



# **American Legion Auxiliary Department Operations Guide**

## **Chapter 8: Membership**

Revision in progress.  
Anticipated completion date:  
Summer 2024

## CHAPTER 8

### MEMBERSHIP

#### Executive Summary

As a membership-driven, nonprofit patriotic service organization, the American Legion Auxiliary could accomplish very little without its members and their individual dedication to our mission. The very fact that we have over 500,000 members carries tremendous influence and clout as we lobby for veterans' issues along with the rest of the Legion Family. Through our various programs, our dedicated members impact the lives of veterans, military, and their families, as well as the general public. The future of the ALA and the continuation of our great works depend on our ability to recruit and retain members. In short, without our members, the ALA could not exist.

This chapter offers information on who is eligible, guidance on recruiting and retaining members, and membership processing procedures.

This chapter contains the following sections:

#### **Section 1    Membership Eligibility**

- IRS Regulations for 501(c)(19) Organizations & Eligibility
- Authorized Forms of Membership
- Membership Recruitment and Retention

#### **Section 2    Membership Processing**

- Membership Application (Traditional)
- Membership Application (Online)
- New Members
- Paid Up For Life Membership (PUFL)
- Membership Renewal
- Membership Dates and Deadlines
- Membership Cards
- Organizing New Units/New Charters

#### **Section 3    Frequently Asked Questions (FAQs)**

## Section 1

### Membership Eligibility

As stated in the ALA National Constitution & Bylaws, each unit of The American Legion Auxiliary shall be responsible for verifying eligibility and deciding its membership, subject to the restrictions of the national governing documents.

Once eligibility is established, applicants who meet the eligibility requirements may become members of an Auxiliary unit. A member of a unit is also a member of the department and the national organization. By payment of dues to the unit, a member also contributes to the support of their department (state) and the national organization.

Membership in the American Legion Auxiliary shall be limited to:

- 1) grandmothers, mothers, sisters, spouses, and direct and adopted female descendants of members of The American Legion; and
- 2) grandmothers, mothers, sisters, spouses, and direct and adopted female descendants of all men and women who served in either of the following periods: April 6, 1917, to November 11, 1918 and any time after December 7, 1941 who, being a citizen of the United States at the time of their entry therein served on active duty in the Armed Forces of any of the governments associated with the United States during either eligibility periods and died in the line of duty or after honorable discharge;
- 3) grandmothers, mothers, sisters, spouses, and direct and adopted female descendants of all men and women who were in the Armed Forces of the United States during either of the following periods: April 6, 1917, to November 11, 1918; and any time after December 7, 1941 who served on active duty in the Armed Forces of the United States during either eligibility periods and died in the line of duty or after honorable discharge; and
- 4) to those women who of their own right are eligible for membership in The American Legion.

Other factors to consider when determining membership eligibility:

- When a request for ALA membership is based on the military service of a family member who is still living, that family member must be a member of The American Legion before the relative may join. The applicant does not have to apply to the same TAL post home as their family member.
- When a request for ALA membership is based on a deceased veteran, the prospective member will be asked to provide verifying documentation that proves eligibility (see *acceptable documentation below*).
- When a woman veteran applies to join the ALA without being a member of The American Legion, she is eligible to join if her service dates fall within one (1) of the eligible service periods as described in the National Constitution, Article III, Section 1. However, should her family members wish to join the ALA or the Sons of The American Legion through her service, she must first become a member of The American Legion. The Legion will verify the woman's eligibility.
- Male spouses are eligible to join the American Legion Auxiliary. If their spouse (male or female) is living, they must be a current member of The American Legion before the male spouse may join the ALA. If their spouse is deceased, the spouse must have served during one of the eligible service periods.

NOTE: No other male relatives are eligible to join the American Legion Auxiliary at this time.

The following documents are acceptable to verify membership eligibility in the ALA:

1. DD214 discharge papers (not issued until after the Korean War)
2. Official military orders
3. Official military service citations/awards
4. Letters related to the veteran's military service; must be on official government letterhead.
5. Certificate from the VA records center in St. Louis
6. Data from the back of older discharges

It should be noted that discharge papers or copies of official military orders are not always easily available to the veteran, especially to those United States (U.S.) citizens who served in allied forces during military conflicts in a common area with the U.S.

In one such example cited by an American Legion source, a U.S. citizen who was visiting Europe at the beginning of WWII was trapped behind enemy lines, and because of German heritage, he was drafted into the German army. Later, he wound up separated from his German unit near the Russian front (Russia was an ally of the U.S. in WWII) and was soon fighting with the Russians against the Germans. Following the war, he returned to his hometown, Chicago, Illinois, and wanted to join The American Legion. His verification of service was Russian documents (translated) and commendations. He was allowed to join The American Legion.

Another example, where pictures established active-duty service, might be sailors or Marines in uniform while on liberty in a foreign port.

Key elements to review on any documentation, whether discharge papers or military orders, are dates of service and the character of the service (i.e., honorable or dishonorable). The American Legion does not research to verify the details behind the DD214 unless it appears to be falsified. Any falsified DD214 or military orders should be referred to the FBI. If the discharge is listed as "non-characterized," refer those to the NHQ Executive Director, who will ask Counsel General to review the coding listed.

Information on a veteran's service record can be obtained by contacting the National Archives and Records Administration at 1-866-272-6272 or [www.archives.gov/veterans](http://www.archives.gov/veterans).

### **IRS Regulations for 501(c)(19) Organizations & Eligibility**

Per the Internal Revenue Service (IRS) regulation for 501(c)(19), an organization may be exempt under section 501(c)(19) as an auxiliary unit if it meets the following requirements:

1. It is affiliated with, and organized in accordance with the bylaws and regulations of a veterans' post or organization;
2. At least 75 percent of its members are veterans, spouses of veterans, or related to a veteran within two degrees of consanguinity (i.e. grandparent, brother, sister, grandchild represent the most distance allowable relationships);

3. All members are either members of a veterans' post or organization, or spouses of a member of such post or organization, or are related to a member of such post or organization within two degrees of consanguinity; and
4. No part of its net earnings inures to the benefit of any private shareholder or individual.

<https://www.irs.gov/charities-non-profits/other-non-profits/veterans-organizations>

### Definition of Spouse

The term "spouse" and the terms "husband" and "wife" – as defined in Code of Federal Regulations 26 Section 301.7701-18 – means an individual(s) lawfully married to another individual(s).

This IRS regulation concludes that the terms spouse, husband and wife do not include individuals who have entered into a registered domestic partnership, civil union, or other similar formal relationship not denominated as a marriage under the law of the state, possession, or territory of the United States where such relationship was entered into, regardless of domicile.

This means that the individual non-veteran in these non-recognized relationships – domestic partnerships, civil unions, or other similar formal relationships not denominated as a marriage – are not American Legion Auxiliary member-eligible.

Note: See full Legal Opinion by the National Judge Advocate dated September 5, 2019 on the definition of "spouse" at the end of this chapter.

### Definition of Two Degrees of Consanguinity

Two degrees of relation from whom the member is seeking eligibility. Furthest allowable relationship is grandmother or granddaughter. Great or great-great-granddaughters cannot join the Auxiliary. Current members whose eligibility relationship is great-granddaughter, great-great-granddaughter or direct descendent can continue being a member, as long as their dues are kept current.

If a member whose eligibility relationship is great-granddaughter, great-great-granddaughter or direct descendent becomes delinquent, they may reinstate their membership only by payment of back dues for all years of delinquency or by establishing new eligibility.

## **Authorized Forms of Membership**

The only authorized form of membership is active membership, of which there are two (2) classes: Senior and Junior. Granting special or honorary membership for any purpose or reason whatsoever is prohibited.

Senior members are those who are age eighteen (18) or older and those under the age of eighteen (18) years and married.

Junior members are those under the age of eighteen (18) years; their activities are supervised by Senior members. Upon reaching eighteen (18) years of age, Junior members are automatically admitted into Senior membership with full privileges. Junior members conduct their own meetings and perform their own special activities, planning their own community service projects and supporting unit projects. Junior members may hold honorary national

officer positions. These young volunteers follow in the footsteps of Senior ALA members by donating thousands of hours in service to our veterans.

Once accepted as ALA members, they may continue their membership from year to year, whether or not their veteran relatives continue membership in The American Legion. The fact that a member's service relative is no longer a member of The American Legion does not compel the ALA member to lose their ALA membership, as long as they do not have a lapse in dues payments.

The phrase "died in the line of duty," applies to all persons who were killed in action, died of wounds or disease, were killed by accident or otherwise came to their death other than as a result of their own misconduct. In case of doubt, the Adjutant General of the Army, or the Navy Department, Washington, D.C., can advise if the person was considered to have died in the line of duty.

Any person who legally marries a member of The American Legion at any time is eligible for membership in the ALA. A man or woman who is the *legal* spouse of a male or female Legionnaire is eligible for membership in the ALA.

Widows from legal marriages are also considered spouses for membership.

Applications for membership must be completed for every applicant, and they must provide proof of their eligibility.

**Paid Up For Life membership (PUFL):** Any member in good standing whose membership dues are paid for the current year may become a PUFL member.

**Honorary Life Memberships:** This distinction was created for units that confer Honorary Life Membership on outstanding members.

### **Member Recruitment and Retention**

Recruiting and retaining a diverse, active membership is critical to our mission. Well into the future, veterans will need our support and advocacy to assist them at home and abroad, during war and peacetime, to receive the attention and support they deserve.

To ensure the American Legion Auxiliary continues to exist for a future of serving our veterans, military, and their families, our goal is to enhance membership strength. Following is a sampling of the resources available on the MyAuxiliary portal of the national website at [www.ALAforVeterans.org](http://www.ALAforVeterans.org) to assist in achieving this goal:

1. *The American Legion Family Membership Brochure*
2. *Paid Up for Life Application*
3. *Unit Guide*
4. *Door Hanger Templates*
5. *Volunteer Interest Form*
6. *ALAMIS Training Manuals*
7. *Membership Award Forms*



It is important for department officers, board members and other leaders to become familiar with the tools available as units work to increase the ALA's positive visibility to attract and retain members. Letting members know that their contributions are valued, along with welcoming, respectful treatment goes a long way toward creating a positive experience and an appealing environment for both current and potential members. Department officers are encouraged to mentor unit leadership with these ideals.

## **Section 2**

### **Membership Processing**

#### **Membership Application (Paper)**

Applications. Units may obtain membership applications from their department headquarters or download from the national website. Completed membership applications, along with payment of department and national dues, are sent by the unit to department headquarters.

The signature of the Post Officer should be on every application of those applying for membership in the ALA. The only exception to this is if the member is a female veteran and eligible in her own right, the Auxiliary unit officer can sign off on the application. The Post Officer verifies *only* eligibility of the applicant, not acceptability of the applicant into the unit.

Retaining applications and protecting personal information. The American Legion National Judge Advocate/ALA Counsel General advises that since eligibility for membership can be challenged at any time during the life of the member, eligibility information should be retained indefinitely, as long as the member is alive. Units are advised to have access to a locked file cabinet in the post or other secure place for record retention. Personal identifying information such as social security numbers and birth dates should be redacted (blacked out) using a redacting pen in order to prevent identity theft. Only the eligibility information needs to be securely retained, and redacted records can be digitized to save space and provide a more convenient way to retain the information.

Counsel General notes that in recent years, the IRS has been more stringent about demanding to see eligibility records when they are doing field audits of posts, units and departments. The fact that the IRS has escalated its audits of Legion and ALA entities in recent years may lead to confusion about the length of time for retaining IRS records versus the length of time for retaining eligibility verification records. Counsel General has advised that tax returns need be kept for only seven (7) years, but eligibility records should be retained for the life of the member.

#### **Membership Application (Online)**

New members can complete the membership application and pay their dues on the national website. They will be required to complete an affidavit affirming their eligibility. It will be up to departments (or units in which the new member transfers) to confirm that the new member meets ALA eligibility requirements.

When joining the American Legion Auxiliary via the national website, the member will receive a welcome email and be placed in the Department Headquarters Unit. Departments are encouraged to run a "new member report" on a weekly basis to identify new members, to confirm each member's eligibility, and to send a Department welcome to the new member. A



membership card is mailed directly from National Headquarters when a member joins or renews online.

## **New Members**

The following is taken directly from the ALA National Standing Rules:

*A new member joining the American Legion Auxiliary prior to the annual National Convention must pay full current annual dues to be eligible for full membership rights, privileges, and benefits.*

*A new member joining after the National Convention may be given by the Unit full membership rights, privileges, and benefits from the date the dues are received through December 31 of the following year.*

**ALAMIS Tip:** When entering new members in to ALAMIS, members must have an effective date OF or AFTER September 1<sup>st</sup> of the current membership year in order for the member to be billed and joined for the upcoming membership year. Example, a member with a join date of August 15, 2021 will be joined and billed for the 2021 membership year; a member with a join date of September 1, 2021 will be joined and billed for the 2022 membership year.

## **Paid Up for Life Membership (PUFL)**

### **PUFL Membership**

1. Is the Auxiliary's national paid-up-for-life membership program.
2. Is purchased by the member with a lump sum payment. If the PUFL membership is a gift, the cost is paid by the gift giver.
3. Was established by resolution adopted at the 2/18/1981 National Executive Committee Meeting in Washington, D.C.

### **PUFL Eligibility**

1. Traditional members in good standing (having a valid membership card for the current year) may become PUFL members.
2. Members whose dues are not paid for the current year are considered delinquent and must pay current year dues before becoming eligible to become a PUFL.
3. Current year dues payments must be reflected in the national membership system (ALAMIS) before PUFL applications can be processed.

### **Cost of PUFL Membership**

1. Is based upon two factors:
  - Age of the member at the time the application is submitted.
  - The total unit dues amount at the time the membership is purchased.
    - Unit dues consist of department dues per capita, national dues per capita, and the dues amount retained by the unit.
    - The dues amount used to compute the cost of a PUFL membership may not be less than the sum of department dues per capita and the national dues per capita; units have the option of waiving their portion of dues.
    - Use the rate chart on the back of the PUFL application to determine exact cost of a PUFL membership.

2. Dues paid in advance may be deducted from the total PUFL fee only until December 31<sup>st</sup> of the year in which they were paid in advance.
  - For the deduction to be recognized when processing the application at National Headquarters (ALANHQ), the following is required:
  - The completed and certified PUFL application must reach ALA NHQ no later than December 31<sup>st</sup>.
3. PUFL members will never be obligated to pay any additional amount if there is a dues increase.
4. PUFL fees are non-refundable.

### **PUFL Trust**

1. The PUFL Trust is maintained by ALA NHQ.
2. Money from the trust fund can only be used to support the PUFL program and to pay annual dues per capita each year to the unit, department, and national organization.
3. The interest income from the trust fund is used to cover the cost of dues increases at the national level.

### **Annual Payments to Units and Departments**

1. Annual payments will be made from ALA NHQ in the fall for all PUFLs on record for the current membership year.
2. The PUFL member's unit and department will always receive the amount of annual unit dues per capita and department dues per capita in effect at the time the member joined the PUFL program.

**NOTE:** *If the unit chooses to waive its portion of dues, the unit will not receive annual payments for that member.*

### **Completing the PUFL Application**

1. Applicant: *(must have paid dues for the current membership year)*
  - Completes Section 1 of the application form (See PUFL form on national website)
  - Using rate chart on back of the application, determines their PUFL fee
  - Attaches appropriate payment: (check or money order made payable to American Legion Auxiliary, National) or provides all charge card (VISA, Mastercard, or Discover) information requested on the application.
  - Submits application to the unit secretary for certification.
2. Unit secretary:
  - Verifies that the applicant has accurately and fully completed Section 1 of the application.
  - Verifies that the member is in good standing (either has a valid membership card for the current year or is current with dues as verified in the national membership records database).
  - Completes, accurately and in full, Section 2 of the application.
  - Records the applicant's member ID number.
  - Lists the amount of current annual unit dues.
  - Verifies that the applicant has listed the correct PUFL fee based on the applicant's current age and the current amount of unit dues. (If applicant has listed the fee

incorrectly, work with the member to correct before sending to National Headquarters.)

- Indicates if unit is waiving its portion of dues, thus reducing the amount on which the fee is based.
- If applicant has paid dues in advance (by December 31<sup>st</sup> of the previous membership year) and is reducing their fee by that amount, ensure that the department has transmitted their dues in time to be reflected in the national membership system (ALAMIS) by January 1<sup>st</sup>. (Advance dues payments cannot be deducted after January 1<sup>st</sup> of the current membership year.)
- Provides their address and phone number.
- Certifies, with their signature, that the application is complete and that all information on the application is accurate.

*NOTE: Applications lacking sufficient information, payment, or certification will be returned to the unit secretary.*

- Makes a copy of the application for unit and/or department records.
- Forwards original certified application, along with payment, to American Legion Auxiliary, Attn: PUFL, 3450 Founders Road, Indianapolis, IN 46268.
- May obtain current PUFL application forms from department headquarters or on the national website.

### **Identifying PUFL Members**

1. After the PUFL application and payment are processed at National Headquarters, the PUFL member will be issued a PUFL card.
2. Allow thirty (30) days to receive PUFL card.

### **PUFL Members Transferring to Another Unit**

A unit accepting the transfer must agree to accept the unit dues per capita amount established by the former unit at the time the PUFL application was processed.

### **PUFL Member vs. Honorary Life Member vs. State Life Member**

1. PUFL membership is purchased and requires completing an application issued by National Headquarters.
2. Only a unit can bestow honorary life membership.
  - The unit pays dues for their honorary life member each membership year.
  - National Headquarters does not provide applications for, nor can it process, honorary life memberships.
  - All honorary life membership records are maintained at the unit and/or department level.
  - Departments should mark the member's record as an honorary life member (HLM) to discontinue the renewal notice.
  - Honorary life memberships are valid only within the unit bestowing the membership.
  - If an honorary life member transfers to another unit, or the unit disbands, the honorary life membership becomes void.

- Honorary life membership cards and pins can be purchased through the Emblem Sales Division of The American Legion; purchase of a pin requires the approval of the Department Secretary.
3. Departments pay State Life Memberships, and dues should be submitted to National Headquarters.
    - State Life Memberships are not transferable from state to state.

**PUFL questions? Email [Membership@ALAforVeterans.org](mailto:Membership@ALAforVeterans.org)** with other questions about the PUFL membership program.

### Membership Renewal

National Headquarters sends membership renewal notices via email or postal mail directly to all Senior members except those in foreign units. Junior members do not receive a renewal notice. The personalized notice includes the amount of the annual unit dues and the name and address of the individual within the unit to whom the dues are to be paid. The national organization underwrites the entire cost of membership renewal.

### Payment

1. Although the notices are emailed or mailed by National Headquarters, the unit member may pay dues directly to the person receiving dues at the unit – either in person or by mail, via credit card on the national organization website, or by calling the Membership Division at National Headquarters at 317.569.4570. Members who choose to pay their dues on-line or over the phone will receive a receipt and have the ability to print their membership card. National Headquarters will mail a current year membership card to any member who renews or joins online.
2. If payment is made by mail, the member must enclose a check, along with the remit portion of the renewal notice, in the window envelope provided in the renewal notice mailing.
3. If a Senior member wants to pay dues for a daughter, granddaughter, or another person, the Senior member must provide that person's name, complete address, and member ID number on the back of the renewal form. This form, along with appropriate dues payment, may be mailed along with the Senior member's dues in the window envelope. This procedure must be followed to ensure proper credit.

**NOTE:** Unit dues represent the total of three amounts: the unit portion, department portion, and national portion. The unit retains its portion and transmits the balance to the unit's department headquarters which keeps its portion and transmits the national dues amount to ALA NHQ.

### Renewal Notice Mailing Schedule

Notice	When Mailed	To
1st	September	all Senior members
2nd	February	all Senior members for whom dues were not received by National Headquarters by early January

**Emailed renewal notice schedule may vary year to year.**

**NOTE:** Members can opt out of emailed renewal notices by contacting their Department headquarters or the Membership Division at ALA National Headquarters.

### Membership Dates and Deadlines

Please refer to the ALAMIS calendar on the ALAMIS Home Page for dates and deadlines for dues rate changes, renewal notices, membership cards, PUFL disbursements, etc.

### Unit Data Form – Direct Billing

To ensure that the information printed on renewal notices is accurate, each unit must complete, and forward to their Department Secretary, a Unit Data form or similarly designed department form.

1. The deadline for receiving Unit Data Forms is set annually by each department. Departments should set due dates for units to submit this form based on the annual ALAMIS calendar of events so that departments can submit and verify information on time.
2. It is imperative that National Headquarters has complete and correct information to ensure that renewal notice data is accurate. Required information for each unit includes 1) annual dues rates and 2) “remit to” name and address.
3. When reaching out to units to gather dues rates and “remit to” information, it is recommended that Departments collect unit officer information and update in ALAMIS.

### Prompt Processing of Dues

Prompt processing of dues at the unit and department level is extremely important; National Headquarters must receive dues well before the dates listed in the *Renewal Notice Mailing Schedule* to prevent mailing unneeded notices. However, because delays do occur, it is of equal importance for unit and department leaders to educate their members that some may receive a renewal notice although their dues have been paid. In such cases, please inform them to disregard the notice.

**NOTE:** If a unit is paying dues for/on behalf of a member, (honorary life members), make sure those dues are submitted on the first transmittal of the membership year.

### Membership Rollover

National Headquarters conducts a “membership rollover” each year in early February. This rollover moves unpaid members to expired status and expired members to a former status. The membership year is from January to December. *Example:* On February 1, 2021, members not renewed since 2019 will move to “expired,” and members not renewed since 2018 are moved to “former” members, all of whom will have their continuous years and join date reset to zero.

### Dues Statements

Dues statement postcards are available for departments to order from National Headquarters. They can be used by units to send renewals to junior members, send additional renewal reminders to a unit’s membership, or to send updated dues and/or “remit to” information to members if the incorrect dues or remit to information was reported to National Headquarters.

### Membership Cards

### Membership cards will:

1. Be shipped to most department headquarters in time for the department's annual convention.
2. Include a stock of blank card sheets to be distributed at the department's discretion.
3. Be sorted by unit, including Membership Roster, and shipped directly to each department headquarters for distribution.

### Card Reprints

If card reprints are needed, units should contact their department headquarters. Request for reprints, or any other "Service Orders," can only be accepted at National Headquarters from the department secretary.

**NOTE:** Reprints are done only if the unit loses the cards or the cards are destroyed. For a name change or transfer, use a blank card to prepare and issue a card with current information.

**NOTE:** The cost to departments to reprint membership cards is \$1 per printed card and/or \$1 per blank sheet of cards (8 cards per sheet). A membership card printing template can be requested from the Membership Division at National Headquarters.

### Organizing New Units/New Charters

Organizing a new unit is exciting and a good way to build membership. Many Legion posts in each department are without the benefit of an Auxiliary unit. Departments are encouraged to check with Legion department headquarters for a list of those posts. Become familiar with the information contained in *How to Organize a Unit* so that you can assist interested Auxiliary members/ TAL posts with chartering a new Auxiliary unit.

### Procedures for New Charters

The Unit Charter Application is available online at the national website. Department headquarters should receive the following from a new unit:

- All three copies of the signed charter application. All copies must be signed by the Post Commander and attested by the post adjutant.
- Name, number, and location of unit must be identical to the post.
- A completed form or letter indicating the unit's total annual dues amount for each Junior and each Senior member as well as who will receive the renewal notices.
- New charter fee of \$10.
- Department and national portion of dues. Departments will then forward the national portion of dues only to national headquarters.
- Checks for charter fees and dues can be submitted together.
- Membership applications or transfer forms for each charter member. Check to make sure that names and addresses on the charter application and new member applications correspond.
- If an inscribed roll is requested, a typed list of names as they are to appear on the charter roll
  - Setup fee for each inscribed roll is \$10.00 for 20 names and \$.50 for each additional name.



**NOTE:** The department must verify that all required information, forms, and payments are correct before forwarding items listed above to:

American Legion Auxiliary National Headquarters  
**ATTN: Membership Division**  
3450 Founders Rd.  
Indianapolis, IN 46268

National Headquarters will return the completed charter to the appropriate department headquarters for its signature.



### Section 3

#### Frequently Asked Questions (FAQs)

**FAQ 1:** Must a potential member join the Unit to the Post of which their service relative is a member?

**RESPONSE:** No, the potential member is eligible for membership in any Auxiliary unit.

**FAQ 2:** In a same-gender marriage, if the spouse wartime veteran is a member or eligible to be a member of The American Legion, is their spouse eligible for membership in the Auxiliary?

**RESPONSE:** On June 26, 2015, the United States Supreme Court issued a landmark decision in the case of Obergefell v. Hodges. The Court's ruling requires a State to license a marriage between two (2) people of the same sex and to recognize a marriage between two (2) people of the same sex when their marriage was lawfully licensed and performed out-of-State.

This decision requires all states to recognize same-gender marriages. The Legion and the ALA will continue to accept into membership those individuals who meet membership eligibility criteria regardless of the gender of their spouses.

**FAQ 3:** Can the eligibility of a member be questioned/challenged?

**RESPONSE:** Any member can challenge the membership eligibility of another member by presenting the challenge to the unit to whom the member being challenged belongs or to whom the person's membership application is being presented for consideration.

The unit has the responsibility for responding to the challenge of membership ineligibility and for making a determination on that person's eligibility. If the unit determines that the member is not eligible, the member may appeal to the department. If the unit determines that the member is eligible, the person challenging that member's eligibility may appeal to the department. The department is the final authority on determining an individual's membership eligibility.

Also note that a unit's or department's decision regarding an individual's membership eligibility is not appealable to the national organization. The national organization has no authority to consider eligibility or discipline appeals from members. The department is the final authority on eligibility and discipline.

**FAQ 4:** Can the daughter of a female veteran (who is currently living) become a member of the ALA if her mother is not a current member of The American Legion?

**RESPONSE:** No, the daughter can only join the ALA based on her mother's service and membership in The American Legion. If the mother were to join the Legion, then the daughter would be eligible for membership in the ALA.

**FAQ 5:** Is there any circumstance where a woman could join the ALA without having a relative as current member of The American Legion?

**RESPONSE:** There are two circumstances when a woman can become a member without having a relative as a current member of The American Legion. The first circumstance would be when the woman has served in the military during the requisite dates. She may join the ALA without being a member of the Legion. The second circumstance is when membership is based on a deceased veteran who was not a member of The American Legion; however, the

prospective member will be required to provide verifying documentation of the deceased relative's service dates to prove ALA eligibility.

**FAQ 6:** Is verification required by the Post Adjutant/Officer if the veteran through whom an applicant is applying is deceased?

**RESPONSE:** All ALA applications should be signed by the Post's Adjutant/Officer. The officer's signature is to verify he/she has confirmed the veteran's current status in The American Legion (if living) or to verify the applicable military documentation for the veteran through which the applicant is joining (if the veteran is deceased). However, the determination of whether the unit wishes to accept the applicant lies solely with the unit. The only exception to this is if the member is a female veteran and eligible in her own right, the Auxiliary unit officer can sign off on the application.

**FAQ 6:** If an ALA member works for an assemblyman, can the member run for county/district office in the ALA?

**RESPONSE:** There is no inherent conflict solely because the person is serving in public office. There are no national ALA or Legion restrictions from holding public office or working for a public official and holding an ALA office.

**FAQ 7:** Are step-relatives eligible to join the ALA?

**RESPONSE:** No, IRS regulation for 501(c)(19) organizations do not include step-relatives in their definition of an auxiliary organization

**FAQ 8:** Why is membership limited to two degrees of consanguinity (relation)?

**RESPONSE:** The IRS regulation concerning auxiliaries to veteran service organizations states in part: "At least 75 percent of its members are veterans, spouses of veterans, or related to a veteran within two degrees of consanguinity (i.e., grandparent, brother, sister, grandchild represent the most distant allowable relationships)."

This means that no great or great-great-granddaughters can join the Auxiliary. Current members whose eligibility relationship is great-granddaughter, great-great-granddaughter or direct descendent can continue being a member, as long as their dues are kept current.

**FAQ 9:** The Auxiliary Unit no longer has an American Legion Post, so who would sign the Auxiliary membership application?

**RESPONSE:** If a post officer's signature cannot be obtained, a letter from the Department Adjutant in which the service relative has his/her Legion membership will be accepted in lieu of the post officer's statement. A copy of this letter must be attached to the application.

**FAQ 10:** How long must units retain membership applications?

**RESPONSE:** Since eligibility for membership can be challenged at any time during the life of the member, eligibility information should be retained as long as the member is alive. Eligibility information needs to be securely retained, and records can be digitized to save space and provide a more convenient way to retain the information. Units are advised to have access to a locked file cabinet in the post or other secure place for record retention and to redact

(permanently cover) any personal identifying information (birthdates, social security numbers, etc.) in order to protect from identity theft.

Counsel General notes that in recent years, the IRS has been more stringent about demanding to see eligibility records when they are doing field audits of posts, units and departments. The fact that the IRS has escalated its audits of Legion and ALA entities in recent years may lead to confusion about the length of time for retaining IRS records versus the length of time for retaining eligibility verification records. Counsel General has advised that tax returns need be kept for only seven (7) years, but eligibility records should be retained for the life of the member.

**FAQ 11:** Are men now eligible to join the Auxiliary?

**RESPONSE:** Male spouses of current members of The American Legion are eligible to join the Auxiliary. Male spouses of all men and women who served in the eligible periods and died in the line of duty or after honorable discharge are eligible to join the Auxiliary. Grandfathers, fathers, uncles, brothers or other male descendants are not eligible to join the Auxiliary.

**FAQ 12:** Are transgendered individuals eligible for membership in the ALA?

**RESPONSE:** Gender is determined by the gender specified on the person's driver's license/state identification or other legal document verifying gender at the time the ALA applicant's membership eligibility is determined.

**FAQ 13:** Is an individual eligible through the war service of a divorced spouse?

**RESPONSE:** A divorced person does not occupy the status of spouse and, therefore, has no eligibility. But the fact that a member of the Auxiliary has become divorced from the person whom they gained eligibility does not force them to surrender Auxiliary membership, even if they remarry. However, if they become delinquent, they may reinstate their membership only by payment of back dues for all years of delinquency or by establishing new eligibility.

**FAQ 14:** Is a common-law spouse eligible through the war service of their common-law spouse?

**RESPONSE:** No, IRS definition of spouse does not recognize common-law spouses. The IRS defines the terms spouse, husband and wife to mean an individual lawfully married to another individual.



OFFICE OF THE  
NATIONAL JUDGE ADVOCATE

**LEGAL OPINION**  
**DEFINITION OF "SPOUSE" FOR AMERICAN LEGION AUXILIARY ELIGIBILITY**  
**KEVIN J. BARTLETT, NATIONAL JUDGE ADVOCATE**  
**September 5, 2019**

Issue: Is the non-veteran domestic partner, or non-veteran individual in a civil union, eligible for membership in the American Legion Auxiliary after the changes made at The American Legion's 101<sup>st</sup> Convention?

Per the Internal Revenue Service (IRS) regulation for 501(c)(19) an organization may be exempt under section 501(c)(19) as an auxiliary unit if it meets the following requirements:

1. It is affiliated with, and organized in accordance with the bylaws and regulations of, a veterans' post or organization described above;
2. At least 75 percent of its members are veterans, spouses of veterans, or related to a veteran within two degrees of consanguinity (i.e., grandparent, brother, sister, grandchild represent the most distant allowable relationships) [underline added];
3. All members are either members of a veterans' post or organizations described above, or spouses of a member of such post or organization, or are related to a member of such post or organization within two degrees of consanguinity [underline added]; and
4. No part of its net earning inures to the benefit of any private shareholder or individual.

The term "spouse" and the term "husband and wife" – as defined in 26 CFR Section 301.7701-18 – means an individual(s) lawfully married to another individual(s). A marriage of two individuals is recognized for federal tax purposes if the marriage is recognized by the state, possession, or territory of the United States in which the marriage is entered into, regardless of domicile. Marriages in foreign jurisdiction are recognized if the relationship would be recognized as a marriage under the laws of at least one state, possession, or territory of the United States, regardless of domicile.

This IRS regulation concludes that the terms spouse, husband, and wife do not include individuals who have entered into a registered domestic partnership, civil union, or other similar formal relationship not denominated as a marriage under the law of the state, possession, or territory of the United States where such relationship was entered into, regardless of domicile. The term husband and wife does not include couples who have entered into such a formal relationship, and the term marriage does not include such formal relationships.

The American Legion is a federally chartered organization that follows federal laws. Therefore this means the individual non-veteran in these non-recognized relationships – domestic partnerships, civil unions, or other similar formal relationship not denominated as a marriage – are not American Legion Auxiliary member-eligible by the new eligibility change.



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American Legion Auxiliary Department Operations Guide, published April 25, 2014.

**UPDATE HISTORY:**

#	Date	Author(s)	Description (Substantive or Proofing)
01	07/21/2014	NHQ Communications	Proofing: Cover added, footers edited
02	11/17/2016		Updates: Executive; Sec. 1; Sec. 2; Sec. 3; Sec. 5; Sec. 6
03	02/1/2021	NHQ Membership, Governance	Revision including Legion Act and inclusion of male spouses