

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."