

# Official American Legion Opinions and Answers For Common Questions

## Posts

### **Q – Can the American Legion officially join with other groups?**

A- “Officially” no: “The American Legion shall not be a member of, or affiliated with, any organization, committee, association, council or group whereby The American Legion might be committed to a policy contrary to that adopted by The American Legion. (nec resolution 37, 1988).

### **Q – Can posts share facilities with other groups such as the VFW?**

A – Yes, posts may share facilities with other organizations. There is no national policy saying otherwise. Do not, however, obligate the Posts to take stands on issues that may be in opposition to department and national policies and do not lose the post’s identity through mixed meetings.

### **Q – Can posts honor a Canadian Legion card in their Lounges?**

A- There is no American Legion prohibition, but the question is rather one of state laws that regulate the sale and serving of alcoholic beverages.

### **Q – Can a post sell its property and retain its proceeds as long as there is an active membership of the post?**

A – Department of Michigan By-law Article IV, Section 4 (p) only prohibits the sale of a Post Home for the purpose of distribution of the money to the post members. It is not illegal to sell a Post Home and put that money into another Post Home, even if it would be shared with other organizations such as the VFW, or to keep the money in the account of an operating American Legion Post.

### **Q – Can posts have ‘associate members’?**

A - No, only those veterans who meet the stated membership eligibility may join the American Legion. Article IV, Section 2 of The American Legion National Constitution provide: “There shall be no form or class of membership except an active membership, and dues shall be paid annually or for life”.

### **Q- Can a post hold a ‘club liquor license’?**

A - In order for a Post to hold a ‘club liquor license’ it must have a charter, constitution and by-laws, minutes and have a dues paying membership. (Michigan Liquor Control Commission 2003)

**Q- Can Auxiliary and Sons of the American Legion members have bar privileges at a Post Lounge?**

A - To be legal, if the Auxiliary and Sons of the American Legion members have bar privileges, each must have one (1) vote, as a collective group, on the body or board that owns the license. If they do not have a collective vote, then they must be treated as guests, and may not purchase their own alcoholic beverages. (Michigan Liquor Control Commission 2003)

**Q – What is the official relationship of a post to department?”**

A - Departments and posts are autonomous, independent entities, which run their own ‘day-to-day’ affairs. The department has a general oversight responsibility to the posts in the department but this oversight is not operational control.

**Q – Can non- Legion members be asked to leave a post meeting?**

A – A post always has the right to exclude non-members from any post meeting for any purpose. The decision is strictly the will of the Post at the time and the decision is not debatable.

**Q – When can an elected Post Officer take office and become a State Convention delegate?**

A – Newly elected Post Officers may be installed before a State Convention and assume the office immediately upon installation. All posts shall hold elections not less than 30 days nor more than 120 days before a State Convention and shall be installed no later than 45 days after the close of the State Convention.

**Q – Is a post’s recognition of the 40 & 8 in conflict with the National Constitution and By-laws?**

A – Such action is not in conflict with the National Constitution and By-Laws because the National Constitution and By-Laws has no provision dealing with the 40 & 8.

**Q – Is there a chain of command established for Post Officer and Home Association Officers and how they interact?**

A – The American Legion does not recognize any “Home Association” so they would not interact at all with the chain of command of Post Officers.

**Q – How does a post obtain ceremonial rifles and/or blank ammunition?**

A - If both rifles and ammunition are needed, separate letters must be sent for each type of equipment being requested and forwarded to the Washington Office: Executive Director, Washington Office, American Legion National Headquarters, 1608 K Street, NW, Washington DC 2006. All requests are to be made on post letterhead and contain: Post name, number, address (not a P.O. box number), telephone number for all members of the post, and signed by either the Post Commander or Adjutant

**Q – Can a post demand funds from a Unit for upkeep of Post Home?**

A – No - American Legion Posts and American Legion Auxiliary Units are related but independent organizations, per Article XIII, Section 3 of the National Constitution of The American Legion. Except as prescribed in the above article, an American Legion Post has no authority to control the unit related to it. The unit is a separate entity; as such, it has its own treasury. Questions concerning a business and financial agreement or arrangement between a Post and Unit is something only they can resolve.

**Q – How does a post create an Auxiliary Unit?**

A- The Post writes their request to the American Legion Auxiliary, Department Headquarters, 212 N. Verlinden, Lansing MI 48915. An Auxiliary Unit can only be created by a Post request.

**Q – What does “Widow Unit” mean?**

A – In the event a post loses or surrenders its charter, the accompanying Auxiliary Unit will be known as a “Widow Unit” and can continue its activities and work as a Unit.

**Q – Can a Post Service Officer or Post Public Relations Officer serve as Executive Committee Members?**

A - Yes if they are included in the post officers list of the Post Constitution and By-Laws.

**Q – Is a Post’s Lounge or Bar the same as the post?**

A – No, the American Legion only charters posts, not clubs, lounges, or bars. The club, lounge or bar is not the post. These are only a function of the post and are governed by a Post Committee.

**Q – Do the Sons of the Legion have a right to put a motion on the floor and have voting rights at a regular American Legion general meeting, not a building or bar meeting?”**

A- some posts allow their SAL members to attend Legion meetings; that is a post decision. However, matters involving the post in which the post renders any type of decision on post issues rests with the Legion voting members attending the post meeting.

**Q – Can a post expel or suspend a member?**

A - Section 2 or Article IV of the By-Laws of The American Legion state: “Members may be suspended or expelled from the Legion only upon a proper showing of cause. Charges shall be based upon disloyalty, neglect of duty, dishonesty and conduction unbecoming a member of The American Legion. All charges must be made under oath in writing by the accusers, and no member in good standing shall lose his membership until give a fair trial in such manner and form as the Department by-laws and Department Executive Committee shall prescribe.”

**Q – Is a post tax exempt?**

A - -Yes and No. Yes, a Post is exempt from Federal Tax and Property Tax. No, a Post is not exempt from Michigan sales tax.

**Q – Does a post file Federal Tax Returns?**

A - A post needs to file a 990-T, a 990, or an email postcard 990-N depending on their unrelated business income.

## **Membership**

**Q – Who sets American Legion eligibility dates?**

A- The American Legion was granted a Congressional Charter in 1919 as a wartime veterans organization. Membership eligibility is based on any honorable federal active military duty having been served during one or more periods of hostilities as designated by the Department of Defense.

**Q – Can membership eligibility be challenged after membership status is granted?**

A – Eligibility is a condition which must exist at all times and can be challenged at any time. Once challenged, the obligation is on the challenged member to prove eligibility. If the condition of eligibility does not exist and/or the member cannot or refuses to demonstrate eligibility, the individual is not a member of The American Legion. No post can change this.

**Q – Is a Headquarters Post 225 member eligible?**

A - Initially, a new member under the Direct Mail Solicitation (DMS) program is assigned to Headquarters Post 225 by providing his/her service dates and character of discharge and signed the application certifying eligibility. Upon transfer to a local post, however, the ultimate responsibility for verifying membership eligibility, using Form DD214 or other official proof of separation, lies with the Post. It needs to be pointed out that of the more the 1.5 million new members acquired through the DMS program, National Headquarters has been informed of less that 100 ineligible individuals.

**Q – Are Merchant Marine members eligible for American Legion membership?**

A – Members of the World War II Merchant Marine, with service during the period December 7, 1941 to August 15, 1945 are eligible for membership.

**Q - Can I join the American Legion if I served in Allied military service?**

A - Yes, if you were a full citizen at the time your entry into active duty Allied military service during the war period and were honorably separated or discharged. Attainment of U.S. citizenship subsequent to such service does not fulfill the eligibility requirement.

**Q- How many days of military service potential qualifies a veteran for members?**

A – One day of honorable active service during the designated war periods in any one of the five military branches.

**Q – Can National Guard and Reserves join the American Legion?**

A – The National Guard and Reserves are required to meet the same eligibility requirements as the full time federal active veterans. To be eligible, the National Guardsman/Reservist must have served at least one day on federal active duty during any one of the recognized war periods and either have an honorable discharge or currently be serving either in the Guard/Reserve or on federal active duty. The key to determining if a Guardsman/Reservist has been on or is currently serving on active duty is the “**Authority Line**” on the activation orders of the Guardsman/Reservist. In both cases, “Title 10, Subsection 672 or 12301 are federal orders. The authority of a Governor to activate the National Guard as an individual or a unit is “Title 32” orders, i.e. Weekend Drill and Annual Training are not federal orders. The Reserves have similar reserve orders, which are “Title 10, Subsection 270.” This authority code gives the reserve component the authority to activate the reserves for Weekend Drills and Annual Training.

**Q- Is a member delinquent January 1<sup>st</sup>?**

A - Yes – American Legion membership is annual from January 1 to December 31. If dues are not paid by February 1, a member can be suspended, but nevertheless a member with no privilege except that of reinstatement by vote of the Post and payment of dues; and dues not being paid, such membership continues for a period of five months, to June 30, at which time the member is dropped from the roll by constitutional mandate and the membership forfeited.

**Q – What is a PUFL Membership?**

A – PUFL stands for Paid Up For Life membership. The program started with the 1976 membership year as a convenience for Legionnaires, offering them a method to purchase a membership for life, through a one-time payment. The cost of the membership is based on the member’s age at the time of application and the current annual dues of the post. The full fee schedule is printed on the back of each application.

**Q – What does “Member in Good Standing” Mean?**

A - It means the member must have a valid membership card for the current Legion year.

**Q – How does a member change posts?**

A – A membership transfer from one post to another is accomplished by completing a Membership Data Form available from Department Headquarters.

**Q – Can a member run for public political office while holding a Legion office?**

A – Yes. By Action of the 58<sup>th</sup> National Convention, August 24-26, Seattle, WA, The American Legion's National Constitution was amended to permit a candidate for nomination or election to, or an incumbent of, any remunerative elective public office, to hold any elective or appointive remunerative office in The American Legion.

**Q- Can a member run for a Legion elective office?**

A - The only requirement on an individual member to run for office at any level is the requirement that the individual be a member in good standing, which means the individual is eligible and has a paid-up current membership.

**Q – I just received a Late Dues Renewal Notice, but I know I paid my dues; what do I do?**

Disregard the notice if you are certain you have paid dues as the two sometimes cross in the mail. To verify membership status, please phone 51-371-4720, ext. 23.

**Q – I just paid this year's dues and now I am asked to pay for the next year; why is that?**

A - Membership is processed on a July-June fiscal year with the first renewal notice being sent on July 1<sup>st</sup>. The department goal is to have all posts at 100% dues paid by December. Therefore, if you paid your dues 2006 membership in May, you will get your first 2007 membership notice in July. To avoid the feeling your are paying your dues twice, remit your renewal when you receive the first notice.

## **General**

**Q – How is the American flag patch displayed on an American Legion uniform?**

A – The U.S. flag patch may be worn on either sleeve, providing the blue field must be forward. No emblem, name, or patch may be worn about the U.S. flag patch on the same sleeve.

**Q- Can a female Legionnaire wear her Legion cap during benedictions and invocations?**

A - Female members of the American Legion should wear their caps in the manner prescribed for female personnel of the armed forces. By tradition, a female Legionnaire is afforded the opportunity to leave her cap on during the Pledge of Allegiance, National Anthem, prayer and during meals.

**Q- What is the official American Legion stand concerning recognition of the 40 & 8 organization?**

A – The American Legion and the 40 & 8 have always been separate organizations. In 1960, the Legion national organization severed connections with the 40 & 8 because of its insistence on a white

male membership policy. That policy has changed, but since the 40 & 8 does not accept women. Therefore, there can be no connection with the organization, as it would place the American Legion in a position to be in violation of laws against sex discrimination. Women have been able to be members of the American Legion with all rights since 1919.

**Q – What is the “Honoring Those Who Served” funeral program?**

A – On January 1, 2000, the Department of Defense began the implementation plan for providing military funeral honors for eligible veterans as enacted in Section 578 of Public Law 106-65 of the National Defense Authorization Act of FY 2000. Upon a family’s request, the law requires that every eligible veteran receive a military funeral honors ceremony. This program calls for funeral home directors to request military funeral honors on behalf of a veteran’s family. Veterans organizations may assist in the provision of military funeral honors. For additional information contact: Military Funeral Honors, 9504 IH-35 North, Suite 320, San Antonio, TX 78233-6635 or <http://www.militaryfuneralhonors.osd.mil>

**Q – Who is eligible for a veteran’s burial flag and how do I obtain one?**

A- The VA established eligibility, Local funeral directors will assist you in obtaining a flag. More information is available at <http://www.cem.va.gov/bflags.htm>

**Q – How do I invite the State Commander to visit a post event?**

A – Provide a written, detailed invitation to State Headquarters as soon as possible, especially around Holiday periods. Include specific role you wish to the commander to fulfill during his visit.

**Q – What should a post be prepared to do for an invited guest(s)?**

A- Reserve designated parking space near post entrance. Assign one member as official host to meet, greet and introduce the guest(s). Cover all expenses relative to the guest(s) visit. Express thanks at event’s conclusion. Provide a write thank you after the event.

**Q – How do we submit photographs of post and community events for the Michigan Legionnaire and/or Department Website?**

A- First preference is to email a minimum 200 dpi JPG or GIF attachment to [info@michiganlegion.org](mailto:info@michiganlegion.org) with written description of the event and identification of the principals shown. You can also mail a disc and/or an original, commercially printed photo (home printer’s unacceptable) to department headquarters.

**Q – Where can I find forms for Department events, and various program and membership forms?**

A – Select the “forms” button on the left hand side of the opening page at [www.michiganlegion.org](http://www.michiganlegion.org), the department’s website. If you do not have home Internet access, most public libraries, and many café’s offer free online services. You can also request department forms by phoning state headquarters at 517-371-4720.

**Q- What is the correct display order for the five military branch emblems?**

A – The official pentagon “parade order” is from left to right: Army, Marine Corps, Navy, Air Force, Coast Guard.

## **Sons of the American Legion (SAL)**

**Q – is the SAL a separate organization from the American Legion?**

A – The SAL is not a separate organization. The SAL is an organized program of the American Legion subject at each level to control by the American Legion. In other words, the national organization of the American Legion controls the national SAL, the Department of the American Legion controls the SAL Detachment, and a post of the American Legion controls the SAL squadron.

**Q – Can a post disband its squadron if it chooses without first consulting the SAL Detachment of the American Legion Department to which the squadron belongs?**

A – Yes.

**Q – Who becomes owner of a squadron’s assets should a squadron lose its charter?**

A – The purported assets of an SAL Squadron are actually assets of the Post. The Post already owns them and after an SAL Squadron loses its charter, the Post continues to own them.

**Q – Who becomes responsible for a squadron’s Liabilities if the post or detachment revokes a squadron’s charter or the squadron voluntarily turns in its charter?**

A – A Squadron is not a separate organization or entity. It is always a program of a post.

**Q – What liabilities can a post be held responsible for as the result of legal actions incurred by a squadron that a post sponsors?**

A – A squadron is not a separate organization or entity. It is always a program of the post.

**Q – What controls can a post impose upon the financial operation of a post’s squadron?**

A – The monies of an SAL Squadron belong to the post. The squadron is a program of the post. Hence the post has total control.

**Q – Can a post govern how a squadron disburses its income, savings or other assets?**

A – Yes, if they choose to do so.

**Q – Can a post govern the use of the Post Clubroom facilities without consulting the post’s squadron if the squadron has contributed to its establishment and maintenance?**

A – Yes. A contribution makes no difference. A post governs and controls its own property. Since the purported property of the squadron is actually property of a post, the post has full control.

**Q – Can a post levy a surcharge on a squadron to help defray the expense of maintaining the post land, building and equipment even though the post does not require the Auxiliary Unit to share the same burden?**

A – Yes. The position of an Auxiliary Unit is totally different from an SAL Squadron. The American Legion Auxiliary and its departments and units are separate organizations, separately chartered. There is no justification to compare the situation of an SAL Squadron to an Auxiliary Unit. Pursuant to the National Constitution of The American Legion, Article XIII, Section 3, a post does not have the power to govern an Auxiliary Unit.

**Q- Can the wife, daughter, or granddaughter of an SAL member, not eligible to be a member of the American Legion Auxiliary or Jr. Auxiliary, form a support Auxiliary to the SAL and be officially recognized by the American Legion?**

A – No. The SAL is not a separate organization, but an organized program.

**Q – Do the Sons of the Legion have a right to put a motion on the floor and have voting rights at a regular American Legion general meeting, not a building or bar meeting?”**

A- Some posts allow their SAL members to attend Legion meetings; that is a post decision. However, matters involving the post in which the post renders any type of decision on post issues rests with the Legion voting members attending the post meeting.

**Q – Does an SAL Squadron have a Federal ID Number?**

A – No, a squadron is a program of the post and will come under the Post’s Federal ID Number.

**Q – Can SAL members be invited to participate in a Post Honor Guard**

A – Yes.

## **Frequently Asked Flag Questions**

**Q – Can a flag that has been used to cover a casket be displayed after its original use?**

A – There are no provisions in the Flag Code to suggest otherwise. It would be a fitting tribute to the memory of the deceased veteran and their service to a grateful nation if their casket flag were displayed.

**Q – Can the United States flag be displayed on days when the weather is inclement?**

A – The flag should not be displayed on days when the weather is inclement, except when an all weather (nylon or other non absorbent material) flag is displayed. However, most all flags are made of all weather materials.

**Q – What is the significance of displaying the flag at half-staff?**

A – This gesture is a sign to indicate the nation mourns the death of an individual(s), such as death of the President or former President, Vice President, Supreme Court Justice, member of Congress, Secretary of an executive or military department etc. Only the president of the United States or the Governor of the State may order the flag to be half-staffed. The honor and reverence accorded this solemn act is quickly becoming eroded by those individuals and agencies that display the flag at half-staff on inappropriate occasions without proper authority to do so

**Q – Is it appropriate to attach a “memorial” device to the flag when it is on a staff that cannot be lowered for “Half-Staff” honors such as Memorial Day?**

A- Though not specified in the Flag Code, attaching a 2.5” x 5’ black memorial ribbon that hangs free to the top of a flag is an acceptable alternative for flags that cannot be lowered to half-staff. Fabric ribbons, which are preferable over crepe paper, are available for purchase through the American Legion’s National Emblems Sales catalog.

**Q – When the flag is not flown from a staff, how should it be displayed?**

A – It should be displayed vertically, whether indoors or out, and suspended so that its folds fall free as though the flag were staffed. The stripes may be displayed either horizontally or vertically against a wall, the union should be uppermost and to the flag’s own right: that is, to the observer’s left. When displayed in a window of a home or a place of business, the flag should be displayed in the same way; that is, with the union or blue field to the left of the observer on the street.

**Q – How are unserviceable flags destroyed?**

A – The Flag Code suggests that, “when a flag has served its useful purpose, it should be destroyed, preferably by burning.” For individual citizens, this should be done discreetly so the act of destruction is not perceived as a protest or desecration. Many American Legion Posts conduct Disposal of Unserviceable Flag Ceremonies on June 14, Flag Day. This ceremony creates a particularly dignified and solemn occasion for the retirement of unserviceable flags.

**Q – Can the flag be washed or dry-cleaned?**

A – Yes. There are no provisions of the Flag Code which prohibit such care. The decision to wash or dry-clean would be dependent on the material.

**Q – Are you required to destroy the flag if it touches the ground?**

A – Flag code section 176b states that the flag should not touch anything beneath it such as the ground. This is stated to indicate that care should be exercised in the handling of the flag, to protect it from becoming soiled or damaged. You ARE NOT required to destroy the flag when this happens.

As long as the flag remains suitable for display, even if washing or dry-cleaning (which is acceptable practice) is required, you may continue to display the flag as a symbol of our great country.

**Q – What is the proper method for folding the flag?**

A – The Flag Code does not require any specific method, however, there is a tradition that has developed over time. This method produces a triangular shaped form like that of a three-corner hat with only the blue union showing.

**Q – May a person, other than a veteran, have their casket draped with the flag of the United States?**

A – Yes, although this honor is usually reserved for veterans or highly regarded state and national figures. The Flag Code does not prohibit this use.

**Q – What is the significance of the gold fringe, which we see on some American flags?**

A – Records indicate that fringe was first used as early as 1835. It was not until 1895 it was officially added to the National flag for all regiments of the Army. For civilian use, fringe is not required as an integral part of the flag, nor can its use be said to constitute an unauthorized addition to the design prescribed by the statute. It is considered that fringe is used as an honorable enrichment only.

**Q – What is meant by the flag’s own right?**

A – The “right” as the position of honor developed from the time when the “right hand” was the “weapon hand” or “point of danger.” The right hand raised without a weapon was a sign of peace. The right hand, to any observer, is the observer’s left. Therefore, as used in the Flag Code, the flag and/or blue field is displayed to the left of the observer, which is the flag’s “own right.”

**Q – Is it proper to fly the flag of the United States at night?**

A -The Flag Code states it is the universal custom to display the flag only from sunrise to sunset on buildings and on stationary flag staffs in the open. However, when a patriotic effect is desired, the flag may be displayed twenty-four hours a day if properly illuminated during the hours of darkness. The American Legion interprets “proper illumination” as a light specifically placed to illuminate the flag (preferred) or having a light source sufficient to illuminate the flag so it is recognizable as such by the casual observer.

**Q – What should be the position of the flag when displayed from a staff in a church, public auditorium or other public meeting place, whether indoors or outdoors, on platform, or on the floor at ground level?**

A – When used on a speaker’s platform, the flag, if displayed flat, should be displayed above and behind the speaker. When displayed from a staff in a church, public auditorium or meeting place, the flag should hold the position of superior prominence, in advance of the audience, and in the position of honor at the clergyman’s or speaker’s right as he faces the audience. Prior to the Flag Code

changes in 1976, the display procedure was somewhat different. Now the staffed flag should always be placed to the right of the speaker (observer's left) without regard to platform or floor level.

**Q – What are the penalties for the physical desecration of the flag?**

A – There are currently no penalties for the physical desecration of the flag. The American Legion and other members of the Citizens Flag Alliance continue working towards securing a Constitutional Amendment to protect the flag from physical desecration.

**Q- Can American Flag images be used on clothing without violating the US flag code?**

A – Yes: unless an article of clothing is made from the actual flag of the United States, there is NO breach of flag etiquette whatsoever.