

DRAFT

Veterans of Foreign Wars of the United States

Office of the Adjutant General

[BYLAW STUDY GROUP CONSENSUS]

Draft Bylaw, Manual of Procedure and Ritual amendments by BLSG February 11-13, 2019

Sec. 201 - Formation, Institution and Chartering. (Bylaw)

Formation. A Post may be formed by completing a charter application consisting of ~~thirty five (35)~~ **twenty-five (25)** eligible veterans, of which at least ten (10) must be new members, submitted through proper channels to the Commander-in-Chief.

Sec. 201 - Formation, Institution and Chartering. (MOP)

Formation.

1. Obtain New Post Starter Kit from Department Headquarters.
2. Complete Charter Application.
3. Submit completed charter applications, membership applications and membership transmittal to Department Headquarters.
4. Approval by Department Commander

Institution. The Department Commander having jurisdiction shall designate an instituting officer. The instituting officer shall be a member in good standing and shall hold or have held an office equal to or of higher rank than Post Commander. The instituting officer shall be responsible for the proper institution of the Post. No Post shall be instituted with less than ~~twenty-five (25)~~ **ten (10)** members of the new Post present.

Summary:

Suggested changes to this section reduce the number of required members to form a new Post by ten (10) and only require ten (10) members to be present for institution.

Sec. 211 - Suspension and Revocation of Charter. (MOP)

1. Actions by the Commander-in-Chief—Suspension.

The Commander-in-Chief may issue a Special Order directing the Department Commander to suspend a Post Charter.

2. Actions by the Commander-in-Chief—Revocation.

The Commander-in-Chief may revoke a Post Charter in accordance with the procedures herein set forth.

- a. The Post Commander shall be notified in writing of the proposed action by certified mail, return receipt requested, to the address of record.
- b. Unless the Post, in the presence of the Department assigned administrative committee, upon a motion duly passed at any regular or special meeting called for such purpose, notifies the Commander-in-Chief in writing by certified mail, return receipt requested, within thirty (30) days of receipt of the revocation notice that the Post desires a hearing, the revocation of the Charter shall be effected.
- c. In the event that the Post requests a hearing, said hearing shall be held within thirty (30) days of the receipt of the notice. A hearing will be scheduled at a time and place and in a manner prescribed by the Commander-in-Chief.
- d. The Commander-in-Chief shall decide the matter within thirty (30) days.
- e. If the Post is not already under suspension at the time that the notice of proposed revocation is given, the Post shall thereafter be under suspension.
- f. The Commander-in-Chief may at their discretion, and after hearing the matter if so requested, revoke the charter of the Post by issuing a Special Order to that effect.

Notwithstanding the provisions above, the Commander-in-Chief ~~shall automatically revoke the Post Charter if, while under suspension, the Post fails to establish a meeting quorum or elect officers as required in Section 216.~~ *shall declare a Post defunct in accordance with Section 212 of the National Bylaws.*

Summary:

Section 212 of the National Bylaws already gives the Commander-in-Chief the authority to defunct “any Post with less than ten (10) members, or, while under suspension the Post fails to establish a meeting quorum or elect the required officers... with the issuance of a special order.”

Sec. 212 - Defunct Posts. (Bylaw)

Any Post with less than ten (10) members, or, while under suspension the Post fails to establish a meeting quorum or elect the required officers, its charter shall be ~~automatically~~ revoked and declared defunct with the issuance of a special order by the Commander-in-Chief.

Summary:

Suggested changes to this section restore the Commander-in-Chief's discretion to issue a special order.

Sec. 217 - Nomination, Election, Installation and Term of Office. (MOP)

Challenging Election Results. ~~If irregularities are claimed with respect to the election to any office, such challenge must be made in a writing containing specific details concerning the irregularities, signed by the challenger, and forwarded to the District Commander, mailed no later than three (3) days after the election.~~

If irregularities are claimed with respect to the election to any office, such challenge must be made prior to the close of the meeting.

Summary:

The process for challenging election results is convoluted, confusing, and counterintuitive. Suggested changes to this process expedite the action and preclude intervention by higher authority.

Sec. 218 - Officers and Chairmen, Duties and Obligations. (MOP)

(a) Officers.

(1) **Commander.** Among the duties of a Post Commander, the Commander shall:

- a. Preside at all meetings of the Post, conducting such meetings in accordance with Article X of the Bylaws and Manual of Procedure and other applicable parliamentary rules.
- b. Enforce strict observance of the laws and usages of this organization, including Post, County Council (if applicable), District and Department Bylaws and the Congressional Charter, National Bylaws, Manual of Procedure and Ritual and all lawful orders from proper authorities.
- c. Insist that Post business and activities be conducted in such a manner that they do not violate any applicable governmental law, ordinance or regulation nor bring or tend to bring dishonor or embarrassment upon the Post, its members or the Veterans of Foreign Wars of the United States.
- d. Decide all questions of law and usage in the Post, subject to appeal pursuant to the Bylaws.
- e. Upon entering into office, appoint all other officers, committee chairmen and committees not otherwise provided for. The Commander may remove such appointed officers, committee chairmen and committees at their pleasure.
- f. Approve all disbursements of funds properly authorized by the Post **by use of voucher or payment order.**
- g. Assure that the office of Quartermaster is bonded according to Section 703 of the Bylaws.
- h. Assure that all dues and other monies due the National Headquarters and Department are forwarded promptly together with accurate reports and returns pertaining thereto.
- i. Assure that all reports are correctly prepared and promptly forwarded, that all the business of the Post is handled with dispatch and that all necessary licenses and permits are obtained for proper operation. Ensure that a properly completed Report of Election of Officers for the ensuing year is submitted to Department and National Headquarters by June 1.
- j. Assure that the Post Trustees have examined the books and records of the Post and prepared the Post Trustees Quarterly Report of Audit no later than the end of the month following the last day of each quarterly period.
- k. Assure that the Commander or their representative attend all properly called District Conventions or meetings and County Council meetings (if applicable).
- l. Comply with and perform all of the duties required by the laws and usages of this organization, the provisions of these bylaws, the Manual of Procedure and Ritual and Department, District, County Council (if applicable) or Post Bylaws pertaining to the duties and obligations of a Post Commander and lawful orders from proper authority and perform such other duties as are usually incident to the office.
- m. Be an ex-officio member of all committees.

Summary:

The use of a voucher or payment order is necessary to provide a record of the Commander's approval.

Sec. 222 - Delegates, District Convention & Meetings, Department and National Conventions. (MOP)

Delegates and alternates for the District Convention and Meetings, Department and National Conventions shall be elected at a regular meeting in April. Delegate strength will be based on members in good standing as of March 31st.

Delegates and alternates of each Post shall serve as delegates throughout the year provided they remain members in good standing in the respective Post within the District.

Delegates shall not be recognized at the National Convention unless they personally register their completed delegate card with the National Credentials Committee.

Posts instituted after delegate strength has been determined, but prior to convening date of the respective convention or district meeting, shall on the day of institution, elect one delegate and one alternate for each thirty names or fraction thereof according to the number of names listed on the charter application.

Summary:

Suggested changes to this Section stipulate that delegates shall serve for a term. This language was removed a year ago when extensive revisions were made to this Section; however, this language should have stayed.

Sec. 417 - Nomination, Election, Installation and Term of Office. (MOP)

Challenging Election Results: ~~If irregularities are claimed with respect to the election to any office, such challenge must be made in a writing containing specific details concerning the irregularities, signed by the challenger, and forwarded to the Department Commander, mailed no later than three (3) days after the election.~~

If irregularities are claimed with respect to the election to any office, such challenge must be made prior to the close of the meeting.

Summary:

The process for challenging election results is convoluted, confusing, and counterintuitive. Suggested changes made to this process expedite the action and preclude intervention by higher authority.

Sec. 418 - Officers: Duties and Obligations. (MOP)

(a) Officers.

- (1) **Commander.** Among the duties of a District Commander, the Commander shall:
 - a. Preside at all meetings of the District conducting such convention and meetings in accordance with Article X and other applicable parliamentary rules and procedures.
 - b. Promote schools of instruction for Post officers at District meetings.
 - c. Enforce strict observance of the laws and usages of this organization, including District and Department Bylaws and the Congressional Charter, National Bylaws, Manual of Procedure and Ritual and all lawful orders from proper authorities.
 - d. Insist that District business and activities are conducted in such a manner that they do not violate any applicable governmental law, ordinance or regulation nor bring or tend to bring dishonor or embarrassment on the District, its members or the Veterans of Foreign Wars of

- the United States.
- e. Decide all questions of law and usage in the District, subject to an appeal pursuant to these bylaws.
 - f. Appoint officers, committee chairmen and committees not otherwise provided for. The Commander may remove such appointed officers, committee chairmen and committees at their pleasure.
 - g. Approve all disbursements of funds properly authorized by the District **by use of a voucher or payment order.**
 - h. Assure that the office of District Quartermaster is bonded according to Section 703 of these bylaws.
 - i. Assure that all monies due the Department and National Headquarters are forwarded promptly.
 - j. Assure that all reports are correctly prepared and promptly forwarded and that all the business of the District is handled with dispatch.
 - k. Assure that the District Trustees have examined the books and records of the District and prepared the District Trustees Report of Audit. The Commander shall forward a copy within thirty (30 days) to the Department Quartermaster for referral to the Department Inspector.
 - l. Assure that the District Inspector has properly inspected the books and records of the Posts within the District in accordance with the Department Bylaws or as directed by the State Commander.
 - m. Assure that eligible veterans are encouraged to join and maintain membership.
 - n. Be an ex-officio member of all committees.
 - o. Serves as a member of the Department Council of Administration.**

Summary:

The use of a voucher or payment order is necessary to provide a record of the Commander's approval.

The District Commander's role on the Council of Administration is a duty and responsibility incident to their office.

Sec. 509 - Consolidation of Departments. (Bylaw)

Two or more Departments may consolidate upon recommendation of the **Department Conventions and approval of the** Commander-in-Chief ~~and approval of the National Council of Administration~~ as prescribed in Section 509 of the Manual of Procedure.

Sec. 509 - Consolidation of Departments. (MOP)

Two or more Departments may consolidate upon a vote of their respective Department Conventions in accordance with the procedures as follows:

1. A motion to consider the consolidation must be approved by the individual Department **Councils of Administration Convention.**
2. Each Department Commander shall submit the names of three members to serve on a joint Consolidation Committee to investigate along with a Chairman appointed by the Commander-in-Chief. A slate of line officers for the consolidated Department will be submitted to each Department Convention for approval along with the consolidation proposal. District Commanders from all Departments shall serve as members of the Council of Administration until District geographical boundaries are established at the next convention.
3. A resolution containing the committee's final report shall be provided to every Post in each Department and to the Commander-in-Chief at least thirty (30) days prior to the Department Conventions.
4. The consolidation resolution requires a two-thirds (2/3) vote of the delegates present and voting at each Department Convention.
5. The Commander-in-Chief may appoint an oversight committee to complete the consolidation of the Departments.
6. The property of each Department shall be conveyed to and become the property of the consolidated Department. All past officers in each Department shall be entitled to rank as of date of service in their respective Departments.
7. Once approved by the Commander-in-Chief, the consolidated charter shall be issued. The Certificate of Charter shall rank from the date of the senior Department's charter.

Summary:

The procedure for Department Consolidation will continue to be modified and adjusted as more Departments utilizing the process report their findings. Suggested changes made to this section encourage Department acceptance by placing the decision in the hands of the body (the Department Convention).

Sec. 517 - Nomination, Election, Installation and Term of Office. (MOP)

Challenging Election Results: If irregularities are claimed with respect to the election to any office, such challenge must be made prior to the close of ~~the meeting. election unless otherwise prescribed in the Department Convention Rules.~~

Summary:

The process for challenging election results at the Post and District levels is convoluted, confusing, and counterintuitive. Suggested changes made to this section standardize the process at all levels.

Sec. 518 - Officers: Duties and Obligations. (MOP)

(a) **Officers.**

(1) Commander. Among the duties of a Department Commander, the Commander shall:

- a. Preside at all meetings of the Department conducting such conventions and meetings in accordance with Article X of the Bylaws and Manual of Procedure and other applicable parliamentary procedures.
- b. Enforce strict observance of the laws and usages of this organization, including Department Bylaws and the Congressional Charter, National Bylaws, Manual of Procedure and Ritual and all lawful orders from proper authorities.
- c. Insist that Department business and activities are conducted in such a manner that they do not violate any applicable governmental law, ordinance or regulation nor bring or tend to bring dishonor or embarrassment on the Department, its members or the Veterans of Foreign Wars of the United States.
- d. Decide all questions of law and usage in the Department, subject to an appeal pursuant to these bylaws.
- e. *Appoint officers, committee chairmen and committees not otherwise provided for. The Commander may remove such appointed officers, committee chairmen and committees at their pleasure.*
- f. Approve all disbursements of the funds properly authorized the Department Council of Administration **by use of a voucher or payment order.**

Summary:

The use of a voucher or payment order is necessary to provide a record of the Commander's approval.

Sec. 604 - Governing Body; Composition. (Bylaw)

The supreme power of this Organization shall be lodged in the National Convention. The National Convention shall consist of:

1. The Commander-in-Chief and Past Commanders-in-Chief and all other *elected* National officers, the Adjutant General, Inspector General and Chief of Staff who are members in good standing in their respective Posts.
2. All Council of Administration members.
3. Department Commanders. In the absence of the Department Commander, the Department Senior Vice Commander, or, in the Department Senior Vice Commander's absence, the Department Junior Vice Commander may be registered and function as a member of the National Convention.
4. Elected Post delegates.
5. *Committee members appointed by the Commander-in-Chief, not otherwise a delegate.*

Summary:

Suggested changes to this section ensure that all Commander-in-Chief appointed committee members are members of the National Convention and have a voice and vote on the Convention floor.

Sec. 901 - Discipline of Members. (MOP)

It is the purpose of this Article to provide a procedure whereby a member may be appropriately disciplined while assuring that such member is given reasonable notice of the charges against them and afforded an opportunity to request that such charges and specifications be heard and determined at a Disciplinary Hearing. Except as otherwise specifically provided in the Congressional Charter or sections of the Bylaws and this Manual of Procedure, no member may have their membership terminated or suspended nor may any member be relieved of any office unless such discipline is imposed as provided in Article IX.

This Article does not apply to action taken by a Post, County Council, District or Department to bar or suspend members from participating in activities or use of clubrooms sponsored or conducted by such Post, County Council, District or Department; such actions are subject to separate regulation by the pertinent Post, County Council, District or Department.

The following forms, as they may be revised from time to time, will be used in conjunction with this section: Special Order Initiating Disciplinary Action (DA-1); Charges and Specifications (DA-2); Order Appointing a Disciplinary Hearing Panel and Special Order (DA-3); Findings and Sentence (DA-4); Form of Record of Disciplinary Action (DA-5); and Request for Hearing (DA-6); *and Notification of Penalty No Hearing Requested (DA-7)*. (Template forms are in the Appendix of the Manual of Procedure.)

Summary:

Suggested changes to this Section are to accommodate a new disciplinary action form, Notification of Penalty No Hearing Requested (DA-7).

Sec. 903 - Procedure for Disciplinary Actions. (Bylaw)

Disciplinary actions shall be initiated only when there are reasonable grounds to believe that an offense has been committed by the person charged and a signed incident report or appropriate documentation is submitted by the accuser to the appropriate commander (i.e., Post, Department, Commander-in-Chief).

Prior to the initiation of disciplinary action, a Post or Department or its respective Commander or the Commander-in-Chief, shall appoint an individual or committee to investigate alleged offenses brought to its attention by a member and report on the results of such investigation.

Any action taken must be in writing and delivered by registered or certified mail, return receipt requested to the last known address of the accused member. Such action shall include notification of appellate rights. A copy thereof must also be forwarded to the next higher authority.

Who May Initiate:

1. A Post may, acting by two-thirds vote at a regular or special meeting, instruct the Post Commander to initiate such action with respect to a member of the Post.
2. A Department Commander may initiate such action with respect to any member within the Department.
3. The Department Convention or Department Council of Administration may, by two-thirds vote, instruct the Department Commander to initiate such a proceeding.
4. The Commander-in-Chief may initiate such action with respect to any member of the Veterans of Foreign Wars of the United States.
5. The National Convention or the National Council of Administration may, by two-thirds vote, instruct the Commander-in-Chief to institute such a proceeding. In the event the Commander-in-Chief is the accused, the National Convention or National Council of Administration shall designate a member to initiate such disciplinary action.
6. If the respective Commander fails or refuses to initiate a disciplinary action after being instructed to do so, another member may be instructed to initiate the action.
7. If the Commander is the accused, action must be initiated by higher authority.

How to Initiate: Disciplinary Actions must be initiated by the preparation and delivery of written Charges and Specifications to the accused member.

Charges and Specifications – How prepared and Delivered: Charges and

Specifications must be prepared and delivered in the manner described and authorized in the Manual of Procedure.

Hearing Requested. If the accused member desires a Disciplinary Hearing, such member must within fifteen (15) days of the receipt of the Charges and Specifications, request the hearing. Such request shall be made in the manner prescribed in the Manual of Procedure. *In the event a hearing is requested and the accused fails to appear, the action shall continue as though no hearing was requested.*

No Hearing Requested. In the event that the accused member does not properly request a Disciplinary Hearing within fifteen (15) days or, prior to the expiration of the fifteen (15) day period, advises the Commander or the designated member initiating the action that a hearing is not desired, the Commander or the designated member initiating the charges, may take such action as is deemed appropriate including the ordering of any penalties prescribed in Section 907 of these bylaws.

1. If initiated at the Post, the Commander or the designated member initiating the charges, must have concurrence by majority vote of the Post to order any penalties prescribed in Section 907 of these bylaws.
2. If initiated by the Department Commander, the Department Commander may order any penalties prescribed in Section 907 of these bylaws.
3. The Department Council of Administration or the Department Convention causing the Charges to be initiated shall, by majority vote, order any penalties prescribed in Section 907 of these bylaws.
4. If initiated by the Commander-in-Chief, the Commander-in-Chief may order any penalties prescribed in Section 907 of these bylaws.
5. The National Council of Administration or the National Convention causing the Charges to be initiated shall, by majority vote, order any penalties prescribed in Section 907 of these bylaws.

~~Any action taken must be in writing and delivered by registered or certified mail, return receipt requested to the last known address of the accused member. Such action shall include notification of appellate rights. A copy thereof must also be forwarded to the next higher authority.~~

Notification of penalty (Form DA-7) shall be mailed to the accused's last known address by registered or certified mail return receipt requested.

Summary:

Suggested changes to this section move language for clarity and add language to clarify the procedure in cases where a hearing is requested, but the accused fails to appear.

Sec. 903 - Procedure for Disciplinary Actions. (MOP)

(a) Procedure — Disciplinary Hearing Requested. In the event that the accused member requests a Disciplinary Hearing within fifteen (15) days and in the manner prescribed above, the following procedures apply:

1. **Appointment of Panel.** If the action is initiated at the Post level, the Department Commander will appoint the disciplinary panel members, date, time and location by issuance of an order (Form DA-3). The order shall detail at least seven (7) members to the panel one of which shall be designated as President of the panel.

In the event that the Department Commander initiating the disciplinary action is the accuser, the Commander-in-Chief will issue the order.

If the Commander initiating the disciplinary action or appointing the panel expects to be a witness with respect to factual matters, the Commander should request that the order appointing the panel be issued by higher authority. That request will be in writing.

Only members of the Veterans of Foreign Wars of the United States in good standing may sit on a Disciplinary Hearing Panel. No blood relative of the accused or any accuser or witness for the prosecution shall be appointed to the panel.

The same panel may be appointed to hear more than one case. Related cases may be heard at the same time, provided that the Recording Officer maintains a complete and separate record for each accused.

In the event that appointees are unable to serve or the time or place of a hearing must be changed, a supplemental order may be issued.

- a. President.** The panel President is the presiding officer over the panel and hearing process and not subject to challenge. The duties of the President shall commence upon the issuance of the Special Order. The President shall be acquainted with the hearing procedures, maintain order and give the necessary directions for the conduct of the proceedings. The President shall rule upon all questions concerning the admissibility of evidence, the competency of witnesses, continuances, adjournments, recesses, motions, challenges and orders, the propriety of any argument or statement of counsel and on any other matter deemed appropriate for the official and efficient conduct of the hearing. The president of the panel shall take notes or cause notes to be taken that summarize the substance of the testimony of the witnesses and exhibits, the arguments of counsel, the objections and rulings on matters brought to the attention of the panel and other matters of significance occurring in the course of the proceedings. The Panel President shall not discuss the merits of the case with members of the panel prior to the Hearing.
- b. Prosecutor.** Shall present the evidence supporting the Charges and Specifications. *The initiating officer shall appoint the Prosecutor; however, the* ~~The~~ Prosecutor shall not be a member of the panel. The Prosecutor should not be a witness with respect to disputed factual matters. They may, however, provide evidence concerning procedural matters.
- c. Defense Counsel.** The accused shall select their own professional or lay counsel. The accused may employ or select a private lawyer at their own expense. Defense Counsel shall not be a member of the panel nor an accuser. Defense Counsel should not be a witness with respect to disputed factual matters. They may, however, provide evidence concerning procedural matters.
2. **Continuance.** The President may, for reasonable cause, postpone and/or reschedule the hearing. A party desiring that the President postpone or reschedule the hearing shall make such request in writing, stating the reasons for such request. All parties and panel members shall be advised in writing of the rescheduled date.
3. **Recording Officer.** The Recording Officer shall record all the proceedings and the recordings shall be retained and included as record. *The initiating officer shall appoint the recording officer; however, the recording officer shall not be a member of the panel.* The recording officer should take reasonable steps to assure that all testimony is recorded and that all speakers and exhibits are adequately identified in the record. Any notes taken by the President shall be retained with the record of the proceedings. A complete record should include copies of:
1. Special Order advising of the initiation of a disciplinary action. (Form DA-1)
 2. Charges and Specifications. (Form DA-2)
 3. The written statement that the Charges and Specifications have been personally served or mailed to the accused in accordance with Section 903(e).
 4. The request for the Disciplinary Hearing made by the accused. (Form DA-6)
 5. The order appointing the Panel. (Form DA-3)
 6. The tape recording or videotape of the proceedings.
 7. The President's notes of the proceedings.
 8. Any exhibits admitted into evidence.
 9. The record of disciplinary action. (Form DA-5)
 10. The findings and sentence. (Form DA-4)
 11. The record shall be delivered to and maintained by the Adjutant.

Summary:

Suggested language was added to this section to clarify who appoints the Prosecutor and Recording Officer.

APPENDIX (Article IX Forms) DA-7

Summary:

Notification of Penalty No Hearing Requested (Form DA-7) was created to ensure proper notification of penalty to the accused where no hearing was requested.

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