

# **CONSTITUTION AND BY-LAWS**

**THE AMERICAN LEGION  
DEPARTMENT OF OKLAHOMA, INC.**

**OKLAHOMA  
CONSTITUTION AND BY-LAWS**

**As amended and revised at the Department Convention  
in Shawnee, Oklahoma, 10 July 2016**

**As Amended**

**Norman, Oklahoma,**

**15 July 2017**

**As Amended**

**Shawnee, Oklahoma,**

**14 July 2018**

**As Amended**

**Shawnee, Oklahoma,**

**25 July 2019**

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**CONSTITUTION AND BY-LAWS**

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**CONSTITUTION OF THE AMERICAN LEGION DEPARTMENT OF OKLAHOMA, INC.**

**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 maintain law and order;

To foster and perpetuate a one hundred per cent Americanism;

To preserve the memories and incidents of our associations in the Great 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 good will on earth;

To safeguard and transmit to posterity the principles of justice, freedom and democracy;

To consecrate and sanctify our comradeship by our devotion to mutual helpfulness.”

**CONSTITUTION AND BY-LAWS**  
**CONSTITUTION**  
**OF THE AMERICAN LEGION**  
**DEPARTMENT OF OKLAHOMA, INC.**

**ARTICLE I**  
**Name and Headquarters**

- Section 1.** The name of this organization shall be The American Legion, Department of Oklahoma, Incorporated; hereinafter referred to as The Department.
- Section 2.** The headquarters of The Department shall be in the City of Oklahoma City metropolitan area, at such place as may be determined by the Department Executive Committee.

**ARTICLE II**  
**Nature**

- Section 1.** The American Legion, Department of Oklahoma, Inc., is a civilian organization; membership therein does not affect nor increase liability for military or police service. Rank does not exist in the Legion; no member shall be addressed by his military or naval title in any convention or meeting of the Legion.
- Section 2.** The American Legion, Department of Oklahoma, Inc. and all of its subordinate component bodies, shall be absolutely nonpolitical and shall not be used for the dissemination of partisan principles nor for the promotion of the candidacy of any person seeking public office or preferment.

**ARTICLE III**  
**Organization**

- Section 1.** The Department shall be organized into Posts, and for purposes of administration shall be divided into 16 Districts, as follows:

**1A and 1B; 2A and 2B; 3A and 3B; 4A and 4B; 5A and 5B; 6A and 6B; 7A and 7B; 8A and 8B.**

Each District shall be composed of the posts located in the counties as follows:

**District 1A** – Craig, Delaware, Mayes, Nowata, Ottawa, Washington

**District 1B** – Osage, Pawnee, Rogers, Tulsa

**District 2A** – Adair, Cherokee, Muskogee, Sequoyah

**District 2B** – Haskell, McIntosh, Okmulgee, Wagoner

**District 3A** – Atoka, Latimer, LeFlore, Pittsburg, Pushmataha

**District 3B** – Bryan, Carter, Choctaw, Love, Marshall, McCurtain, Johnston

**District 4A** – Creek, Lincoln, Okfuskee, Pottawatomie

**District 4B** – Coal, Hughes, Pontotoc, Seminole

**District 5A** – Logan, Oklahoma, Payne

**District 5B** – Cleveland, Garvin, McClain, Murray

**District 6A** – Caddo, Blaine, Canadian, Kingfisher

**District 6B** – Comanche, Cotton, Grady, Jefferson, Stephens

**District 7A/B** – Beckham, Custer, Dewey, Ellis, Roger Mills,  
Washita, Greer, Harmon, Jackson, Kiowa, Tillman

**District 8A** – Alfalfa, Garfield, Grant, Kay, Major, Noble

**District 8B** – Beaver, Cimarron, Harper, Texas, Woods, Woodward

The Department Executive Committee in administering the Organization, upon request of Posts and with approval of the Districts involved, may, after review by the Department Judge Advocate, change assignment of the individual Post to another District. Said approval shall be for a period of three years at which time, assignment may be continued.

**Section 2. District Programs.** Notwithstanding the Department Executive Committee’s power, the individual Districts are responsible for the management and control of District level programs. However, the Department Executive Committee may terminate a District program if the program violates Department or National guidelines.

**Section 3.** (a) No individual, group of people, or subordinate organization of The American Legion, Department of Oklahoma, Inc., is authorized to contract any bills or obligation in the name of The Department, nor act as the agent of The American Legion, Department of Oklahoma, Inc., for any such purpose whatsoever. (b) The Department shall not incur or cause to be incurred any liabilities or obligations whatsoever which would or may subject any Posts, or officers thereof, or any other subordinate organization of The American Legion, Department of Oklahoma, Inc., or any person or member or group thereof to liability for the payment or satisfaction thereof, and shall be without power to do so.

**Section 4.** No real estate or leasehold property belonging to The American Legion, Department of Oklahoma, Inc., or one of its subordinate organizations shall be sold or disposed of in any way or have its title encumbered in any manner without the Post notifying the District Commander in which it is located, in writing and without thereafter obtaining written consent of the Department Executive Committee of The American Legion, Department of Oklahoma, Inc. See Rules of the DEC, Rule 7, Section XI, Post Loan Acquisition / Property Disposal / Lease Procedures for additional procedures to be followed.

**Section 5.** District Program Assets. Notwithstanding the provisions of Section 3 and Section 4 hereof, upon the termination of a District program, the District Convention shall propose the distribution of the assets of the program. The District’s proposed distribution plan is subject to the approval of The Department Executive Committee.

## **ARTICLE IV**

### **Eligibility**

**Section 1.** “**36 USC Section 21703** – “An individual is eligible for membership in The American Legion, Department of Oklahoma, Inc., only if the individual – (1) has served in the Armed Forces of (A) the United States at any time during – (i) the period of April 6, 1917, through November 11, 1918; or (ii) any time after December 7, 1941; or (B) a government associated with the United States

Government during a period or time referred to in subsection (A) 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 of said periods, refused on conscientious, political or other grounds to subject themselves to military discipline or unqualified service.”

**“36 USC Section 21704A – Nondiscrimination:** The requirements for holding a staff position in the corporation (The American Legion) may not discriminate on the basis of race, color, religion, sex or national origin.”

- Section 2.** There shall be no form or class of membership except an active membership, and dues shall be paid annually or for life. Social or honorary memberships are specifically prohibited.
- 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 from The American Legion shall be admitted to membership in another Post, without the consent of the authority which expelled the member, except that where such consent has been sought and denied, or sought and not granted within a reasonable time thereafter, the member may then appeal to the Department Executive Committee for permission to be admitted to membership in another Post. The member shall be ineligible for membership until such permission is granted.
- Section 5.** Member must be in good standing prior to transfer to another Post. No member having charges served by the member’s Post, or pending charges by their Post, shall be eligible for transfer to another Post until such charges are adjudicated.
- Section 6.** No person expelled from membership in the American Legion shall be allowed to enter any American Legion facility or grounds.

## **ARTICLE V**

### **Department Convention**

- Section 1.** The Annual corporate meeting of The American Legion, Department of Oklahoma, Inc., shall be the Department Convention, which shall constitute the Legislative body of said Department. The Department Convention shall be held annually at a time and place to be fixed by action of the preceding Department Convention, or if said proceeding Department Convention shall have failed to act, then by the Department Executive Committee, pursuant to Article VII of this Constitution.
- Section 2.** The Department Convention shall be comprised of representatives from each Post who shall be members in good standing of the Post by which they are elected, and all Past Department Commanders while in good standing in their respective Posts. Each Post in good standing (five current members, conducts regular meeting, and participates in American Legion activities, such as Oratorical, Boys State and Baseball) shall be

entitled to two delegates. Each Post having 26 members in good standing shall be entitled to three delegates and to an additional delegate for each additional fifty members after the first 26. Each Post shall be entitled to an alternate for each delegate. Membership strength of the Post, for determining delegate strength, shall be computed as of paid up membership in Department Headquarters at the close of business 30 days prior to the convening of the Department Convention.

**2a** – Candidates for departmental office will be present at election; excepting emergency absence may be approved beforehand by the DEC in regular or special session called by the Department Commander.

**Section 3. Voting. (a)** On all matters of business except the election of Department Officers, members of the Department Executive Committee, Delegates and Alternates to the National Convention, and except amendments to this Constitution or the By-Laws, voting shall be by voice, and the decision of the chair thereon shall be final unless a vote by roll call be demanded; and upon demand of any person having proper voice such other manner of voting shall be employed.

**(b)** The election of all Department Officers, and National Officers, shall be by roll call except where, in the case of individual offices, the necessity of a roll call is dispensed with by majority consent,

**(c)** The election of members of the Department Executive Committee and Delegates and Alternates to the National Convention shall be conducted by each District.

**(d)** In all voting, the vote of each Post shall be equal to the total number of delegates to which such post may be entitled and all votes will be cast by the designated delegate of that Post. At the conclusion of all roll call voting, for each individual election required to be conducted by the Department Convention, the Department Officer conducting such elections shall ask if any Post desires to amend or change its vote; or ask does any Post, which has not cast its vote during the roll call vote, now wish to cast its vote. No Post shall be allowed to pass more than one time. After the Department Officer conducting the election has made the aforesaid announcement and taken due note of all change in voting and has recorded the vote of any Post which originally passed, then the conducting officer shall announce that the voting is closed and direct that the tally be taken, and the results announced.

**(e)** All Past Department Commanders, while in good standing in their respective Posts, shall be delegates for life to all Department Conventions with voice with vote, to be exercised by them with their respective Posts and all District Conferences at which any election provided for in this Constitution shall be held, and at which their respective Posts may be entitled to vote. The failure of such Post to properly register its delegation shall not deprive such Past Department Commander of their right to vote, provided the Past Department Commander is properly registered as a delegate.

**Section 4 (a).** The Department Convention shall elect a Department Commander who may not have previously served as the elected Department Commander and whose term is limited for life to one elected term except that service as the succeeding Department Commander due to the death, resignation, or other cause, of the serving Department Commander shall not preclude election to the office as a separate event; a Department Senior Vice-

Commander, a Department Vice-Commander East, a Department Vice-Commander West, a Department Judge Advocate, a Department Treasurer, and a Department Sergeant-at-Arms, each election for the term of one year. A National Executive Committeeman, in even numbered years, and an Alternate National Executive Committeeman, in odd numbered years, will be elected for alternating two years terms. Other offices as may be authorized by the Department Convention for such terms defined by the Department Convention as needed. Vice-Commander East shall be selected by and from the Posts in Districts 1A/B, 2A/B, 3A/B, and 4A/B. The Vice-

Commander West shall be selected by and from the Posts in Districts 5A/B, 6A/B, 7A/B, and 8A/B. Vice-Commander East shall be a member in good standing of a Post within the aforementioned district. Vice-Commander West shall be a member in good standing of a Post within the aforementioned district. Vice-Commander East and Vice-Commander West shall be elected for one year after ratification by the delegates to the Department Convention.

- Section 4(b).** In the event of the death, resignation, or removal of the Department Senior-Vice Commander, the Vice-Commander East in odd numbered years, or the Vice-Commander West in even numbered years shall immediately assume the position of Department Senior Vice-Commander with full powers to act and for the period as if elected at the preceding Department Convention.
- Section 4 (c).** The Officers listed in **Section 4 (a)** to be elected by the Department Convention shall be nominated and elected for office in the following order:
1. Alternate National Executive Committeeman - 2 Years **See Section 4 (a)**
  2. National Executive Committeeman - 2 Years **See Section 4 (a)**
  3. Department Sergeant-at-Arms - 1 Year
  4. Department Treasurer - 1 Year
  5. Department Judge Advocate - 1 Year
  6. Department Vice-Commander West - 1 Year
  7. Department Vice-Commander East - 1 Year
  8. Department Senior Vice-Commander - 1 Year
  9. Department Commander - 1 Year **See Section 4 (a)**
- Section 5.** The Department Convention, upon recommendation of the Department Executive Committee, shall have the power to permanently change, alter, enlarge or make smaller the Districts of the Department of Oklahoma, or any of them, and to create new Districts. See Article III for temporary changes.
- Section 6.** Every Post shall file the name and number of the delegates and alternates to the Department Convention at least twenty days prior to the convening of the convention and at the same time pay the registration fee the amount of which shall be decided annually by the Department Executive Committee for each and every delegate they are entitled to; in the case of an alternate taking the place of a delegate, such alternate shall be required to pay the usual registration fee, which shall be done prior to the alternate being seated with the Post delegation; unless and until such registration fees of the delegates have been paid, the delegation is disqualified to act for any purpose, and no individual delegate will be allowed to vote; provided however, that the mere non-payment of registration shall not deprive a delegation otherwise duly qualified, of the



right to vote in any District meeting, on any matter (including election of district officers) which thereafter is subject to ratification by the Department Convention.

**Section 7. District Conventions.** A District Convention shall be held by each District not less than twenty days prior to, the convening of each the Annual Convention and Winter Conference. The election of the District Commander, District Vice-Commanders,

Department Executive Committee members, and Delegates and Alternates to the National Convention of The American Legion to which such District may be entitled by this Constitution shall be held at the District Conference preceding the Department Elections. It shall be the responsibility of the District Commander in and for each District to see that at least fifteen days prior notice of any District Convention convened for any purposes shall be given by written communication to the Commander of each Post in the District, and no such District Convention shall be deemed legally convened in the absence of such notice; provided, however, that any District may caucus at any Department Convention upon three hours notice by announcement from the rostrum and all the purposes of this section may thereafter be fulfilled just as though prior written notice had been given. The action of such District Convention as to the election of any of the officials named in this section shall not be final until ratified at the conclusion of the Department Convention.

**Section 8.** A quorum shall exist at a Department Convention or at a District Convention when ten percent of the Posts in the Department or District, not less than two posts being represented in a given district, as the case may be, are represented by duly elected Delegates or Alternates.

**Section 9.** Each District in Convention not less than twenty days prior to the convening of the Department Convention shall elect one delegate and one alternate delegate to the National Convention, this delegate and alternate delegate is to represent the first thousand members of their respective District; there shall also be elected a delegate and alternate delegate for each succeeding thousand members. The five Department Delegates to the National Convention shall be the newly installed Department Commander, the Department Commander for the immediate prior year, the Department Adjutant, the Alternate National Executive Committeeman and the newly installed Department Senior Vice-Commander. Alternates for these delegates shall be appointed by the Department Commander. Any additional delegates and alternate delegates are to be elected by the District with the highest percentage of their previous year's membership as of the day that determines the department convention membership strength for the District.

**Section 10.** Each District in Convention not less than twenty days prior to the convening of the Department convention shall elect a District Commander for a term of two years, on even years, and a Department Executive Committeeman for a term of two years, odd years, for said District.

**Section 11.** (a) Any person elected or appointed as an officer of the Department, District, or any Post of the Department must be certified as eligible to hold an officer's position in the American Legion. Pursuant to Resolution 5 adopted at the 2018 Spring meeting of the National Executive Committee of the American Legion, every officer of the American Legion must provide satisfactory evidence of their honorable service during a

prescribed timeframe thereby establishing one's eligibility for membership in the American Legion. This certification will be carried out as follows:

1. Eligibility documents of post officers must be submitted to and certified by the department adjutant.
2. Eligibility documents of department and district officers will be submitted to and certified by the department adjutant with notification to the National Adjutant.
3. Eligibility documents of national officers, National Executive Committeemen, Alternate National Committeemen, commission chairman and committee chairmen must be submitted to the National Judge Advocate for an initial review, certified by the National Adjutant and reported to the National Executive Committee.
4. The form for providing certification of eligibility of officers described above is available at [www.okamlegion](http://www.okamlegion) under forms.

**(b)** Any person elected or appointed as an officer of the Department or any District of the Department must successfully complete, or have completed, the American Legion Extension Institute/American Legion Basic Training (ALEI/ALBT) course. A copy of the completion certificate must be on file with the Department within 30 days following election or appointment. Officers may not vote in the capacity of their office until this requirement has been fulfilled. Fulfillment must occur within 30 days following election or appointment. It is recommended Post officers also complete this course. All legionnaires are encouraged to complete this course.

**(c)** Any person elected or appointed as an officer of the Department or any District of the Department must have a copy of their DD Form 214 and Confidentiality Agreement signed and on file with the Department within 45 days following election or appointment. Failure to comply with any of the requirements stated in this Section will result in revocation of the election or appointment.

**(d)** All persons elected or appointed as an officer of the Department or any District of the Department will be subjected to a background investigation.

## **ARTICLE VI**

### **Department and District Officers**

**Section 1 (a).** The Department Officers shall consist of the following: Department Commander  
Department Senior Vice-Commander  
Department Vice-Commander East  
Department Vice-Commander West  
Department Judge Advocate  
Department Adjutant  
Department Treasurer  
Department Historian  
Department Sergeant-at-Arms  
Department Chaplain

Department Surgeon  
Department Representative to the Oklahoma Veterans Commission  
(or its statutory successor under the then applicable law currently  
codified at 72 O.S. § 63.1, et seq.)

**Section 1 (b).** The National Executive Committee Department Representatives of The American Legion, elected by and representing the Department of Oklahoma, Inc., shall consist of the following:

National Executive Committeeman  
Alternate National Executive Committeeman

These National Executive Committee Department Representatives shall be elected as prescribed in **Article V, Section 4 (a)** of this Constitution.

**Section 1(c).** The Department's Representative to the Oklahoma Veterans Commission (or its statutory successor under the then applicable law currently codified at 72 O.S. § 63.1, et seq.) must be selected in accordance with the procedures outlined in the current state laws at 72 O.S. § 63.2. The Department Executive Committee must select five (5) current members of the Department who are in good standing and who were Honorably Discharged and the Department Executive Committee must submit the five names to the Governor no later than three (3) months before the end of the term of the current American Legion Representative, or sooner if requested, to the Veterans Commission. In the event of the death, resignation, removal, or inability of the Department Representative to complete his or her appointed term, the Department Executive Committee will be responsible to submit five names of similarly qualified candidates to the Governor following a specially called meeting of the DEC in accordance with the Constitution, Bylaws and Rules of the DEC concerning emergency meetings of the same.

**Section 2.** (a) All Department Officers shall be elected by the Department Convention, and all Department Officers, except the National Executive Committeeman, the Alternate National Executive Committeeman, shall be elected for a term of one year. Should the Department Convention in creating any new offices neglect or fail to designate the term of such office, then the term shall be for one year. In the event of death, resignation or removal of the National Executive Committeeman, the Alternate National Executive Committeeman shall immediately assume the position of National Executive Committeeman with full power to act for the unexpired term as if elected at the prior Department Convention. An election shall be held at the next regular meeting of the Department Executive Committee to fill the remaining term of the Alternate National Executive Committeeman who has succeeded to the office of National Executive Committeeman.

(b) If the Alternate National Executive Committeeman position is vacated for any reason the Department Commander shall appoint a replacement until the next regular meeting of the Department Executive Committee (unless scheduled within 30 days) when an Alternate National Executive Committeeman will be elected by simple majority vote of the Department Executive Committee.

(c) The Department Representative to the Oklahoma Veterans Commission is appointed by the Governor and confirmed by the Senate for a three year term. Department

Commander and DEC are responsible for nominations to the Governor.

**Section 3.** All Department Officers whose terms are for one year shall serve from the adjournment of the Department Convention at which they were elected until the adjournment of the next Department Convention following their election or their appointment; or, applying to all officers, until their successors are duly chosen. The term of office of each National Executive Committeeman and each Alternate National Executive Committeeman shall commence immediately upon the adjournment of the National Convention next ensuing their election, and shall end at the adjournment of the second next succeeding annual National Convention.

**Section 4.** The Department Executive Committee shall select and hire a Department Adjutant.

**Section 5.** The Department Executive Committee upon nomination of The Department Commander at its first meeting following the adjournment of the Department Convention, shall appoint a Department Historian, Department Chaplain, and Department Surgeon, who shall serve for the period of one year from the time of their respective appointments until the close of the next ensuing Department Convention without vote unless otherwise entitled.

**Section 6.** The District Commanders shall be elected by a majority of the delegates from the District they are to represent for a term of two years. Each District may also elect a District First Vice-Commander who shall be second in command of the District and shall act in behalf of the District Commander at any time when requested by the District Commander. In the event of death, resignation, physical incapacitation or removal of the District Commander, the District First Vice-Commander shall immediately assume the position of the District Commander, with full powers to act for the remainder of his/her term as if elected by the preceding District Election.

**Section 7.** In the event of the death, resignation, or removal of the Vice-Commander East or the Vice-Commander West, the Districts affected will convene for the purpose of electing a replacement. Elected replacement will be installed at the next DEC meeting.

## **ARTICLE VII**

### **Department Executive Committee**

**Section 1.** Between Department Conventions the administrative power shall be vested in the Department Executive Committee, which shall constitute the Board of Directors of The American Legion, Department of Oklahoma, Inc., and shall be composed of the following members:

Department Commander, who shall serve as  
Chairman

All Department Vice-Commanders

Department Judge Advocate

Department Adjutant (without vote)

Department Treasurer

Department Historian (without vote)

Department Sergeant-at-Arms

Department Chaplain (without vote)

Department Surgeon (without vote)  
Department Executive Committee members (elected pursuant to Article V, Sect. 10)  
National Executive Committeeman  
Alternate National Executive Committeeman (without vote except in absence of  
National Executive Committeeman)  
All District Commanders  
All Past Department Commanders (with voice but without vote, who are in  
good standing in their respective Posts)  
Department Representative to the Oklahoma Veterans Commission (with voice  
but without vote)

**Section 2.** The term of office of all members of the Department Executive Committee shall be for their elected term and all Past Department Commanders, while in good standing in their respective Posts, shall be members for life (with voice, but without vote). The term of each member who is elected or appointed to serve shall commence immediately. Failure to attend two consecutive meetings, unexcused, will result in removal from the position.

**Section 3.** The Department Executive Committee shall fix a time and place for the succeeding Department Convention and notice shall be given to each Post of such time and place selected by the Department Executive Committee.

## **ARTICLE VIII**

### **Posts**

**Section 1.** Those who desire to form a Post shall make application for a charter to the Department of Oklahoma. The Department of Oklahoma shall cause the application to be investigated. The results of such investigation shall thereupon be reported to the Department Executive Committee. Upon approval of the application by the Department Executive Committee, the Department Commander shall forward same to the National Commander and National Adjutant for the issuance of a charter. Post charters shall be countersigned by the Department Commander and the Department Adjutant.

**Section 2.** No Post shall be named after any living person. If a Post is to be named for a deceased person, written permission from next of kin for use of the name shall accompany the charter application.

**Section 3.** Each Post shall adopt a Constitution and By-Laws which shall be consistent with the Constitution and By-Laws of both the National Organization and this Department. Any amendment to the Department Constitution and By-Laws which is inconsistent with any Article or Section of a Post Constitution and By-Laws, when adopted, shall automatically void and nullify such Article or Section of the Post Constitution and By-Laws. Post Constitutions and By-Laws will be reviewed by the Department and approved by the Judge Advocate. Approval will be maintained with these Constitution and By-Laws.

**Section 4.** The officers of the Post should include the following:  
Commander  
Vice-Commander (1 or more)  
Adjutant

Finance Officer or  
Treasurer  
Service Officer  
Historian  
Chaplain  
Sergeant-at-arms  
Judge Advocate

It shall be optional for the Post to combine offices.

**Section 5.** All Post Officers for the ensuing year shall be elected/appointed at least twenty days prior to the opening of the Department Convention and they shall assume their duties following installation into their elected office at the next scheduled Post meeting following the closing date of the Department Convention.

**Section 6.** Each Post shall pay annually to The American Legion, Department of Oklahoma, Inc., such per capita tax as may be levied by The Department Convention, plus whatever per capita tax may be levied by the National Organization. Each Post shall determine the dues of its members, but whatever amount is chosen shall include the payments required to be made to the National Organization and this Department.

## **ARTICLE IX Finance**

**Section 1.** The revenues of The American Legion, Department of Oklahoma, Inc., shall be derived from annual membership dues and from such other sources as may be approved by the Department Executive Committee. The fiscal year of this Department shall be from July 1st through the following June 30th. An annual audit of the Department's financial records shall be conducted by an independent accounting firm.

**Section 2.** The amount of such annual dues shall be determined by the Department Convention.

**Section 3.** The annual dues shall be collected by each Post and transmitted to the Department Adjutant. Transmittal of dues must be made as soon as possible and within 10 days of receipt by the Post.

## **ARTICLE X Discipline Charter**

**Section 1.** The Department Executive Committee after notice and a hearing may suspend or revoke the charter of a Post which violates this Constitution or By-Laws and it may provide for the government and administration of such Posts during such suspension.

**Section 2.** The Department Executive Committee shall designate, appoint and authorize a subcommittee to hear and make written findings of fact and recommendations with reference to the matter of the cancellation, suspension or revocation of the charter of any Post after said Post shall have received due and proper notice of said hearing. Said subcommittee shall make its written findings and recommendations to the Department Executive Committee.

**Section 3.** The hearing of any cause involving the cancellation, suspension or revocation of any Post charter shall be conducted under the Rules of the Department Executive Committee.

### **Members**

**Section 4.** The Department Executive Committee after notice and hearing may discipline any member of The American Legion, Department of Oklahoma, Inc., of its own motion and without regard to any other action which may be taken by the Post to which such member belongs where it appears that such member at the time of the conduct in question, was an officer of The American Legion, Department of Oklahoma, Inc., as defined in this Constitution, or a member of its Executive Committee, or a delegate or alternate to a National Convention, or convention of this Department convened at the time of such conduct aforesaid, or an officer of any District, or Post in this Department and that as such the member was charged with knowledge of the programs of, and loyalty to, The American Legion nationally and the Department of Oklahoma, and that as such the member has been disloyal or neglectful of duty, or dishonest, or acted in a manner unbecoming the position aforesaid which he/she holds or at the time of such conduct did hold in The American Legion. Disloyalty shall include embracing or adhering to the principles of any group opposed to the Constitutional form of Government of the United States of America, or of any group previously determined by The American Legion nationally, or by action of the Department of Oklahoma, Incorporated, to be in basic conflict with the purposes of The American Legion. Conduct unbecoming the incumbent of such positions in The American Legion as are hereinabove set forth shall mean only such conduct as is premeditatedly and deliberately calculated to bring The American Legion or the Department of Oklahoma, Inc., or any official action of the conventions or Executive Committees thereof, or the national or department officers thereof, respectively, in their official incumbent capacity, into public disrepute, ridicule or calumny. Nothing herein shall be construed in any manner to prohibit any member of The American Legion from expressing his/her position freely and exhaustively in any debate at any Convention of The American Legion or at any official meeting of The American Legion, Department of Oklahoma Inc., or its subordinate component bodies. The redress of any grievance or the consideration or reconsideration of any policy, and any act of such nature so undertaken shall not be deemed evidence of unbecoming conduct aforesaid, or of disloyalty.

**Section 5.** The Department Executive Committee shall designate, appoint and authorize a subcommittee to hear and make written findings of fact and recommendations with reference to the matter of disciplining any member of The American Legion, Department of Oklahoma, Inc., who fails in the category set out in the preceding section, after such member shall have received due and proper notice of such hearing. Said subcommittee shall make its written findings and recommendations to the Department Executive Committee. Any member who is the subject of possible disciplinary action shall be entitled to present his/her case before the Department Executive Committee as a whole and shall be so advised by the subcommittee.

**Section 6.** The Department Executive Committee shall adopt rules of procedure that provide for a

fair trial and due process for the hearing of any cause involving the disciplining of a member by the Department Executive Committee, as set forth in Section 4 of this Article and is empowered hereby to provide for the suspension or expulsion of such member by a majority vote of said committee.

**Section 7.** These procedures shall be governed by the Trial Manual of the Department of Oklahoma (2006) and Supplement 1 to the Uniform Code of Procedure of the American Legion of Oklahoma revised August 15, 2010.

#### **Real Estate / Loans / Rental / other Encumbrances'**

**Section 8.** No real estate or leasehold property belonging to The American Legion, Department of Oklahoma, Inc., or one of its subordinate organizations shall be sold or disposed of in any way or have its title encumbered in any manner without the Post notifying the District Commander in which it is located, in writing and without thereafter obtaining written consent of the Department Executive Committee of The American Legion, Department of Oklahoma, Inc. See Rules of the DEC, Rule 7, Section XI, Post Loan Acquisition / Property Disposal / Lease Procedures for additional procedures to be followed.

#### **ARTICLE XI Change of Residence**

**Section 1.** Any member in good standing in a Post, transferring from this Department shall be entitled to a certificate stating current membership therein and the duration thereof.

#### **ARTICLE XII Parliamentary Procedure**

**Section 1.** Robert's Rules of Order Newly Revised shall govern the procedure at the Department Convention, subject however, to any governing procedure submitted by the Rules Committee of the Department Convention and duly ratified by such Convention; provided however that no rule shall act to deprive any delegate of the right to cast their own vote as the delegate sees fit.

**Section 2.** All meetings of the Department Executive Committee and all meetings of the subordinate component bodies of The American Legion, Department of Oklahoma, Inc., shall be governed by the Rules of the Department Executive Committee excepting when not covered, Robert's Rules of Order Newly Revised (unless otherwise provided therefore by such body or bodies) shall apply.

#### **ARTICLE XIII Amendments**

**Section 1.** This Constitution may be amended at any Department Convention by a majority vote the registered delegates present, provided that the proposed amendment shall have been submitted through the Department Adjutant to all Posts and members of the Department Executive Committee by mailing same to them at least sixty days prior to the convening of the next Department Convention, and provided further, it may be amended by—



majority vote at any Department Convention without notice.

## **ARTICLE XIV**

### **Auxiliaries**

- Section 1.** The American Legion, Department of Oklahoma, Inc., recognizes auxiliary organization known as "The American Legion Auxiliary, Department of Oklahoma."
- Section 2.** Membership in The American Legion Auxiliary shall be limited to the grandmothers, mothers, sisters, wives, and direct and adopted female descendents of members of The American Legion, and to the grandmothers mothers, sisters, wives, and direct and adopted female descendants of all men and women who were in the Armed Forces of the United States during any of the following periods: April 6, 1917, to November 11, 1918; and any time after December 7, 1941; or who, being citizens 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 any of said periods, and died in the line of duty or after honorable discharge; and to those women who of their own right are eligible for membership in The American Legion.
- Section 3.** The Auxiliary shall be governed in the Department of Oklahoma by such rules and regulations as may be prescribed by the National Executive Committee and thereafter approved by The American Legion, Department of Oklahoma, Inc.

## **ARTICLE XV**

### **Sons of The American Legion**

- Section 1.** The American Legion, Department of Oklahoma, Inc., recognizes detachment and squadron organization known as "Sons of The American Legion."
- Section 2.** Membership in The Sons of The American Legion shall be as prescribed by The American Legion National Executive Committee and 36 USC Section 21703 . – "All male decendants, adopted sons and stepsons of members of The American Legion, who (1) has served in the Armed Forces of (A) the United States at any time during – (i) the period of April 6, 1917, through November 11, 1918; or (ii) any time after December 7, 1941; or (B) a government associated with the United States Government during a period or time referred to in subsection (A) 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, or who died subsequent to their honorable discharge from such service, shall be elegible for membership in the Sons of the American Legion.
- Section 3.** The Sons of The American Legion shall be governed in the Department of Oklahoma by such rules and regulations as may be prescribed by the National Executive Committee and thereafter approved by The American Legion, Department of Oklahoma, Inc.

## **ARTICLE XVI**

### **Effective Date**

- Section 1.** This Constitution is effective upon the closing of the 2019 Department Convention and

any conferences and or conventions held in connection therewith and at that time the provisions of all other Department Constitutions adopted prior to this Constitution shall be completely superseded hereby.

**Section 2.** Any amendment shall take effect immediately upon adjournment of the Department Convention at which it is approved, unless otherwise provided for in such amendment.

## CONSTITUTION AND BY-LAWS

### BY-LAWS OF THE AMERICAN LEGION DEPARTMENT OF OKLAHOMA, INC.

#### ARTICLE I Department Commander

- Section 1.** The executive power of the Department shall be vested in the Department Commander, who shall be responsible for the execution and implementation of all policies of the Department under the Constitution and as established by the Department Convention and the Department Executive Committee.
- Section 2.** The Commander shall preside at the Department Convention and at the meetings of the Department Executive Committee.
- Section 3.** The Department Commander shall approve all vouchers/checks in the absence of the Department Senior Vice-Commander or the Department Treasurer when immediate payment is necessary.
- Section 4.** The Commander shall nominate members to all Department Commissions and Committees unless otherwise provided in these By-Laws, and shall serve as an ex-officio member of each.
- Section 5.** The Department Commander shall perform such other duties as are incident to this office.
- Section 6.** So that the Department does not become ineligible to submit a nominee for the Oklahoma Veterans Commission as set out in paragraph two of 72 O.S. § 63.2, it is the specific duty of the Department Commander as the Executive Officer of the Department under 72 O.S. § 63.2 and this Bylaw to present on or before 1 January of which the Departments' Representative to the Veterans Commission term expires to present the performance audit and financial audit of the Department for the immediately preceding year to the Secretary of State, the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

**ARTICLE II**  
**Department Vice-Commanders**

- Section 1.** The Senior Vice-Commander shall be second in command in the Department, and shall act in behalf of the Commander at any time when requested by the Commander. The Senior Vice-Commander shall serve as the Chairperson of the Department's Membership Activities.
- Section 2.** In the event of the death, resignation, or removal of the Department Commander, the Senior Vice-Commander shall immediately assume the position of Department Commander with full powers to act and for the period as if elected at the preceding Department Convention.
- Section 3.** The Department Senior Vice-Commander shall sign all vouchers and checks.
- Section 4.** The Senior Vice-Commander shall have as his/her primary mission the increasing and stabilizing of the membership of the Department, and shall serve as Chairman of the Membership Committee during his/her term of office.
- Section 5.** The Senior Vice-Commander shall serve as the primary liaison between the Districts for the purpose of reporting to the Department Executive Committee requests for fund raising that cross District Boundaries, perform such other duties as may be assigned him by the Commander, the Department Convention or the Department Executive Committee.
- Section 6.** The Vice-Commanders East and West shall have as their primary mission the inspection of subordinate bodies within the Department that are located within their respective Districts, and to this end shall inquire into the proper organizational functioning of the Districts, and individual Posts of The American Legion in order to assist them in conducting their business and affairs in accordance with the policies of The American Legion and sound business practices. These Vice-Commanders shall inquire into any irregularities reported to them and shall take such steps as may be necessary either to assist Posts and Districts correct the irregularities or to recommend their correction to the Department Executive Committee. They shall assist the Department Commander whenever called upon and shall perform such other duties as may be assigned them by the Department Commander, the Department Convention or the Department Executive Committee.

**ARTICLE III**  
**Judge Advocate**

- Section 1.** The Department Judge Advocate shall advise the Department Officers and the Department Executive Committee on all legal matters relating to The Department including the interpretation and construction of the Department Constitution and By-Laws and other directives; review and report to the Department Executive Committee with recommendations on all sales of Post properties and shall perform such other duties as are incident to this office.

**ARTICLE IV**  
**Department Finance Officer/Treasurer**

**Section 1.** The Department Treasurer/Finance Officer shall be the custodian of all funds and securities of The American Legion, Department of Oklahoma, Inc., and shall faithfully keep a record of all receipts and disbursements. The Treasurer shall render a detailed statement of the assets and liabilities, receipts and expenditures of the Department at each meeting of the Department Executive Committee, prepare and submit an itemized account for incorporation in the annual report of the Department Executive Committee to the Department Convention, sign all checks issued by the Department and countersigned by the Department Senior Vice-Commander, with the exception of financial instruments written on Annual Grant funds issued to Boys State and American Legion Baseball programs. These grants, made annually, in a necessarily agreed amount, sufficient to fund normal operations of each program are exempt from this requirement. The Boys State and Baseball officers shall exercise strict control and fiduciary responsibility of grant funds and said funds shall be deposited in an approved financial institution and accounted for quarterly with financial reports of all transactions to the Department Treasurer. All funds in excess of the program's annual needs, will be returned to the Department Treasurer. In the absence of either the Department Treasurer or the Department Senior Vice-Commander, said checks may be signed by the Department Commander when immediate payment is necessary. Each fiduciary officer, including Boys State and Baseball, will be provided with fiduciary insurance with a good and solvent surety company, as surety, to cover double the average amount of funds handled in a single year, which amount is to be determined annually by the Department Executive Committee, and such bond to be approved by said Committee and the Department Judge Advocate.

**ARTICLE V**  
**Department Adjutant**

**Section 1.** The Department Adjutant shall keep a permanent record of all proceedings of the annual Department Convention and of all meetings of the Department Executive Committee. He/She shall, under the direction of the Department Commander, cause due notice to be given of the time and meeting place of such Conventions at all meetings of the Department Executive Committee, and be property bonded by a good and solvent bonding and surety company, as surety, to cover double the average amount of funds handled in a single year, which amount is to be determined annually by the Department Executive Committee, and such bond shall be approved by said Committee and the Department Judge Advocate. The Department Adjutant shall under no circumstances be authorized to sign checks. The Department Adjutant shall not unilaterally obtain financial instruments or execute financial transactions without prior approval by the Department Executive Committee or the Department Convention.

**Section 2.** The Department Adjutant shall keep a correct record of all Posts within the Department and shall obtain from each Post a complete record of all the personnel of such Posts; keep a record of the number of Posts within the Department and their locations; assist in the organization of any new Posts and shall endeavor to increase the membership of the several Posts through publicity and such other means as may be deemed expedient; keep the books of the Department Headquarters, which shall contain a complete record

of all financial transactions, and prepare all documentation for the approval. With direction of the Department Executive Committee, acts as contracting officer for required services.

**Section 3.** The Department Adjutant shall render to each member of the Department Executive Committee a report of his/her office at each meeting of said Committee.

**Section 4.** The Department Adjutant shall employ Service Officers, and such other assistants as may be approved by The Department Executive Committee, and act as administrative contact between National Headquarters, Department Headquarters and Posts in the Department of Oklahoma, and shall transmit to Posts such information as National Headquarters and/or Department Headquarters may suggest or request and shall perform such duties as may be assigned including attendance at Department Executive Committee and other meetings as directed by the Department Commander.

**Section 5.** The Department Adjutant and other Headquarters personnel shall receive such salaries as may be fixed by the Department Executive Committee.

**Section 6.** The Department Adjutant shall ensure that no staff personnel are authorized or otherwise enabled to sign financial or legal documents or to represent The American Legion, Department of Oklahoma, Inc. The Department Adjutant shall ensure that only members of The American Legion, Department of Oklahoma shall handle American Legion Funds except in a day to day basis of housekeeping tasks such as making deposits to a local financial institution.

## **ARTICLE VI Department Historian**

**Section 1.** The duties of the Department Historian shall be to keep a complete history of The American Legion, Department of Oklahoma, Inc., during his/her term of office and prepare and submit an annual report to the Department Convention of such organization's progress during the preceding year.

## **ARTICLE VII Department Sergeant-at-Arms**

**Section 1.** The Sergeant-at-Arms shall preserve order and decorum during the sessions of the Department Convention and Department Executive Committee. He/she shall conduct absentees to the Convention Hall in the event their presence is necessary for a quorum.

**Section 2.** The Sergeant-at-Arms shall take charge of the Colors at all official functions of the Department.

**Section 3.** At each specific Department function the Sergeant-at-Arms shall determine the number of Assistants needed to properly carry out his/her duties, and shall appoint such assistants for that function only. A suitable armband or other detachable insignia shall be provided to such assistants and shall be returned to the custody of the Sergeant-at-Arms when the Department function has ended. No permanent or yearly Assistants shall be appointed.

**ARTICLE VIII**  
**Department Chaplain/Department**  
**Surgeon**

**Section 1.** The duties of the Department Chaplain/Surgeon shall be such as are usual in all matters connected with this office. National Legion publications provide guidelines should be adapted appropriately for local practices.

**ARTICLE IX**  
**District Commander**

**Section 1.** The District Commander shall advise and assist his/her respective District and shall be responsible for the execution and implementation of the policy of this Department throughout the Commander's said District. The Commander shall regularly visit the Posts in the District.

**Section 2.** Each District Commander shall hold not less than four meetings during the District Commander's term of office for the purpose of improving the administration of the affairs of the Department within the District.

**Section 3.** Each District Commander shall, insofar as is practical, host a district wide meeting of the membership which affords opportunity for the Department Commander to be present. Scheduling of the fall District meeting will occur at the first Department Executive Meeting following closing of the Annual Convention. Spring District meetings will be scheduled at the first Department Executive Meeting following of the Winter Convention.

**Section 4.** The District Commander shall issue proper written notice of all District Conferences, and shall preside at such Conference.

**Section 5.** The District Commander shall perform such other duties as may be assigned or delegated to him/her by the Department Commander, Department Executive Committee or Convention. The District Commander and DEC must attend Quarterly Department Executive Committee Meetings. Two or more unexcused absences may result in the loss of office.

**ARTICLE X**  
**Department Executive Committee**

**Section 1.** Any vacancy in any Department office shall be filled by the Department Executive Committee unless otherwise provided for in this Constitution or By-Laws.

**Section 2.** The successor to any Department Executive Committee member assumes duties as in the Department Constitution whose office is vacated for any reason shall be selected at a meeting of the District from whose representation such vacancy arose, such meeting to be called by the District or, if necessary, the next higher level Commander within 30 days after such vacancy shall have occurred.

- Section 3.** All questions affecting the election, eligibility and conduct of the Department Officers, the Department and National Executive Committeeman, and District Officers shall be referred to the Department Judge Advocate who will inform the Department Commander. The Judge Advocate will appoint an investigating committee, confer with the Department Commander and refer these matters with findings and recommendations to the Department Executive Committee which shall be the final authority.
- Section 4.** It shall be the duty of the Department Executive Committee to review and approve all policies and all matters relating to the administration of the Department. For reasonable cause, it may at any time call upon any American Legion officer, agent or employee for a report or accounting of their activities and of American Legion property and funds in his/her custody, and may examine and audit all books of account, checks, papers, securities, deeds, leases, surety bonds, contracts, and vouchers relating to any of the same.
- Section 5. Budget and Finance - a)** The Department Commander shall nominate and the Department Executive Committee shall ratify a sixteen (16) member Finance Commission with representation from each District as required for all rotating Commissions by **Article X, Section 7**, of these By-Laws to serve a term of four years, staggered. Of the sixteen members, there shall be four members appointed to a term of four years, four to a term of three years, four to a term of two years, and four to a term of one year; thereafter, each succeeding appointee shall serve a term of four years, unless removed by a majority vote of the Department Executive Committee. The Department Treasurer shall be a non-voting member and serve as the Commission Chair of the sixteen regular members, the Department Commander is ex-officio non-voting member of the Commission and the Department Adjutant is ex-officio Secretary but not a voting member of the Commission.
- b)** The Department Finance Commission is charged with responsibility of: The supervision and coordination of all financial activities and found to exist or which may be created by convention or DEC action, the submission and granting awards and other reports to the DEC through the Commission;
- c)** Formulate, prepare, defend and submit the yearly Department budget plan to the DEC for approval and as warranted, submit updates and modifications to the budget for DEC approval;
- d)** Exercise oversight over the execution of the DEC approved budget;
- e)** Develop and distribute periodic financial reports prior to each DEC meeting and the annual convention showing, as a minimum, the Department's income, expenses, and variance to the budget, by major program fund accounts;
- f)** Advise the DEC when any variance arises in a program fund account of the approved budget, with an explanation and a recommended corrective action;
- g)** Develop and distribute to each commission chair the annual budget timeline to ensure that they are given ample opportunity to participate in the annual budget

process;

**h)** Prepare and distribute, prior to the second DEC meeting annually and other occasions when requested by the DEC, a balance sheet showing the Department's income, expenditures, and net worth, including the acquisition cost and depreciated value of assets in accordance with the Internal Revenue Service and approved accounting procedures;

**i)** Conduct periodic studies and analysis for presentation to the DEC to assist them in improving and modernizing the Department's uniform funds management and accountability system;

**j)** Perform such other duties as shall, from time to time, be prescribed in writing and approved by the DEC.

**Section 6.** The Department Executive Committee shall appoint such Subcommittees as may be required by The Department constitution or as may be deemed necessary. The Department Executive Committee shall also appoint from among its members a Subcommittee on Fund Raising Activities. Such sub-committee shall be chaired by the Department Senior Vice-Commander.

**Section 7.** The following Commissions shall supervise all committees dealing in their appropriate work, shall develop and recommend policies and programs to the Department Executive Committee and shall strive for continuity and progressive improvement.

- a.** Americanism Commission
- b.** Children and Youth Commission
- c.** Finance Commission
- d.** Internal Affairs Commission
- e.** Sons of The American Legion Liaison Commission
- f.** National Security Commission

The National Security Commission has the supervision and coordination responsibilities of;

- a)** Blood Donor Committee
- b)** Homeland Security and Civil Preparedness Committee
- c)** Foreign Relations Committee
- d)** Law and Order and Homeland Security Committee
- e)** R.O.T.C. Committee
- f)** Veterans Affairs Rehabilitation Commission

The Department Executive Committee may create additional rotating Commissions by a two-thirds vote provided their composition and mode of appointment and rotation conform in all respects to all the provisions of this section.

**Section 8. Standing Committees.** The Department Executive Committee is empowered to designate such Standing Committees as it deems desirable for terms not in excess of four years, and shall appoint the members thereof upon nomination by the Department Commander so that on four year committees, one fourth of their term shall expire each year and on two year committees one half of their term shall expire each year. Upon



creating standing committees, The Department Executive Committee shall designate the Rotating Commission which shall supervise said Committee.

**Section 9.** The Department Executive Committee shall meet for business sessions at least quarterly upon not fewer than ten (10) days' notice, or upon call for special session upon not fewer than five (5) days' notice by the Department Commander or one fifth of the Department Executive Committee except that the Department Commander may call a Department Executive Committee meeting at a Department Convention upon three (3) hours' notice from the rostrum; and twenty members thereof shall constitute a quorum.

**Section 10.** Senior Officers in monthly meetings shall supervise and coordinate with the Department Representative to the Veterans Commission and outline the duties of the Representative. They will assist the Representative with input in advance of all Commission meetings to develop a consolidated and consistent Department Position on issues coming before the Commission.

## **ARTICLE XI**

### **Charters**

**Section 1.** The Department Executive Committee shall pass upon, accept or reject applications for Posts or mergers among the various Posts within the Department.

**Section 2.** Post Charters may be cancelled, suspended, or revoked as provided in **Article X** of the Department Constitution and in the National Constitution and By Laws. The Department Executive Committee may order the suspension of a charter for a period not to extend beyond the closing of the next succeeding Department Convention as a disciplinary measure or pending action relative to final revocation. The cancellation of a charter is a matter of business wholly, the request therefore being made through proper channels to the National Executive Committee for final action. Cancellation shall be in order where two or more Posts merge, where a Post voluntarily ceases to function, when the eligibility of any Post shall be found defective or under such other conditions as might make such action necessary within the Department.

**Section 3.** Any Post failing to meet the obligations imposed upon it by the National or Department Constitution and By-Laws or its own Constitution and By-Laws or ceasing to function for six months as an American Legion Post, or refusing to pay the per capita tax due the Department or National Headquarters shall upon order of the Department Commander, surrender its charter. Upon failure to surrender its charter, immediate steps may be taken for its revocation.

## **ARTICLE XII**

### **Discipline of Post Members**

**Section 1.** Each Post has the power to discipline its own membership as such, subject to the restrictions of the National and Department Constitutions and By-laws.

**Section 2.** Members may be suspended or expelled from The American Legion only upon a proper showing of cause. Charges shall be based upon disloyalty, neglect of duty, misfeasance,

malfeasance, dishonesty or conduct unbecoming a member of The American Legion. All charges shall be made under oath, in writing, by the accuser or accusers, and no member in good standing shall lose their membership until given a fair trial by the Post in such manner and form as are provided herein.

**Section 3.** The charges shall be filed with the Post Commander or Adjutant, and a copy of the charges shall be served upon the accused either by an officer of the Post who shall certify as to delivery of said charges into the presence of the accused, or by registered mail directed to the address of the accused shown on the current year's membership record of the Post. The copy of the charges so served shall contain a notice to the accused of the date, time and place of the hearing of such charges, such date to be not sooner than 15 days after service has been obtained. A copy of all papers served upon the accused, and the certification of the officer who made the service, or the return receipt, signed by the accused, reflecting the registered mail service, shall be preserved in the Post records for reference in the event of appeal. The accused shall be entitled to obtain representation at the hearing and to cross-examine all witnesses against him/her. Reasonable postponement should be accorded to permit the hearing to be held at such time as will best insure the production of all real evidence bearing on the charges provided, however, that the accused may insist upon the hearing within 30 days of the service of charges upon the charged member.

**Section 4.** **Punishment.** By a two-thirds majority of those present and voting, upon a finding of guilty a member may be reprimanded, or suspended for a time not to exceed one year, or expelled from The American Legion. Notice of suspension or expulsion of any member shall immediately be sent to the Department Adjutant. The decision of the Post shall be final unless appealed.

**Section 5.** **Appeal.** Any member who has been so disciplined has the right to appeal to the Department Executive Committee, whose decision on appeal shall be final. Said appeal must be in writing and filed with the Department within thirty (30) days after the action appealed from is taken, provided however, if the punishment is suspension or expulsion from The American Legion, the accused may also appear personally before an Appeals Committee named by the Department Commander; which Committee shall report its findings and recommendations to the Department Executive Committee.

**Section 6.** When an appeal is taken, the Post shall be notified by Department and given at least twenty days within which to answer said appeal. When a request is made to appear before the Appeals Committee, the Post shall be given at least twenty days' notice and afforded an opportunity to also appear.

**Section 7.** In order to maintain order and decorum within the Post facilities, nothing contained herein shall prohibit a Post, with or without a hearing, from suspending a member from the use of the Post facilities for a period not to exceed 90 days, provided however, that the member shall have the right to a hearing before the Post Executive Committee or the Post membership if the member requests same in writing within ten (10) days after being advised of said suspension and said hearing shall be held within ten (10) days after the Post is so notified.

**Section 8.** A Post Officer, after being given 30 days' notice of the intended action, may be removed

from office for neglect of duty, or conduct unbecoming the office the member holds, by action of two-thirds of the membership of the Post present and voting at a regular meeting and no formal charges shall be necessary to initiate such removal. Provided, however, that such Post Officer shall be entitled to know the reasons for such action and upon his/her request to be heard at a regular meeting in his/her own defense either before or after the action shall have been taken; and if this defense is first heard after the action has been taken, the membership of the Post shall reconsider his/her removal from office.

### **ARTICLE XIII**

#### **Monies and Collections**

**Section 1.** All Department and Post Officials handling American Legion monies shall have fiduciary insurance with a good and solvent bonding and surety company, as surety, to cover double an average amount of money handled in a single year. In case of delinquencies in the payment of amounts due Department or National Headquarters, action shall be taken at once by the proper officials to bring about a speedy and complete settlement. The bond provided for Department Officials shall be reviewed by the Department Judge Advocate and the Department Executive Committee.

**Section 2.** The classifications of delinquency, suspension from all privileges and forfeiture of membership because of failure to pay dues and reinstatement there from, shall be as set forth in the National Constitution and By-Laws of The American Legion.

### **ARTICLE XIV**

#### **Department Convention**

**Section 1.** Committees of each Department Convention shall be the following: Credentials, Convention Rules, Constitution and By-Laws, Resolutions, Finance, Americanism, Convention Time and Place, Sons of The American Legion, Legion Riders, and American Legion Auxiliary and such other committees as the Department Executive Committee may deem necessary. When there exists a corresponding Department Executive Committee appointed committee, the Convention Committee shall consist of the same members, provided the members are registered delegates or alternates.

### **ARTICLE XV**

#### **Rules**

**Section 1.** The rules of procedures at the Department Convention and all meetings of the Department Executive Committee, and Posts shall be those set forth in the Rules of the DEC, as amended July 27, 2014 and Roberts Rules of Order, Newly Revised, except as provided in this Constitution and By-Laws.

**Section 2.** RULES AND PERMANENT ORGANIZATION OF THE ANNUAL DEPARTMENT CONVENTION

(a) **RULES OF ORDER:** All matters not covered by the Department Constitution and By-Laws, or by these rules shall be governed by Robert's Rules of Order.

- (b) **ORDER OF BUSINESS:** All sessions of the Annual Department Convention shall be opened at the time and location specified in the Official Convention Program by the Department Commander, or designate. In the event of the absence of the Department Commander, the Department Senior Vice-Commander shall preside. In the event of the absence of the Department Senior Vice-Commander, the Vice-Commander East shall preside on even numbered years, and the Vice-Commander West shall preside on the odd numbered years.
- (c) **CREDENTIALS:** All delegates to the Annual Convention must pay the convention registration fee, sign-in and register at the delegate reception desk, and wear the delegate badge issued to them as a condition of being allowed access to the convention sessions. Additional eligibility criteria, for both the delegates and the Post may be found in the Department Constitution and By-Laws.
- (d) **DISCUSSION/LIMITATION OF DEBATE:** Matters for discussion or debate by the General Membership shall be addressed by the Post delegate(s) and/or alternate(s) in the event of a delegate's absence. Debate on any one particular topic shall be limited to no more than three (3) minutes; unless granted an extension by a majority vote of the Convention delegate's present.
- (e) **ROLL CALL:** The Department Adjutant shall be designated as the Chairman of the contest/voting process. All roll calls shall be made by calling the various Department Posts in numerical order. Whenever a contest or election prevails, a complete roll call of all certified Posts attending shall be called. No post may "pass" more than once during a roll call vote. At the conclusion of voting, the Chairman will call for any changes to the declared vote by each certified Post. Following the recording of any/all changes to the vote, the Chairman will close the vote for that particular contest/election. The votes shall be tallied, verified, and certified by a panel of three volunteers; two vote counters and one certifying official. Upon certification and affixed signature to the vote count tally, the results will be presented to the vote Chairman for announcement to the Convention delegation.
- (f) **VOTING ON ROLL CALL:** The delegate vote of each certified Post shall be announced by the Chairman of the Post Delegation; however, any member of that delegation desiring to dispute the accuracy of the Post vote (as announced by the Delegation Chairman) shall be polled by the Department Adjutant (Vote Chairman) by calling the individual names of the authorized/certified delegate names as they appear on the official credentials of that Post. Unless the accuracy of the Post Delegation vote is challenged at the time the Chairman announces the same, the vote of that Post Delegation shall not be changed until the conclusion of the roll call, and at the time that the Chairman announces the opportunity to change the original vote of the Post.
- (g) **NOMINATION OF NATIONAL AND DEPARTMENT OFFICERS:** The Department Adjutant, serving as Chairman of the Vote, shall call for nomination of officers by roll call. Announced officer vacancies will be called and voting held in the order as directed in the Department Constitution and By-Laws. Post delegations will be polled for nominations in numerical order. After the tenth (10<sup>th</sup>) Post has been

polled for nominations, the Department Adjutant will then call for any further nominations from the remainder of the Posts yet to be polled. If there are no further nominations, the roll call shall cease and nominations for that particular office will be closed.

Nomination speeches on behalf of candidates for Department Commander, National Executive Committee Representative, and Alternate National Committee Representative shall not exceed five (5) minutes in duration. Furthermore, for each officer nominated, there shall be no more than two (2) seconding speeches; each of which may not exceed two (2) minutes duration. Nominating speeches for all other Department Officers shall not exceed three (3) minutes in duration, and there shall be only one (1) seconding speech per nominee; limited to two (2) minutes duration.

At the conclusion of the nomination speeches, the contestants will be reintroduced to the Convention Delegation, and will take a position to the right of the speaker's platform and in an appropriate position to comply with protocol and honors to the United State Flag. The Department Adjutant will then commence the roll call vote. In the event of an early and overwhelming trend in the voting, the trailing nominee retains the option to concede the contest.

- (h) **ELECTION RESULTS:** In the event there is more than one nominee for each National and/or Department Officer position, a roll call vote will be conducted by the Department Adjutant. The winner of a two-person contest will be declared and awarded to the individual who earns the most votes. In the event of a tie vote, the Department Adjutant (Vote Chairman) may then exercise the right to call for a ballot vote whereby each Post Delegation casts the Post vote on a paper ballot to be tallied and certified by 3-member vote counting team. In the event of a second tie vote at the conclusion of the paper balloting, the Department Adjutant will call for a tie-breaker proceeding whereby a coin flip may be used to determine the election winner. In the event that there are more than two (2) candidates for any one (1) officer vacancy, and a majority vote is not secured for one (1) candidate on the first ballot, the candidate receiving the lowest number of votes on the first ballot shall be dropped from further consideration, and the roll call voting procedure shall continue for the two (2) remaining candidates until one (1) candidate shall receive the majority of the votes cast. In the event of a tie after the roll call vote, the Department Adjutant may exercise the right to call for a paper ballot vote. If the contest remains tied after the paper ballot vote, a coin flip may be utilized to break the tie.
- (i) **VOTING OF PAST DEPARTMENT COMMANDERS:** Past Department Commander's must be registered, be present at the vote proceedings, and be officially recognized by the Department Adjutant/Vote Chairman before their Post can cast his/her vote.
- (j) **ELECTION PROCESS COURTESIES:** All District Caucuses must be held away from the Convention floor. Under no circumstances are Districts to gather for discussion on the Convention floor while the Convention is in session.

Any and all Hospitality Suites shall be closed while the Convention is in session.

**ARTICLE XVI**  
**Amendments**

**Section 1.** These By-Laws may be amended in the same manner as prescribed in Article XIII of the Department Constitution.

**ARTICLE XVII**  
**General Provisions**

**Section 1.** All matters relating to the business of The American Legion, Department of Oklahoma, Inc., not covered specifically by these By-Laws shall be referred to the Department Executive Committee for determination and adjustment, which Committee shall have full power to act.