

**NATIONAL EXECUTIVE COMMITTEE
OF
THE AMERICAN LEGION
Indianapolis, Indiana
May 9-10, 2018**

**Resolution No. 34: Changes to the Uniform Code of Procedure for the Revocation,
Cancellation or Suspension of Post Charters of The American Legion**

Origin: Subcommittee on Resolutions

Submitted By: Subcommittee on Resolutions

WHEREAS, It is a good practice to review procedures and manuals for possible updates, corrections, modifications and clarification; and

WHEREAS, The American Legion's Uniform Code of Procedure for the Revocation, Cancellation or Suspension of Post Charters would be more clear if a portion of Article I, Section 7 were to be included in Article 1, Section 1; and

WHEREAS, The National Executive Committee is empowered under Article III, Section 4 of the National By-Laws to adopt rules of procedure regarding the hearing and trial of any cause involving the cancellation, suspension, or revocation of a post charter; now, therefore, be it

RESOLVED, By the National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, on May 9-10, 2018, That the "Uniform Code of Procedure for the Revocation, Cancellation or Suspension of Post Charters of The American Legion" be amended in accordance with the attached Exhibit A; and, be it further

RESOLVED, That the national adjutant be empowered to ensure proper formatting and punctuation of this Uniform Code; and, be it finally

RESOLVED, That the amended Uniform Code take effect with the next printing of the manual.

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Uniform Code of Procedure for the Revocation, Cancellation or Suspension of Post Charters

(Adopted by the National Executive Committee of THE AMERICAN LEGION May 1-2, 1941,
Indianapolis, Ind. Amended by that body November 6-7, 1941 and May 9-10, 2018)

I. Charges

Section 1. A charge that any Post should, for any good and sufficient cause, have its charter cancelled, suspended or revoked may be initiated by any intermediate body between the Post and the Department, or by any three Posts of the Department in which the Post accused is located or the Department Executive Committee. A charge may be withdrawn only with the consent of the Department Commander.

Section 2. Such charge shall be filed with the Department Commander at Department Headquarters.

Section 3. Such charge shall be in writing and signed by the respective Commanders and Adjutants of the intermediate bodies or Posts or an authorized representative of the Department Executive Committee, as the case may be, and sworn to before any officer authorized to administer oaths.

Section 4. Three additional copies of such charge shall be filed with the original. The Department Commander shall forthwith cause one (1) 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.

Section 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 Constitutions and By-Laws alleged to have been violated.
- e. Affidavits or documents substantiating the charge may be attached.

Section 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.

Section 7. ~~Proceedings relating to the cancellation, suspension or revocation of a Post charter~~

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~~may also originate with either the Department Commander or the Department Executive Committee. The action of the Department Executive Committee in rejecting any charge or charges against a Post shall be final.~~

~~Section 8. The action of the Department Executive Committee in rejecting any charge or charges against a Post shall be final.~~

II. Resolution of Department Executive Committee

Section 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 taxed as costs against the Department, complainants or defendant Post 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

Section 1. In all cases, a formal complaint, in triplicate, shall be drawn by the Department Judge Advocate and signed by The American Legion, through its Department Commander and Department Adjutant, setting forth the following:

- a. A clear and concise statement of the facts upon which the charges are predicted.

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- 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 twenty (20) or more than sixty (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 thirty (30) days after the date of the expiration of the time for the filing of the answer.

Section 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

Section 1. The subcommittee shall cause a true copy of the complaint to be served on the defendant Post.

Section 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.

Section 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.

Section 4. Witnesses may be summoned by a notice signed by either the special acting Department Judge Advocate, the Department Judge Advocate, or by a member of the subcommittee.

V. Answer

Section 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

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to be admitted.

Section 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 (5) days thereafter.

VI. Subcommittee

Section 1. The subcommittee to hear and 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.

Section 2. Should no member of the subcommittee be a lawyer, opinions on questions of law may be obtained from the Department Judge Advocate or the special acting Department Judge Advocate.

Section 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.

Section 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, along with members of the appointed subcommittee, shall examine and cross-examine all witnesses.

VII. Hearing and Trial

Section 1. The rules of evidence prevailing in courts of law and equity shall not be controlling. The subcommittee shall decide all questions arising as to relevancy of the evidence and the regularity of the proceedings. Due process and equal protection legal standards shall be afforded to the Defendant Post at all stages of the process.

Section 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.

Section 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.

Section 4. Stipulations of fact may be introduced in evidence with respect to any issues.

Section 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.

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Section 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.

Section 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.

Section 8. A stenographic report of the trial shall be made.

VIII. Report of Subcommittee

Section 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.

Section 2. The Department Executive Committee shall consider said report and act thereon.

Section 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 (1) hour.

Section 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

Section 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.

Section 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) 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.

Section 3. Upon receipt of said notice of appeal, the Department Commander shall immediately notify the National Commander of such appeal and shall cause the Department Judge Advocate, or special

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acting Department Judge Advocate, and the subcommittee to submit all the papers and the complete record of the hearings to the National Commander. Upon receipt of the notice of appeal, the National Commander shall appoint a subcommittee of not more than five (5) nor less than three (3) members of the National Executive Committee for the purpose of hearing the appeal from the action of the Department Executive Committee.

Section 4. The National Executive Committeeman, or alternate, from the Department of which the defendant Post is a part, shall not be eligible to serve on this committee.

Section 5. This subcommittee of the National Executive Committee shall meet at least one (1) day prior to the meeting of the National Executive Committee and to this committee the National Commander shall refer the complete record, in writing, of said proceedings with such exceptions thereto as are made by the defendant Post.

Section 6. This subcommittee may make its recommendations merely from the records, or it may permit representatives of the Department or the defendant Post to appear and argue the matter before the committee, and it may, as such hearing of such appeal, take further evidence relating thereto under such rules and conditions as it may from time to time adopt.

Section 7. This subcommittee shall review the cause and recommend to the National Executive Committee the action to be taken thereon.

Section 8. The decision of the National Executive Committee, based upon the report of this subcommittee, shall be final and there shall be no appeal therefrom.

Section 9. The cost of the proceeding may be retaxed as the National Executive Committee shall deem just and equitable.

X. Disposition of Post with Suspended, Cancelled or Revoked Charter

Section 1. Upon the suspension of the charter of a Post the Department Executive Committee is authorized, empowered and directed, by and through its duly authorized agents, to take possession, custody and control of all of the records, property and assets of and belonging to such Post, and to provide for the government and administration of such Post during said suspension period.

Section 2. Upon cancellation or revocation of the charter of any Post of The American Legion, the Department Executive Committee is authorized, empowered and directed, by and through its duly authorized agents, to take possession, custody and control of all of the records, property and assets of such Post, and to take all necessary and proper steps and proceedings to conclude and close the affairs of such Post and said Department Executive Committee may transfer any remaining Post members into appropriate neighboring Posts willing to accept said members.