



**THE AMERICAN LEGION**  
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**TO:** POST COMMANDER AND ADJUTANTS

**FROM:** JIM CHAPMAN, DEPARTMENT JUDGE ADVOCATE

**DATE:** MAY 6, 2015

**SUBJECT:** PROPOSED CHANGES TO THE DEPARTMENT CONSTITUTION AND BYLAWS

Attached are proposed changes to the Department Constitution and Bylaws. Resolution forms are normally used for proposed changes; however due to the amount of proposed updates/revisions a resolution form will not be used.

As you can see most of these changes/revisions are typos or clarification on Articles.

If you have any questions pertaining to any of the proposed changes, please feel free to contact me at (814) 701-8810.

**DEPARTMENT JUDGE ADVOCATE PROPOSED CHANGES TO THE  
DEPARTMENT CONSTITUTION AND BYLAWS**

**MARCH 6, 2015**

**CONSTITUTION:**

**Article III, Section 2 and 6** – Correct to eliminate blank line typo

**Article V, Section 3.** Correct to eliminate blank line typo

**Section 6.** Last line on page 7, correct word “commit-tee”

**Article VII, Section 1** – Add to end of the paragraph: The post commander shall appoint a 3 person audit team comprised of general members of the post to conduct an annual post finance audit to be completed before June 30 of each year and before new officers take office.

*Justification: Few posts accomplish this function recommended in the “Post Operations Manual” and will give the opportunity to discover potential problems at the earliest.*

**Article VII - Add a Section 2:**

**Section 2.** The Department shall, should it be deemed advisable, detail special auditors under the supervision of the Judge Advocate or representative to conduct a Post audit. Usually prompted by written complaints of the officers and/or members of the post to the Department Adjutant. The complaint will be forwarded to the Judge Advocate for investigation. Failure of a Post to cooperate with the investigation or audit will be cause for immediate DEC approved charter suspension.

*Justification: See National Bylaws, Article VI, Section 2. Recommend clarification in order to respond to the epidemic of financial irregularities being experienced in the Department over the last couple of years*

**Article IX –**

Add to Section 1 Existing members of other American Legion posts, upon transfer, may be counted as charter members of a newly established post.

*Justification: Added to be consistent with Article IX, Section 5. Post at Large. This section allows members of post 141 to be charter members of a newly formed post charter membership*

Add a new Section 2 - All Department of Virginia Posts, except 141, shall be incorporated under the Virginia State Corporation Commission and maintain that incorporation as long as the post charter is retained. Failure to do so will result in immediate and automatic suspension of the Post charter until incorporation is complete. The incorporation of the post shall include Articles of Incorporation and Incorporation Bylaws. These documents will reflect the major decisions affecting the post property and/or assets must be made by a 2/3 majority vote of the incorporation membership comprised of the American Legion members of the post. Copies of the incorporation documents and the Post EIN must be provided to the Department. Changes to these documents must also be sent immediately to the Department.

Renumber accordingly all sections following the addition to this new Section

*Justification: This change is to bring older posts in the same compliance with the requirement stated in Section 1 that states "In order for posts to be presented a permanent charters, the post MUST BE incorporated...."*

*Additionally, a properly worded Articles of Incorporation and Incorporation Bylaws is required to prevent a conflict between the national and department bylaws as influenced by the current litigation between the department and former post 400.*

**Article IX, Section 2** thru 6 renumber up by one.

Change Section 3 (renumbered to 4.) Correct typo in last line

Change Section 4 (new 5) Correct typos with only one word on the lines

**Article X, Section 2** In the word ARTICLE in line 2, change to read:

Will make a reasonable effort to follow all steps in accordance with.....(keep remaining the same)

Add to the end of the section: However, if the lengthy uniform code proves to be detrimental to the department, district or post, the Department reserves the right to deviate accordingly.

*Change was made per suggestion of the department attorney since the required steps were developed in 1941 when few had phones, no email or fax and travel was very limited.*

In the 4<sup>th</sup> line, after the word Procedure”, add the following:

(as printed after the changes to the Constitution & Bylaws of the National Constitution and Bylaws)

*Justification: Few know where to find this procedure to start with. During current litigation with former Post 400, Inc, their defense is that department did not follow Nationals “Uniform Code of Procedure for the Revocation, Cancellation or Suspension of Post Charters”*

Add a new Section 3 – When a failure to act immediately versus following the lengthy suggested Uniform Code Of Procedure for Revocation, Cancellation, or Suspension of a Post Charter listed in the National Constitution and Bylaws , would be detrimental to the best interests of the Department or the Post, and with concurrence of the Department Judge Advocate, the Department Commander may direct the Department Adjutant to conduct a telephonic or written (email) survey of the Department Executive Committee to suspend the violating post charter while all actions under the National Uniform Code of procedure are accomplished.

*Justification – see justification prior to this change.*

**Article XV, Section 4. Widow Units**

The Department of Virginia American Legion Auxiliary shall be governed by such rules and regulations as may be prescribed by the National Executive Committee and thereafter approved by the Department of Virginia

*We have always stated that the department has no authority over the Auxiliary and this sentence seems to contradict that assumption. Therefore, add to be in compliance with Article XIII, Section 3 of the National Constitution*

**Article XII, Add a new Section 3.** Annual membership dues shall be payable by October 20 of each year for the succeeding year. Any member whose dues for the current year have not been paid by January 1 shall be classed as delinquent. If the dues are paid by February 1, the member shall be automatically reinstated. If the member is still delinquent after February 1, all privileges shall be suspended.

*Justification: to clarify membership dues responsibility and to be in compliance with National Constitution Article X, Section 4. and National Bylaws Article IV, Section 4.*

## **BYLAWS**

**Article II, Section 1** Add following language after indicate;

All regular and ex-officio members of any of the Department Legion committees must be active Legion members in good standing with the Department of Virginia.

*Justification: In keeping with the suggested changes to the American Legion Riders program and only Legionnaires should be members of any status to a Legion committee. Additionally, per Roberts Rules of order, ex-officio are members of the organization.*

*Another issue is that ex-officio members IAW Roberts Rules are voting members unless specified otherwise in the bylaws.*

**Article II, Section 1** – Correct the following:

- Americanism sub-committees, Internal Affairs sub-committees, National Security sub-committees, Veterans Affairs and Rehabilitation sub-committees and add Media & Communications committee to be consistent with National committees:
- Department Sons of The American Legion sub-committee under Internal Affairs Committee
- Legion Riders sub-committee under Internal Affairs Committee
- Foreign Relations sub-committee under National Security Committee
- POW/MIA sub-committee under National Security Committee
- Law and Order and Junior Law Cadet Sub-committees name change to Law and Order/Youth Cadet Enforcement Program sub-committee under National Security Committee
- Employment sub-committee name change to Veterans Employment and Education sub-committee under VA&R committee
- Veterans Administration Volunteer Services sub-committee name change to Veterans Affairs Volunteer Services sub-committee under VA&R committee.
- Women’s Outreach sub-committee added to VA&R committee
- Department Media & Communications Committee added as new
- Social Media sub-committee added as new under Media & Communications Committee

*Justification: To be consistent with recent changes to the National Committees*

**Article III Duties of Officers:**

**Section 5.** Judge Advocate Rewrite description as follows:

The Judge Advocate shall advise Department officers, Department Executive Committee and the Department Internal Affairs Committee on all legal matters arising with Posts, District and department as appropriate. The Judge Advocate will direct and supervise investigations of signed written complaints from members, Posts, Districts and/or Department received by the Department Adjutant when it is determined there is a basis for the complaint or as directed by the Department Executive Committee or Internal Affairs Committee Chairman.

The Judge Advocate shall be responsible and have authority to construct and interpret the National and Department Constitution and Bylaws and shall serve as the Department parliamentarian and shall perform such other duties as are usually incidental to the office.

*Justification: This details what the Judge Advocate position has developed into in recent years.*

**Article IV Discipline:**

**Section 2:** Investigation add the following to the paragraph after the word Committee

The Department reserves the right to bring charges against members and if a trial is warranted by a Department Commander appointed investigation committee of at least three department members, the case will be referred to the Department Executive Committee for trial in which the Judge Advocate will preside as outlined in Article IV, Section 6.

*Justification: We have encountered situations where those in control of post or district can protect individuals from disciplinary action at the post level. All Department members fall under the ultimate jurisdiction of the Department.*

**Article IV, Section 4-** add the following wording/changes where indicated

Change 1, second line, after the word "post" add; /Department

Change 2, third line, after the word "jurisdiction," add: 10 members of the Department Executive Committee,

Change 3, sixth line, after the word "meeting," add: or if there are nonmember witnesses,

*Justification: required to meet the suggested change to Article IV, Section 2*

*Adds wording to allow for nonmember testimony*

**Article IV, Section 5.** Judge Advocate Presides:

Change 1, line 7, after the words "by the" add: the words Department or

*Justification: required to meet the suggested change to Article IV, Section 2*

**Article IV, Section 6.** Conduct of Trial:

Change 1, line one, before the word post, add: Department or

Change 2, line eight, after the word post, add: or DEC members present....

*Justification: required to meet the suggested change to Article IV, Section 2*

**Article IV, Section 8.** Absent Accused:

Change 1, Line 2/3, after the word Post, add: Department or

Change 2, line 6, after the word Post at the beginning of the sentence, add: Department/Post....

Change 3, Line 6, after the word some, add: DEC/Post.....

Change 4, last line after the word Post, add: or DEC may.....

*Justification: required to meet the suggested change to Article IV, Section 2*

**Article V, Section 1.** Bond: Rewrite to read:

All Department officers, American Legion entities thereof and employees of the Department, entrusted with actual funds or control of funds through the power of office held or contracted services or any other means of Legion funds distribution, shall be required to give bond with surety in accordance with the National Bylaws.

*Justification: To be consistent with Constitution Article VII, BONDS, Section 1.*

**Article V, Section 2.** Delete this section

*Justification: Required in Constitution Article VII, BONDS, Section 1*

**Article V, Section 3** BUDGET & AUDIT:

Change 1: Add: A new sentence at the end of the paragraph:

A three member committee composed of non-department officers shall be periodically appointed by the Department Commander to perform an audit of the department finances.

*Justification: To be consistent with the requirements levied on the Posts*

**Article V, Section 6.** Power of Comptroller:

Change 1: Correct the typo and delete the blank line, third line from bottom