



**THE AMERICAN LEGION  
DEPARTMENT OF MICHIGAN**

**2018 - 2019**

**DEPARTMENT EXECUTIVE  
COMMITTEE**

**RULES OF PROCEDURE**

**Rule 1 - Self-Governing**

The Department Executive Committee of The American Legion, as provided by the Department Constitution of The American Legion, 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 Michigan, the National Constitution and By-Laws and mandates of the National and Department Conventions.

**Rule 2 - Officers**

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

**Rule 3 - Meetings**

A. As soon as practical following the Executive Committee meeting held at the conclusion of the annual convention within forty five (45) days and not later than fifty five (55) days thereafter, the Department Commander will call a special one-day meeting of the Department Executive Committee for the following purposes:

1. To outline their program and policies for their year of administration;
2. To receive and discuss recommendations for committee appointments;
3. To hold a course of instruction on the duties and obligations of the members of the Executive Committee;
4. To instruct the District Commanders and Zone Commanders to hold a School of Instruction for the officers of the various posts in their respective districts within forty five (45) days thereafter;
5. To require each District Commander to submit a written report to the Department Commander for both the Fall and Winter Executive Committee Meetings covering the conditions of their district and the posts within their district. These reports will be printed in the following issue of the "Michigan Legionnaire";

B. The Department Executive Committee shall be called to two (2) meetings at both the Fall Conference and Winter Meeting to transact the necessary business of the Executive Committee and to receive and approve the reports and progress of the several committees.

C. The members of the Executive Committee shall be called for three (3) days during the annual Department Convention with travel and two days' per diem paid from the Executive Committee budget account, and one (1) day per diem to be paid from the respective District Commander's Reserve Fund. (Amended 18 March 1956)

#### **Rule 4 - Transaction of Business**

The Department Executive Committee, without meeting together, may transact business by mail, telephone, email, and other technologies including, but not limited to, Skype, Facetime, conference calls, and webinar/video chat. (per Resolution 18-C-15, approved by DEC on June 24, 2018)

If an e-mail vote is implemented, each response must be forwarded to all members of the Committee. If standard mail, the voting shall be considered closed at the end of seven (7) business days provided a majority of members of the committee have returned to the Chairman their votes by that time, or it shall be considered closed at anytime prior thereto and when all the members have returned their votes. In the event one-third (1/3) members of the committee objects in writing, the matter shall not be decided and will be considered as the first order of business at the next regular meeting or special meeting and the Chairman shall notify the committee of the action taken.

#### **Rule 5 - Duties and Powers**

The Department Executive Committee is specifically empowered to exercise the following powers and rights and may delegate to any subcommittee, composed of members of the Department Executive Committee, authority to investigate and report back to the 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 will not be contrary to, nor in derogation of actions of the National or Department Convention, except as provided by the resolution adopted at the Grand Rapids Convention in 1941 as follows:

*“Resolved, That any policy adopted by the National or Department organization of The American Legion by convention action shall be a mandate during the year of its adoption and thereafter shall continue as the policy of the Department organization unless changed by subsequent convention action or by action of the Department Executive Committee.”*

B. To determine from time to time the creation of, or abolition of, standing Department Committees, and to determine the number of members of all committees created by the Department Commander and to ratify appointments made by him. Such committees will receive full instructions from the Department Commander with reference to specific undertakings desired by the Department Executive Committee, and the Department.

C. Upon any report made to the Department Executive Committee by any standing committee or special department committee, and containing any recommendation as to the future conduct of the committee, or as to future policy or matters within the scope of such committee, the receiving, filing, adoption or approval of such report will not mean the adoption of such recommendation and each specific recommendation as to the future conduct of the committee, or as to the future policy within the scope of each committee, will be embodied in a separate resolution for the consideration and action of the Department Executive Committee.

D. To make decisions when necessary relative to expenditures for which appropriations have been made by the committee, and to make emergency appropriations necessary to implement action by the committee.

E. To make appropriations, from funds not otherwise appropriated, or such additional amounts as may be recognizable as emergency requirements.

F. To explore matters requiring the attention of the committee and offer recommendations to the committee.

G. To advise the officers with regard to problems arising in the performance of their duties.

H. In general, to perform between Department Conventions any and all actions necessary and consistent with the exercise of administrative power by the Department Executive Committee.

### **Rule 6 - Fiscal Policy**

All matters of business affecting the fiscal policy of The American Legion 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, will be considered under a first and second reading, with not less than a fifteen minute recess intervening between readings. The second reading of the said matter so presented will be held not less than fifteen minutes after the first reading of the matter under submission, and it will be required that the subject matter, i.e. the motion, resolution, or report be printed, or typewritten, and a copy be available to each Department Executive Committee member attending said meeting, at the time of the first reading, for the purpose of consideration of such motion, resolution, or report between the first and second reading.

Final action will be taken only upon the second reading provided, however, that matters and resolutions approved by and contained in the report of the Department Finance Committee, with favorable recommendation for immediate action, may be considered at the time of the report of the Department Finance Committee.

### **Rule 7 - Reference to Committees**

Any matter presented to the Department Executive Committee within the scope of the authority of any standing or special Department Committee will first be referred to such standing or special committee for its consideration and report to this committee at its next regular or special meeting, provided, however, that by action of two-thirds of the Department Executive Committee such matter may be given immediate consideration, except that all matters dealing with the appropriation of money must first be considered by the Department Finance Committee.

### **Rule 8 - Resolutions**

A. The five immediate Past Department Commanders shall function as the Resolutions Committee at all Fall and Winter meetings of the Department Executive Committee. (Amended July 14, 1977 D.E.C.). Copies of resolutions on hand at the time of the

conference will be presented to these members when they come to the conference meeting.

It has been the procedure of the Department Headquarters to send copies of resolutions to the committee as early as possible prior to arrival in the host city to permit study prior to meeting.

B. All resolutions to be passed upon at any meeting of the Department Executive Committee shall be submitted in typewritten form, and will have proper Legion sponsorship by channeling from posts through the districts, so that the districts can consider the resolutions, clarify wording, simplify, or in any other way assist in the resolutions coming before the Department Executive Committee, and will be submitted not later than starting time of the first day's session and referred to the sub-committee on resolutions of this committee, provided, however, that this will in no way prevent the introduction of a resolution in the open meeting at any time by a member of the Department Executive Committee. All such resolutions will be in substantially the following form:

**Now, Therefore Be It Resolved**, by \_\_\_\_\_ Post No. \_\_\_\_\_ Department of Michigan, The American Legion, in meeting duly assembled, this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ the use of the word 'Legion' in connection with organizations sponsoring Un-American principles; and

**Be It Further Resolved**, that Post No. \_\_\_\_\_ of the Department of Michigan, The American Legion, in meeting duly assembled this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, recommends to our department organization favorable consideration of this action; and

**Be It Finally Resolved**, That the Department Executive Committee of The American Legion, in meeting duly assembled, these \_\_\_\_\_ and \_\_\_\_\_ days of \_\_\_\_\_ 20\_\_\_\_, hereby goes on record in support of the action contented in the first resolving clause above set forth, and orders specific compliance.

### **Rule 9 - Powers of the Committee Over Its Members**

A. Article V Section 3 (g) states, "Quorum. A quorum shall exist at any meeting of the Department Executive Committee when a majority thereof shall be present or will have replied to mail or telegraphic polling."

B. If a quorum is not present, the Department Commander may order a Call of the Committee and send for the absentees.

C. In the case a number less than a quorum of the committee shall convene, those present are hereby authorized to send the Sergeant-at-Arms, or any other person or persons, by them authorized, for any and all absent members present within the city where the meeting is being held. And this rule will apply, as well to the first meeting of the committee at the legal time of meeting, as to each day of the session, after the hour has arrived to which the committee stood adjourned.

**Rule 10 - Roll Calls**

- A. No committee member, or other person, except the secretary and his assistants will visit or remain by the secretary's table while the yeas and nays are being called and counted.
- B. No member will speak more than twice upon the same subject without leave of the committee; nor more than once until every member choosing to speak will have spoken.
- C. While the commander is reporting or putting a question, none will entertain private discourse, read, stand up, walk into, out of, or across the committee room.
- D. No question will be debated until it has been considered by the Chair, and then the mover will have the right to explain his views, in preference to any other members.
- E. While the commander is putting the questions, any member who has not spoken before to the matter, may speak to the questions before the negative is put.
- F. During any debate, any Department Executive Committee member, though he has spoken to the matter, may arise and speak to the orders of the committee, if they be transgressed, in case the commander does not; but if the commander stands up at any time, he is the first to be heard.

**Rule 11 - Committee of the Whole**

- A. When the committee will resolve itself into the Committee of the Whole, the commander will leave the chair and appoint a chairman to preside over the committee.
- B. The Committee of the Whole will consider and report on such subjects as may be committed to it by the committee. The rules of the committee shall be observed in the Committee of the Whole, so far as they are applicable, except the rule limiting the time of speaking, concerning the previous questions, and taking the yeas and nays. The proceedings in the Committee of the Whole shall not be recorded in the minutes of the committee except so far as reported to the committee by the chairman of the committee.

**Rule 12 - Order of Business**

The Order of Business of the Committee will be:

1. The Invocation
2. To call the roll
3. To approve the minutes of the previous meetings as recorded
4. To dispose of letters or communications
5. To receive reports from standing committees
6. To receive reports from special committees
7. To receive resolutions, motions and petitions
8. To act upon unfinished business
9. Appointment of members of standing or special committees
10. Miscellaneous business

**Rules 13 - Suspension of Rule**

No standing rule or order of the committee will be suspended without one half hour notice being given of the motion, and no rule shall be suspended except by a vote of two-thirds of all the members present.

**Rule 14 - Robert's Rules of Order to Govern**

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

*This procedure was originally adopted by the Department Executive Committee at its meeting held in Grand Rapids, Michigan, on Saturday, 19 August 1941.*

**Submitting photos for Michigan Legionnaire**

Please encourage your posts to send in one good photograph of their activities with Legion and community for possible publication in the Michigan Legionnaire. Photos clipped from newspapers, or printed from home printers cannot be used. **We prefer good quality digital images emailed as a jpg. format attachment.** Email to

[media@michiganlegion.org](mailto:media@michiganlegion.org)

We look for photos showing Legion caps in action whenever possible.

We do not need black and white photos; standard color photos are fine. Polaroid is not acceptable.

**Department and National Dues distribution**

The Post must remit a total of \$39.50 to the Department for each membership card received.

Department Dues	\$ 18.50
District Commander Reserve	\$ .40
Vice Commander Reserve	\$ .25
Publication	\$ 2.10
Scholarship	\$ .25
Department Total	\$ 21.50
National Dues	\$ 18.00

(Covers National publication, National dues, and \$ .25 for exclusive use of The American Legion's Rehabilitation Program)

**Grand Total \$ 39.50**

Each District Commander, by convention action, earns an expense allowance, or budget of .40 cents per member within each respective district for the District Commander's official use. Likewise, each Vice Commander earns .25 cents per member within each zone.

The Reserve Fund accumulates with the first current year's membership received at Department Headquarters. The Reserve Fund is dispersed at your discretion, providing the funds are used to carry out and develop American Legion programs within your district, or zone.

Travel and Expense Voucher Forms provided to you at the 45-Day Meeting are to be submitted to Department Headquarters on a monthly basis. Expense reimbursement requests cannot be paid until a sufficient amount of money has accumulated in your account, per your current membership.

When submitting a voucher, please itemize the total. The monies earned can be used for such items as: travel, postage, telephone, telegraph, stationery and supplies, trophies and awards. **All expenses, except mileage, must have receipts attached.** The sum of \$100 covering one (1) day's per diem for the next Department Convention will be charged against your total Reserve Fund.

You are encouraged to periodically contact the Department Accountant to determine actual amounts available to you from the Reserve Fund. (517) 371-4720, ext. 17 or [finance@michiganlegion.org](mailto:finance@michiganlegion.org) for email.

### **Expense Allowance Paid by Department**

Article V, Section 3 (f) of the Department Constitution and By-laws states:

"There shall be five (5) annual meetings of the Department Executive Committee. Two (2) of these are dependent upon the time and location of the Department Convention. The first (1<sup>st</sup>) of which shall take place within twenty-four (24) hours of the conclusion of the annual Department Convention and the fifth (5<sup>th</sup>) and last shall be known as the Pre-Convention Meeting, taking place at the site of and just prior to the next year's convention.

The second (2<sup>nd</sup>) annual meeting is known as the Forty Five (45) Day Meeting and may be held within forty five (45) days, and up to fifty five (55) days after the conclusion of the convention. The third (3<sup>rd</sup>) meeting is to be held in September or October after the adjournment of the National Convention and be known as the Fall Conference to provide for schools of instruction for Commanders, Adjutants, Service Officers and other topics. The four (4<sup>th</sup>) meeting, to be known as the Winter Meeting, is to be held within the first three (3) months of the year. Dates and locations of the third (3<sup>rd</sup>) and fourth (4<sup>th</sup>) meetings will be determined at a minimum of two (2) years in advance by the Department Executive Committee when in Fall Conference assembled, upon the recommendations of the Permanent Time and Place Committee."

"In addition to the above regular meetings, special meetings shall convene upon call of the Department Commander or upon petition signed by the majority of the members of the Department Executive Committee, duly filed with the Department Adjutant, setting forth the reasons therefore."



"Notice of all meetings shall be given not less than five (5) days before any such meeting is held. In case a meeting convenes upon petition, the same shall be called by the Department Adjutant within (10) days after the filing of the petition with him."

*To insure one hundred percent attendance at these meetings, travel and per diem expense will be allowed members of the Committee for attendance.*

**This expense will be paid upon the following basis:**

*"Travel shall be at the rate of .51 cents per mile rate for travel by automobile plus bridge toll for crossing the Straits. Travel to be figured by MapQuest. Per Diem shall be at the rate of \$100.00. It shall not be considered as compensation for services but for expenses incurred while traveling to and from and while attending the scheduled meeting, and only upon the authority of the Department Commander. In determining the number of days allowed, the following shall govern: One day for attendance and the first 400 miles, and one additional day for each 400 miles and additional major fraction traveled by automobile. In no case shall the total per diem exceed \$400.00. The per diem mileage is to be based upon round trip travel figures".*

No expense will be allowed to Alternate Members unless representing their respective absent District Commander. We would, however, strongly urge all Alternates to attend all meetings.

**Finance Processing Procedures**

1. No member of the Department Executive Committee may have expenses reimbursed out of more than one account:
2. Any expenses incurred by you in the line of duty as Zone Commander, or as District Commander, are paid in full, up to the line of credit in each respective account with the exception that Department will deduct \$100 out of each account to apply toward convention.
3. Department Conferences and Convention are paid out of Department Executive Committee at the rate of "Mileage and Per Diem" only.
4. All Department Officers' incurred expenses are paid in full, up to the extent of their specific budgets. Department Conferences and Convention expenses are paid out of the Department Executive Committee account at the rate of "Mileage and Per Diem only".
5. Effective July 1, 2004, the following changes in the payment of expense vouchers were made. Per a motion by the Department Finance Committee, all expense vouchers must have all receipts attached (except for mileage) in order to be paid. All checks will be written on Thursdays only and will be mailed on Fridays.

**Membership Eligibility Dates**

US Army, Navy, Marine Corps, Air Force, Coast Guard

Merchant Marine Service from December 7, 1941 - August 15, 1945

Persian Gulf August 2, 1990-Cessation of hostilities,  
as determined by US Government

Panama December 20, 1989 - January 31, 1990

Grenada/Lebanon August 24, 1982 - July 31, 1984

Vietnam War February 28, 1961 - May 7, 1975

Korean War June 25, 1950 - January 31, 1955

World War II December 7, 1941 – December 31, 1946

World War I April 6, 1917 – November 11, 1918

**2018-19 Membership Target Dates**

*To be counted, dues must be accepted into Department Headquarters by:*

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September 5, 2018	50%
October 3, 2018	55%
November 7, 2018	65%
December 5, 2018	75%
January 9, 2019	80%
February 6, 2019	85%
March 6, 2019	90%
April 3, 2019	95%
May 1, 2019	100%

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**Loyalty Oath Wording /District Officers & Chairmen**

All district officers and chairmen: By action of the 32nd annual Department Convention, a resolution was adopted mandating all Department, District, and Post Officers subscribe to a loyalty oath. *Resolution on file in Department Headquarters.*

*I/we do solemnly swear that I/we will support and defend the Constitution of the United States and the Constitution and laws of the State of Michigan against all enemies foreign and domestic; that I/we bear true faith and allegiance to the same. That I/we take this obligation freely, without any mental reservation or purpose of evasion whatsoever.*

*I/we do further swear that I/we are not now, nor have ever been a member of or in active association with an organization controlled directly or indirectly by a foreign power, nor a member of or in actual association with an organization which advocates the overthrow to the American form of government by force or violence.*

*I/we will not advocate or become a member of any organization that advocates the overthrow of the American form of government by force or violence.*

*I/we do further swear that we have never used or been known by any names other than those listed below:*

**Annual Department Trip to National Headquarters**

(Distribute to your successor)

All Officers of the new Department Executive Committee after State Convention will be provided a room in Indianapolis and round trip bus transportation between Lansing and Indianapolis for this annual trip. Alternate District Commanders will be authorized if they are representing the District Commander.

The bus will leave from Department Headquarters in Lansing. No mileage will be paid to Lansing or to your home, unless the 45 Day Meeting is held upon returning to Lansing. Lunch and refreshments will be provided on the bus.

Other Legion members are allowed to go on the bus, space providing, but they must pay for their own rooms.

All expenses, not noted above, are your responsibility.

### **Post Charter Cancellation Procedure**

District Commanders and their respective district officers must at times make important decisions concerning the cancellation of post charters within their districts. When it is definitely determined that a post charter must be considered for cancellation due to causes covered in the Department By-Laws Article IV, Section 4 (k), as amended in 1961, or a failure to hold the required membership of 15, the following steps should be followed by the District Commander:

- A. Consult with the last known Post Commander and Adjutant
- B. Consult with Department Post Development Committee
- C. Be certain that each post member on the current roster has been notified by receiving a copy of each notice of the intention to file for charter cancellation, and
- D. Make a thorough survey of the assets of the post, both real and financial. *If there is any reasonable hope that the post may be revitalized, attempt to do so.*

Upon a definite district decision to request cancellation of a post charter, the committeeman should make written notification to Department Headquarters not later than ten (10) days prior to the next official meeting of the Department Executive Committee that the District Commander recommends the consideration of the cancellation of a post charter. This will allow sufficient time for the Department Adjutant to send a letter concerning the cancellation recommendation to the last known Post Commander or Adjutant of the post in question. This action will permit the post officers to appear at the DEC Meeting to defend the charter cancellation if they desire.

The matter of post charter cancellation will be on the agenda of the next DEC Meeting and the complete file supplied for reference. The respective District Commander will be requested to supply further evidence and to make a motion for the cancellation. The action of cancellation is then provided to the National Adjutant for final cancellation by the National Executive Committee.

### **To Create a Post**

We hope some of you will have the opportunity to form a new post in your district. The Department's Constitution and By-Laws identifies the District Commander as the individual with this responsibility. We advise that you seek assistance and guidance from the Department Post Development Committee; their procedures for assisting the district follow this letter.

Fifteen eligible veterans, or members from Post 225, may come together to form a new American Legion post in the department. When you learn of such a group, your first responsibility is to verify their eligibility for membership in The American Legion by inspecting their individual military separation documents. The next step is to assist them in selecting their temporary leadership.

Then, call Deanna Clark at Department Headquarters (517) 371-4720 ext. 24 or email, [member@michiganlegion.org](mailto:member@michiganlegion.org) and request an application for a temporary charter.

The temporary charter application is a three-part form. The original copy requires the signatures and addresses of the applicants. Copies two and three require their names and addresses to be neatly printed or typed. Use plain bond paper for the continuation of names and addresses for all three parts of the charter application.

The new Legionnaires select a name and number for their post. Please call Department Headquarters for the available numbers.

When the temporary charter application is complete, you, as the District Commander, forward it to the Department Commander at the Lansing Headquarters. When he approves the application, we will forward it to National Headquarters for preparation of a temporary charter.

National Headquarters will, in turn, register the new post and provide a temporary charter and a New Post Kit for the use of the temporary leaders. When the temporary charter is received, Department Headquarters will provide membership cards.

From the point of receiving the temporary charter, the new post has a six-month probationary period. During this time, they will draft, and submit for department approval, their Constitution and By-Laws, elect officers and begin participating in American Legion programs.

Before the end of the probationary period, the District Commander will make a recommendation to the DEC that the new post be accepted as a permanent post of the Department of Michigan.

### **Michigan Veterans Trust Fund Committee Appointments**

At the founding of the Michigan Veterans Trust Fund, a procedure was established by the State Board and approved by the various veterans' organizations. The American Legion's function is to provide willing and capable All War Era veterans, who are American Legion members with 180 days of active wartime service, to serve on each of the County Committees. This requires the assistance of each District Commander. The practice during the last several years has been as follows:

When a vacancy occurs on a County Committee, the District Commander is requested to secure and recommend a replacement. This is a matter of urgent business in order that The American Legion may have a capable and active member on each County Committee at all times.

Department Headquarters is notified when a vacancy occurs on a County Committee through resignation or death. The Department Adjutant then notifies, by letter, the District Commander who notifies all the posts of the district wherein the county is located, of the opening. Each post is then requested to contact the District Commander, to make a recommendation, if desired. In considering a recommendation, the nominee must:

- A. Be an active and paid-up member of The American Legion;
- B. Be a veteran with a minimum of 180 days of active duty in one or more of the All War Eras. (*Michigan Compiled Law 35.606*)

C. Be a veteran who resides within the county;

D. Be a veteran who is willing and able to accept and discharge the duties as a member of the Veterans Trust Fund County Committee. *There is a requirement of missing no more than three meetings.*

This recommendation is to be mailed to Department Headquarters (212 N. Verlinden, Lansing, MI 48915). It will then be forwarded by department to the Michigan Veterans Trust Fund for official appointment. Please do not mail directly to the Veterans Trust Fund; mail to Department Headquarters.

**Form Follows**

TO: District Commander  
FROM: Ron Runyan, Department Adjutant  
SUBJECT: County Committee Appointment Michigan Veterans Trust Fund

Your assistance in supplying information is appreciated. Thank you.

The following information is required, and must accompany your letter recommending reappointment or appointment of a new representative to a Michigan Veterans Trust Fund County Committee.

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To: Ron Runyan, Department Adjutant  
From: District Commander  
Subject: County Committee Appointment – Michigan Veterans Trust Fund  
County \_\_\_\_\_ District \_\_\_\_\_  
Name of Appointee \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ Zip \_\_\_\_\_  
Home ph: ( ) \_\_\_\_\_ Business ph: ( ) \_\_\_\_\_  
Email Address \_\_\_\_\_  
Branch of War Service \_\_\_\_\_  
Period of service, From \_\_\_\_\_ To \_\_\_\_\_  
Present Occupation \_\_\_\_\_

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Remarks

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Replacing

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Signed \_\_\_\_\_ Date \_\_\_\_\_  
District Commander

**PROCEDURE FOR NON-DEPARTMENT OFFICERS TO RECEIVE AN OPINION FROM THE DEPARTMENT JUDGE ADVOCATE**

1. All requests for a ruling or an opinion of the Department Judge Advocate will be in writing; preferably typewritten; with one copy sent to the Department Adjutant and one copy sent to the unit Commander, i.e. Post Commander, District Commander, Zone Commander or Department Commander;
2. All requests for a ruling or an opinion of the Department Judge Advocate will set forth clearly the exact question or questions the party wants answered;
3. All requests for a ruling or an opinion of the Department Judge Advocate, where possible, will be accompanied by the written request for a ruling or an opinion; in like manor; of the parties on the other side of the issue. Where this is not possible, the original requester will set forth the position of the parties' on the other side of the issue, where there is an advocate for another position;
4. All requests for a ruling or opinion of the Department Judge Advocate, dealing with issues within a Post, will be accompanied by the written opinion of the Post Judge Advocate on the issue or issues and likewise the District Judge Advocate;
5. All requests for a ruling or opinion of the Department Judge Advocate, dealing with issues at a District level, will be accompanied by the written opinion of the District Judge Advocate on the issue or issues;
6. The only exceptions to 4. or 5. above will be if the Department Commander or Department Adjutant certifies in writing, to the Department Judge Advocate, that an emergency exists such that one or more of the above requirements should be waived; and
7. In emergency situations the written requests for opinion may be faxed, e-mailed, or mailed to the Department Judge Advocate by the Department Adjutant and the opinion of the Department Judge Advocate will be returned in similar manor.

UNDER ARTICLE VII, SECTION 1 (f), OF THE DEPARTMENT BYLAWS THE DEPARTMENT OFFICERS HAVE THE RIGHT TO THE ADVICE OF THE DEPARTMENT JUDGE ADVOCATE.

DEC Approval May 3, 2003

**RULES OF PROCEDURE FOR THE TRIAL OF POST**

**MEMBERS AND/OR POST OFFICERS**

1. That any charges brought against a Legionnaire, at Post level, must be a written charge, upon the charge of "conduct unbecoming a member of The American Legion".
2. Upon receipt of such charge, the Commander of the Post, or if the Commander be absent, the officer properly acting in his stead, must appoint a Committee of three Legionnaires, who are not related to the facts of the case nor likely to be called as witnesses, to investigate the facts surrounding the charge.
3. Upon receipt of the committee's written report detailing specific facts, together with details of dates, times and names and addresses of witnesses, and a majority of the committee's recommendation in writing to proceed to Trial of the issue of "conduct unbecoming a member of The American Legion", the Commander shall immediately instruct the committee to draft a Complaint against the accused Legionnaire, notifying the Legionnaire of the charge, "conduct unbecoming a member of The American Legion", and separating the various acts or events that the member has performed in violation of our code of conduct, written or unwritten, into separate numbered paragraphs, together with Notice that on \_\_\_\_\_ date and at \_\_\_\_\_ time, at the place of meeting of the American Legion Post, or such other convenient place as the Commander of the Post may select, a full and fair Trial of the issue will take place.
4. The Trial shall be held not less than 20 days from the date the Commander shall send the requisite Trial Notice and not later than 60 days from the date of the investigating committee's final report.
5. The Commander shall, together with the charge and Trial Notice, send to the accused Legionnaire a copy of the investigating committee's detailed written report, in total, detailing the dates, times, facts and witnesses regarding the charge of "conduct unbecoming a member of The American Legion".



6. The accused Legionnaire shall also, at the time of being served with such documents, as above said, also be given a copy of these Trial Rules of Procedure.
7. Both the accused and the Post may be represented by attorneys at their respective costs.
8. A Trial of a Legionnaire will be full and fair as required by Department of Michigan By-Laws, Article IV, Section 4 (1).
9. The Post shall be the judge of its own members; however, the Post members may designate, in its Constitution, By-Laws or otherwise, that a body smaller than a membership meeting of the Post may act in the members stead to try the issues. However, only Legionnaires may sit in judgment of a Legionnaire.
10. The Post's decision that a member has committed "conduct unbecoming a member of The American Legion" shall be by majority vote of the hearing body finding such by the preponderance of the evidence. The Trial body may find an individual did not commit "conduct unbecoming a Legionnaire" with regard to some of the facts outlined in the committee's Trial recommendation report, and still find that the accused committed "conduct unbecoming a Legionnaire" with respect to other facts contained within the committee's Trial recommendation report. However, to preserve the accused's right to appeal, the trying body must, in writing, tell the accused which allegations in the committee report he/she was found responsible for committing which constitute "conduct unbecoming a Legionnaire", and which accusations were dismissed by less than a majority of the hearing body's consensus by a preponderance of the evidence. In order words, the Trial body must state that the accused has been found to have committed "conduct unbecoming a member of The American Legion" by violating the applicable paragraphs of the reporting committee's recommendation for Trial. And, the accused must be informed that he or she was found not responsible for whatever paragraph numbers may be appropriate from the reporting committee's recommendation for Trial. Also, the Legionnaire may be found not responsible for all of the accusations and if so, all the charges are dismissed.
11. Upon finding a member has committed "conduct unbecoming a member of The American Legion" the same Post Trial body shall, at the same time, by majority vote, then fashion a punishment for the conduct, which may be any punishment proportional to the infraction and may be as serious as suspension or expulsion from The American Legion or any lesser punishment which is reasonable and proportional to the infraction.
12. Pursuant to Department of Michigan By-Laws Article IV, Section 4(1), an appeal from a decision of the Post of "conduct unbecoming a member of The American Legion" may be taken to the Department Executive Committee by filing written reasons therefor with the Department Adjutant within 30 days following the final action by the Post. The decision of the Department Executive Committee shall be conclusive, i.e., There is no appeal to any other body or authority.

13. Many Posts have an intermediate appeal step in their Constitution and/or By-Laws, whereby a member who has been suspended or expelled from The American Legion and/or the Post may appeal to the membership body at a Post meeting for reinstatement. This step, if recognized by a Post, remains in effect, however, such an intermediate step does not toll or stop the running of the thirty (30) day time period contained in paragraph 12 above. If there is a reinstatement by the membership of the Post, the appeal to the Department Executive Committee becomes moot.
14. Pursuant to Department of Michigan By-Laws, Article IV, Section 4(m), "Post officers may be removed by the Post for cause on written charges of which the members of the Post shall be the sole judges. The procedure and right of appeal shall be the same as provided for members in Section (1) above. "However, officers must be tried before a membership meeting of the Post, rather than a smaller body, as it was the membership of the Post that elected them as officers.
15. Pursuant to Department of Michigan By-Laws, Article IV, Section 4(i) ". . . no person who has been expelled by a Post shall be admitted to membership in another Post without the consent of the expelling Post. He/she may then appeal to the Executive Committee of the Department of the expelling Post for permission to be admitted to membership in another Post, and shall be ineligible for membership until such permission is granted."
16. Pursuant to Department of Michigan By-Law, Article IV, Section 4(n), "The Department Executive Committee, after Notice and Hearing, may suspend or recommend for revocation, the charter of a Post which violates the National Constitution and By-Laws of The American Legion or the Department By-Laws or which fails adequately to discipline any of its members for any such violation, and may provide for the government and administration of such Post or the membership thereof, during such suspension or upon such revocation. The Department Executive Committee shall provide the method for suspending or recommending the revocation of the charter of a Post."