

RESOLUTION
The American Legion Department of Ohio
102nd Annual Department Convention, Independence, Ohio
July 8– 11, 2021

RESOLUTION No.: Resolution R20-18 (Revised)

ORIGIN: Department Ad Hoc Constitution & By-Law Committee and Department Judge Advocate

SUBJECT: Amend Department By-Laws, Article IV: Discipline

REFERRED TO COMMITTEE ON: Convention Committee on Constitution & By-law Amendments

WHEREAS, Section 1, Article IV of the By-Laws of the American Legion, provides that “Each Post of the American Legion shall be the judge of its own membership, subject to the restrictions of the Constitution and By-Laws”; and

WHEREAS, Section 2, Article IV of the By-Laws of the American Legion, as amended in 2019, provides that “A post may expel or suspend a member from the American Legion only after providing the member due process and 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 their membership until given a fair trial by the Post or Department in such manner and form as the Post or Department By-Laws and Post or Department Executive Committee shall prescribe”; and

WHEREAS, The American Legion Department of Ohio has, in Section 2, Article IV of the By-Laws of said Department, provided procedures for the conduct of disciplinary proceedings which includes procedures for conducting trials of members and/or officers of the American Legion charged with misconduct as set forth in the National American Legion By-Laws; and

WHEREAS, The Department Executive Committee finds that said provisions do not provide adequate due process for members or officers charged with misconduct, as required by the amended national By-Laws; and

WHEREAS, The Department Executive Committee finds that, in order to provide a uniform procedure throughout the Department of Ohio that provides adequate due process and fair trials for members and/ or officers charged with misconduct, it is necessary that Article IV of the By-Laws of the Department of Ohio be amended to provide said Executive Committee with Authority to promulgate a “Uniform Code of Procedure for Disciplinary Actions”, as further authorized by the National American Legion By-Laws; and

WHEREAS, The Department Executive Committee is currently considering other amendments to the Department By-Laws which may cause “Article IV: Discipline” to be renumbered to “Article V: Discipline”; now, therefore be it

RESOLVED, By The American Legion Department of Ohio, in Department Convention assembled in Independence, Ohio, July 8-11, 2021, That the General Assembly approves the amendment to Resolution 20-17, to amend the Department By-Laws, Article IV: Discipline, to state the following:

ARTICLE IV: DISCIPLINE

Section 1. Each Post of The American Legion, Department of Ohio, shall be the judge of its own membership, subject to the restrictions of the National American Legion Constitution and By-Laws and the Department of Ohio Constitution and By-Laws, except that no person, who is a member of an organization which has for its aim the overthrow of the United States Government by force or

This is to certify that this resolution was adopted by our Department but with National action substituted for local resolving clause.

Adjutant

Department

Other authorized source:

(To be used when resolution is submitted from another authorized source or to comply with Resolution 21, May 4-5, 2016)

BELOW THIS LINE FOR NATIONAL CONVENTION COMMITTEE USE ONLY

Approved

Approved with Amendment

Rejected

Received and Recorded

Consolidated with

Referred to Standing Commission or Committee on

Other Action

Signature of Chairman or Secretary _____

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violence, or who subscribes to the principles of any group opposed to our form of government, shall be eligible to become or remain a member of The American Legion.

Section 2. Members may be reprimanded, suspended, or expelled from The American Legion, and officers may be reprimanded, removed from elected office, suspended or expelled from membership only upon providing the member due process and a proper showing of cause. Charges shall be based upon disloyalty, neglect of duties, dishonesty, and conduct unbecoming a member or officer of The American Legion. All charges must be made under oath in writing by an accuser, and no member in good standing shall be reprimanded, suspended, or expelled, nor shall any elected officer be reprimanded or removed from office, suspended or expelled, until given a fair trial in such manner and form as the Department Executive Committee shall prescribe in the Department of Ohio Uniform Code for the Conduct of Disciplinary Proceedings. The trial proceedings shall be recorded by visual or sound recording or by verbatim transcription. The trial board verdict shall be announced at the next regular meeting of the post membership, whereupon the membership may, except in the case of an acquittal, affirm, modify or reverse the findings and sentence of the trial board.

Section 3. If the accused is suspended or expelled, or is removed from office, the accused person may appeal such decision to the Department Executive Committee. Said appeal must be filed with the Department Adjutant within thirty (30) days of the decision of the post membership on the trial verdict. The Department Executive Committee shall hear the appeal, with the Department Judge Advocate presiding, and determine the issue at its meeting next following the action of the Post. The Department Executive Committee shall conduct its hearing solely upon the evidence considered by the trial board, and oral argument of the parties. The decision of the Department Executive Committee shall be final, if appeal to it be made; otherwise, the decision of the Post shall be final. The Post Executive Committee shall appoint a member or members of the Post or may retain counsel to prosecute the charges and the disciplined member may be represented by person or by counsel of their own choosing.

Section 4. Procedure as to removal from officer of County, District and Department elected officers. Charges shall be filed in writing, under oath, with the Department Adjutant. The Department Executive Committee shall appoint a trial board and the matter shall proceed to trial in substantially the same form and manner as set forth in the Department of Ohio Uniform Code for the Conduct of Disciplinary Proceedings. The trial verdict, except in the case of acquittal, shall then be presented to the Department Executive Committee for affirmation, modification or reversal. The decision of the Department Executive Committee shall be final. Nothing herein shall deprive the accused persons'

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post of jurisdiction to hear and determine charges against any of its members. insofar as it may relate to expulsion or suspension of membership of removal from post office.

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