

The American Legion



For God and Country

Department of Delaware, The American Legion, Inc.
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Memorandum

Date: July 23, 2014
To: All Posts
From: Richard J. Santos, Department Adjutant 
Subject: Department Constitution & By-Laws as Amended

At the 96th Annual Department Convention of the Department of Delaware, The American Legion, Inc., the Department Constitution & By-Laws were amended by adoption of four resolutions:

1. District and District Dues
2. Department Convention Voting
3. Sale, Encumbering, Mortgage and Purchase of Post and District Assets
4. Duties of Officers and Finance

A copy of the four resolutions and the Department Constitution & By-Laws as amended by the resolutions is enclosed.

If you have any questions, please contact me by telephone at 302-628-5221, or by e-mail at adjutant@delegion.org.



**CONSTITUTION OF THE
DEPARTMENT OF DELAWARE, THE AMERICAN LEGION, INC.**

PREAMBLE

For God and Country, we associate ourselves together for the following purposes:

To uphold and defend the Constitution of the United States of America; to maintain law and order; to foster and perpetuate a one hundred percent Americanism; to preserve the memories and incidents of our associations in the Great Wars; to inculcate a sense of individual obligation to the community, state and nation; to combat the autocracy of both the classes and the masses; to make right the master of might; to promote peace and good will on earth; to safeguard and transmit to posterity the principles of justice, freedom and democracy, to consecrate and sanctify our comradeship by our devotion to mutual helpfulness.

ARTICLE I - NAME

Section 1. The name of this organization shall be the "Department of Delaware, The American Legion, Inc."

ARTICLE II - NATURE

Section 1. The American Legion is a civilian organization; membership therein does not affect or increase liability for military or police service. Rank does not exist in the American Legion. No member shall be addressed by his military or naval title in any convention or meeting of The American Legion.

Section 2. The Department of Delaware, The American Legion, Inc. shall be absolutely non-political, and shall not be used for the dissemination of partisan principles nor for the promotion of the candidacy of any person seeking public office or preferment.

Section 3. Each member shall perform his full duty as a citizen according to his own conscience and understanding.

ARTICLE III - ELIGIBILITY

Section 1. Membership in the Department of Delaware, The American Legion, Inc., shall be restricted to those declared eligible by the National Constitution of the American Legion.

ARTICLE IV - DEPARTMENT ORGANIZATION

Section 1. The Department of Delaware, The American Legion, Inc. shall be organized into Districts and local units termed "Posts."

Section 2. Those who desire to form a Post shall make application for a temporary charter to the Commander of the Department of Delaware, The American Legion, Inc. who shall submit the application to the Department Executive Committee. If the Executive Committee approves the application, it may recommend to the National Commander and the National Adjutant that a temporary charter be issued, providing the membership of the new post shall be twenty-five (25) or more charter members.

Section 3. The minimum membership of a chartered Post is fixed at fifteen (15) members in good standing.

Section 4. No Post shall be named after any living person.

Section 5. A Post receiving a temporary charter must abide by the terms and conditions as set forth in said temporary charter and shall uphold the declared principles of The American Legion and shall conform to and abide by the regulations and decisions of the Department of Delaware and of the National Executive Committee, or other duly constituted National governing body of The American Legion.

Section 6. After a temporary charter has been in effect for a probationary period of at least ninety (90) days, application for a permanent charter may be made. Such probationary period shall not exceed one year upon the termination of which the Department Executive Committee shall determine whether or not a permanent charter shall be issued or denied and the action of the Department Executive Committee in such regard shall be final.

Section 7. All charters shall be countersigned by the Department Commander and the Department Adjutant.

Section 8. Neither the Department of Delaware, The American Legion, Inc. nor its subordinate organizations shall distribute the proceeds from any sale of real or personal property to its members. Further, no real property belonging to a Post or District, whether owned or leased, shall be sold, encumbered or disposed of in any way without such Post or District notifying the Department Adjutant in writing and thereafter receiving the written consent to such sale, encumbrance or disposal from the Department Executive Committee.

ARTICLE V - DEPARTMENT CONVENTION

Section 1. The Legislative body of the Department shall be a Department Convention to be held annually at a place and time to be fixed by the vote of the preceding convention, or, in the event that the preceding Convention does not fix a time and place, the Department Executive Committee by a majority vote of its members present shall do so.

Section 2. In the Department Convention, each Chartered Post shall be entitled to two delegates and to one additional delegate for each fifty members, or major fraction thereof, whose current dues have been received by the Department Adjutant thirty (30) days prior to the date of said convention and to one alternate for each delegate.

Section 3. The Department Executive Committee shall annually determine delegate and alternate registration fees.

Section 4. Each Post shall be required to pay the registration fee for each and every delegate that the post is entitled to no later than the start of the Department Convention. A post failing to pay registration fees pursuant to the preceding sentence shall have its delegation disqualified for all purposes and no individual delegate will be permitted to vote at the Department Convention; provided, however, that non-payment of registration fees shall not disqualify a delegation from participating in any District Caucus or electing district officers. Payment of registration fees at any time during the Department Convention will qualify a Post delegation from that point until close of the Department Convention.

Section 5. The delegates and alternates of the Department Convention shall be chosen by the vote of each Post. Each delegate shall be entitled to one vote. The vote of each Post shall be equal to the total number of delegates to which each Post is entitled.

Section 6. The vote of any delegate who may be absent shall be cast by the senior alternate present. The seniority of alternates is predicated by their numerical listing on the registration form. Alternates shall have all the privileges of delegates, but may only vote as herein set forth; provided, the alternate's registration fee is paid.

Section 7. The vote of any delegate absent and not represented by an alternate shall be cast by the majority of the delegates present from the member's Post.

Section 8. At the conclusion of roll call voting, for each vote required to be conducted by the Department Convention, the chair shall ask if any Post not casting its vote during the roll call vote wishes to cast its vote. Upon recording the vote of any originally passing Post, the chair shall announce that voting is closed and direct that the tally be taken and the results announced. Posts may pass only one time during the Department Convention regardless of the number of matters voted on.

Section 9. The following Department and National Officers shall be delegates-at-large to Annual Department Convention:

- Department Commander
- Department First Vice Commander
- Department Second Vice Commander
- Department Adjutant
- Department Finance Officer
- Department Judge Advocate
- Department Chaplain

Department Historian
Department Service Officer
Department Sergeant-At-Arms
One District Commander for each District
National Executive Committeeman
Alternate National Executive Committeeman

And with the right to vote there at, in the year in which they serve, to be exercised by them in their Posts, and to all District Caucuses at which any election provided for in this Constitution shall be held and at which their respective Posts may be entitled to vote; provided, however, that nothing contained herein shall give to any such persons the right to more than one vote. The failure of any Post to properly register its delegation shall not deprive such Department Officers and National Officers of the Department of his or her right to vote, provided he, himself, or she, herself, is properly registered as a delegate.

Section 10. All Past Department Commanders, while in good standing in their respective Posts, shall be delegates for life to all Department Conventions with vote, to be exercised by them with their respective Posts, and to all District Caucuses at which any election provided for in this Constitution shall be held and at which their respective Posts may be entitled to vote; provided, however, that nothing contained herein shall give to any such persons the right to more than one vote. The failure of any Post to properly register its delegation shall not deprive such Past Department Commander of his or her right to vote, provided he, himself, or she, herself, is properly registered as a delegate.

Section 11. A quorum shall exist at a Department convention when a majority of the Posts are represented by duly elected delegates or alternates.

Section 12. The rules of procedure of the Department convention shall be those set forth in Robert's Rules of Order, as modified by the Rules Committee.

ARTICLE VI - DEPARTMENT OFFICERS

Section 1. The Department officers shall consist of the following:

- A. Department Commander
- Department First Vice Commander
- Department Second Vice Commander
- Department Adjutant
- Department Finance Officer
- Department Judge Advocate
- Department Chaplain
- Department Historian
- Department Service Officer
- Department Sergeant-At-Arms

- B. Any Assistant Department Officer nominated each year by the Department Commander and approved by the Department Executive Committee or the Department Convention.
- C. One District Commander for each District.
- D. Commissioner of Veterans Affairs.
- E. Such other Officers as may be created by the Department Convention.

Section 2. The National officers of the Department of Delaware, The American Legion, Inc. shall consist of:

National Executive Committeeman
 Alternate National Executive Committeeman

These National officers shall be elected as prescribed in Article VI, Section 4A of this Constitution.

Section 3. At each Department Convention there shall be elected the following officers: a Department Commander, a Department First Vice-Commander, a Department Second Vice-Commander, District Commanders, District Vice-Commanders, a Department Chaplain, a Department Historian, and a Department Sergeant-At-Arms. In the event of the death, or inability of the Department Commander to perform the duties of his office, the Department First Vice-Commander will assume the office of Department Commander. In the event of the death or inability of the said Department First Vice-Commander to so assume the office of Department Commander, the Department Second Vice-Commander will assume said office.

Section 4. The Department Convention shall:

- A. Elect a National Executive Committeeman and an Alternate National Executive Committeeman in those years when required by the terms of office of the National Executive Committeeman and Alternate National Executive Committeeman, as fixed by the National Constitution.
- B. Ratify the elected District Commanders, District Vice-Commanders, Department Executive Committeemen for each District, and Delegates and Alternates to the National Convention for each District.
- C. Ratify any change in District organizational structure; such change not to be effective until after the Department Convention which ratifies such change.

Section 5. Each District in Caucus during the Department Convention or not more than thirty days prior to the convening of the Department Convention shall elect one at-large representative to the Department Executive Committee for each 1,000 members or major fraction thereof in the said District. The membership strength of said District for this purpose shall be computed as paid up membership in the Department Headquarters at the close of business on the 30th day

prior to the convening of the Department Convention or as of July 1st in each year, which ever date shall first occur. In the event, any District shall have less than its first and only unit of 1,000 members, it shall nevertheless be entitled to elect one at-large representative to the Department Executive Committee. No more than two (2) at-large representative positions to the Department Executive Committee shall be held at any one time by members of any one Post.

Each District in Caucus during the Department Convention or not more than thirty days prior to the convening of the Department Convention shall elect one Delegate and one Alternate to the National Convention for each 1,000 members or major fraction thereof in said District.

Section 6. Each District Commander and District Vice-Commander shall be nominated and elected by the Posts in his or her District at a District caucus called for that purpose. Each District Commander shall enjoy the authority to establish a District Organization and By-Laws, not in conflict with the National and Department Constitution and By-Laws. In the event of the death, or inability of the District Commander to perform the duties of his office, the District Vice-Commander will assume the office of District Commander. In the event of a vacancy during the term of office of the District Vice-Commander, for any reason, such vacancy shall be filled by the Department Executive Committee upon nomination by the District Posts. Any such appointment shall be for the un-expired term of office only.

Section 7. No member of the Department Executive Committee shall hold offices or appointments which would entitle him or her to more than one vote.

Section 8. All Officers elected by the Department Convention shall serve until the adjournment of the succeeding Department Convention, except the National Executive Committeeman and the Alternate National Committeeman, who shall serve for terms of two (2) years.

In case of a vacancy in any such elective Department office occurring after the Department Convention, except as otherwise provided herein, the Department Executive Committee shall fill such vacancy for the un-expired term of said office; provided, however, that in the event of a vacancy in the National Executive Committeeman, the Alternate National Executive Committeeman shall succeed to such office for the un-expired term.

In the event the Department Commander is absent from the Department Convention, meeting of the Department Executive Committee, or from any other meeting where his presence is requisite, but no vacancy in the office exists, the Department First Vice-Commander shall act temporarily for him.

Section 9. All persons having custody of funds shall be bonded in an amount determined by and subject to the approval of the Department Executive Committee.

ARTICLE VII - DEPARTMENT EXECUTIVE COMMITTEE

Section 1. Between Department Conventions the administrative power of the Department shall be vested in a Department Executive Committee, which shall be composed of the following:

- A. The Department Commander, the Department Vice-Commanders, the Department Chaplain, the Department Historian, the Department Sergeant-At-Arms, the immediate three Past Department Commanders, the National Executive Committeeman and the Alternate National Executive Committeeman.
- B. The District Commanders, District Vice-Commanders, and Department Executive Committeemen.
- C. The Department Adjutant shall serve as secretary and the Department Judge Advocate shall be the legal advisor to the Department Executive Committee.
- D. All Department and District Officers and voting members shall attend all meetings of the Department Executive Committee.
- E. The voting members of the Department Executive Committee shall be: Department Commander and Vice-Commanders; Department Chaplain; Department Historian; Department Sergeant-At-Arms; National Executive Committeeman; District Commanders; Department Executive Committeemen; and the immediate three Past Department Commanders who are in good standing in their respective Posts; provided, however, that nothing contained herein shall give to any such persons the right to more than one vote.
- F. In the absence of the District Commander for reasons of health, indisposition or inability to attend any meeting of the Department Executive Committee, the District Vice-Commander of the respective district shall be recognized and given the right to vote in the absence of the District Commander.
- G. In the absence of the National Executive Committeeman for reasons of health, indisposition or inability to attend any meeting of the Department Executive Committee, the Alternate National Executive Committeeman shall be recognized and given the right to vote.
- H. The term of office of all members of the Department Executive Committee shall commence immediately upon their qualified election or appointment and shall end when their successors have been duly elected or appointed.

Section 2. At the first meeting of the Department Executive Committee, following the Department Convention, the Committee shall act upon the following:

- A. Incoming Commander's appointment of a Department Adjutant, a Department Finance Officer, a Department Judge Advocate, and Assistant Department Officers nominated by the Department Commander, such officers to hold office at the pleasure of the Department Commander, when confirmed by the Department Executive Committee.
- B. At such first meeting, the Department Executive Committee shall also act upon the incoming Commander's appointment of a Department Service Officer, who shall hold

office until his or her resignation, inability to act, or dismissed by the Department Executive Committee.

- C. The Department Executive Committee shall determine the remuneration, if any, of officers appointed under this section, subject to available funds.

Section 3. The Department Executive Committee shall meet on call of the Department Commander, and the Department Commander shall call a meeting of the Department Executive Committee on written request by one-third of the members thereof. A majority present of the total Department Executive Committee entitled to vote shall constitute a quorum.

Section 4. The Department Executive Committee shall formulate and adopt By-Laws, which shall prescribe the duties and functions of the Department Officers. Such By-Laws shall be adopted by a two-thirds vote of the voting members of the Department Executive Committee and shall be subject to amendment in either one of the following ways:

First: The Department Executive Committee may amend the By-Laws by a two thirds vote of the voting members thereof; provided, that all amendments to the By-Laws originating in the Department Executive Committee shall lay over for a period of thirty (30) days after submission.

Second: Any Post may submit an amendment to the By-Laws which amendment the Department Executive Committee shall submit by referendum to the local Posts, and such amendments may be adopted by a majority vote of all Posts.

Third: The By-Laws may be amended by the Department Convention in the manner provided for in Article XIV of this Constitution.

Section 5. All Past Department Commanders, except the immediate three (voting members) Past Department Commanders, shall be ex-officio members of the Department Executive Committee for life, without vote; provided, however, that said Past Department Commander is in good standing within his or her respective Post.

Section 6. Between normally scheduled Department Executive Committee meetings actions requiring immediate attention may be handled via e-mail by the Department Adjutant or other designated officer with printed copies of the responses of the voting members of the Department Executive Committee being kept for record purposes. The action taken shall be made a part of the next following normal Department Executive Committee meeting minutes.

ARTICLE VIII - CHARTERED POST ORGANIZATION

Section 1. The officers of the Post shall be as follows: a Post Commander, one or more Vice-Commanders, a Post Adjutant, a Post Finance Officer, a Post Historian and Publicity Officer, a Post Chaplain, a Post Service Officer, a Post Children & Youth Officer, and such other officers as the Post shall determine. The office of Post Adjutant, Post Finance Officer and Post Service Officer or any two (2) thereof may be held by one person if the Post so desires, and all officers

except the Post Commander and Post Vice-Commander may be appointed by the Post Commander if the By-Laws of the Post shall so provide.

Section 2. Each Post shall submit a copy of its Constitution and By-Laws to Department Headquarters and shall further submit to Department Headquarters a copy of all amendments thereto within thirty (30) days of adoption, and the Constitution and By-Laws of each Post, and amendments thereto, shall be subject to the approval of the Department Executive Committee.

ARTICLE IX - FINANCE

Section 1. The revenue of the Department of Delaware, The American Legion, Inc. shall be derived from annual membership dues and from such other sources as may be approved by the Department Executive Committee.

Section 2. The amount of such dues shall be determined by each Department Convention for the ensuing year.

Section 3. Dues fixed by the National Convention and fixed by the Department Convention shall be collected by each Post and forwarded to the Department Adjutant. The Department Adjutant will consolidate the dues and send a check from the dues account to the National Finance Officer. He will notify the Department Finance Officer of the amount and break down within 48 hours so that monies from the Department General Fund Account can be electronically transferred to cover the dues account.

Section 4. The accounts of the Department shall be audited annually within sixty (60) days after the end of the fiscal year, as determined by the Department Executive Committee, and the report of the Audit shall be given to the members of the Department Executive Committee within ninety (90) calendar days.

Section 5. All monies shall be expended by credit card, debit card or check, signed by any one of the authorized, signatory Department officers.

Section 6. Extraordinary expenditures, meaning non-budgeted items or monies to be expended in excess of the approved budget, must first be approved by the Department Executive Committee. However, the Department Executive Committee may make payment and expend up to one thousand five hundred dollars (\$1,500), only in an emergency situation, where payment is due prior to the next Department Executive Committee meeting, and then obtain approval from the Department Executive Committee

Section 7. No individual, group of persons, or subordinate organization of Department of Delaware, The American Legion, Inc. is authorized to contract any bills or obligation in the name of The Department, nor act as the agent of Department of Delaware, The American Legion, Inc., for any such purpose whatsoever.

Section 8. Notwithstanding the limitations in Section 5 hereof, the Department Executive Committee may establish guidelines for management and operation of programs and give

authority for certain Officers of the Districts to enter into contracts for routine operations of the District level programs, however Section 5 hereof applies to these routine operations and contracts.

ARTICLE X – DISTRICTS

Section 1. For the purpose of administrating Posts, The Department of Delaware, The American Legion, Inc. shall be organized to three (3) Districts:

- A. New Castle District shall be comprised of posts located in New Castle County and the City of Wilmington.
- B. Kent District shall be comprised of posts located in Kent County and the City of Dover.
- C. Sussex District shall be comprised of posts located in Sussex County.

Section 2. District Councils.

- A. To promote a closer spirit of cooperation between the Posts in the Districts, District Councils shall be organized.
- B. The purposes of the District Council shall be as follows:
 - 1. To promote membership in the Department of Delaware, The American Legion, Inc.
 - 2. To further the programs and policies of the Department, as approved by the Department Executive Committee.
 - 3. To serve as a training ground for developing American Legion leadership.
- C. District Councils shall meet at least six (6) times during each Legion year, and may meet as many times as may be necessary to carry out Department programs.
- D. District Councils shall meet at the call of the District Commander; provided however, that a District's By-Laws may specify additional methods for calling a meeting of the District Council.

Section 3. District Officers.

- A. District Council shall consist of the District Commander, District Vice-Commander, three (3) delegates and three (3) alternates from each Post in the District, and such members of the Department Executive Committee who belong to a Post in the District.
- B. District Commanders and District Vice-Commanders shall be elected at the Department Convention as provided in Department Constitution, Article VI – Department Officers.

- C. District Commanders and District Vice-Commanders shall attend all meetings of the Department Executive Committee.

Section 4. District Dues.

- A. Districts shall have the option to collect annual dues from posts within their District.
- B. A District opting to collect annual dues from posts within its District shall annually submit the amount of District dues to the Department Convention for ratification.
- C. District dues fixed by the Department Convention shall be collected by the District from each of its posts.
- D. District dues shall be payable on or after October twentieth of each year.

Section 5. District Program Assets. Notwithstanding the provisions of Section 5, 6, and 7 hereof, upon the termination of a District program, the District Council shall propose the distribution of the assets of the program. The district Council's proposed distribution plan is subject to the approval of The Department Executive Committee.

Section 6. Each year and at least thirty (30) days prior to the end of the Department of Delaware, The American Legion, Inc.'s fiscal year, the Districts shall submit an annual finance report, including any District dues, to the Department Finance Officer to be included in the Department's annual tax filings and financial reports.

Section 7. All District officials handling American Legion monies shall be properly bonded with a good and solvent bonding and surety company, as surety, to cover double the average amount of money handled in a single year. The bonds provided to District officials shall be approved by the District Council.

ARTICLE XI - DISCIPLINE

Section 1. The Department Executive Committee may suspend, cancel or revoke a Post Charter. The action taken by the Department Executive Committee shall be final and conclusive unless an appeal is taken to the National Executive Committee within thirty (30) days from the date of said suspension, cancellation or revocation. The action taken by the National Executive Committee upon appeal shall be final.

Section 2. The Department Executive Committee shall provide for the government and administration of a Post during its suspension or upon revocation of its charter.

Section 3. An appeal may be made to and acted upon by the Department Convention for any disciplinary measure or suspension ordered by the Department Executive Committee, except a suspension pending action by the National Executive Committee, on the revocation of a Post's Charter; provided, that the filing of an appeal shall not suspend the action of the Department Executive Committee until the Department Convention has acted upon it.

ARTICLE XII - CHANGE OF RESIDENCE

Section 1. Any member in good standing in a post of this Department, removing from his Post, shall be entitled to receive a certificate from his Post stating his membership and the duration thereof.

ARTICLE XIII - THE AMERICAN LEGION AUXILIARY

Section 1. The Department of Delaware, The American Legion, Inc. recognizes an auxiliary known as "American Legion Auxiliary, Department of Delaware."

Section 2. Membership in the American Legion Auxiliary, Department of Delaware shall be restricted to those declared eligible by the National Constitution of The American Legion.

Section 3. The auxiliary shall be governed, in this Department of The American Legion, by such rules and regulations as may be prescribed by the National Executive Committee and thereafter approved by this Department of The American Legion.

ARTICLE XIV - RATIFICATION

Section 1. All acts performed under prior existing constitutions are hereby ratified and confirmed.

ARTICLE XV - AMENDMENTS

Section 1. This Constitution may be amended by a two-thirds vote of the delegates present at any Department Convention, provided that notice of such proposed amendment shall have been mailed or delivered to each Post within the Department at least thirty (30) days prior to the annual Department Convention at which the vote thereon is taken.

ARTICLE XVI - INTERPRETATION

Section 1. Should any controversy or question arise with reference to the interpretation or definition of this Constitution or By-Laws herein provided for, the matter shall be referred to the Department Judge Advocate through Department Headquarters for decision.

Section 2. Any other controversy or question arising within the Department may be referred to the Department Judge Advocate by the Department Commander or the Department Executive Committee through Department Headquarters for his decision.

Section 3. Any decision of the Department Judge Advocate rendered pursuant to the above provisions shall be final and binding upon all agencies of The American Legion in the Department of Delaware unless revoked by action of the Department Executive Committee.

Section 4. The Department Executive Committee at its first meeting following the rendering of the decision appealed from, may in its discretion revoke or amend any ruling of the Department Judge Advocate complained of by any party at interest in such appeal.

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This document includes the amendments adopted July 13, 2008 at the 90th annual convention of the Department of Delaware, The American Legion, Inc.

This document includes the amendments adopted July 10, 2010 at the 92nd annual convention of the Department of Delaware, The American Legion, Inc.

This document includes the amendments adopted July 10, 2011 at the 93rd annual convention of the Department of Delaware, The American Legion, Inc.

This document includes the amendments adopted July 10, 2014 at the 96th annual convention of the Department of Delaware, The American Legion, Inc.



**BY-LAWS OF THE
DEPARTMENT OF DELAWARE, THE AMERICAN LEGION, INC.**

ARTICLE I - DEPARTMENT EXECUTIVE COMMITTEE

Section 1. The Department Executive Committee shall meet at least six times during each Legion year, the first meeting to be held immediately after each Department Convention at which Department officers have been elected; the second prescribed meeting shall be held at such time and place as the Department Executive Committee may designate. The Department Commander shall call a special meeting upon the written request of one-third of the members of the Department Executive Committee. Special meetings may also be held upon reasonable notice at the call of the Department Commander.

Section 2. The Department Commander shall name such committees as he shall deem advisable, subject to ratification by the Department Executive Committee, at its next meeting succeeding the appointment; but no recess appointment shall be valid or effective where ratification has been previously refused by the Department Executive Committee. Chairmen of sub-committees, where ever possible, will automatically be appointed as members of the major committee covering their sub-committee assignment.

Section 3. Vacancies. In case of death, resignation or removal for any cause of any member of the Department Executive Committee, the vacancy shall be filled by the Department Executive Committee, unless otherwise provided for by the Constitution.

Section 4. On all questions effecting the election, eligibility and conduct of the National Executive Committeeman from the Department to the National Executive Committee, or of Department Officers or members of the Department Executive Committee, the Department Executive Committee shall be the final authority thereon.

Section 5. Upon the recommendation of the Department Commander, the Department Executive Committee shall provide for the appointment and employment of such officers and employees as may be needed for the administration of the affairs of The American Legion and prescribe their duties and emoluments. All employees, so far as practicable, shall be members in good standing to the Department of Delaware, The American Legion, Inc.

Section 6. A majority of the voting members shall constitute a quorum of the Department Executive Committee.

Section 7. A majority of those members voting shall decide the question, abstention votes shall not be counted.

Section 8. Between normally scheduled Department Executive Committee meetings actions requiring immediate attention may be handled via e-mail by the Department Adjutant or other designated officer, with printed copies of the responses of the voting members of the Department Executive Committee being kept for record purposes. The action taken shall be made a part of the next following normal Department Executive Committee meeting minutes.

Section 9. Removal of a Department Officer.

- A. The Department Executive Committee after notice and hearing may discipline any member of Department of Delaware, The American Legion, Inc., of its own motion and without regard to any other action which may be taken by the Post to which such member belongs, where it appears that such member at the time of the conduct in question, was an officer of Department of Delaware, The American Legion, Inc., as defined in this Constitution, or a member of its Executive Committee, or a delegate or alternate to a National Convention, or convention of this Department convened at the time of such conduct aforesaid, or an officer of any District, County, or Post in this Department.
- B. And that as such the member was charged with knowledge of the programs of, and loyalty to, The American Legion nationally and the Department of Delaware, and that as such the member has been disloyal or neglectful of duty, or dishonest, or acted in a manner unbecoming the position aforesaid which he/she holds or at the time of such conduct did hold in The American Legion.
- C. Disloyalty shall include embracing or adhering to the principles of any group opposed to the Constitutional form of Government of the United States of America, or of any group previously determined by The American Legion nationally, or by action of the Department of Delaware, The American Legion, Inc., to be in basic conflict with the purposes of The American Legion.
- D. Conduct unbecoming the incumbent of such positions in The American Legion as are hereinabove set forth shall mean only such conduct as is premeditatedly and deliberately calculated to bring The American Legion or the Department of Delaware, The American Legion, Inc., or any official action of the conventions or Executive Committees thereof, or the national or department officers thereof, respectively, in their official incumbent capacity, into public disrepute, ridicule or calumny.
- E. Nothing herein shall be construed in any manner to prohibit any member of The American Legion from expressing his/her freely and exhaustively in any debate at any Convention of The American Legion or at any official meeting of Department of Delaware, The American Legion, Inc., or its subordinate component bodies, nor from petitioning the National Executive Committee or the Executive Committee of any Department of The American Legion for the redress of any grievance or the consideration or reconsideration of any policy, and any act of such nature so undertaken shall not be deemed evidence of unbecoming conduct aforesaid, or of disloyalty.

- F. The Department Executive Committee shall designate, appoint and authorize a Trial Subcommittee of three (3) to hear and make written findings of fact and recommendations with reference to the matter of disciplining any officer of Department of Delaware, The American Legion, Inc., who fails in any of the categories set out in the Paragraph B above, after such member shall have received due and proper notice of such hearing. Said subcommittee shall make its written findings and recommendations to the Department Executive Committee. Any officer who is the subject of possible disciplinary action shall be entitled to present his/her case before the Department Executive Committee as a whole and shall be so advised by the subcommittee. The accused shall be entitled to obtain representation at the hearing and to cross-examine all witnesses against him/her.
- G. A copy of the charges shall be served upon the accused either by an officer of the Department who shall certify as to delivery of said charges into the presence of the accused, or by registered mail directed to the address of the accused shown on the current year's membership record of the Department.
- H. The copy of the charges so served shall contain a notice to the accused of the date, time, and place of the hearing of such charges. Such date of hearing shall be not sooner than thirty (30) days after service has been obtained. A copy of all papers served upon the accused, and the certification of the officer who made the service, or the return receipt, signed by the accused, reflecting the registered mail service, shall be preserved in the Department records.
- I. Reasonable postponement shall be accorded by the Chief Judge of the Trial Subcommittee to permit the hearing to be held at such time as shall best ensure the production of all real evidence bearing on the charges, provided that the accused may insist upon the hearing within thirty (30) days of the service of charges upon the charged member.
- J. The party so charged shall have the right to receive a decision of the Trial Subcommittee, in writing, and to appeal and appear before the Department Executive Committee, which shall make the final judgment on said matter.
- K. By a majority of those present and voting, and upon a finding of guilty, an officer of Department of Delaware, The American Legion, Inc. may be (1) Reprimanded; (2) Removed from office; (3) Membership: suspended for no longer than one (1) year; or (4) Expelled from The American Legion. Notice of suspension of membership or expulsion from The American Legion shall immediately be sent to the National Adjutant.
- L. The Department Executive Committee shall adopt rules of procedure for the hearing of any cause involving the disciplining of an officer of the Department of Delaware, The American Legion, Inc., as set forth in Section 9 of this Article and is empowered hereby to provide for the suspension or expulsion of such member by a majority vote of said committee.

ARTICLE II - DUTIES OF OFFICERS

Section 1. DEPARTMENT COMMANDER: The Department Commander shall be the executive head of the Department of Delaware, The American Legion, Inc. with full power to enforce the provisions of the National Constitution and By-Laws of The American Legion, the Department Constitution, the Department By-Laws, and the will of the Department Convention. He shall be the Chairman of the Department Convention and of the Department Executive Committee. He shall appoint all necessary committees, subject to the ratification of the Department Executive Committee, and shall perform such other duties as are usually incident to the office.

Section 2. DEPARTMENT VICE-COMMANDERS: The Department Vice-Commander(s) shall perform such duties as may be assigned to each of them by the Department Commander, subject to the approval of the Department Executive Committee. The Department Vice-Commander(s) shall, on the request of the Department Commander, preside over the meeting of the Department Convention, or the Department Executive Committee, and perform such duties as are usually incident to the office.

- A. In the event of the death, or inability of the Department Commander to perform the duties of his office, the Department First Vice-Commander shall assume the office of Department Commander. In the event of the death or inability of the said Department First Vice-Commander to so assume the office of Department Commander, the Department Second Vice-Commander shall assume said office.

Section 3. DEPARTMENT DISTRICT COMMANDERS: The Department District Commanders shall perform such duties as may be assigned to each of them by these By-Laws, or the Department Commander, subject to the approval of the Department Executive Committee, and shall perform such other duties as are usually incident to the office. Each District Commander shall be the presiding officer of the District Council of the District.

Section 4. DEPARTMENT ADJUTANT: The Department Adjutant shall be charged with the administration of the policies and mandates of the Department Convention, the Department Executive Committee, and the Department Commander. He shall perform such other duties as are usually incident to the office; for example:

- A. He shall attend all meetings of the Department Executive Committee and act as Secretary thereof.
- B. He shall, under the direction of the Department Commander, cause notice to be given of all meetings of the Department Executive Committee, and of the Department Convention.
- C. He shall conduct the correspondence of the Department and keep the records of the Department Organization including a record of the Posts within the Department and the officers of each such Post.
- D. He shall receive from the Posts all annual Department and National dues. The Department Adjutant will forward a check to the National Finance Officer, in accordance

with Article IX, Section 3, of the Constitution of the Department of Delaware, The American Legion, Inc.

Section 5. DEPARTMENT FINANCE OFFICER:

- A. The Department Finance Officer shall be the Custodian of the funds of the Department of Delaware, The American Legion, Inc.; shall ensure and verify that all credit cards, debit cards or checks, disbursing the funds of the Department for the payment of routine bills, invoices and/or statements, are approved and signed by an authorized Department officer; and shall pay other bills upon vouchers fully itemized and approved for payment by the Department Executive Committee.
- B. The Department Finance Officer shall make reports upon the condition of the Department Treasury when called for by the Department Commander or the Department Executive Committee; and shall receive all annual Department dues, giving his receipt therefore.
- C. The disbursements by the Department Finance Officer shall be subject to and in accordance with and under the instruction of the Department Executive Committee.
- D. The Department Finance Officer shall furnish a surety bond for all persons having custody of Department funds which is hereafter provided in the Department By-Laws, Article VI – Monies and Collections, Section 1.
- E. The Department Finance Officer shall supervise the Department bookkeeper and any other volunteer and/or employed persons to ensure the Department financial transactions are completed in a timely manner and according to today's general standard accounting principles.
- F. The Department Finance Officer shall supervise and have oversight of all programs generating revenue other than dues. The chairpersons of such programs shall forward monthly and annual reports to the Department Financial Officer for inclusion in the Department Finance Reports and annual audits.
- G. The Department Finance Officer shall perform such other duties as are usually incident to the office.

Section 6. DEPARTMENT JUDGE ADVOCATE: The Department Judge Advocate shall advise the Department Officers and the Department Executive Committee on all legal matters, including the construction and interpretation of the Department Constitution and By-Laws, and shall perform such other duties as are usually incident to the office.

Section 7. DEPARTMENT HISTORIAN: The Department Historian from year to year shall collect all records and data of value and interest for the Department Headquarters and shall compile a complete history of the year's activities during his term of office. The two copies of the compiled history of the previous year shall be presented to the Immediate Past Department Commander as a record of his or her term as Department Commander, no later than the second

Department Executive Committee meeting following the close the Annual Department Convention. The Past Department Commander shall retain one copy; the second copy shall be filed in the Department HQ for reference. He shall also assist Post Historians to coordinate and unify the work of these officials and he shall perform such other duties as The Department Executive Committee may prescribe.

Section 8. DEPARTMENT CHAPLAIN: The Department Chaplain shall perform such divine and non-sectarian services as may be necessary, adhering to such ceremonial rituals as may be recommended by National Headquarters from time to time.

Section 9. DEPARTMENT SERGEANT-AT-ARMS: The duties of the Department Sergeant-At-Arms shall be those usually incident to the office.

Section 10. DEPARTMENT SERVICE OFFICER: The duties of the Department Service Officer will be as directed by the Department Commander and the Department Executive Committee within the provisions of the National Organization. The Service Officer must know how to utilize the expert services available through Legion channels, as well as those of other agencies. The Service Officer's report should be a standing part of every Department Executive Meeting. The Department Service Officer's daily duties will fall under the direction of the Department Commander and the Department Executive Committee.

Section 11. COMMISSIONER OF VETERANS AFFAIRS: The American Legion Commissioner of Veterans Affairs shall be nominated by the Department Executive Committee and shall be selected to serve by the Governor. The commissioner shall be responsible for communicating the desires of the membership to the commission and to bring back to the membership information as to the activities of the commission.

Section 12. In case of a vacancy in any such elective Department office occurring after the Department Convention, except as otherwise provided herein, the Department Executive Committee shall fill such vacancy for the un-expired term of said office.

ARTICLE III - CHARTERS

Section 1. The Department Executive Committee, by its own action, or upon recommendation of the applicable District Commander, may suspend, cancel or revoke a Post charter. The action taken by the Department Executive Committee shall be final and conclusive unless an appeal is taken to the National Executive Committee with thirty (30) days from the date of said suspension, cancellation or revocation. The action taken by the National Executive Committee upon appeal shall be final.

Section 2. The Department Executive Committee may, upon recommendation by the applicable District Commander, order the suspension of a charter for a period not to extend beyond the closing of the next succeeding Department Convention, as a disciplinary measure, or pending action relative to final revocation.

Section 3. Unless otherwise provided herein, any Post failing to meet the obligation imposed upon it by the National and Department Constitutions and By-Laws, or failing to function for six (6) months as an American Legion Post, or voluntarily choosing not to function as a Post, or merging with one or more Posts, or refusing to pay the Department and National per capita dues, or under such other conditions as might make such action necessary, upon order of the Department Executive Committee, shall surrender its charter for cancellation. Upon failure to surrender such charter, immediate steps shall be taken by the District Commander for its revocation, suspension or cancellation.

Section 4. Upon revocation, cancellation, or suspension of the charter of a Post in the Department of Delaware, The American Legion, Inc. said Post shall immediately cease operations and upon revocation or cancellation shall turn over its charter to the District Commander or the Department Executive Committee. The Department Executive Committee is authorized, empowered, and directed by and through its duly authorized agent, to take possession, custody and control of all of the records, property and assets of said Post; provided, however, that nothing herein contained shall be construed as requiring the Department of Delaware, The American Legion, Inc. to take over or assume any financial responsibility concerning said Post. The Department Executive Committee may provide for the transfer of the members in said Post to other Posts of their choice, subject to the approval of such other Post, or to the Department Headquarters Post, established hereby for this purpose, and operated in accordance with a Post Constitution, approved by the Department Executive Committee.

Section 5. Any proceedings taken by a District Commander or the Department Executive Committee with a view of suspending, canceling, or revoking a Post Charter shall be in accordance with the rules and regulations provided in the "Uniform Code of Procedure for the Revocation, Cancellation and Suspension of Post Charters," adopted by the National Executive Committee of The American Legion.

ARTICLE IV - DISCIPLINE OF POSTS AND POST MEMBERS

Section 1. Each Post of the Department of Delaware, The American Legion, Inc. shall be the judge of its own membership, subject to the restriction of the National and Department Constitution and By-Laws, except that no person, who is a member of an organization which has for its aim the overthrow of the United States Government by force or violence, or who subscribes to the principles of any group opposed to our form of government, shall be eligible to become or remain a member of The American Legion.

Section 2. Each Post has the power to discipline its own membership as such, subject to the restrictions of the National and Department Constitutions and By-Laws.

Section 3. Members may be reprimanded, lose post privileges, or suspended or expelled from The American Legion only upon a proper showing of cause. Charges shall be based upon disloyalty, neglect of duty, dishonesty, and/or conduct unbecoming a member of The American Legion. All charges shall be made under oath, in writing, by the accuser or accusers, and no member in good standing shall be reprimanded or lose post privileges or suspended or expelled

from The American Legion until given a fair trial by the Post in such manner and form as are provided herein.

Section 4. The charges shall be filed with the Post Commander or Adjutant, and a copy of the charges shall be served upon the accused either by an officer of the Post who shall certify as to delivery of said charges into the presence of the accused, or by registered mail directed to the address of the accused shown on the current year's membership record of the Post. The copy of the charges so served shall contain a notice to the accused of the date, time, and place of the hearing of such charges. Such date of hearing shall be not sooner than fifteen (15) days after service has been obtained. A copy of all papers served upon the accused, and the certification of the officer who made the service, or the return receipt, signed by the accused, reflecting the registered mail service, shall be preserved in the Post records for reference in the event of appeal. The accused shall be entitled to obtain representation at the hearing and to cross-examine all witnesses against him/her. Reasonable postponement should be accorded to permit the hearing to be held at such time as shall best insure the production of all real evidence, bearing on the charges provided; however, the accused may insist upon the hearing within thirty (30) days of the service of charges upon the charged member.

Section 5. Punishment. By a two-thirds majority of those present and voting, and upon a finding of guilty, a member may be reprimanded, or suspended from post privileges for a time not to exceed one year, or suspended or expelled from The American Legion. Notice of suspension of membership or expulsion from The American Legion of any member shall immediately be sent to the Department Adjutant. The decision of the Post shall be final unless changed by the Department Executive Committee.

Section 6. Appeal. Any member who has been so disciplined has the right to appeal to the Department Executive Committee, whose decision on appeal shall be final. Said appeal shall be in writing and filed with the Department within thirty (30) days after the action appealed is taken; provided however, if the punishment is suspension or expulsion from The American Legion, the accused may also appear personally before an Appeals Committee nominated by the Department Commander and approved by the Department Executive Committee. The Appeals Committee shall report its findings and recommendations to the Department Executive Committee.

Section 7. When an appeal is taken, the Post shall be notified by Department and given at least twenty (20) days within which to answer said appeal. When a request is made to appear before the Appeals Committee, the Post shall be given at least twenty (20) day notice and afforded an opportunity to also appear.

Section 8. In order to maintain order and decorum within the Post facilities, nothing contained herein shall prohibit a Post, with or without a hearing, from suspending a member from the use of the Post facilities for a period not to exceed ninety (90) days, provided however, that the member shall have the right to a hearing before the Post Executive Committee or the Post Membership if the member requests same in writing within ten (10) days after being advised of said suspension and said hearing shall be held within ten (10) days after the Post is so notified.

Section 9. Removal of a Post Officer.

- A. A Post may remove a Post officer, where it appears that such member at the time of the conduct in question, who was an officer of the Post as defined in Post Constitution, or a member of its Executive Committee, or a delegate or alternate to a National Convention, or convention of the Department of Delaware convened at the time of such conduct aforesaid, or an officer of any District and County in the Department.
- B. Removal from office shall be for disloyalty, or neglect of duty, or dishonesty, or actions in a manner unbecoming the position aforesaid which he/she holds or at the time of such conduct did hold in The American Legion. Disloyalty shall include embracing or adhering to the principles of any group opposed to the Constitutional form of Government of the United States of America, or of any group previously determined by The American Legion nationally, or by action of the Department of Delaware, The American Legion, Inc., to be in basic conflict with the purposes of The American Legion. Conduct unbecoming the incumbent of such positions in The American Legion as are hereinabove set forth shall mean only such conduct as is premeditated and deliberately calculated to bring The American Legion, or the Department of Delaware, The American Legion, Inc., or the Post, or any official action of the conventions or Executive Committees thereof, or the national or department officers thereof, respectively, in their official incumbent capacity, into public disrepute, ridicule or calumny.
- C. Nothing herein shall be construed in any manner to prohibit any member of The American Legion from expressing himself/herself freely and exhaustively in any debate at any Convention of The American Legion or at any official meeting of Department of Delaware, The American Legion, Inc., or its subordinate component bodies, or Post nor from petitioning the National Executive Committee or the Delaware Department Executive Committee for the redress of any grievance or the consideration or reconsideration of any policy, and any act of such nature so undertaken shall not be deemed evidence of conduct unbecoming aforesaid, or of disloyalty.
- D. After being given thirty (30) days written notice of the intended action by the Post Executive Committee or by the Post general membership, a Post officer may be removed from office. Any member who is the subject of possible disciplinary action shall be entitled to present his/her case before the Post general membership, provided however, such notice shall include written reasons for such action.
- E. Removal from office or any other disciplinary action shall be by action of two-thirds of the membership of the Post, present and voting at a regular Post membership meeting.
- F. The Post Officer may request to be heard at a regular Post membership meeting in his/her own defense, either before or after the action shall have been taken. If this defense is first heard after the action has been taken, the membership of the Post shall reconsider the removal from office at the next scheduled Post membership meeting.

ARTICLE V - DEPARTMENT POLICIES

Section 1. The policies of the Department of Delaware, The American Legion, Inc. shall always be subject to those of the National Organization and subject to such provisions as shall be determined by the Department in convention assembled or by referendum to local Posts.

ARTICLE VI - MONIES AND COLLECTIONS

Section 1. All Department, District and Post officials handling American Legion monies shall be properly bonded with a good and solvent bonding and surety company, as surety, to cover double the average amount of money handled in a single year. The bonds provided to Department Officials shall be approved by the Department Judge Advocate and the Department Executive Committee; those provided to District Officers shall be approved by the District Council; and those provided by the Post Officials shall be approved by the Judge Advocate or Legal Officer of the Post and the Post Executive Committee, or such other official or officials as the Department of Delaware, The American Legion, Inc. may designate.

Section 2. The Department Executive Committee, when deemed advisable, shall detail District Commanders, special auditors, or both to investigate the membership rolls and financial statements of any Post within the Department.

Section 3. Any Post within the Department which surrenders its charter, while having paid-up members on its membership roll, shall pay a special assessment of \$1.00 per transferred member to the Department to defray the administrative cost of transferring any such member to an active Post in the Department. This assessment may be waived by the Department Executive Committee upon hardship request by the applicable District Commander.

ARTICLE VII - AMENDMENTS

Section 1. These By-Laws may be amended as provided for by Article VII, Section 4 of the Department Constitution.

#

This document includes the amendments adopted July 13, 2008 at the 90th annual convention of the Department of Delaware, The American Legion, Inc.

This document includes By-Law amendments, adopted by the Department Executive Committee meeting on March 27, 2010.

This document includes the amendments adopted July 13, 2013 at the 95th annual convention of the Department of Delaware, The American Legion, Inc.

This document includes the amendments adopted July 10, 2014 at the 96th annual convention of the Department of Delaware, The American Legion, Inc.

RESOLUTION
DEPARTMENT OF DELAWARE, THE AMERICAN LEGION, INC.
96th Annual Department Convention, Dover, Delaware
July 10-11, 2014

**Resolution No. 1: Amendment to the Department Constitution & By-Laws,
Districts and District Dues**

Origin: Department Executive Committee

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WHEREAS, The National Constitution of The American Legion grants Departments the authority for the organization of intermediate bodies between the Posts and Department under Article VIII - Department Organization, Sections 3 through 5:

Section 3. Departments shall have authority to create and charter intermediate bodies between the Posts and Department to act as a liaison between such organizations and for the purpose of promoting the programs of The American Legion.

Section 4. The Department Executive Committee shall define the powers of such intermediate groups, but in no event shall such powers invade the prerogatives now vested either in the Post or Department or National Organization.

Section 5. Such intermediate bodies now existing within the Departments and heretofore authorized or recognized by such Department are hereby officially recognized to the extent of the powers herein granted; and

WHEREAS, The Department Constitution of the Department of Delaware, The American Legion, Inc. provides the organization of the Department in Districts and Posts under Article IV – Department Organization, Section 1:

Section 1. The Department of Delaware, The American Legion, Inc. shall be organized into Districts and local units termed “Posts.”; and

WHEREAS, From time to time, Districts will require their own funds to fulfill their duties and responsibilities, to further the programs and policies of the Department, as approved by the Department Executive Committee, and to serve as a training ground for developing American Legion leadership; now, therefore, be it

RESOLVED, By the Department of Delaware, The American Legion, Inc., in Department Convention assembled in Dover, Delaware, July 10-11, 2014, That the Department Constitution, be amended with insertion of a new Article X – Districts, and to read as follows:

FOR DEPARTMENT HQ USE

Approved Approved with Amendment Rejected Received and Recorded

Consolidated with Other Action Referred to Standing Committee

Signature Adjutant or Judge Advocate:

Richard J. Santos

RESOLUTION
DEPARTMENT OF DELAWARE, THE AMERICAN LEGION, INC.
96th Annual Department Convention, Dover, Delaware
July 10-11, 2014

**Resolution No. 1: Amendment to the Department Constitution & By-Laws,
Districts and District Dues**

Origin: Department Executive Committee

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ARTICLE X – DISTRICTS

Section 1. For the purpose of administrating Posts, The Department of Delaware, The American Legion, Inc. shall be organized to three (3) Districts:

- A. New Castle District shall be comprised of posts located in New Castle County and the City of Wilmington.**
- B. Kent District shall be comprised of posts located in Kent County and the City of Dover.**
- C. Sussex District shall be comprised of posts located in Sussex County.**

Section 2. District Councils.

- A. To promote a closer spirit of cooperation between the Posts in the Districts, District Councils shall be organized.**
- B. The purposes of the District Council shall be as follows:**
 - 1. To promote membership in the Department of Delaware, The American Legion, Inc.**
 - 2. To further the programs and policies of the Department, as approved by the Department Executive Committee.**
 - 3. To serve as a training ground for developing American Legion leadership.**
- C. District Councils shall meet at least six (6) times during each Legion year, and may meet as many times as may be necessary to carry out Department programs.**
- D. District Councils shall meet at the call of the District Commander; provided however, that a District's By-Laws may specify additional methods for calling a meeting of the District Council.**

FOR DEPARTMENT HQ USE

Approved Approved with Amendment Rejected Received and Recorded

Consolidated with Other Action Referred to Standing Committee

Signature Adjutant or Judge Advocate:

Richard J. Santos

RESOLUTION
DEPARTMENT OF DELAWARE, THE AMERICAN LEGION, INC.
96th Annual Department Convention, Dover, Delaware
July 10-11, 2014

**Resolution No. 1: Amendment to the Department Constitution & By-Laws,
Districts and District Dues**

Origin: Department Executive Committee

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Section 3. District Officers.

- A. District Council shall consist of the District Commander, District Vice-Commander, three (3) delegates and three (3) alternates from each Post in the District, and such members of the Department Executive Committee who belong to a Post in the District.**
- B. District Commanders and District Vice-Commanders shall be elected at the Department Convention as provided in Department Constitution, Article VI – Department Officers.**
- C. District Commanders and District Vice-Commanders shall attend all meetings of the Department Executive Committee.**

Section 4. District Dues.

- A. Districts shall have the option to collect annual dues from posts within their District.**
- B. A District opting to collect annual dues from posts within its District shall annually submit the amount of District dues to the Department Convention for ratification.**
- C. District dues fixed by the Department Convention shall be collected by the District from each of its posts.**
- D. District dues shall be payable on or after October twentieth of each year.**

Section 5. District Program Assets. Notwithstanding the provisions of Section 5, 6, and 7 hereof, upon the termination of a District program, the District Council shall propose the distribution of the assets of the program. The district Council's proposed distribution plan is subject to the approval of The Department Executive Committee.

FOR DEPARTMENT HQ USE

Approved Approved with Amendment ___ Rejected ___ Received and Recorded ___

Consolidated with ___ Other Action ___ Referred to Standing Committee ___

Signature Adjutant or Judge Advocate:

Richard J. Santos

RESOLUTION
DEPARTMENT OF DELAWARE, THE AMERICAN LEGION, INC.
96th Annual Department Convention, Dover, Delaware
July 10-11, 2014

**Resolution No. 1: Amendment to the Department Constitution & By-Laws,
Districts and District Dues**

Origin: Department Executive Committee

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Section 6. Each year and at least thirty (30) days prior to the end of the Department of Delaware, The American Legion, Inc.'s fiscal year, the Districts shall submit an annual finance report, including any District dues, to the Department Finance Officer to be included in the Department's annual tax filings and financial reports.

Section 7. All District officials handling American Legion monies shall be properly bonded with a good and solvent bonding and surety company, as surety, to cover double the average amount of money handled in a single year. The bonds provided to District officials shall be approved by the District Council.; and, be it further

RESOLVED, That the existing Articles X through XV, of the Department Constitution, shall remain unchanged except to be renumbered as Sections 11 through 14 and to read as follows

ARTICLE XI - DISCIPLINE
ARTICLE XII - CHANGE OF RESIDENCE
ARTICLE XIII - THE AMERICAN LEGION AUXILIARY
ARTICLE XIV - RATIFICATION
ARTICLE XV - AMENDMENTS
ARTICLE XVI – INTERPRETATION

And, be it finally

RESOLVED, That ARTICLE II – DEPARTMENT OFFICERS, Section 3, of the Department By-Laws, be amended to read as follows:

Section 3. DEPARTMENT DISTRICT COMMANDERS: The Department District Commanders shall perform such duties as may be assigned to each of them by these By-Laws, or the Department Commander, subject to the approval of the Department Executive Committee, and shall perform such other duties as are usually incident to the office. Each District Commander shall be the presiding officer of the District Council of the District.

FOR DEPARTMENT HQ USE

Approved Approved with Amendment Rejected Received and Recorded

Consolidated with Other Action Referred to Standing Committee

Signature Adjutant or Judge Advocate:

Richard J. Santos

RESOLUTION
DEPARTMENT OF DELAWARE, THE AMERICAN LEGION, INC.
96th Annual Department Convention, Dover, Delaware
July 10-11, 2014

**Resolution No. 2: Amendment to the Department Constitution & By-Laws, Department
Convention Voting**

Origin: Department Executive Committee

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WHEREAS, The Department Executive Committee has reviewed the voting process used at Department Convention and recommends some changes to the method of voting; and

WHEREAS, The Department Constitution, Article V – Department Convention, Sections 1 through 8, provides for the delegates, alternates, delegates-at-large, voting, quorum, and rules of procedure, and currently reads:

Section 1. The Legislative body of the Department shall be a Department Convention to be held annually at a place and time to be fixed by the vote of the preceding convention, or, in the event that the preceding Convention does not fix a time and place, the Department Executive Committee by a majority vote of its members present shall do so.

Section 2. In the Department Convention, each Chartered Post shall be entitled to two delegates and to one additional delegate for each fifty members, or major fraction thereof, whose current dues have been received by the Department Adjutant thirty days prior to the date of said convention and to one alternate for each delegate. The delegates of the Department Convention shall be chosen by the vote of each Post. No Post shall be allowed to cast its vote or votes by proxy.

Section 3. Each delegate shall be entitled to one vote. The vote of each Post shall be equal to the total number of delegates to which each Post is entitled. The vote of any delegate absent and not represented by an alternate shall not be cast.

Section 4. Alternates shall have all the privileges of delegates except that of voting. However an alternate may vote when the alternate is representing a delegate who is not present.

Section 5. The following Department and National Officers shall be delegates-at-large to Annual Department Convention:

Department Commander
Department First Vice Commander
Department Second Vice Commander
Department Adjutant

FOR DEPARTMENT HQ USE

Approved Approved with Amendment Rejected Received and Recorded

Consolidated with Other Action Referred to Standing Committee

Signature Adjutant or Judge Advocate:

Richard J. Santos

RESOLUTION
DEPARTMENT OF DELAWARE, THE AMERICAN LEGION, INC.
96th Annual Department Convention, Dover, Delaware
July 10-11, 2014

**Resolution No. 2: Amendment to the Department Constitution & By-Laws, Department
Convention Voting**

Origin: Department Executive Committee

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Department Finance Officer
Department Judge Advocate
Department Chaplain
Department Historian
Department Service Officer
Department Sergeant-At-Arms
One District Commander for each District
National Executive Committeeman
Alternate National Executive Committeeman

And with the right to vote there at, in the year in which they serve, to be exercised by them in their Posts, and to all District Caucuses at which any election provided for in this Constitution shall be held and at which their respective Posts may be entitled to vote; provided, however, that nothing contained herein shall give to any such persons the right to more than one vote. The failure of any Post to properly register its delegation shall not deprive such Department Officers and National Officers of the Department of his or her right to vote, provided he, himself, or she, herself, is properly registered as a delegate.

Section 6. All Past Department Commanders, while in good standing in their respective Posts, shall be delegates for life to all Department Conventions with vote, to be exercised by them with their respective Posts, and to all District Caucuses at which any election provided for in this Constitution shall be held and at which their respective Posts may be entitled to vote; provided, however, that nothing contained herein shall give to any such persons the right to more than one vote. The failure of any Post to properly register its delegation shall not deprive such Past Department Commander of his or her right to vote, provided he, himself, or she, herself, is properly registered as a delegate.

Section 7. A quorum shall exist at a Department convention when a majority of the Posts are represented by duly elected delegates or alternates.

Section 8. The rules of procedure of the Department convention shall be those set forth in Robert's Rules of Order, as modified by the Rules Committee; and

FOR DEPARTMENT HQ USE

Approved Approved with Amendment ____ Rejected ____ Received and Recorded ____

Consolidated with ____ Other Action ____ Referred to Standing Committee ____

Signature Adjutant or Judge Advocate:

Richard J. Santos

RESOLUTION
DEPARTMENT OF DELAWARE, THE AMERICAN LEGION, INC.
96th Annual Department Convention, Dover, Delaware
July 10-11, 2014

Resolution No. 2: Amendment to the Department Constitution & By-Laws, Department Convention Voting

Origin: Department Executive Committee

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WHEREAS, As outlined in annual department budgets, department conventions are self-funded by delegate, alternate, and delegate-at-large fees, the sale of ads and boosters in convention program books, sale of apparel, convention fundraisers, and donations; and

WHEREAS, Posts are not registering and paying the registration fee for each and every delegate that they are entitled to, resulting in a large reduction to income to the Department of Delaware, toward self-funding Department Conventions; now, therefore, be it

RESOLVED, By the Department of Delaware, The American Legion, Inc., in Department Convention assembled in Dover, Delaware, July 10-11, 2014, That ARTICLE V – DEPARTMENT CONVENTION, Sections 5 through 8 of the Department Constitution shall be renumbered as Sections 9 through 12; and, be it finally

RESOLVED, That ARTICLE V - DEPARTMENT CONVENTION, Sections 2 through 4, of the Department Constitution, be stricken and the following inserted:

ARTICLE V – DEPARTMENT CONVENTION

Section 2. In the Department Convention, each Chartered Post shall be entitled to two delegates and to one additional delegate for each fifty members, or major fraction thereof, whose current dues have been received by the Department Adjutant thirty (30) days prior to the date of said convention and to one alternate for each delegate.

Section 3. The Department Executive Committee shall annually determine delegate and alternate registration fees.

Section 4. Each Post shall be required to pay the registration fee for each and every delegate that the post is entitled to no later than the start of the Department Convention. A post failing to pay registration fees pursuant to the preceding sentence shall have its delegation disqualified for all purposes and no individual delegate will be permitted to vote at the Department Convention; provided, however, that non-payment of registration fees shall not disqualify a delegation from participating in any District Caucus or electing district officers.

FOR DEPARTMENT HQ USE

Approved Approved with Amendment ____ Rejected ____ Received and Recorded ____

Consolidated with ____ Other Action ____ Referred to Standing Committee ____

Signature Adjutant or Judge Advocate:

Richard J. Santos

RESOLUTION
DEPARTMENT OF DELAWARE, THE AMERICAN LEGION, INC.
96th Annual Department Convention, Dover, Delaware
July 10-11, 2014

**Resolution No. 2: Amendment to the Department Constitution & By-Laws, Department
Convention Voting**

Origin: Department Executive Committee

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**Payment of registration fees at any time during the Department Convention will qualify a
Post delegation from that point until close of the Department Convention.**

**Section 5. The delegates and alternates of the Department Convention shall be chosen by the
vote of each Post. Each delegate shall be entitled to one vote. The vote of each Post shall be
equal to the total number of delegates to which each Post is entitled.**

**Section 6. The vote of any delegate who may be absent shall be cast by the senior alternate
present. The seniority of alternates is predicated by their numerical listing on the registration
form. Alternates shall have all the privileges of delegates, but may only vote as herein set
forth; provided, the alternate's registration fee is paid.**

**Section 7. The vote of any delegate absent and not represented by an alternate shall be cast by
the majority of the delegates present from the member's Post.**

**Section 8. At the conclusion of roll call voting, for each vote required to be conducted by the
Department Convention, the chair shall ask if any Post not casting its vote during the roll call
vote wishes to cast its vote. Upon recording the vote of any originally passing Post, the chair
shall announce that voting is closed and direct that the tally be taken and the results
announced. Posts may pass only one time during the Department Convention regardless of the
number of matters voted on**

FOR DEPARTMENT HQ USE

Approved Approved with Amendment Rejected Received and Recorded

Consolidated with Other Action Referred to Standing Committee

Signature Adjutant or Judge Advocate:

Richard J. Santos

RESOLUTION
DEPARTMENT OF DELAWARE, THE AMERICAN LEGION, INC.
96th Annual Department Convention, Dover, Delaware
July 10-11, 2014

Resolution No. 3: Sale, Encumbering, Mortgage and Purchase of Post and District Assets
Origin: Department Executive Committee

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WHEREAS, Upon receiving charters, posts were granted rights to use The American Legion trademark, logo, and emblem to operate and conduct business as a post. Post assets were garnered through the use of The American Legion trademark, logo, and emblem; and

WHEREAS, Per the charter, posts shall uphold the declared principles of The American Legion and shall conform to and abide by the regulations and decisions of the Department Organization and of the National Executive Committee, or other duly constituted national governing body of The American Legion; and

WHEREAS, A distribution of the post assets amongst the post membership is an “inurement” to individual members of the Post; the financial benefit gained by the members is in direct conflict as provided under Title 26--Internal Revenue Code, Subtitle A--Income Taxes, Chapter 1--Normal Taxes And Surtaxes, Subchapter F--Exempt Organizations, Part I--General Rule, Section 501(c)(19)(C):

“(C) No part of the net earnings of which inures to the benefit of any private shareholder or individual.”; and

WHEREAS, In some instances, posts have tried to liquidate post assets and distribute the proceeds amongst their members in conflict with Title 26--Internal Revenue Code; and

WHEREAS, The sales of post assets are being contemplated without the post obtaining important documents such as, but **not** limited to, an appraisal and title search in order to protect the interests of individual post members, the post itself, and that of the Department of Delaware, The American Legion, Inc.; and

WHEREAS, The Department Executive Committee has reviewed the recent increase in the sale, encumber, mortgage and purchase of post assets and needs to be pro-active through oversight; and

WHEREAS, In order for the Department of Delaware to be pro-active through oversight of the sale or disposal or encumbering of in any way to post real estate or leasehold property, the Department Constitution needs to be amended; now, therefore, be it

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Approved Approved with Amendment ____ Rejected ____ Received and Recorded ____

Consolidated with ____ Other Action ____ Referred to Standing Committee ____

Signature Adjutant or Judge Advocate:

Richard J. Santos

RESOLUTION
DEPARTMENT OF DELAWARE, THE AMERICAN LEGION, INC.
96th Annual Department Convention, Dover, Delaware
July 10-11, 2014

Resolution No. 3: Sale, Encumbering, Mortgage and Purchase of Post and District Assets
Origin: Department Executive Committee

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RESOLVED By the Department of Delaware, The American Legion, Inc., in Department Convention assembled in Dover, Delaware, July 10-11, 2014, That the Article IV - Department Organization of the Department Constitution, be amended by adding Section 8:

Section 8. Neither the Department of Delaware, The American Legion, Inc. nor its subordinate organizations shall distribute the proceeds from any sale of real or personal property to its members. Further, no real property belonging to a Post or District, whether owned or leased, shall be sold, encumbered or disposed of in any way without such Post or District notifying the Department Adjutant in writing and thereafter receiving the written consent to such sale, encumbrance or disposal from the Department Executive Committee.

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RESOLUTION
DEPARTMENT OF DELAWARE, THE AMERICAN LEGION, INC.
96th Annual Department Convention, Dover, Delaware
July 10-11, 2014

Resolution No. 4: Amendment to the Department Constitution & By-Laws, Duties of Officers and Finance

Origin: Department Executive Committee

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WHEREAS, The Department Executive Committee has reviewed the duties of department officers and the maintenance of the account of the Department of Delaware; and

WHEREAS, At the July 14, 2013, Department Executive Committee meeting, the Department Executive Committee approved a new employee position, Department Bookkeeper; and

WHEREAS, With the addition of the Bookkeeper and the elimination over the years of certain fundraisers, the duties of the Department Finance Officer and Department Adjutant and the handling of Department finances have changed; and

WHEREAS, In order to address the changes in duties of department officers and maintenance of department finances, the Department Constitution as to Duties of Officers and By-Laws as to the Finances, need to be amended:

WHEREAS, Article II – Duties of Officers, Sections 4 and 5, of the Department By-Laws, currently read:

Section 4. DEPARTMENT ADJUTANT: The Department Adjutant shall be charged with the administration of the policies and mandates of the Department Convention, the Department Executive Committee, and the Department Commander. He shall perform such other duties as are usually incident to the office; for example:

- A. He shall attend all meetings of the Department Executive Committee and act as Secretary thereof.
- B. He shall, under the direction of the Department Commander, cause notice to be given of all meetings of the Department Executive Committee, and of the Department Convention.
- C. He shall conduct the correspondence of the Department and keep the records of the Department Organization including a record of the Posts within the Department and the officers of each such Post.
- D. He shall receive from the Posts all annual Department and National dues and assessments. The Department Adjutant will forward a check to the National Finance Officer, in

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Signature Adjutant or Judge Advocate:

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DEPARTMENT OF DELAWARE, THE AMERICAN LEGION, INC.
96th Annual Department Convention, Dover, Delaware
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Resolution No. 4: Amendment to the Department Constitution & By-Laws, Duties of Officers and Finance

Origin: Department Executive Committee

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accordance with Article IX, Section 3, of the Constitution of the Department of Delaware, The American Legion, Inc.

Section 5. DEPARTMENT FINANCE OFFICER: The Department Finance Officer shall be the Custodian of the general funds of the Department Organization; and shall sign all checks disbursing the funds of the Department Organization for the payment of routine bills, and shall pay other bills upon vouchers fully itemized and approved for payment by the Department Executive Committee, and shall make reports upon the condition of the Department Treasury when called for by the Department Commander or the Department Executive Committee, and shall receive all annual Department dues and assessments, giving his receipt therefore.

The disbursements by the Department Finance Officer shall be subject to and in accordance with and under the instruction of the Department Executive Committee.

The accounts of the Department Finance Officer shall be audited annually within 30 days after the end of the fiscal year, June 30th and the report of the Audit shall be given to the members of the Department Executive Committee within 60 calendar days.

The Department Finance Officer shall be furnished a surety bond as hereinafter prescribed and he shall perform such other duties as are usually incident to the office.; and

WHEREAS, Article IX – Finance, of the Department Constitution, currently reads:

Section 1. The revenue of the Department of Delaware, The American Legion, Inc. shall be derived from annual membership dues and from such other sources as may be approved by the Department Executive Committee.

Section 2. The amount of such dues shall be determined by each Department Convention for the ensuing year.

Section 3. Dues fixed by the National Convention and fixed by the Department Convention shall be collected by each Post and forwarded to the Department Adjutant. The Department Adjutant will consolidate the dues and send a check from the dues account to the National Finance Officer. He will notify the Department Finance Officer of the amount and break down within 48 hours so that

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96th Annual Department Convention, Dover, Delaware
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Resolution No. 4: Amendment to the Department Constitution & By-Laws, Duties of Officers and Finance

Origin: Department Executive Committee

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monies from the Department General Fund Account can be electronically transferred to cover the dues account.

Section 4. Revenue generated by programs other than dues (example: Hawaiian Fling, All Occasion Cards. etc.) may be under the control of the chairman of that program. Deposits and disbursements of these monies will be at the discretion of the chairman under the guidance of the Department Executive Committee. The chairman will forward monthly and annual reports to the Department Financial Officer for inclusion in the Department Finance Reports for annual audits.; now, therefore, be it

RESOLVED, By the Department of Delaware, The American Legion, Inc., in Department Convention assembled in Dover, Delaware, July 10-11, 2014, That Article II – Duties of Officers, Sections 4, Paragraph D, of the Department By-Laws, be amended to read as follows:

Section 4. DEPARTMENT ADJUTANT: The Department Adjutant shall be charged with the administration of the policies and mandates of the Department Convention, the Department Executive Committee, and the Department Commander. He shall perform such other duties as are usually incident to the office; for example:

D. He shall receive from the Posts all annual Department and National dues. The Department Adjutant will forward a check to the National Finance Officer, in accordance with Article IX, Section 3, of the Constitution of the Department of Delaware, The American Legion, Inc.; and, be it further

RESOLVED, That Article II – Duties of Officers, Sections 5, of the Department Constitution, be stricken and the following inserted:

Section 5. DEPARTMENT FINANCE OFFICER:

A. The Department Finance Officer shall be the Custodian of the funds of the Department of Delaware, The American Legion, Inc.; shall ensure and verify that all credit cards, debit cards or checks, disbursing the funds of the Department for the payment of routine bills, invoices and/or statements, are approved and signed by an authorized Department officer;

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Resolution No. 4: Amendment to the Department Constitution & By-Laws, Duties of Officers and Finance

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and shall pay other bills upon vouchers fully itemized and approved for payment by the Department Executive Committee.

- B. The Department Finance Officer shall make reports upon the condition of the Department Treasury when called for by the Department Commander or the Department Executive Committee; and shall receive all annual Department dues, giving his receipt therefore.**
- C. The disbursements by the Department Finance Officer shall be subject to and in accordance with and under the instruction of the Department Executive Committee.**
- D. The Department Finance Officer shall furnish a surety bond for all persons having custody of Department funds which is hereafter provided in the Department By-Laws, Article VI – Monies and Collections, Section 1.**
- E. The Department Finance Officer shall supervise the Department bookkeeper and any other volunteer and/or employed persons to ensure the Department financial transactions are completed in a timely manner and according to today's general standard accounting principles.**
- F. The Department Finance Officer shall supervise and have oversight of all programs generating revenue other than dues. The chairpersons of such programs shall forward monthly and annual reports to the Department Financial Officer for inclusion in the Department Finance Reports and annual audits.**
- G. The Department Finance Officer shall perform such other duties as are usually incident to the office.; and, be it further**

RESOLVED, That Article IX – Finance, Section 4, of the Department Constitution, be stricken and the following inserted:

Section 4. The accounts of the Department shall be audited annually within sixty (60) days after the end of the fiscal year, as determined by the Department Executive Committee, and the report of the Audit shall be given to the members of the Department Executive Committee within ninety (90) calendar days.; and, be it finally

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DEPARTMENT OF DELAWARE, THE AMERICAN LEGION, INC.
96th Annual Department Convention, Dover, Delaware
July 10-11, 2014

Resolution No. 4: Amendment to the Department Constitution & By-Laws, Duties of Officers and Finance

Origin: Department Executive Committee

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RESOLVED, That Article IX – Finance, of the Department Constitution, be amended with the insertion of Sections 5 through 8, and to read as follows:

Section 5. All monies shall be expended by credit card, debit card or check, signed by any one of the authorized, signatory Department officers.

Section 6. Extraordinary expenditures, meaning non-budgeted items or monies to be expended in excess of the approved budget, must first be approved by the Department Executive Committee. However, the Department Executive Committee may make payment and expend up to one thousand five hundred dollars (\$1,500), only in an emergency situation, where payment is due prior to the next Department Executive Committee meeting, and then obtain approval from the Department Executive Committee

Section 7. No individual, group of persons, or subordinate organization of Department of Delaware, The American Legion, Inc. is authorized to contract any bills or obligation in the name of The Department, nor act as the agent of Department of Delaware, The American Legion, Inc., for any such purpose whatsoever.

Section 8. Notwithstanding the limitations in Section 5 hereof, the Department Executive Committee may establish guidelines for management and operation of programs and give authority for certain Officers of the Districts to enter into contracts for routine operations of the District level programs, however Section 5 hereof applies to these routine operations and contracts.

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