

CIVIL AIR PATROL COMMANDER'S QUICK REFERENCE GUIDE

MEMBERSHIP TERMINATION ACTIONS IN CAP

Reference: CAP Regulation 35-3, *Membership Termination*, 27 Dec 2012, Change 1, 4 September 2013.

OPR: CAP/DP

KEY CONCEPTS OF CAP MEMBERSHIP: (1) Civil Air Patrol membership is a privilege and not a right. (2) All membership is on a year-to-year basis. (3) Membership renewal is not automatic nor is it guaranteed. (4) All members are required to comply with the CAP Constitution, Bylaws, regulations, policies, and the orders of higher authority. (5) If at any time during the membership year a commander determines continued membership to be averse to the best interest of CAP, the member concerned may be terminated prior to his or her membership expiration date. See *Para 1*.

STEP 1: MEMBER DOES SOMETHING WARRANTING MEMBERSHIP TERMINATION. §B, Para 4. Typical grounds for termination include: Failure to maintain initial membership criteria; Conduct involving moral turpitude, Conduct unbecoming a CAP member; Financial irresponsibility; Lying about CAP; Serious or willful violations of CAP regulations; Substandard duty performance for an extended period; Commission of criminal offense; Drunkenness.

STEP 2: UNIT COMMANDER ACTS TO TERMINATE MEMBER. §C, Para 6. (a) Considers other alternatives, such as remedial training; letter of reprimand; temporary suspension; or administrative demotion. (b) Consults with legal officer. (c) Prepares and sends a proposed letter of termination to the member and Approving Authority, Wing/CC & National HQ/DP. (d) Member is notified within 10 days via personal delivery or certified mail. Date that notification is made will be documented. (e) Member is suspended and returns CAP membership card and any issued property. (f) Member has 30 days to appeal. (g) If member chooses not to appeal, Initiating Commander prepares CAPF 2B and notifies Approving Authority & CAP/DP. That ends the process, and the member is terminated, and their records are flagged at NHQ for review should they try to rejoin. If the member appeals, go to **STEP 3**.

STEP 3: IF THE MEMBER APPEALS. §D, Para 7. *The Appellant* can elect to appeal in a writing made to the Initiating Commander and Approving Authority within 30 days of being notified, or if mailed, 30 days after postmark. § D, Para 8. *The Approving Authority* will appoint, on orders, an appeal board of at least 3 officers senior in grade to the appellant and will name a chairperson normally within 10 days of receiving the appeal letter. **SPECIAL NOTE:** Only cadets being terminated for misconduct and senior members being terminated for cause are entitled to an appeal.

STEP 4: PRE-APEAL BOARD PROCESS. Follow these steps succinctly and document fully. Consult with Legal Officer for help. §D, Para 9. (a) *The Initiating Commander* produces a detailed statement of circumstances and sends the notification letter and all pertinent documentation to both the Appeal Board Chair and the Appellant. The chain of command coordinates a suitable location for the appeal board to meet. (b) *The Chairperson* sets a date and place for the hearing, which normally should not be more than 30 days from the date of the orders appointing the board, and notifies the Appellant and the Initiating Commander in writing of the time and place of the hearing. The notice is given at least 15 days prior to the hearing date. The Chair can modify the time and place for the board hearing. The Chair can also appoint one additional member to act as the CAP's Representative and can allow for the appellant to have an assistant. The Chair encourages the exchange of evidence between the parties before the hearing.

STEP 5: THE APPEAL HEARING IS HELD. §D, Para 9(b). Chair presides at all Appeal Board proceedings. The Board will decide if there is (1) Any BASIS for termination, (2) If termination is APPROPRIATE versus retention, and (3) If all the termination procedures have been properly followed. Both sides can present written and oral evidence at the hearing. All testifying witnesses will be sworn in. Evidence must be relevant and material to the issues of the termination, and the Chair rules on admissibility issues and objections. Only the issues for termination stated in the notification letter will be allowed. (If a commander desires to amend a termination basis, go back to STEP 1 and restart the process.) The proceedings are closed, and witnesses will be excused unless testifying. Witnesses can testify in writing, person, on through phone or via video conference. Recording the proceedings is highly encouraged, and if done, both sides must get a copy. The Chair can appoint a Bailiff to assist the Board to maintain order and secure the hearing room.

STEP 6: THE APPEAL BOARD MAKES ITS FINDINGS. §D, Para 9(e)(f). Upon completion of presentations by both sides, the Board starts a closed session to make factual findings and recommendations. A majority vote rules. If a member dissents, they will indicate in writing and attach their reasons to the report. The Chair has discretion to orally report the Board's findings after the Board's closed deliberations have concluded. The Chair prepares and forwards the Board's report to the Approving Authority with any attachments and any dissent normally within 10 days after the close of the hearing.

STEP 7: POST APPEAL BOARD ACTIONS. §D, Para 10. If the Board finds insufficient or no termination basis, the member is **RETAINED**. This is binding, and CAP cannot appeal. NHQ/DP reinstates the member & cancels the suspension. If the Board finds **SUFFICIENT BASIS** and **SUSTAINS** the termination, Approving Authority reviews and independently decides to either **APPROVE** or **REVERSE** the termination, based on the Board's report or on any other considerations the Approving Authority deems appropriate. The Approving Authority sends a decision letter to Appellant normally within 10 days.

STEP 8: (IF TERMINATION IS APPROVED) MEMBER MAY REQUEST MARP REVIEW. See CAPR 35-8. The Membership Action Review Panel (MARP) has the power to sustain, reverse, or modify the Approval Authority's action on the termination. The Appellant has 60 days to request MARP review in writing. The MARP grants a review if a majority of its voting members find that (1) sufficient credible evidence & documentation establishes retaliation, (2) a violation of due process, or (3) the action involved a material failure to follow applicable CAP regulations. All MARP decisions are final.

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MEMBERSHIP TERMINATION FLOW CHART

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