

**PROPOSED RULES OF THE DEC**

**THE AMERICAN LEGION  
DEPARTMENT OF OKLAHOMA, Inc.  
Oklahoma City, Oklahoma 73152  
RULES OF THE DEC**

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**INTERNAL AFFAIRS COMMISSION**

Chair

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**RULES OF THE D.E.C.**  
**RULE 1**  
**SELF-GOVERNING**

The Department Executive Committee of The American Legion, Department of Oklahoma; as provided by the Constitution of the Department of Oklahoma, shall be a self-governing committee and transact business in accordance with the rules hereinafter set forth, subject only to the Constitution and By-Laws of The American Legion Department of Oklahoma and mandates of the Department Conventions.

**RULE 2**  
**OFFICERS**

The Department Commander shall be the Chairman of the Department Executive Committee and the Department Adjutant shall serve as Secretary. Any temporary vacancies, in such offices as Chairman and Secretary, shall be filled by action of the committee, for the respective meeting in which the vacancy occurs.

**RULE 3**  
**DUTIES AND POWERS**

The Executive Committee is specifically empowered to exercise the following powers and rights, and may delegate to the appropriate Commission or Committee authority to investigate and report back to the Executive Committee on any of the following powers and rights:

- A To make decisions on all matters, executive or administrative: provided, however, that the said action so taken shall not be contrary to, nor in derogation of, actions of the DEC, Department Commander, and the Department Convention except that any policy adopted by Department Convention action shall be a mandate during the year following its adoption and thereafter shall continue as Department policy unless changed by subsequent Convention action or by action of the Executive Committee, except that mandates pertaining to legislative action by the Oklahoma State General Assembly shall be effective only to the date of final adjournment of the General Assembly the year following the convention during which such resolutions were passed or the Executive Committee meeting preceding the convening of a new session of the General Assembly shall be effective until the Adjournment of such new session.
  
- B To determine the number of members of all Commissions and Committees of the Department created by the Department Commander not in conflict with the Department Constitution and Bylaws or the Executive Committee and to ratify the appointments made by the Department Commander. Such Commissions and Committees shall receive full instructions from the Executive Committee by resolution specifying their purpose, scope, function, and authority. Each Commission and Committee which has met since the last Executive Committee meeting and prior to the

next ensuing meeting of the Executive Committee shall prepare preliminary reports for submission to the Department Adjutant who shall include copies of said reports in the minutes of the Executive Committee meeting. All meetings of Commissions, and Committees shall end a minimum of one (1) hour prior to the beginning of an Executive Committee meeting.

- C The receiving, accepting or approval of any report; made to the Executive Committee by any Commission or Committee, containing any recommendation as to future conduct, or as to future policy or matters within their scope shall not mean the adoption of such recommendation and each specific recommendation as to future conduct or as to future policy shall be embodied in a separate resolution for the consideration and action of the Executive Committee. Advanced copies of the resolution are desired where time permits.
- D To advise the officers, and Commissions, or Committees with regard to problems arising in the performance of their duties or functions.
- E In general, to perform between Department Conventions any and all actions necessary and consistent with the exercise of administrative power by the Executive Committee.

#### **RULE 4 DECORUM**

- A When a member desires to speak he/she shall rise, wait to be recognized, give his/her name and address the Chair.
- B No member shall speak more than once on any question without leave of the Executive Committee, except the Chairman of the Committee or Commission involved, who may conclude the de-bate on any question.
- C While the Commander is reporting or putting a question, none shall entertain private discourse, walk into, out of, or across the meeting room.
- D The question shall be debated until it has been propounded by the Chair, and then the mover shall have the right to explain his views, in preference to any other member.
- E While the commander is putting the question, any member who has not spoken before to the matter may speak on the question before the negative is put.
- F No debate shall extend more than 15 minutes on any matter. At the end of 15 minutes (or sooner) the Commander shall call for the vote.
- G Whenever a division of vote is to be determined on any question before the Executive Committee, the Presiding Officer may determine the division by:

1. Viva Voice vote with right of recourse to a "teller vote" or "roll call vote" as hereinafter provided.
  2. A teller vote whereby the yeas and nays may be counted by rising vote with recourse to a roll call vote as hereinafter provided.
  3. A roll call vote may be directed by the Presiding Officer to determine a division of vote on any question. A roll call vote shall be taken upon the request of one voting member from seven (7) different districts.
  4. On any Viva Voice vote or teller vote, any member of the Executive Committee shall have his/her vote recorded upon his/ her request.
- H All requests to speak by a nonmember of the Executive Committee shall be referred to a Department Vice Commander, who if he deems the request to be justified shall move for permission for the nonmember to speak.
- I Fund raising disputes outside the District in which the Post or District raising funds is located shall require approval by the Executive Committee. Requests for such fund raising shall be referred to the Senior Vice Commander who shall consider the request. The recommendation of the Senior Vice Commander shall be placed on the floor by motion for action by the Executive Committee.
- J All disciplinary matters shall be considered by a Committee under the Chairmanship of The Judge Advocate. The Committee which shall be appointed by the Commander is to include no less than three (3) Members. The recommendation of the Committee shall be presented to the Executive Committee for final action.

## **RULE 5 ORDER OF BUSINESS**

1. Posting of Colors, Pledge of Allegiance
2. The Invocation, POW/MIA and Preamble
3. Roll Call
4. Approve minutes of previous meeting
5. Received reports from Department Officers
6. Receive reports from Commissions and Committees
7. Receive resolutions
8. Act upon unfinished business of the previous meeting
9. Old business and correspondence
10. New business
11. Good of The American Legion
12. Benediction and POW/MIA
13. Retirement of the Colors

## **RULE 6 FISCAL POLICY**

All matters of business affecting the fiscal policy of The American Legion, Department of Oklahoma, or financial matters outside the scope of mandates of the Department Convention, including the making, cancellation, abrogation or modification of any contract to which the Department Organization is a party, shall be considered under a first and second reading, with not less than one-hour intervening.

All requests for funds shall be referred to the Finance Committee. Written requests received by the Finance Committee at least ten (10) days prior to the Executive Committee meeting shall be considered by the Finance Committee and the Chairman (Department Treasurer) shall place a motion on the floor to approve or disapprove the request. After a second reading of the request, a two/ thirds affirmative vote is required for approval. If the request is not made in writing at least ten (10 days prior to the Executive) committee meeting, unanimous approval shall be required (after the second reading).

Final action on all fiscal matters shall be taken only upon the second reading thereof, provided, however, that the annual budget and regular financial reports (copies of which shall have been made available to all members of the Executive Committee Meeting), upon recommendation for immediate action by the Finance Committee may be considered at the conclusion of the report by the Finance Committee. Financial matters of an emergency nature which require the action by the DEC under RULE 9 contained herein shall suspend the procedures as contain in RULE 6 herein, provided the Finance Committee shall vote on the emergency issue and the results of such vote shall be the recommendation presented to the DEC for consideration under RULE 9.

## **RULE 7 PROCEDURES**

- A. Letters and communications addressed to the Executive Committee, the Commander, the Adjutant or any other Department Officer and by them referred to the Executive Committee shall be read (or published to-the members, if such be of import) by the Adjutant. Such letters or communications shall be disposed of in one of the following ways:
- 1 By motion to accept. Such a motion shall have the effect of approving the subject matter and should include specific instruction, if necessary, for further disposition; i.e., by directions to the Commander, Adjutant or other appropriate officer; by reference to an appropriate Commission, Foundation, or Committee; or other proper instructions.

- 2 By motion to receive and file. Such a motion shall denote neither approval nor disapproval of the subject matter and shall require no action on the part of Officers or others beyond a formal reply should such be required.
- 3 By motion to reject or decline. Such a motion shall mean disapproval and should include specific instructions for further disposition as contemplated in paragraph # 1 above.

B. Reports of Officers shall be acted upon directly by the Executive Committee, except that by direction of the Executive Committee a report of any Officer may be referred to an appropriate Commission or Committee for study and report thereon. Reports of Officers shall not be altered or amended by the Executive Committee nor may any such report be rejected. In the event that the Executive Committee shall not agree with the report or any statement therein contained, then, and in such event, if the presiding officer or the Executive Committee so determines, a separate memorandum shall be prepared setting forth the objections. If said memorandum is approved by the Executive Committee it shall be filed with the report. Any such memorandum, when submitted, is subject to amendment. Reports of Officers shall be disposed by motion as follows:

- 1 To approve the report. Such action shall constitute approval of the statements made in the report.
- 2 To disapprove the report. Such motion shall have the effect of disapproving any or all statements in the report, but such motion shall prevail only in the event that a memorandum setting forth the objections to such report shall have been adopted.
- 3 To receive and file the report. Such action shall constitute only a routine disposition of the report. A negative vote on motions # 1 or #2 shall automatically cause the report to be received and filed.

C. Reports of Commissions and Committees shall be received and shall then be subject to disposition on the following motions:

- 1 To approve the report. Such actions shall constitute approval of the statements made in the report subject to the procedure outlined in Rule 3-c of the Rules of the Executive Committee.
- 2 To receive and file the report. Such action shall constitute only a routine disposition of the report.
- 3 To re-commit the report. Such action shall return the report to the Commission or Committee of origin for further study and report and may be accompanied by specific instructions.

- 4 To commit the report to a special committee Such action shall contemplate specific study and such committee shall return the report with recommendation. A negative vote on motion #1 shall automatically cause the report to be received and filed.

D. Any member of the Executive Committee shall be privileged to present a resolution in his/her own right in any of the following ways:

- 1 Under a proper order of business, in which case the subject matter thereof shall be germane.
- 2 Under new business.
- 3 Upon unanimous consent of the Executive Committee during any meeting of the Executive Committee, at an appropriate interval in the order of business.
- 4 Under suspension of the rules.

E. All Commissions and Committees shall be required to present in resolution form all recommendations as to their future conduct or future policy as to matters within their scope and functions upon which it is desired or required that the Executive Committee take action as contemplated in Rule 3, paragraph C.

F. Matters emanating from Posts or other sources and from The American Legion Auxiliary shall be defined and classified as:

1. LEGION SPONSORED MATTERS:

- a. Resolutions by properly constituted American Legion organizations, to wit: Posts and intermediate bodies (which have been approved by Department Convention or the Department Executive Committee), Department Convention, Department Executive Committee, or resolutions submitted by any Commission, Foundation or Department Committee.
- b. Resolutions emanating from The American Legion Auxiliary, Department of Oklahoma or any official component thereof.
- c. Official communications or directives of the Department Commander.
- d. Official communications of Department Officers.

2. OFFICIAL MATTERS:

Official matters are those which originate with the Officers or officials such as Commanders or other officers of Posts, intermediate bodies or the President of The American Legion Auxiliary, Department of Oklahoma.

3 GENERAL MATTERS:

General matters are those which originate with individual members of The American Legion, individual citizens or as a result of communications with Organizations or their officials not affiliated with The American Legion or from agencies of Government. Such matters shall be disposed of as follows: Communications or matters received at Department Headquarters are to be analyzed by the Adjutant who shall take action in one or more of the following ways:

- a. Determine, in accordance with his best judgment, whether or not such communication or matter is basically administrative in nature, and if so, refer the matter to the appropriate Officer for disposition.
- b. If in the judgment of the Adjutant the subject matter be of primary concern to or related to a program or function of one of the Commissions or Committees, that he refers the same to the appropriate Commission, Foundation, or Committee for action or for consideration by that group for possible presentation to the Executive Committee.
- c. Matters which do not fall within the above classifications or which in the opinion of the Commander or Adjutant involve questions of organizational policy of sufficient importance to be considered by the Executive Committee shall be referred to the appropriate Commission or Committee for disposition.
- d. The Executive Committee, with the exception of the latitude in paragraph c above, will directly consider only matters which bear the prior approval of a District or referred to it by the Department Convention or which may be recommended to it by the Commander, or be presented to it by the governing body of the Department of Oklahoma Auxiliary. All other matters, as herein before defined, which do not have the sponsorship specified in this paragraph may become eligible for consideration by the Executive Committee only in the event that they have been recommended for approval by a Commission, Foundation, or Committee.
- e. The Adjutant shall keep and maintain a register of all matters officially received from a District, or sponsored by an Executive Committeeman, referred to Commission, Foundation, or Committee, and shall report these referrals to the Executive Committee.

- f. Commissions and Committees when submitting their reports to the Executive Committee shall include therein a record of the disposition of all matters previously referred to them.

## G. POST CHARTER REVOCATION, CANCELLATION, OR SUSPENSION

### **Charges**

1. A charge that any Post should, for any good and sufficient cause, have its charter cancelled, suspended or revoked may be initiated by the Department of Oklahoma Executive Committee or a subcommittee thereof, or the Post itself. A charge may be withdrawn only with the written consent of the Department Commander.
2. Such charge shall be filed with the Department Commander or the Department Adjutant at the Department Headquarters.
3. Such charge shall be in writing, and signed by the Department Commander, the Post Commander, the respective Adjutants, or the members of a Department Subcommittee, as the case may be, and sworn to before any officer authorized to administer oaths.
4. Three additional copies of such charge shall be filed with the original. The Department Commander shall forthwith cause one copy of such charge to be served on the defendant Post by delivering a true copy thereof to the Adjutant of said Post, as hereinafter provided.
5. Such charge shall include the following:
  - a. A certified or attested copy of the resolution authorizing the filing of such charge.
  - b. The full name and address of the Post against which the charge is made, as well as the full name and address of the Commander and Adjutant of such Post.
  - c. A clear, concise and detailed statement of the facts upon which the charge is based.
  - d. The section or sections of the National and Department Constitution and By-Laws alleged to have been violated.
  - e. Affidavits or documents substantiating the charge may be attached.
6. After a charge has been filed, the Department Commander shall forthwith cause a full investigation of the facts to be made. After such investigation, the Department Commander shall file a report and recommendation with the Department Executive Committee for its action thereon at its next meeting.

7. Proceedings relating to the cancellation suspension or revocation of a Post charter may also originate with either the Department Commander or the Department Executive Committee.

## **II. Resolution of Department Executive Committee**

1. Should the Department Executive Committee determine by a majority vote that the Post should surrender its charter, said Department Executive Committee shall direct the defendant Post to surrender its charter for cancellation, and shall pass a resolution that unless the charter is so surrendered, prior to the date therein specified, a hearing and trial be held to determine whether the Post charter should be cancelled, suspended or revoked, and said resolution shall include the following:
  - a. A statement that the Department Executive Committee has determined that a hearing and trial is warranted.
  - b. Authorization and direction to the Department Commander and Department Adjutant to sign a formal complaint.
  - c. The names and addresses of the members of the subcommittee before which the hearing and the trial is to be held.
  - d. The name and address of the Department Judge Advocate or special acting Department Judge Advocate who is to assist the committee.
  - e. Authorization to the subcommittee to hire such stenographic or other help as may be necessary and to incur such expense as may be necessary. Said expense, including the cost of stenographic report of the trial when ordered to be transcribed by the subcommittee or the Department Executive Committee, shall be charged as costs against the complainants, defendant Post, or the Department in such manner and amount as the Department Executive Committee shall prescribe.
  - f. That the subcommittee shall report its written findings of fact and recommendation to the Department Executive Committee at its next meeting, provided, however, that if the hearing or trial is not completed, a partial report shall be made.

## **III. Complaint**

1. In all cases, a formal complaint, in triplicate, shall be drawn by the Department Judge Advocate and signed by the Department Commander, Department Judge Advocate, and Department Adjutant, setting forth the following:
  - a. A clear and concise statement of the facts upon which the charges are predicted.
  - b. The origin of the charges.

- c. A copy of the resolution of the Department Executive Committee appointing the subcommittee and its assistants.
  - d. A copy of the Uniform Code of Procedure for the Revocation, Cancellation or Suspension of Post Charters.
  - e. The time within which an appearance or answer shall be filed by the Post, which shall be not less than 20 or more than 60 days from the date of the service of a copy of the complaint.
  - f. The time and place for the hearing and trial, which shall not be more than 30 days after the date of the expiration of the time for the filing of the answer.
- 2 Any such complaint may be amended by the subcommittee of the Department Executive Committee in its discretion at any time upon such terms as may be deemed just in the opinion of the said subcommittee.

#### **IV. Service**

- 1 The subcommittee shall cause a true copy of the complaint to be served on the defendant Post.
- 2 All complaints, orders and other process and papers of the subcommittee or the Department organization of THE AMERICAN LEGION may be served personally, or by registered mail, or by leaving a copy thereof at the principle office or Headquarters of the intermediate body or Post, or place of residence of the person or officer to be served. The verified return by the individual serving the same showing service thereof in the manner herein provided, or the registry return receipt shall be proof of service.
- 3 All notices, orders, papers or other process which are to be served on the Department Headquarters of The American Legion, or the subcommittee appointed to conduct the trial, shall be deemed served if they are served on the Department Adjutant at Department Headquarters, said service to be made as herein above provided.
4. Witnesses may be summoned by a notice signed by either the special acting Department Judge Advocate, the Department Judge Advocate, or a member of the subcommittee.

#### **V. Answer**

- 1 The defendant Post shall file an answer to said complaint with the Department Judge Advocate at Department Headquarters within the time specified in the complaint. The answer shall contain a clear and concise statement of the facts which constitute its defense. Any charge or specification in the complaint which is not expressly denied or explained in the answer shall be deemed to be admitted.

- 2 In the event that the complaint is amended during the course of the hearing or trial, the defendant shall be furnished with a copy of such amendment, and may file an amended answer to the said amended complaint within five days thereafter.

## **VI. Subcommittee**

- 1 The subcommittee to hear, try, and make written findings of fact and recommendations with reference to the matter of the cancellation, suspension or revocation of the Post charter shall be appointed by the Department Executive Committee and shall consist of not less than three (3) members of the Department Executive Committee. No member of the Post under investigation shall be a member of such subcommittee.
- 2 Should no member of the subcommittee be a lawyer, opinions on questions of law may be obtained from the Department Judge Advocate.
- 3 A majority of the members of the subcommittee shall constitute a quorum. If for any reason there is less than a quorum, the hearing shall be adjourned until a quorum is present.
- 4 The duties of the Department Judge Advocate or special acting Department Judge Advocate shall be to see that the trial is prompt, complete and thorough, make all arrangements for the hearings, the summoning of all witnesses and the production of all papers. He shall see that all the orders of the subcommittee shall be carried out. He shall examine and cross-examine all witnesses.

## **VII. Hearing and Trial**

- 1 The subcommittee shall decide all questions arising as to relevancy of the evidence and the regularity of the proceedings. **The rules of evidence prevailing in courts of law and equity shall not be controlling.**
- 2 The subcommittee may hold its hearings in closed sessions or may open them to the public. The subcommittee shall hear witnesses on oath or affirmation.
- 3 Any party to the proceeding shall have the right to appear at such hearing in person, by counsel or otherwise, subject to such reasonable restrictions as may be placed on this right by the subcommittee, and to examine and cross-examine witnesses and to introduce documentary or other evidence.
- 4 Stipulations of fact may be introduced in evidence with respect to any issues.
- 5 Objection to the conduct of the hearing shall be stated orally together with a short statement of the grounds of such objection and included in the stenographic report of the hearing.

- 6 Any party to the proceedings shall be entitled to a reasonable period at the close of the hearing for oral argument, which shall not be included in the stenographic report of the hearing. Briefs may be filed by the parties within the time fixed by the subcommittee.
- 7 In the discretion of the subcommittee, the hearings may be continued from day to day, or adjourned to a later date, or to a different place by announcement thereof at the hearing by the chairman or vice-chairman of the subcommittee or by other appropriate notices.
- 8 A stenographic report of the trial shall be made.

### **VIII. Report of Subcommittee**

1. The subcommittee, after it has completed its hearings, shall file the complete report of the proceedings had upon the trial, together with its written findings of fact and recommendations with reference thereto with the Department Adjutant not less than five (5) days before the next meeting of the Department Executive Committee, all of which shall be open to the inspection of all members of the Department Executive Committee, as well as representative or representatives of the defendant Post.
2. The Department Executive Committee shall consider said report and act thereon.
3. At the Department Executive Committee meeting at which the report of the said subcommittee is to be considered, one representative of the defendant Post may, within the discretion of the Department Executive Committee, be given the privilege of the floor for not more than one hour.
4. Should the subcommittee's report be a partial report, the Department Executive Committee may continue the committee and authorize it to hold further hearings and present its final report at the next meeting of the Department Executive Committee.

### **IX. Appeal**

1. Should the Department Executive Committee refuse to cancel, suspend or revoke the charter of the Post, such decision shall be final and no appeal can be taken therefrom.
2. Should the Department Executive Committee, upon a report of its subcommittee, cancel, suspend or revoke the charter of the defendant Post, the defendant Post and the National Adjutant shall be notified by the Department Adjutant of the decision of the Department Executive Committee, which notice shall be mailed within five (5) business days after such decision has been rendered. Should the defendant Post desire to appeal from the decision of the Department Executive Committee, it shall serve its notice of appeal, signed by the Post Commander and Post Adjutant, on the Department Adjutant at Department Headquarters within thirty (30) days from the date of said suspension, cancellation or revocation.

3. Upon receipt of said notice of appeal, the Department Commander shall immediately notify the National Commander or National Adjutant of such appeal and shall cause the Department Judge Advocate, or acting Department Judge Advocate, and the subcommittee to submit all the papers and the complete record of the hearings to the National Commander or National Adjutant.

## **X. Hearings**

### POST DISCIPLINARY HEARINGS UNDER ARTICLE XIII, SECTIONS 1-8 OF THE CONSTITUTION AND BY-LAWS OF THE DEPARTMENT OF OKLAHOMA

#### MEMBER CHARGING PROCEDURES AND REQUIREMENTS

1. Charges shall be in writing and shall be signed by the individual bringing such charges.
2. Charges shall be filed with the Department Commander or the Department Adjutant and a copy of such charges shall be personally delivered or sent by registered mail to the address of the accused shown on the current year's membership records of the Post or the Department of Oklahoma and such registered mail service receipt shall be preserved in the Department records for reference in the event of further appeal.
  - a. Charges shall clearly state the violation of the Department Constitution and By-Laws and shall be based upon disloyalty, neglected duty, dishonesty or conduct unbecoming a member of The American Legion, and shall contain the specific allegations which the accused is alleged to have violated and the accused shall receive said Bill of Particulars/ Specifications at least thirty (30) days prior to any trial.
  - b. The accused shall be entitled to obtain representation at the hearing and to cross-examine all witnesses against him. (C) Reasonable postponement shall be accorded to penult the hearing to be held at such time as will best insure the production of all real evidence bearing on such charges; provided, however, that the accused may insist upon the hearing within thirty (30) days of the service of charges upon him. The copy of the charges so served shall contain a notice to the accused of the date, time and place of the hearing and no date shall be set sooner, than thirty (30) days after service has been obtained.
  - c. The Chief Trial Judge shall have the sole discretion in granting any postponement based upon a submitted request in writing by the accused setting forth the reason therefore.
3. The accused has the right to counsel to represent him in all steps of said proceeding and a further right with or without counsel, to cross-examine any and all witnesses

appearing against him, as well as the right to present witnesses and evidence on his own behalf. all of whom shall be sworn before testifying in the matter at hand.

4. The Trial Committee shall submit their decision; in writing containing its findings and recommendation of punishment, if any, to the Department Executive Committee within a reasonable time after the conclusion of the hearing and the submission of all other evidence for the record in the proceedings.
5. The party so charged has the right to receive a decision, in writing, and to appeal and appear in person before the Department Executive Committee, which shall make the final judgment in said matter.
6. The intent of said Rules and Regulations is to see that the party so charged obtains a full, fair and impartial hearing in the matter, before any judgment is reached and becomes effective against him.

No member in good standing shall lose their membership until given a fair trial in such manner and form as above provided.

1. Membership in The American Legion can be affected by:
  - a. Failure to pay renewal dues by January 1 of the succeeding year.
  - b. Resignation.
  - c. Death.
  - d. Loss of membership due to disciplinary actions under Article XIII of the By-Laws by Post action or Article X, Section 4 of the Constitution.
    - 1) In reference to Article XIII of the By-Laws for discipline of members of their post, the following requirements are mandatory conduct for the basis of charges:
      - 2) Disloyalty.
      - 3) Neglect of duty.
      - 4) Dishonesty.
      - 5) Conduct unbecoming a member of The American Legion.
2. Method of Charges:
  - a. Charges must be made under oath by the accusers.
  - b. Charges must be in writing.

- c. No member shall lose membership until given fair trial by the Post in the manner and form as provided in Article XIII.
- d. Charges shall be filed with the Post Commander or Post adjutant.
- e. A copy of the charges shall be served upon the accused (a) either by an officer of the Post who shall certify as to the delivery of said charges in the presence of the accused, or delivery of said charges in the presence of the accused, or (b) by registered mail directed to the address of the accused shown on the CURRENT YEAR'S MEMBERSHIP RECORD OF THE POST, (c) copy of charges served shall contain a notice to the accused of the date, time and place of hearing of such charges but no such hearing shall be sooner than fifteen (15) days from the date service has been obtained.
- f. Copies 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 and in the event of an appeal.
- g. The accused shall be entitled to obtain representation at said Post hearing and to cross examine all witnesses against him.
- h. Reasonable postponements shall be accorded to permit the hearing to be held at such time as will best insure the production of the charges except/ provided that the accused may INSIST UPON the hearing within thirty (30) days of the service of charges upon him.

(NOTE: The Trial Committee must not contain any members of the Post who are due to testify against the accused or accusers, or who are the accusers).

### 3. Punishment:

By two-thirds of the majority of the Trial Committee present and voting and upon the findings of a member guilty, the member may be (1) reprimanded; (2) membership suspended for a time not to exceed one year; (3) suspension 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. or (4) expelled from The American Legion. Notice of suspension or expulsion shall immediately be sent to the Department Adjutant and said decision shall be final unless changed by the Department Executive Committee.

### 4. Appeal Provision:

- a. Any member who has been so disciplined has a right to appeal to the Department Executive Committee, whose decision on the appeal shall be final Provision.
- b. The appeal must be in writing and filed with the Department within thirty (30) days after the action appealed from is taken.
- c. If the punishment is suspension or expulsion from The American Legion, the accused MAY ALSO appeal personally before an Appeals Committee named by the Department Commander, which Committee shall report its findings and recommendations to the Department Executive Committee.
- d. When an appeal is taken and sent to the Department, the Post shall be notified by the Department and given at least twenty (20) days to answer said appeal and if a request is made for the Post to appear before the Appeals Committee, the Post shall be given at least twenty (20) days notice and afforded an opportunity to ALSO appear.
- e. Information and documents required by the Department in order to process an appeal shall consist of:
  - (1) All written records and copies of charges filed against the accused;
  - (2) Transcripts of any testimony by witnesses and the accused, which testimony should be taken by a court reporter and must be taken under oath as required by Rule 1-303 of the Oklahoma Rules of Procedure of the Annotated Code of Oklahoma, and Rule 1-304, which states; The statement of the affiant may be made before an officer authorized to administer an oath or affirmation, who shall certify in writing to having administered the oath or taken the affirmation, or may be made by signing the statement in one of the following forms: Generally. "I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information and belief."
  - (3) Personal Knowledge. "I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true."

If these rules are not complied with, then the Department must send the appeal back to the Post for a further hearing and compliance with the rules and regulations as set out in this notice.

If any tapes are made of the trial, these tapes must be considered as evidence and preserved, and a transcript of same shall be the responsibility of the Post and not the responsibility of the Department of Oklahoma. For clarity purposes, such tapes should be transcribed by someone present at the

hearing and who is familiar with the proceedings. The costs associated with the transcription of such tapes shall be born by the Post and not the Department of Oklahoma.

- f. Nothing in this section shall prohibit a Post from taking any reasonable and lawful action against a member in order to maintain order and decorum regarding the use of Post facilities and thereby deny its use for a period not to exceed 90 days.
- g. A Post Officer, after receiving thirty (30) days notice of the intended action, may be removed from his office for: (1) neglected duty; (2) conduct unbecoming the office he 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 said removal. However, the Post Officer shall be entitled to know the reason for such action and upon request, he may be heard at a regular meeting in his own defense either before or after the action SHALL have been taken, and if his defense is heard for the first time after the action has been taken the membership of the Post shall reconsider his removal from office.

### **XI. Post Loan Acquisition / Property Disposal / Lease Procedures**

**Article III Section 4** of the Department Constitution states:

“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 Department of Oklahoma in writing and without thereafter obtaining written consent of the Department Executive Committee of The American Legion, Department of Oklahoma, Inc.”

**The Department:**

Upon receipt of the written request the Department will then take the matter under consideration. Upon completion of the Department’s staffing, the Department’s recommendations will be presented to the Department Executive Committee for decision.

**Department Adjutant:**

Will notify the Post of the Department Executive Committee’s decision promptly after the Department Executive Committee’s meeting.

### **RULE 8 FORM OF RESOLUTION**

Resolutions which shall be offered as the direct action of the Executive Committee shall be prepared in appropriate form containing such informative preamble in the form of "Whereas" followed by statements of fact and shall conclude with a Resolving clause or clauses which shall specifically set forth what statement or declaration is to receive action of the

Executive Committee. Such Resolving clause or clauses shall contain the following leading language: "RESOLVED, By the Department Executive Committee of The American Legion, Department of Oklahoma in regular. (or special) meeting assembled at (place), on (date) That, etc... and be it further "RESOLVED, That, etc.

Resolutions by Posts, intermediate bodies or other officially constituted subordinate organizations which shall have received favorable action by their respective organizations and which shall have an appropriate endorsement thereof in resolution form shall be acted upon by the Executive Committee in the form of a final Resolving clause in the following leading language: "And be it finally Resolved, By the Department Executive Committee in regular (or special) meeting assembled at (place), on (date), That, etc... ."

**RULE 9**  
**TRANSACTION OF BUSINESS BY**  
**US MAIL, E-MAIL, FAX, TELEGRAM OR BY TELEPHONE**

The Executive Committee, without meeting together, may transact business by mail, telegram, telephone, e-mail or by fax on a matter of extreme urgency not involving the establishment of any new policy and on which action cannot be delayed to the next regular meeting, by voting upon proposed resolutions mailed, e-mailed, faxed, telegraphed or telephoned to them by the Adjutant, with the approval of the Commander. Ten (10) days shall be allowed for the return, by mail, e-mail, fax, telegraph or telephone, of the votes thereon to the Adjutant. The voting shall be considered closed at the end of the ten (10) days:

Provided, that three-fourths of the members of the Executive Committee have returned their votes, or it shall be closed at any time prior thereto if and when all the members shall have returned their votes:

Provided, further, that in the event one-third of the committee in writing, objects to the ballot by mail, e-mail, fax, telegraph or by telephone, the matter shall not be decided and will be considered as the first order of business at the next regular or special meeting:

Provided, further, that thereafter the Adjutant shall notify the committee of the action taken.

**RULE 10**  
**SUSPENSION OF RULE**

No standing rule or order of the Executive Committee shall be suspended without ten (10) minutes notice being given of the motion therefore, and no rule shall be suspended except by a vote of two thirds of all the members present.

**RULE 11**  
**ROBERT'S RULES OF ORDER TO GOVERN**

Except as otherwise herein specifically provided, Robert's Rules of Order, Newly Revised, shall govern.

**RULE 12**  
**AMENDMENTS**

The Rules of the DEC may only be amended at the second meeting of the DEC. Issues that are not in accordance with these rules must be addressed by RULE 10 or 11 above.