

**CONSTITUTION
AND
BY-LAWS
OF
THE AMERICAN LEGION
DEPARTMENT OF NEW JERSEY**



**171 JERSEY STREET
BLDG.#5, SECOND FLOOR
TRENTON, NEW JERSEY 08611**

Revised 2021

Phone: (609) 695-5418

(609) 695-5419

Fax: (609) 394-1532

**CONSTITUTION OF
THE AMERICAN LEGION
DEPARTMENT OF NEW JERSEY**

PREAMBLE

For God and Country, we associate ourselves together for the following purposes:
To uphold and defend the Constitution of the United States of America; to foster and perpetuate a one hundred percent Americanism; to preserve the memories and incidents of our association in all Wars; to inculcate a sense of individual obligation to the community, state and nation; to combat the autocracy of both the classes and the masses; to make right the master of might; to promote peace and goodwill on earth; to safeguard and transmit to posterity the principals of justice, freedom and democracy; to consecrate and sanctify our comradeship by our devotion to mutual helpfulness.

ARTICLE I

Name

The name of this organization shall be THE AMERICAN LEGION, Department of New Jersey.

ARTICLE II

Nature

Section 1, THE AMERICAN LEGION is a civilian organization; membership therein does not affect non increase liability for military or police service. Rank does not exist in the Legion; no member shall be addressed by his/her military or naval title in any convention or meeting of the Legion.

Section 2, THE AMERICAN LEGION shall be absolutely non-political and shall not be used for the dissemination of partisan principals nor for the promotion of the candidacy of any person seeking public office or preferment.

ARRICLE III

Organization

The Department of New Jersey shall be organized in counties and these in turn in Posts.

ARTICLE IV

Eligibility

Section 1, An individual is eligible for membership in the American Legion only if the individual – (1) has served in the Armed Forces of the United States – (i) the period of April 6, 1917, through November 11, 1918; or (ii) any time after December 7, 1941; or a government associated with the United States Government during a period or time referred to in subsection (1) of this section and was a citizen of the United States when the individual entered that service; and (2) was honorably discharged or separated from

that service or continues to serve honorably during or after that period of time; provided, however, that such service shall have been terminated by honorable discharge or honorable separation, or continued honorably during or after any of said periods; provided, further, that no person shall be entitled to membership who, being in such service during any said periods, refused on conscientious, political or other grounds to subject themselves to military discipline or unqualified service.”

Section 2, There shall be no form or class of membership except an active membership, and dues shall be paid annually or for life.

Section 3, No person may be a member at any one time of more than one Post.

Section 4, No person who has been expelled by a Post shall be admitted to membership in another Post without the consent of the expelling Post, except that where such consent has been asked for and denied by such Post, **such person** may then appeal, through the County Committee, to the Department Executive Committee for permission to apply for membership in another Post and shall be ineligible for membership until such permission is granted.

ARTICLE V

Legislative

Section 1, The legislative body of the organization shall be a Department Convention , except as otherwise provided in the Constitution and By-Laws.

Section 2, The place and time of the Department conventions shall be determined and fixed by the Department Executive Committee with authority to contract for future conventions not to exceed three annual conventions in advance.

Section 3, In the event the State of New Jersey shall declare a State of Emergency where our Department, Counties and Post are prevented from convening or meeting or where it is stated in the declaration of State of Emergency that the American Legion can not convene or meet to conduct Legion business it shall be up to the Department Commander, Department Adjutant or Department Judge Advocate to call special meeting by electronic means for the purpose of conducting Legion business, Special DEC Meetings or for voting on Legion or Convention issues. The Department Executive Committee shall be given Ten (10) day’s notice for such special meetings.

Section 4, The annual convention shall be composed of Delegates and Alternates from each Post, and all elected Officers and members of the Department Executive Committee. Elected Officers and members of the department Executive Committee shall be designated as Delegates-at-Large. Each Post shall be entitled to one delegate and one alternate, and to one additional delegate and one additional alternate delegate for each fifty (50) members for whom the National, Department and County per capita taxes have been paid, and cards delivered to the department Headquarters sixty (60) days prior to the Department Convention. The vote of each Post shall be equal to the number of delegates to which the Post is entitled plus that vote of such Delegate-at-Large belonging to such Post. Under no circumstances may a delegate or delegate-at-large cast more than one (1) vote on any subject under consideration. A quorum shall exist when sixty (60) per cent of the Posts are represented.

Section 5, The delegates to the Department Convention shall be chosen by each Post and the credentials of such delegates shall be certified to by the Post Commander and Post Adjutant. The credentials of the Delegates-at-Large shall be certified by the Department Commander and Department Adjutant. Such delegates and Delegates-at-

Large must be registered with the convention and their registration fees paid to entitle them to vote on matters coming before the convention.

Section 6, When the Convention is not in session the powers of the Department not otherwise delegated shall be vested in the Department Executive Committee or in a Referendum Caucus as hereinafter set forth.

Section 7, New legislation or major policies beyond the scope of the Department Executive Committee shall be decided by Referendum Caucus.

Section 8, The Referendum Caucus, if and when called, shall supersede the authority of the Executive Committee in such matters as may regularly be brought before it. It shall be limited in action to such matters as shall have been specified in the call of referendum, and within these limits shall have the same powers as the Department Convention.

Section 9, A Referendum Caucus shall be called by a two-thirds vote of regular or special session of the Executive Committee or upon a demand in writing ratified by three County Committees, or upon a demand in writing ratified by not less than ten per cent of the Posts in the Department, such notice being served upon the Department Commander. It shall be mandatory upon the Executive Committee to fix the time and place for such caucus, the time to be within sixty (60) days from the date of receipt of such demand.

Section 10, The call for a Referendum Caucus shall specify the questions to be acted upon, and not less than thirty (30) days notice in writing shall be given to all Posts in good standing with the Department and to each member of the Department Executive Committee.

Section 11, Representation in such caucus shall be based upon the voting strength of the Posts as at the time of the last regular convention preceding the said Referendum Caucus, said voting strength to be certified to by the department Adjutant; the credentials of the Delegates to be certified to by the Post Commander and Post Adjutant, and the credentials of the Delegates-at-Large to be certified to by the Department Commander and Department Adjutant. Sixty (60) per cent of the active Posts shall constitute a quorum.

ARTICLE VI

Administration

Section 1, The Department Officers shall be; A Department Commander, five Vice Commanders of equal rank, Finance Officer, National Executive Committeeman and Alternate National Executive Committeeman. These officers shall be elected at the Department Convention unless specified by these Constitution and By-Laws, except Adjutant, Assistant Adjutant, Judge Advocate, Service Officer, Assistant Service Officer, Public Relations Director, Historian, Chaplain and Master-at-Arms, who shall be appointed in the manner hereafter prescribed. The National Executive Committeeman and Alternate National Executive Committeeman shall be elected at Department Conventions in accordance with the provisions of the National Constitution, and as hereafter provided. The majority vote shall elect. In the event of a vacancy in an elective office, caused by death, resignation or other disability, the same shall be filled by the Department Executive Committee.

Section 2, The Department Adjutant, Assistant Adjutant, Judge Advocate, Service Officer, Assistant Service Officer, Public Relations Director, Historian, Chaplain and Master-at-Arms shall be appointed by the Department Commander at the first regular organization meeting of the Department Executive Committee after each Department

Convention, such appointments to be subject to the approval of the Department Executive Committee.

Section 3, The Department Executive Committee shall have the authority to pay reasonable salaries to the Department Adjutant, Department Assistant Adjutant, Department Service Officer, Assistant Department Service Officer and Department Public Relations Director.

Section 4, The elected officers, members-at-large of the Department Executive Committee and Past Department Commanders shall be Delegates-at-Large of the Department Convention with vote. Past Department Commanders must qualify as provided in Article VII, Section 11.

Section 5, The office of the Department shall be located at a place within the state, which shall be designated by the Department Executive Committee.

Section 6, The Elective Department Officers shall assume the duties of their respective offices immediately after their election and installation; the appointive officers immediately after the confirmation of their appointments.

Section 7, All Past Department Commanders while in good standing in a Post in this Department, shall be members for life of the Department Executive Committee, without vote, and shall also be life delegates to all Department Conventions, with vote, to be exercised with their respective Posts.

ARTICLE VII

The Executive Committee

Section 1, The Department Executive Committee shall have jurisdiction in all manners concerning the Department and shall be responsible to the Department Convention.

Section 2, The Department Executive Committee shall be composed of the elective officers of the Department, the Department Adjutant, Assistant Adjutant, Judge Advocate, Service Officer, Assistant Service Officer, Historian, Chaplain, Public Relations Director, Master-at-Arms, the National Executive Committeeman and Alternate National Executive Committeeman, and one Member at Large and one Alternate Member at Large from each county.

Section 3, The elective Officers of the Department and the National Executive Committeeman shall be members of the Department Executive Committee with vote during their terms of office. The Adjutant, Assistant Adjutant, Judge Advocate, Service Officer, Assistant Service Officer, Historian, Chaplain, Public Relations Director, and Master-at-Arms shall be members of the Department Executive Committee without vote during their terms of office. The Alternate National Executive Committeeman shall be a member of the Department Executive Committee during **his/her** term of office, but shall have the right to vote only in the absence of the National Executive Committeeman.

Section 4, Members at large of the Department Executive Committee shall be members of the Department Executive Committee for a term of three (3) years or until their successors shall have been chosen as herein elsewhere provided. They shall have the right of vote, Alternate Members at Large shall be members of the Department Executive Committee without vote, except in the absence of the Member at Large for whom the said Alternate member is the direct alternate. In the event of the absence of a Member at Large **his/her** direct Alternate shall vote in his/her stead.

Section 5, The Alternate Members at Large of the Department Executive Committee shall be the County Commanders of the several counties of the Department during their

terms of office. Each County Commander shall be the direct alternate of the Member at Large elected from the same County.

Section 6, Members at Large of the Department Executive Committee shall be elected at a County meeting, in their respective Counties, of the County delegates of the Posts of the County, the said meeting to be held prior to the Department Convention. In the event that a County fails to elect a Member at Large to the Department Executive Committee then it shall be the duty of the delegates to the Department Convention from the Posts within that County to elect such Member at Large at a county caucus to be held at the time and place of Department Convention. A majority vote of the delegates present at the Convention shall govern. A Department Officer, designated by the Department Commander, shall preside at such election and shall certify the correctness of the election. Members at Large shall take office immediately following the close of the Department Convention.

Section 7, Vacancies occurring by reason of resignation, death or disability of any Member at Large of the Department Executive Committee shall be filled by election for the unexpired term, and such election shall be held at a meeting of the County Committee called for that purpose, provided that not less than ten (10) days notice shall be given to all accredited delegates to the County Committee.

Section 8, The election of a Member at Large by a County Committee in accordance with the provisions of Section 6 or Section 7 of this Article, shall be certified to the Department Executive Committee by the County Commander and County Adjutant.

Section 9, Members at Large of the Department Executive Committee who shall fail to attend three (3) consecutive regular meetings of the Department Executive Committee without cause may be considered to have resigned provided that the Department Executive Committee shall be resolution so declare.

Section 10, Members at Large of the Department Executive Committee shall have the status of Department Officers.

Section 11, Past Department Commanders while in good standing in a Post of this Department, shall be life members of the Department Executive Committee, without vote.

ARTICLE VIII County Committee

Section 1, For the purpose of co-ordinating and unifying the work and activities of local Posts and exercising a general supervision over such Posts, there shall be a County Committee in each County which shall be responsible to the Department Executive Committee.

Section 2, The County Committee shall be composed of at least one (1) delegate from each Post in the County and such additional delegates as the County Constitution shall provide.

Section 3, The delegates to the County Committee shall be chosen by each Post.

Section 4, The County Committee shall elect a County Commander, a County Adjutant, a County Finance Officer, and such other officers as are deemed necessary; provided such County Committee may, at its discretion, have its County Adjutant appointed by its County Commander. All Elective Officers of the County Committee shall be qualified delegates thereof. It shall make its own By-Laws and appoint such committees as shall be deemed advisable from time to time to carry out the work of the County Committee.

Section 5, All applications for temporary and permanent Post charters within the County must be submitted to the County Committee, which shall forward the same to the Department Executive Committee, together with its recommendations and a statement of its reasons therefore.

ARTICLE IX

Posts

Section 1, The local unit shall be termed the Post, which shall have a minimum membership of fifteen (15) and shall be duly chartered as herein provided. Applications for temporary and permanent Post charters shall be made through the County Committee of the County in which the proposed Post is located. The County Committee shall forward such application with its recommendations for approval or disapproval and a statement of its reasons therefore to the Department Executive Committee for examination and approval or disapproval. If approved by the Department Executive Committee, it shall be forwarded to National Headquarters for the issuance of a charter. No application for a Post shall be approved if the said Post shall be named in honor of any living person.

Section 2, The government and administration of the local Post shall be in accordance with the Constitution and By-Laws adopted by such Posts, provided however, that nothing contained therein shall conflict with the National or Department Constitution and By-Laws. **(Suggested form for Post Constitution and By-Laws can be found in the Post Officers Guide and Manual of Ceremonies).**

Section 3, Each Post shall be the judge of the qualifications of membership therein and shall have the authority to expel or suspend and member for conduct prejudicial in the interests of THE AMERICAN LEGION, subject to **his/her** rights of appeal in writing within thirty (30) days to the County Committee. The finding of such Committee after a fair hearing shall be referred to the Department Executive Committee for final action.

Section 4, The Department Executive Committee may suspend, cancel or revoke a Post Charter. The action taken by the Department Executive Committee shall be final and conclusive unless an appeal is taken to the National Executive Committee within thirty (30) days from the date of said suspension, cancellation or revocation. The action taken by the National Executive Committee upon appeal shall be final.

Section 5, Any Post failing to meet the obligations imposed upon it by the Constitution and By-Laws of the County, Department or National body, or ceasing to function for six (6) months as AMERICAN LEGION POST, or voluntarily ceasing to function as a Post, or merging with another Post, or refusing to pay County, Department and National per capita dues, or under other such conditions as might make such action necessary, shall upon order of the Department Executive Committee surrender its charter for cancellation; **provided the County Commander wherein the Post in question is located shall have consulted with if possible the last known Post Commander and/or Post Adjutant; has been assured that each Post member in good standing on the current Post roster has been notified by receiving a copy of notice of the intention to file for charter cancellation and has made a thorough survey of the assets of the Post, both real and financial, and has notified Department Headquarters, in writing not later than ten (10) days prior to the next official meeting of the Department Executive Committee, that the County Commander recommends the consideration of the cancellation of the questioned Post charter.** Upon failure to surrender such charter, immediate steps may be taken for its revocation, suspension or cancellation. The procedure for

suspension, cancellation or revocation of a Post charter shall be in accordance with the Uniform Code of Procedure approved by the National Executive Committee. **(The Uniform Code of Procedure for Revocation, Cancellation or Suspension of Post Charters can be found in the Post Officers Guide Manual of Ceremonies).**

Section 6, Upon revocation, cancellation or suspension of the charter of a Post, said Post shall immediately cease operations and upon revocation or cancellation shall turn over its charter to the Department Commander or Department Executive Committee, and the Department Executive Committee is authorized, empowered and directed by and through its duly authorized agent **(Power of Attorney)** to take possession, custody and control of all the records, property, finances and assets of said Post **as stated in the Posts or Departments Articles of Incorporation or Department policy;** provided, however, that nothing herein shall be **interpreted** as requiring the Department to take over or assume any financial responsibility as to such property. The Department Executive Committee may provide for the transfer of the members in said Post to other Posts of their choice, subject to the approval of such other Posts.

Section 7, Any member of a Post of this Department may transfer **his/her** membership to another Post, provided **he/she** is in good standing, his/her current year's dues and other financial obligations to the Post have been paid and **he/she** is elected to membership in the Post to which **he/she** desires to transfer, and that such transfer is obtained in accordance with the procedure provided in the By-Laws.

ARTICLE X

Dues

Section 1, Each Post shall pay annually to the Department of New Jersey and their respective County Committees, such amounts as may be determined at the National and Department Conventions and by their respective County Committees annual meetings, on each of its individual members for the Department, National and County per capita tax.

Section 2, Any proposed increase in per capita tax or assessments by the Department of New Jersey, shall be submitted in writing to each Post in good standing and to each member of the Department Executive Committee not later than sixty (60) days prior to department Convention or Referendum Caucus.

Section 3, Posts failing to pay National, Department and County per capita tax, or any of them, for at least fifteen (15) members on or before February 28th of each year, shall ipso facto stand suspended on February 28th, but may be reinstated at any time not less than thirty (30) days before the Department Convention on approval of the County Committee and the Department Executive Committee.

Section 4, The moneys collected for Department, National and County per capita tax by the Posts shall be the property respectively of the National and State Department and the County Committee; and the State Department, and/or the County Committee shall have the right at any time to audit the books of any Post and to require payments of any moneys so collected for National, Department and County per capita tax.

Section 5, Annual dues shall be payable October 20th of each year for the succeeding calendar year.

Section 6, A Post may charge its members such initiation fee as it may provide in its By-Laws.

Section 7, A member whose dues for the current year have not been paid by January first shall be classed as delinquent. If **his/her** dues are paid on or before February first, he/she shall be automatically reinstated. If **he/she** is still delinquent after February first,

he/she shall be suspended from all privileges. If **he/she** is still under such suspension on June thirtieth of such year, **his/her** membership in THE AMERICAN LEGION shall be forfeited. A member so suspended or whose membership has been so forfeited may be reinstated to active membership in good standing by vote of the Post and payment of current dues for the year in which reinstatement occurs. Provided, however, that the Post, Department and the National Department may waive the provisions hereof, upon payment of dues for the year in which reinstatement occurs, with reference to former members who have been prevented from the payment of dues by reason of active military service.

ARTICLE XI

Change of Residence

Section 1, Any member in good standing in a Post removing from his Department shall be entitled to a certificate from **his/her** Post stating **his/her** membership and the duration thereof.

ARTICLE XII

Representation at National Convention

Section 1, Delegates to the National Convention shall be chosen at the Department Convention immediately preceding such National Convention, in such manner as shall be provided by said Department Convention; provided that in the event the dates set for the Department Convention shall be subsequent to the dates set for the National Convention then and in the event said delegates shall be chosen by the Department Executive Committee at a meeting of the said Committee to be held at least two (2) weeks prior to the National Convention, in accordance with such rules as may be provided by said Department Executive Committee.

ARTICLE XIII

National Executive Committee

Section 1, Department Conventions shall elect a representative and an alternate to serve on the National Executive Committee. The term of such representative and alternate shall be for two years. The term of office of the representative and alternate shall commence immediately upon adjournment of the National Convention in the year of their election and shall end at the adjournment of the second next succeeding convention, or until their successors shall have been elected at the next regular Department Convention following the National Convention, where such Department Convention is scheduled to conduct its business on a date after the National Convention.

ARTICLE XIV

Auxiliary

Section 1, THE AMERICAN LEGION, Department of New Jersey, recognizes an Auxiliary organization, known as "THE AMERICAN LEGION AUXILIARY, Department of New Jersey."

Section 2, The Auxiliary shall be governed in this Department of THE AMERICAN LEGION by such rules and regulations as may be prescribed by the National Executive Committee and thereafter approved by this Department.

ARTICLE XV

Amendments

Section 1, This Constitution may be amended at any Department Convention or Referendum Caucus by a vote of two thirds of the total authorized representation thereat, provided that proposed amendment shall be mailed by the Department Adjutant to each Post and to each member of the Department Executive Committee at least thirty (30) days prior to the Department Convention or Referendum Caucus; and provided further, that this Constitution may be amended by the unanimous vote of those present at the closing business of any Department Convention, after at least one (1) hour's notice to the Convention, by reading from the platform.

Section 2, No proposed amendment shall be submitted through the Department Adjutant to the several Posts of this Department and members of the Department Executive Committee as provided in Section 1 of this Article unless said proposed amendment shall have first been submitted by a County Convention, County Executive Committee or a standing or special committee of this Department.

Section 3, Article IV, Section 1, of this Constitution shall be deemed amended at such time as Article IV, Section 1, of the National Constitution shall be properly and duly amended.

BY-LAWS OF THE AMERICAN LEGION DEPARTMENT OF NEW JERSEY

ARTICLE I

Duties of Officers

Section 1, The Commander shall preside at the Department Conventions, all Referendum Caucuses, and all meetings of the Department Executive Committee. **He/She** shall see that the provisions of the National and Department Constitutions are properly administered, and that all laws, regulations and policies established thereunder are observed. In cooperation with the Executive Committee of the Department **he/she** shall be responsible for the enforcement of discipline and maintenance of good conduct in the several Posts of the Department. **He/She** Shall appoint, subject to the approval of the Department Executive Committee, the following standing committees, and such and such other committees as may be provided for from time to time; Standing Committees to be on Americanism, Awards and Contests, Children & Youth, Finance, Internal Organization, Legislation, Membership, National Security, Publicity and Rehabilitation. The Commander shall be a member ex officio of all committees.

Section 2, Department Vice Commanders primary assignment shall be membership within their assigned "District". The Department Vice Commanders shall also perform such duties as may be required of them by the Department Commander or the Department Executive Committee. For the purpose of administration by the Vice Commanders, the various Districts shall be grouped into "Counties." The Vice Commander representing each "District" shall represent the Department from which they were assigned, and it shall be their duty to attend all County Conventions within their assigned "District", so far as possible, and to initiate constructive programs and policies for the furtherance of the interest of the Posts therein.

Section 3, An Adjutant shall keep a record of all meetings of the Executive Committee and prepare the same for permanent record in a book kept for that purpose. **He/She** shall under the direction of the Commander, cause notice to be given of all meetings. **He/She** shall keep a record of all Posts in the State and lists of all officers thereof. **He/She** shall receive from the local Posts all payments of National and Department per capita taxes, and any assessment that may be levied upon such Posts, and shall keep records of all monies received and disbursed.

The Adjutant shall deposit all monies received from all sources in a State or National Bank approved by the Department Executive Committee, and shall keep a proper record of the same.

The Adjutant shall institute a voucher system, subject to the approval of the Department Executive Committee, for the payment of all expenses and indebtedness of the Department, and all such vouchers must be signed by the Adjutant and countersigned by the Commander and/or the Finance Officer.

The Adjutant will keep all the Department Officers and all the Posts in the Department advised of the information, suggestions and requests from National Headquarters, and shall use a bulletin to all Posts in the Department when necessary.

He/She shall render a statement to the Department Executive Committee at each meeting and keep all books of records and accounts in readiness for audit or examination at all times.

Section 4, The Assistant Department Adjutant shall perform such duties as might be assigned to **him/her** by the Department Adjutant, In the absence of the Department Adjutant, the Assistant Department Adjutant shall perform the duties of the Department Adjutant.

Section 5, The Finance Officer shall make disbursements which are legally due from the Department upon presentation by the Adjutant by voucher, signed by the Adjutant and countersigned by the Commander and/or Finance Officer, subject to the provisions of the budget. No moneys shall be paid out except by check signed by the Finance Officer or Commander and countersigned by the Adjutant after the checks have been completely processed.

Section 6, In the event of a vacancy caused by death, resignation or disability of either the Finance Officer or the Commander, the National Executive Committeeman is empowered to sign or countersign checks. This authorization shall be in effect until the existing vacancy is filled as provided herein by Article VI, Section 1, of this Constitution. All checks must bear the signature and countersignature of two of the Officers herein designated.

Section 7, The Historian shall collect from year to year all records and data of value and interest for Department Headquarters of THE AMERICAN LEGION, and shall compile, during **his/her** term of office a complete history of the year's activities. **He/She** shall also assist County and Post Historians so as coordinate and unify the work of these officials, and shall have such other duties as the Department Executive Committee shall prescribe.

Section 8, The Service Officer shall be in charge of the administration of all matters pertaining to the relation of Veterans to the Veterans' Bureau, except as may be otherwise directed by the Department Commander and Department Executive Committee. **He/She** shall make reports to the Department Executive Committee at each regular meeting of the accomplishments of his/her office.

Section 9, The Assistant Service Officer shall perform such duties as might be assigned to **him/her** by the Service Officer. In the absence of the Service Officer the Assistant Service Officer shall perform the duties of the Service Officer.

Section 10, The Chaplain shall perform such divine and nonsectarian services as may be necessary, adhering to such ceremonial rituals as may be recommended by the Department Executive Committee from time to time. **He/She** shall perform such other duties pertaining to **his/her** office as may be, from time to time, required of **him/her**.

Section 11, The Master-at-Arms shall act as Sergeant-at Arms of the Convention or Referendum Caucus. **He/She** shall see that none but the members of the Convention or Caucus participate in the business of the Department Convention or Caucus, and to that end shall inform **himself/herself** as to the identity of those who are members thereof. **He/She** shall, with the approval of the Commander, appoint as many assistants pro tempore as required, and he/she shall perform such other duties as may be required of him/her by the Commander or by enactment of the Convention or Caucus.

Section 12, The Department Judge Advocate shall advise the Department Officers and the Department Executive Committee on all legal matters, including the construction and

interpretation of the Department Constitution and By-Laws and shall perform such other duties as are usually incident to the office.

Section 13, The retiring Commander and retiring Adjutant shall stand ipso facto members of the Department Executive Committee for the ensuing year, but shall have no vote as such.

ARTICLE II

The Executive Committee

Section 1, The powers of the Department Executive Committee shall be divided into three (3) groups, namely, Legislative, Executive and Judicial.

Section 2, Legislative – The Department Executive Committee shall have power to initiate matters of policy, create programs and establish rules and regulations for the conduct of the Department. It shall have power to appropriate the funds of the Department in such manner and to such extent as is fixed by the Department Convention or Referendum Caucus, and shall cause a budget to be compiled annually, which shall cover the expenditures of the Department for the fiscal year from September 1st to August 31st. The budget for any year shall not be accepted prior to July 1st nor subsequent to August 31st in the year next proceeding. A two-thirds vote shall be necessary to adopt such a budget. The Department Executive Committee shall have power to raise funds for the financing of any specific cause but it shall not have the power to increase or decrease the per capita tax as fixed by the Department Convention or Referendum Caucus, nor shall it have the power to divert any funds raised by per capita tax to purposes other than those specified in the annual budget. This budget shall appropriate all monies accruing from per capita taxes but shall not contemplate an expenditure of more than ten percent in excess of the estimated income of the Department from per capita taxes, such estimate being based upon the total paid up membership as at the close of the preceding year, plus such unexpended balances as may occur, and plus income from sources other than per capita tax accruing to the Department. The budget when finally adopted shall not be amended to increase any appropriations of salaries, rent or other fixed charges. Amendments to the budget shall not be made prior to March 1st in any year, and after that date amendments shall only admit of reapportionment of funds and shall not increase the grand total appropriation for the year, except upon certification of the Finance Officer in an audited report if it shall be shown that the actual income from all sources is greater than the income contemplated by the budget then in that event it may increase the total appropriations by the amount of income in excess of the previous appropriation.

Section 3, The Department Executive Committee shall have the power to ratify the acts of Department officials or representatives of the Department, including the Department's representative on the National Executive Committee. It shall have the power to validate or invalidate the action of any County Committee or any Post in such matter as shall exceed the jurisdiction of such County Committee or any Post in such matters, as shall be prejudicial to the good name of THE AMERICAN LEGION.

Section 4, The Department Executive Committee shall be responsible for the management of the Department. It shall have the power to delegate authority to several Standing Committees upon recommendation of the Department Commander. It shall further have power to approve a Department Adjutant, Assistant Department Adjutant, Department Judge Advocate, Department Service Officer, Assistant Department Service Officer, Department Public Relations Director, Department Historian, Department Chaplain and Department Master-at-Arms, upon the appointment by the Department

Commander, and to fix salaries for the Department Adjutant, Assistant Department Adjutant, Department Service Officer, Assistant Department Service Officer, and the Department Public Relations Director, or for any or all, as contemplated in the annual budget. It shall have the power to fix salary or compensation of any employee of the Department on recommendation of the Department Commander or Adjutant, and to authorize payment for services rendered by persons employed temporarily by Department officials, and such payments, when not otherwise specifically provided for in the budget shall be made from funds appropriated to the account of the Executive Committee.

Section 5, Except in the case of expulsion or suspension of a member, or in the case of the suspension, cancellation or revocation of Post Charters, the procedure for which is elsewhere herein provided for, in all questions in dispute or matters calling for disciplinary action as between individuals or Posts within one County, proper hearings shall be held by the County Committee involved and their findings submitted to the Department Committee for approval. In all other questions of dispute or disciplinary action not otherwise provided for, original jurisdiction shall lie with the Department Executive Committee, with appeal to the Department Convention or Referendum Caucus.

Section 6, **The Department Executive Committee shall meet within twenty-four hours before each Department Convention or within five days of adjournment of Department Convention provided however, that the Department Commander shall have the authority to extend said five-day period for sufficient reasons upon approval of the Department Executive Committee.**

Section 8, Regular meetings of the Executive Committee shall be held at least five (5) times in each administrative year.

Section 9, Special meetings shall be held at the call of the Chair or by written request of three (3) members of the Executive Committee. Ten (10) day's notice shall be given of such special meeting, and any business may be transacted at such meeting as may properly come before the Executive Committee.

Section 10, The Department Commander or Acting Commander shall preside at all meetings of the Executive Committee. The place of holding the meetings, unless otherwise designated by the Executive Committee, shall be at Department Headquarters. A quorum of the Executive Committee shall consist of the Commander or Acting Commander and at least seven (7) County representatives.

ARTICLE III

The County Committee

Section 1, The County Committee shall exercise supervisory powers over the Posts within its jurisdiction. It shall have the power to create rules and regulations and adopt such legislation as may be essential to the proper conduct of its affairs. It shall have the authority to levy a tax on all Posts within its jurisdiction for the purpose of carrying on its proper functions, and to set such tax, a two-thirds vote of the County delegates present shall be needed at the annual meeting of the County. (This can also be accomplished by Department Policy)

Section 2, The County Committee shall be subordinate to the Department Executive Committee and shall forward to the Department Executive Committee for approval all resolutions or plans which affect territory beyond its own jurisdiction. It shall have authority to hear charges against Posts or individuals and to take disciplinary action thereon, provided that such charges shall have been made in writing and a copy of them served upon the defendants not less than fifteen (15) days prior to the hearing; and further

provided that notice of such hearing in writing shall have been served upon the members of the Committee not less than five (5) days prior to such hearing. A two-thirds vote of all members present shall govern. Nothing herein contained shall give the County Commander the right to suspend, cancel or revoke a Post charter, nor the right to expel or suspend a member of a Post from membership in THE AMERICAN LEGION except that such County Committee may hear appeals by a member expelled or suspended by a Post.

ARTICLE IV

Discipline of Post Members

Section 1, Each Post of THE AMERICAN LEGION shall be the judge of its own membership, subject to the restrictions of the Constitution and By-Laws.

Section 2, Members may be suspended or expelled from the Legion only upon a proper showing of cause. Charges shall be based on disloyalty, neglect of duty, dishonesty and/or conduct unbecoming a member of THE AMERICAN LEGION. All charges must be made under oath in writing by the accusers and no member in good standing shall lose **his/her** membership until given a fair trial in such a manner and from as the Department Constitution and the Department Executive Committee shall prescribe.

Section 3, Any member who has been suspended or expelled has the right of appeal to the County Committee and in turn to the Department Executive Committee.

Section 4, A member whose dues for the current year have not been paid by January 1st shall be classed as delinquent. If **his/her** dues are paid on or before February 1st, **he/she** shall be automatically reinstated. If **he/she** is still delinquent after February 1st, **he/she** shall be suspended from all privileges. If **he/she** is still under such suspension on June 30th of such year, **his/her** membership in THE AMERICAN LEGION shall be forfeited. A member so suspended or whose membership has been so forfeited may be reinstated to active membership in good standing by vote of the Post and payment of current dues for the year in which the reinstatement occurs. Provided, however, that the Posts and the Department may waive the provisions hereof, upon payment of dues for the year in which reinstatement occurs, with reference to former members who have been prevented from the payment of dues by reason of active military service.

Section 5, The Practice and Procedure in the expulsion or suspension of a member of THE AMERICAN LEGION is as outlined below.

- A. The first process in all actions of expulsion or suspension against a member of THE AMERICAN LEGION in good standing shall be by filing with the Adjutant of the Post written charges in triplicate, properly verified by affidavit of the accuser or accusers.
- B. The Adjutant shall issue a writ dated upon the day it shall be issued and signed with his name, directed to the Sergeant-at-Arms (or some other member of the Post in good standing), commanding **him/her** to summon the accused to appear at the Post meeting place at the next regular meeting (provided 15 days have intervened), to show cause why **he/she** should not be suspended or expelled (as the case may be).
- C. It shall be the duty of the Sergeant-at-Arms, or the member appointed in **his/her** place, to serve the writ so issued, by reading it to the accused and at the same time delivering to **him/her** a verified copy of the charges filed. **He/She** shall endorse upon said writ the time and manner of serving it and immediately thereafter file the same with the Post Adjutant.

- D. Whenever it shall appear by the return that the accused is not found fifteen (15) days, or more, previous to the regular Post meeting, the Adjutant, at the request of the accuser, shall issue another writ and so on until service is had.
- E. If the Sergeant-at-Arms, or the member to whom a summons is delivered, shall neglect or refuse to make return of same within time required in Paragraph D., another summons shall be issued directed to the same member in good standing for service as hereinabove set forth.
- F. Whenever the accuser shall file with the Adjutant of the Post in which the charges are pending, an affidavit showing that the accused has gone out of state or on due inquiry cannot be found or is concealed within the state so that process cannot be served upon **him/her**, and stating the place of residence of such accused, if known, or that upon diligent inquiry **his/her** place of residence cannot be ascertained, the Adjutant of the Post shall cause publication to be made in the County where **his/her** Post is located and if there be no newspapers published in the state containing notice of the pendency of such charges before said Post, the names of the accused and the accuser, and the time and place of the hearing of said charges. Within ten (10) days of the first publication of such notice the Adjutant of said Post shall send a copy thereof by mail addressed to the accused if **his/her** place of residence is stated in said affidavit; and notice shall be published at least once each week for three successive weeks.
- G. The accuser or accusers must be members of the same Post as the accused and shall be set forth the charges of disloyalty, neglect of duty, dishonesty and conduct unbecoming a member of THE AMERICAN LEGION in terms of simplicity and understanding, in order that the accused may properly prepare for defense.
- H. Before the accused defends in **his/her** own proper person, or through **his/her** counsel, **he/she** shall enter **his/her** appearance by filing an answer to said charges on or before the date of the regular meeting to which **he/she** has been summoned to appear.
- I. If the accused fails to answer the charges, in manner and form as herein set forth, the charges and matters and things therein stated shall be taken as confessed and the prayer for expulsion or suspension granted.
- J. Whenever the accused enters **his/her** appearance by filing an answer to the charges preferred, the entire proceedings shall automatically be continued until the next regular Post meeting, at which time the trial shall be had.
- K. Either party may apply for a continuance before the day set for trial, however, it shall be accompanied by a written motion, supported by affidavit, of the party so applying. Good and substantial cause must exist before said motion granted. The presiding Judge Advocate shall pass on said motion.
- L. The Post Judge Advocate shall preside at the trial. **He/She** shall have power and authority to pass upon the materiality and relevancy of all the evidence presented, and shall have general power to prescribe the necessary and reasonable rules and regulations for the orderly procedure of said trial.
- M. In the case of death, removal, vacancy, resignation or disability of the Post Judge Advocate, it shall be the duty of the Department Commander, when duly notified by the Post Adjutant, to appoint a special Judge Advocate in the Department to fill the vacancy. Such special Judge Advocate so appointed shall have the authority, rights and powers of a duly elected Post Judge Advocate. The Post shall bear the expenses of any special Judge Advocate.

- N. The Post officers and the Post Executive Committee are hereby selected as jurors to ascertain under the guidance of the Judge Advocate the truth of the charges preferred. Their province is strictly limited to questions of fact, and within that province they are still further restricted to the exclusive consideration of the matters that have been proven by evidence of the interested parties in the course of the trial. Their decision shall be reduced to writing and filed with the Post Adjutant, who, in turn, shall enter the same in the Post records.
- O. If any Post officer or any member of the Executive Committee, or any other member selected as a juror, shall state that **he/she** cannot fairly or impartially render a verdict therein in accordance with the evidence, and the presiding Judge Advocate shall be satisfied with the truth of such statement, said member or members shall be challenged for cause.
- P. Each party shall be entitled to challenge two (2) jurors without showing cause for such challenge.
- Q. When a Post has no Executive Committee the presiding Judge Advocate shall direct the Sergeant-at-Arms to summon five (5) members of the Post to sit as jurors in their place.
- R. If any member is challenged peremptorily or for cause, or if any Post officer or member of the Executive Committee shall be absent from said trial the presiding Judge Advocate shall direct the Sergeant-at-Arms to summon a sufficient number of members of the Post to sit as jurors in their place.
- S. If the Sergeant-at-Arms is not present at said trial or upon objection of either party to the cause to the Sergeant-at-Arms summoning a sufficient number to fill vacancies, the presiding Judge Advocate shall appoint a special Sergeant-at-Arms to summon the necessary persons to act as jurors.
- T. When the membership of the Post, through cause or otherwise, is insufficient in number to make a full panel for jury service, the trial shall be continued until the next regular Post meeting. The Post Adjutant, within five (5) days thereafter, shall transmit such information to the Department Commander, who shall, before the next regular meeting of the Post, cause the Sergeant-at-Arms of said Post to summon a sufficient number of members of THE AMERICAN LEGION from the body of the County in which the Post is located to fill the vacancies.
- U. At any time before a final decision is made by the jury upon the trial of a member upon expulsion or suspension, amendments may be allowed by the presiding Judge Advocate upon such terms as are just and reasonable.
- V. To expel or suspend a member of THE AMERICAN LEGION in good standing, two-thirds of the members selected to sit as jurors shall vote in the affirmative.

Section 6, Any subsequent action of the National Executive Committee which may revise, modify or alter the forgoing Practice and Procedure, shall automatically modify, alter and revise the Procedure herein above adopted for procedure in the expulsion or suspension of a Legionnaire.

(Practice and Procedure in the Expulsion or Suspension of a member of THE AMERICAN LEGION can be found in the Post Officers Guide and Manual of Ceremonies)

ARTICLE V
Membership

Section 1, Membership in THE AMERICAN LEGION is membership in the national organization of THE AMERICAN LEGION by affiliation with Posts.

ARTICLE VI
Moneys and Collection

Section 1, All Department, County and Post officials handling AMERICAN LEGION moneys shall be properly bonded with a good and solvent bonding and surety company, as surety, to cover double the average amount of money handled in a single year. In case of delinquencies in the payment of amounts due Department or County or Post, action shall be taken at once by the proper officials to bring about a speedy and complete settlement.

The bonds provided by the Department officials shall be approved by the Department Judge Advocate and the Department Executive Committee, those provided by the County officials shall be approved by the County Legal Officer and County Executive Committee, and those provided by the Post officials shall be approved by the Post Legal Officer and the Post Executive Committee, or other such official or officials as the Department may designate.

Section 2, The Department Executive Committee shall, should it be deemed advisable, detail special auditors to investigate the membership roll and financial statement of any County or Post, and should that County so desire, assist in a similar audit of Posts within that County.

ARTICLE VII
Membership Transfers

Section 1, Any member of a Post desiring to transfer to another Post shall be entitled to do so providing:

- A. **His/Her** current Year's dues and all arrearage of dues and assessments have been paid to date.
- B. **He/She** is in good standing and has no charges pending against him/her.
- C. **His/Her** application for the transfer is in writing or orally.

Section 2, The method for applying for transfer is to be in strict accordance with the procedure prescribed by National.

Section 3, Until the Post Adjutant of the receiving Post notifies the Department Adjutant and the Post Adjutant of the former Post that the member has been elected to membership in the receiving Post, said member shall remain a member of the former Post.

(Member ship Transfers can also be found in the Post Officer Guide and Manual of Ceremonies page 113.)

ARTICLE VIII
Convention Committees

Section 1, At all Department Conventions, there shall be the following committees named, which committees shall serve during the Convention: Rules, Credentials, Resolutions, Internal Organization, Legislative, Rehabilitation, Constitution and By-Laws, Finance and Americanism. The Department Commander shall appoint these committees at least fifteen (15) days prior to the Department Convention. Each of the above mentioned committees except resolution and Rehabilitation Committees shall consist of not less than five (5) members. The Resolution and Rehabilitation Committees shall each consist of not less than nine (9) members.

Section 2, The duties of said committees are as follows:

- A. **Rules** – This committee shall formulate such rules as are necessary for the transaction of the business of the Convention, being guided by previous Convention mandates and Constitutional requirements.
- B. **Credentials** – This committee shall determine the number of delegates to which each Post is entitled; shall pass on the qualifications of all delegates and alternates including all necessary registration requirements and shall report all delegates and alternates properly qualified and registered who are entitled to take part in the affairs of the Convention.
- C. **Resolution** – This committee shall receive and report on all resolutions submitted to it and shall prepare and formulate such Convention resolutions as may be appropriate.
- D. **Internal Organization** – This committee shall study all phases of the Department program and policy of operation which affects the physical development and maintenance of the organization and shall recommend to the Convention definite plans for correcting and improving these conditions.
- E. **Legislative** – This committee shall consider all State legislation directly affecting service men and women and their dependents and to recommend such State legislation as may be required and which does not fall within the jurisdiction of any other Convention committee.
- F. **Rehabilitation** – This committee shall consider questions pertaining to disabled Veterans and their dependents and to the dependents and orphans of deceased Veterans including Social Service and all kindred questions pertaining to child welfare.
- G. **Constitution and By-Laws** - This committee shall consider all amendments to the Department Constitution and By-Laws and shall report on all approved amendments.
- H. **Finance** – This committee shall report on the financial condition of the Department and make such recommendations and proposals they deem necessary for the best financial interest of the Department.
- I. **Americanism** – This committee shall consider questions pertaining to the Americanism Program of THE AMERICAN LEGION.

Section 3, The Commander shall appoint such other committees and the number of such committees and their duties shall be specifically stated at the time of their appointment.

Section 4, The business of the Convention shall be conducted in accordance with the printed official program.

Section 5, The Department Adjutant shall be permanent Secretary with power to appoint such assistant secretaries as may be deemed necessary.

Section 6, The Department Master-at-Arms shall be permanent Sergeant-at-Arms of the Convention with the power to appoint such assistant Sergeant-at-Arms as may be deemed necessary.

Section 7, The Commander shall appoint a Convention parliamentarian whose duty shall be to advise the Commander on questions of procedure arising during the Convention.

ARTICLE IX

Amendments to By-Laws

Section 1, Amendments to these By-Laws may be made by the Department Convention or Referendum Caucus in the same manner as amendments may be made to the Constitution.

Section 2, Amendments to these By-Laws may also be presented in writing at any regular or special meeting of the Department Executive Committee, whereupon the Department Adjutant shall, within five (5) days after said meeting cause to be forwarded to each Department Executive Committeeman and the County Commanders, a true copy of the proposed amendment or amendments. The said amendment or amendments shall be voted upon at the next following regular or special meeting of the Department Executive Committee and shall be adopted providing two-thirds of the said committeemen present shall approve thereof.