

## The American Legion




*For God and Country*

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# Memorandum

**Date:** August 17, 2016

**From:** Richard J. Santos, Department Adjutant   
Charles Parisan, Director, Delaware American Legion Riders  
Jeffrey Crouser, Department Commander

**To:** Delaware Posts and Chapters

**Re:** American Legion Riders Guidelines

### History – National Actions

The National Executive Committee (NEC) of The American Legion Indianapolis adopted on October 17-18, 2007, Resolution No. 35: American Legion Riders as a National Program. To further clarify the program and on May 5, 2011, the NEC approved Resolution No. 32 which amended Resolution 35. Below is an overview of the resolutions and guidelines:

- The American Legion adopt American Legion Riders (ALR) as a national program.
- The ALR groups must be a program supported by a Post or Department of The American Legion.
- The groups shall uphold the declared principles of The American Legion as well as conform to and abide by the regulations and decisions of the Department, Post or other duly constituted Department governing body.
- The following guidelines were approved for the ALR program of The American Legion:
  1. All members of The American Legion Riders shall be current members of The American Legion, American Legion Auxiliary or Sons of The American Legion.
  2. Each ALR member shall establish and maintain membership by owning, individually or through marriage, a motorcycle licensed and insured as required by state law.
  3. ALR programs may allow for continued membership for those members who have given up motorcycle ownership because of age, illness, injury, or other reasons outside the member's control.
  4. All ALR members shall strive to maintain the image of The American Legion, at all times upholding The American Legion name and emblem, which symbolizes the integrity and principles of this great organization.

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**"HONORABLE SERVICE – MORAL OBLIGATION"**

5. All The ALR groups shall avoid the perception of being a “motorcycle club” or biker club.”
  6. The only recognized The American Legion Rider logo is that which is copyrighted and sold through The American Legion National Emblem sales.
  7. All members will obey the motorcycle laws of their state.
  8. There shall be no use of rockers with the ALR patch because touching the patch violates trademark laws of the ALR patch
  9. Sponsoring organization (Post and Department) will review liability insurance coverage to ensure that adequate coverage is available to cover the organization to include coverage for any specific special riding events.
- Resolution 35 further stated that American Legion Rider groups shall abide by The American Legion Constitution and By-laws as well as the established Post and Department directives.
  - The American Legion National Headquarters and the respective Departments shall maintain general oversight of ALR Program as regards to proper use of the name and emblem of The American Legion, ALR and The American Legion Legacy Run, and compliance with the National Constitution and By-Laws of The American Legion.

### **History – Department Actions**

To further define the ALR program in the Department of Delaware, the 2012 Department Convention approved Resolution No: 2012-02, Title: American Legion Riders Guidelines and Chapter Constitution & By-Laws. The resolution mirrored NEC Resolutions 35 and 37 with minor refinements, not in contradiction of the national guidelines.

- Provided that the Department guidelines shall be revised from time to time by the Department Executive Committee of the Department of Delaware, The American Legion, Inc. and The American Legion National Headquarters.
- By approval of the resolution, a Department template for a Chapter Constitution & By-Laws was approved and provided as in Addendum 1; and any conflicting articles in any existing or future Chapter Constitution & By-Laws with the Department template for a Chapter Constitution & By-Laws shall be null and void to the extent of such conflict.
- The American Legion National Headquarters and the Department of Delaware, The American Legion, Inc. shall maintain limited, general oversight and administration of ALR program as regards to proper use of the name and emblem of The American Legion, ALR and The American Legion Legacy Run, and compliance with the National and Department Constitution and By-Laws.
- In their capacity of limited, general oversight and administration, The American Legion National Headquarters and the Department of Delaware, The American Legion, Inc. are not involved in any manner in the day-to-day operations of the sponsoring Post and/or Chapter.
- The resolution shall remain in effect until superseded by action of a future approved resolution.

A resolution is forthcoming to the department executive committee or the 2017 department convention to refine the department guidelines as to chapter incorporation and by-laws. Delaware's guidelines will not include chapter incorporation.

### **Bullet Points**

1. Program Name - The American Legion Riders (ALR)
  - a. The American Legion Riders is a program of The American Legion.
  - b. American Legion Rider groups shall be chapters.
  - c. Chapters shall be a program supported by a post.
  - d. Chapter's name and number shall be that of the post.
  - e. Chapters shall uphold the declared principles of The American Legion and conform to and abide by the regulations and decisions of the department, post or other duly constituted department governing body.
  - f. Chapters shall abide by the The American Legion Constitution & By-Laws as well as post and department directives.
  - g. The American Legion national headquarters and the department shall maintain general oversight as regard to proper use of the name and emblem of The American Legion and compliance with national constitution & by-laws.
2. Chapter Creation and Disbanding
  - a. Authorization to establish or dissolve a chapter is at the sole discretion of the sponsoring post through the actions of the post membership or executive committee or commander as provided in the post's constitution & by-laws.
  - b. The formation or disbanding of a chapter shall be in the Minutes of the post membership meeting.
  - c. These actions need to be recorded in the Minutes, the official record of the post, to protect all interested parties.
  - d. Upon establishment or dissolution of a chapter, the sponsoring post shall immediately notify the department in writing.
3. Chapter Incorporation
  - a. Chapters may be incorporated.
  - b. Department is not aware of any incorporating chapters.
  - c. Authorization to incorporate a chapter, making the chapter a subsidiary corporation of the sponsoring post, is at the sole discretion of the sponsoring post.
  - d. As a program of a post, the chapter (subsidiary) must meet certain requirements:
    - i. All officers, directors, trustees, etc. must be named by the post. Elections for the Sons of The American Legion and The American Legion Riders, as examples, serve only to nominate the new slate of officers-whom are then named or installed by the post commander and/or the post executive committee. The post may remove and replace officers of subsidiary programs at will.
    - ii. All vacancies in the subsidiary program must be filled by the post.
    - iii. The subsidiary program must report to the post no less frequently than monthly. These reports must include financial reports, if appropriate to the program.
    - iv. The post treasurer or finance officer must be a signatory on all accounts.
    - v. All amendments to articles of incorporation or bylaws must be approved by the post. If the current text of such documents has not been approved by the post, it too must be so approved.
4. Chapter By-Laws
  - a. Chapter by-laws are optional.

- b. Chapter by-laws shall be approved by the post and department.
  - c. Department is not aware of any post and department approved chapter by-laws.
  - d. Absent chapter by-laws, oversight and operating procedures outlined in the national guidelines shall be followed.
5. Councils of Clubs (CoC) affiliations.
- a. American Legion posts and ALR chapters do not have authority to enter into any formal association or club/council membership with any outside organization that may act or vote in any manner outside the control of The American Legion.
6. Officers – Unincorporated Chapter.
- a. A chapter is not a stand-alone constitutional body.
  - b. The officers of a chapter are not constitutional officers as in a post or Sons of The American Legion squadron.
  - c. Chapter members may elect their officers; but approval of the officers shall be by the post.
  - d. The post may remove and replace officers at will.
7. Operations – Unincorporated Chapters.
- a. Chapter operations fall under the post incorporation.
  - b. The chapter does not need to file a State of Delaware, Annual Franchise Tax Report.
  - c. A chapter is not an individual tax-exempt organization.
  - d. They do not have their own EIN.
  - e. Tax exemption falls under the post federal tax exemption.
  - f. For tax reporting purposes, the chapter’s financial records are filed within the post’s annual IRS Form 990.
  - g. To avoid unrelated business income tax, all chapter funds, assets, liabilities, and accounts are funds, assets, liabilities, and accounts of the post.
  - h. The post finance officer shall be a signatory on all accounts of the chapter.
  - i. Chapters shall provide a finance report to the post no less frequently than monthly.
  - j. Disbursement of funds shall be approved by the post membership or by post executive committee and/or commander as provided in the post’s constitution & by-laws.
8. Patch Wear and Uniform.
- a. The American Legion has long held the position that patch wear is an intensely personal statement by our members, similar in tradition to the right side of the Legion Cap itself.
  - b. Generally, we should not tell a Rider how to arrange his or her patches, or what they can or cannot wear, unless such arrangement or display brings discredit upon the ALR program, implies an improper association with an outside organization, or infringes on our trademarks.
  - c. If ALR chapters or department programs wish to adopt a uniform dress code for vests and patches, that is their decision. National will not mandate a dress code other than to take the appropriate action to protect the trademarks of the organization.
- a. Rockers and Trademarks.
- a. Rockers may seem to be discouraged or unauthorized by Resolution 35 for fear of trademark infringement. In fact, rockers do not violate the trademarked ALR logo and are available from Flag and Emblem Sales.
  - b. Emblem also sells patches with custom embroidery on the field of the patch outside of the trademark area.
  - c. Such rocker patches and lettering is outside the trademark image (below) and does not infringe on the mark itself.
  - d. Rockers cannot encircle or touch the emblem of The American Legion Riders.

- e. Rockers and placement of patches are sensitive in some parts of the country and may often be misinterpreted. The decision to wear rockers (additional patches above and/or below the main patch) are subject to final approval of the department executive committee.

### **Future Action**

- Department Commander to nominate a Department Executive Committee Subcommittee, approved by the Department Executive Committee of no less than four (4) general members with the Department ALR Director as one (1) of the general members and one (1) chairperson for a total of five (5) with three consultants, Department Finance Officer, Department Judge Advocate and Department Adjutant
- Subcommittee's complete review of Delaware Guidelines for American Legion Riders Chapters
- Subcommittee to prepare recommendations to the Department Executive Committee or Department Convention toward revisions of the Guidelines
- Draft a resolution for the consideration by the Department Executive Committee or the Department Convention to amend department convention approved Resolution No: 2012-02, Title: American Legion Riders Guidelines and Chapter Constitution & By-Laws.
- Present recommendations to be included in the resolution are that Delaware chapters:
  1. Shall not be incorporated,
  2. Shall not have its own federal EIN - employee identification number,
  3. Shall not file an annual IRS Form 990,
  4. Shall remain totally under the control and oversight of sponsoring post,
  5. Shall be under the corporate and tax exempt umbrella of sponsoring post, and
  6. Any other revisions recommended.

### **Addendums**

- Memorandum from Daniel S. Wheeler, National Adjutant, dated August 5, 2016
- NEC Resolution 37: Reaffirmation of The American Legion Policy Concerning Affiliation With Other Organization, dated May 4-5, 1988
- NEC Resolution 35: American Legion Riders as a National Program, dated October 17-18, 2007
- NEC Resolution 32: Amend "Resolution 35: American Legion Riders as a National Program, Dated October 17-18, 2007," dated May 4-5, 2011
- Delaware Department Convention Resolution 2: American Legion Riders Guidelines and Chapter Constitution & By-Laws, dated July 7-8, 2012