army, Navy & Air Force Veterans in Canada



Charge Sheet

Dominion Command By-Laws Section 4.1.2 & 4.1.3

_____ Unit

_____ Member

VS

_____ Address

_____ Address

_____, you have been charged
Name of the Offender

that, _____

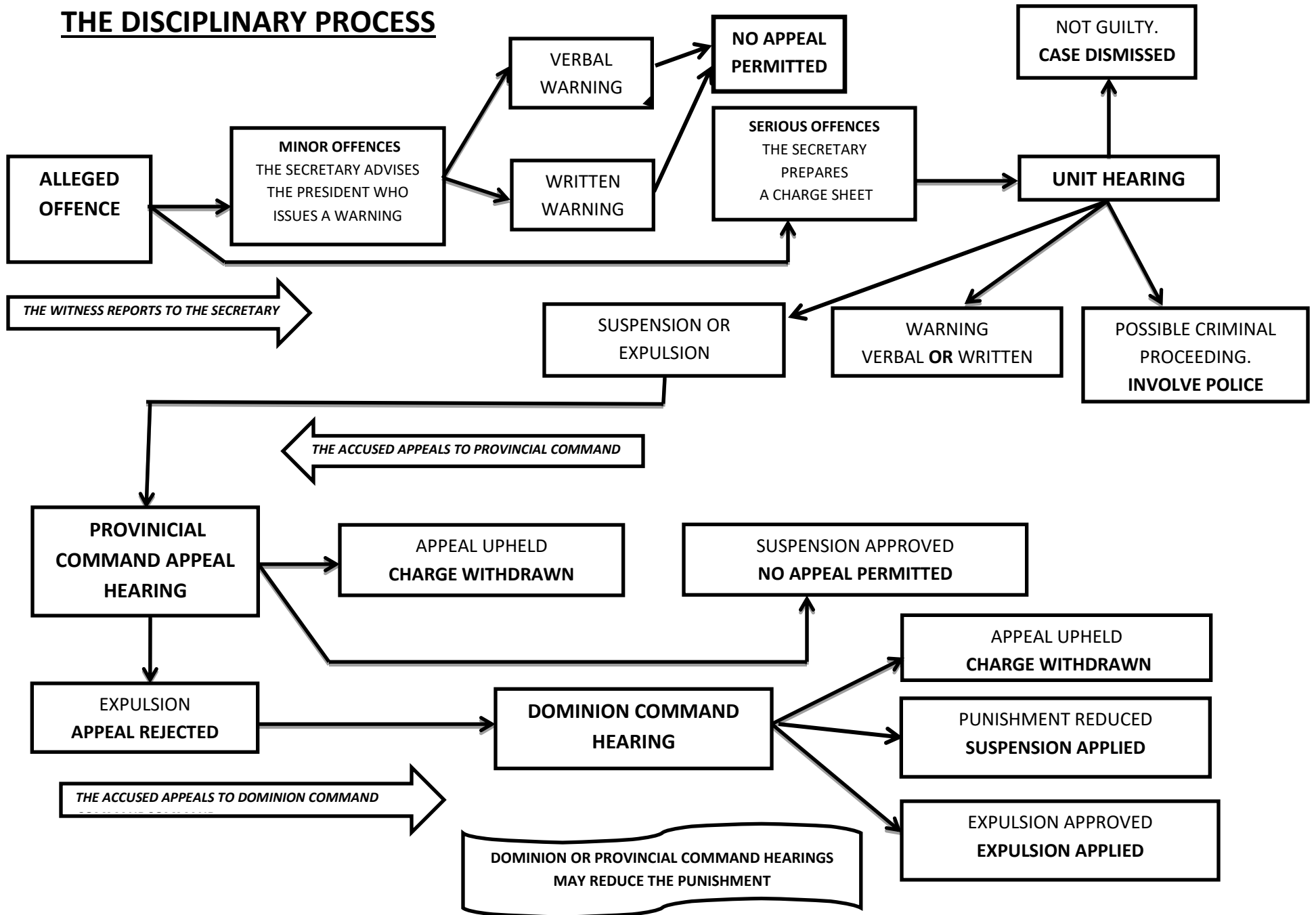
contrary to the code of behaviour of a member of the Army, Navy & Air Force Veterans in Canada, and that you are commanded to appear before a special Meeting of the Unit Executive on the _____ day of _____, 20____ at _____ o'clock in the evening in the Club Rooms, _____, to answer this charge. Failure to appear without a reason satisfactory to the Executive Committee may result in your case being heard in your absence and you will be duly notified of the decision.

Dated this _____ day of _____, 20_____.

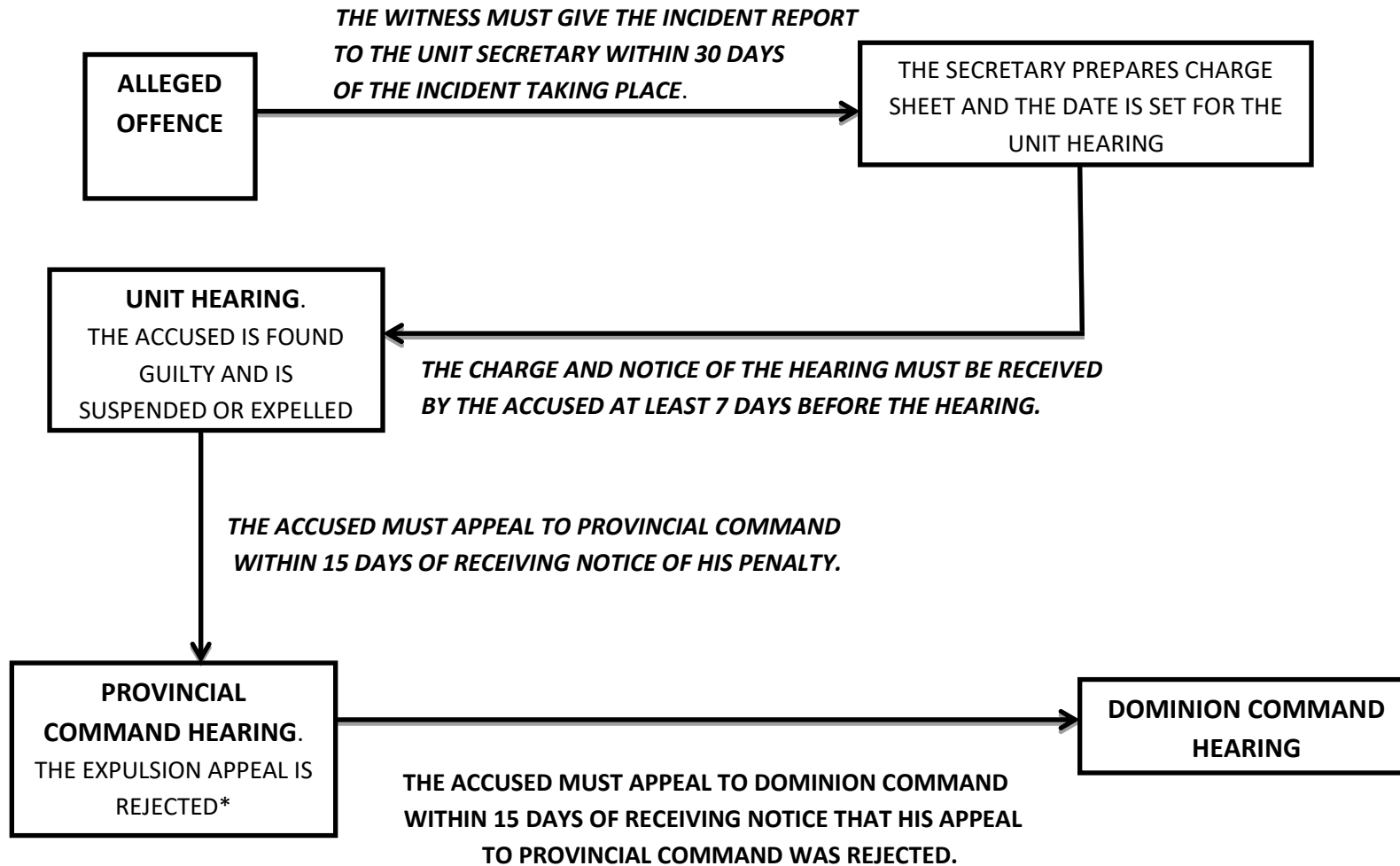
Unit Seal

Signed Unit Secretary

THE DISCIPLINARY PROCESS



THE TIME CONSTRAINTS OF THE DISCIPLINARY PROCESS



** SUSPENSION CANNOT BE APPEALED TO DOMINION COMMAND*