THE AMERICAN LEGION
Veterans Strengthening America
OFFICE OF THE NATIONAL JUDGE ADVOCATE
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October 8, 2025

LEGAL OPINION

Subject: The American Legion, the Sons of The American Legion and the four rules of an American Legion Program

For 50 years, the Sons of The American Legion (SAL) has co-existed at all levels of The American Legion. However, this has also created a perception that SAL members have the same rights and privileges as those in The American Legion, and this misinterpretation of the rules – which has gone largely unchecked or uncorrected in some areas – is starting to cause some very real problems for the organization. Recently, this has grown to a larger concern as we hear reports of Posts being audited and, when asked for their membership rolls, have been submitting the names of SAL in addition to the names of regular members.

This memorandum seeks to clarify for everyone that The Sons of The American Legion is a program, not simply a cheaper alternative that comes with the same rights and privileges as a traditional member. Further, leadership at all levels – Post, District, Department and National – must be knowledgeable on what the rules governing veterans and non-profit organizations are and safeguard the integrity of our organization by ensuring that no person or group jeopardizes our future by operating in a manner not consistent with the laws and regulations set by Congress and the IRS.

BACKGROUND

Shortly after the end of hostilities in World War I in Paris, France, LTC Theodore Roosevelt – the oldest son of the former president – had a conversation with George White, a fellow servicemember and editor of the Portland newspaper the Oregonian, and from this discussion would come The American Legion. Roosevelt would suggest the immediate establishment of a new servicemen's organization that would include all AEF members, as well as those soldiers who remained stateside as members of the military during the war. Roosevelt and White advocated ceaselessly for this proposal until they found sufficient support at headquarters to move forward with the plan. In September of 1919, Congress would formally recognize the creation of The American Legion when our congressional charter was passed by both Houses of Congress and sign into law.

Congress has deemed it in the national interest to afford congressionally chartered organizations some latitude to raise money and lobby congress not available to many other non-profits. As one non-profit trade publication noted:

Above all, 501(c)(19) organizations offer financial, medical, psychological, and social support to veterans, their families, and the community. Through rehabilitation programs, support networks, and advocacy, these groups enhance veterans' mental health, employment opportunities, and overall well-being. These programs strive to secure a better future for those who have served. However, their impact extends far beyond supporting veterans, as they provide vital assistance to entire communities by mobilizing trained veteran volunteers in fields such as logistics, emergency response, and more during disasters.

At the 1932 National Convention in Portland, OR, The American Legion, while in general session, voted to approve Resolution 28, which established a youth program called "the Sons of the Legion." The Committee on Junior Activities called for "The National Organization of The American Legion approve, encourage, and foster organizations of sons of members of The American Legion." Resolution 456 adopted at the 14th National Convention, states in the two whereas clauses "In the propagation of an organization for such boys' future around a fine idea, and assist in the bringing out the best type of citizenship," and "[a]n organization of this sort will bring the father closer to his son and make a better Legionnaire of him." The first resolve clause states, "One, that The American Legion officially propagate, recognize, and sponsor an organization to be known as the Sons of The American Legion." Upon the adoption of Resolution 456, it was believed, "Because The American Legion is such a unique organization, with eligibility so highly restricted, it can have no successor. But it can have an heir to whom it can bequeath all its treasured heritage."

THE PROBLEM

We are hearing more and more anecdotal evidence (and indeed, some is even being sent to us) that various Departments and Posts are incorrectly interpreting the IRS code with regard to the SAL and, crucially, are potentially doing things that could jeopardize The American Legion's non-profit status.

Congress sets the membership eligibility criteria for The American Legion, and the laws they have been set up around are found in Title 36 of the United States Code, Chapter 217, of which deals exclusively with our organization. Eligibility is addressed explicitly specifically addressed in 36 USC 21703, a provision most recently amended with the passage of the Legion Act in 2019, and the Internal Revenue Service has promulgated rules based on what the Congressional intent was in passage of those laws. For us, the problem arises from the fact that Congress and the IRS have created differing rules for veterans of the various conflicts, rules that largely do not apply to the Sons.

FOUR RULES OF A SUBSIDIARY PROGRAM

SAL squadrons, detachments, and the national organization are not stand-alone Veteran Service Organizations, but, rather, must coexist through the adoption and sponsorship of a post and cannot have their own EIN and tax-exempt status. This means that the SAL is under the full autonomy of its sponsoring post. If the post chooses to allow the squadron to use the post's EIN and tax-exempt status, that would be predicated on whether the squadron (program) is in full compliance with the Four Rules of a Program. Moreover, the rights and privileges of a program are not the same as those of a

Legionnaire. For example, the post bar, restaurant, canteen, or other social activity is intended for Legion members (veterans) of the post, with the revenue staying in the tax-exempt category. Social non-members are not eligible for membership in The American Legion. The members of the SAL squadron would be considered social non-members, and therefore, any sales or revenue generated from social non-members can also be subject to tax by the IRS.

The IRS provides an example in the "Tax Guide for Veteran Organizations" (rev. 4-2018.):

> *Post A has 1,500 individuals who participate in the club's bar and gaming activities. 1,200 are veteran members who are eligible for membership as described in the post's constitution and bylaws. 300 are social nonmembers. Social nonmembers are not eligible for membership.*
>
> *The veterans' organization satisfies the section 501(c)(19) membership requirements because its members are all past or present members of the U.S. Armed Forces. The social nonmembers are treated as members of the general public for 501(c)(19) purposes. Income from nonmember sources may be subject to the unrelated business income tax.*

Interpreted by the IRS, SAL members who patronize the post's social activities, such as a bar, would be considered taxable income if a Legion post member does not sign in that individual. For clarity, though SAL members may be considered a member of the post through the lineage of a male or female veteran descendant and upon acceptance by the squadron, their membership only applies to official Legion activities, such as community events or post event activities. When it comes to the post's non-official social activities and events, the SAL, in the eyes of the IRS, is not considered a member; therefore, revenue generated by any non-members is considered taxable income, unless a legion post member officially signs them in.

In summary, the SAL program should be viewed as a participatory initiative that fosters the development of youth into patriotic Americans as outlined in the SAL Preamble; to uphold and defend the Constitution of the United States, foster and perpetuate a true spirit of Americanism, preserve the memories of veterans from all wars, to inculcate a sense of individual obligation to the community, state and nation, to safeguard the principles of justice, freedom and democracy, to sanctify our friendship by our devotion to mutual helpfulness, and the last phrase; to adopt in letter and spirit all of the great principles for which The American Legion stands, and to assist in carrying on for God and Country. promotes American values and helps them become productive citizens in our society.

``` The SAL, being a program, is equivalent to an ALR chapter, Boys and Girls State, or Oratorical. All of them are Legion programs, but do not entitle those participants or members to equal rights and privileges as veterans eligible for a TAL membership. Certainly, no Post would assume that a member of the Post's American Legion Baseball team would have unfettered access to the post commensurate to what a Legionnaire enjoys, but some Posts then turn a blind eye to members of the Sons of The American Legion, despite the SAL also being a program.
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In order to deal with these issues, we have long had rules governing the running of a program. Attached to this Memorandum you will find our latest incarnation of those rules, along with an acknowledgement section to be signed by the program participant or leader as the Post or Department may determine. Together, these four rules governing Leadership, Rules, Reports and Controls collectively apply to all programs of The American Legion, be it one of our exclusively Youth Programs (Oratorical, Boys State, Shooting Sports etc.) or programs like the SAL or The American Legion Riders. Regardless of what the program is, whether it be an ambulance service, rodeo, yacht clubs, cruiser clubs or some other program, the four rules apply to each of them.

Best regards,

Mark C. Seavey, Esq.
National Judge Advocate, The American Legion

FOUR RULES OF AN AMERICAN LEGION PROGRAM

The American Legion's most prized possessions are its name, emblem and logo. Its century of existence has built an environment of respect around those three things. Protecting those prized possessions is necessary to ensure that the environment of respect remains in place.

The American Legion's work under the four pillars, particularly the work involving Americanism and Children and Youth, often involves outside organizations and almost always community partnerships. Protecting the three possessions requires that rules be put in place to ensure that protection continues.

Many programs exist to carry forward The American Legion's work. Some are strictly internal, such as Sons of the American Legion and Legion Riders, while others are more external, such as American Legion Baseball and Boys State. Regardless of whether they are internal or external, these programs must obey the same set of rules, even though in some cases, seemingly independent organizations are created to assist with the work of a particular program.

All programs, whether strictly internal or organized under a subsidiary corporation or entity, must obey the following four rules. Whether the program in question is chartered by a Post, a County or District, a Department or National as the parent organization, this requirement is in place.

If one or more of these rules is violated, National will need to enforce intellectual property rights against the organization that caused the violation.

Rule #1 – *"Leadership"* – All elected and appointed leaders must be confirmed by the parent organization after each selection, or as needed.

Rule #2 – *"Rules"* – All bylaws, amendments and/or standing rules must be presented to the parent organization for confirmation and approval prior to use.

Rule #3 – *"Reports"* – The program will provide to the parent organization: (a) monthly activities reports; (b) quarterly financial reports; (c) an annual financial statement; and (d) any additional report(s) requested by the parent organization.

Rule #4 – *"Controls"* – The parent organization may provide the program with the employer identification number (EIN) and the tax-exemption status, with the necessary financial controls over their usage. All program financial accounts must have a minimum of two (2) signatories appointed by the parent organization.

By signing the following statement, you acknowledge that you have read and understand the rules and will comply with those requirements. It is recommended that this form be signed by the program leader and a post officer annually or when there is a change in leadership.

ACKNOWLEDGMENT		
Post	Program Name	
Program Leader	Signature	Date
Post Officer	Signature	Date