

# **By-laws of The Sons of The American Legion**

## **Detachment of Virginia**

---

### **Article I Duties of Officers**

- Section 1      Detachment Commander: The Detachment Commander shall be the executive head of the Detachment with full powers to enforce by the provision of the Detachment Charter, Constitution and By-laws.
- Section 2      National Executive Committeeman: The National Executive Committeeman serves as liaison between the National Organization and the Detachment. He is responsible for communicating all legislative issues from National to the Detachment.
- Section 3      Alternate National Executive Committeeman: The Alternate Executive Committeeman's duties would be the same as the NEC when the NEC man is absent or unable to perform the duties of his office.
- Section 4      Detachment Vice Commanders: The Vice Commanders shall act as representatives of the Commander on all matters referred to them by him, and at his request, preside over meetings and perform such other duties as are usually incident to the office.
- Section 5      Adjutant and Assistant Adjutant(s): The adjutant, who corresponds as the Secretary of an organization, shall be charged with the usual duties of a adjutant or secretary. He is the administrative officer of the policies and mandates of the organization.
- Section 6      SGT-AT-Arms: The Sgt-At-Arms shall be charged with the responsibility of preserving order at all meetings and shall be given the custody and responsibility of the Colors of the organization. He shall perform such other duties as are usually incident to the office.
- Section 7      Chaplin: The Chaplin shall perform such divine and non-sectarian service, as shall be necessary adhering to the ceremonial rituals as may be prescribed.
- Section 8      Historian: The Historian shall collect from year to year all records and data of value and interest to The Sons of The American Legion and shall compile during

His term of office a complete history of the year's activities.

Section 9 Judge Advocate: The Judge Advocate shall be charged with advising the Detachment Committee on rules of order and the interpretation of the Detachment Constitution and By-Laws.

Section 10 Finance Officer: The Finance Officer shall be charged with governing the finances of the Detachment.

Section 11 All officers of The Sons of The American Legion, Detachment of Virginia, in the performance of their duties, shall be governed by The American Legion at the appropriate level and shall be subject to review by The Sons of The American Legion Sub-Committee.

Section 12 In the event of the death, resignation, or removal of the Detachment Commander, a Detachment Commander shall be appointed by The Sons of The American Legion Sub-Committee, by majority vote, and shall be one of the current Vice Commanders.

In the event of the death, resignation, or removal of any officer other than the Commander, the office shall be filled by a majority vote of The Sons of The American Legion, Detachment Executive Committee.

The vacancy thus created on the Detachment Executive Committee will be filled by a majority vote of The Sons of The American Legion, Detachment Executive Committee from the general membership. An alternate method of selecting replacement officers of the Detachment other than the Detachment Commander shall be by selection of the replacement officer by the Detachment Executive Committee and such selection ratified by The Sons of The American Legion Sub-Committee.

## **ARTICLE II-SQUADRON & INTERMEDIATE GROUP CONSTITUTION AND BY-LAWS**

Section 1 Each Squadron and intermediate group must adopt a Constitution and By-Laws. A copy must be forwarded to the Detachment Commander, Detachment Adj. and to the Sons of The American Legion, Sub-Committee, Department of Virginia Inc.

Section 2 In the formation of the Constitution and By-Laws referred to in Section 1 hereof; there shall be no conflict with the National or Detachment Constitution and By-Laws governing The Sons of The American Legion.

### **ARTICLE III Executive Committee**

Section 1      The Constitution of a Squadron or intermediate unit may create an Executive Committee and define the powers and composition thereof.

### **ARTICLE IV Membership**

Section 1      Members in The Sons of The American Legion is membership in the National Organization of The Sons of The American Legion by affiliation with a Squadron.

Section 2      Each Squadron shall be the judge of its own membership, subject to the restriction of the National Constitution and By-Laws.

Section 3      Members may be suspended or expelled under the same procedure provided for the suspension or expulsion of a member of The American Legion, Department of Virginia, Inc.

Section 4      Application for Squadron membership shall be verified by the designated officials of the Squadron or the sponsoring Post of The American Legion having jurisdiction over that Squadron.

### **Article V Discipline of Squadrons, Cancellation and Suspension of Charters**

Section 1      The Detachment Executive Committee may suspend, cancel or revoke a Squadron charter. The action taken by the Detachment Executive Committee shall be final and conclusive. The Squadron may appeal this action to the Sons of The American Legion, Sub-Committee, Department of Virginia, Inc. with-in thirty (30) days of such action.

The action taken by the American Legion Sub-Committee on the appeal shall be final.

Section 2      Any Squadron failing to meet the obligations imposed upon it by the Constitution and By-Laws, or ceasing to function for a period of at least six (6) months as a Sons Of The American Legion Squadron, or voluntarily ceasing to function as a Squadron, or refusing to pay the Detachment and National dues, or under any

other such conditions as might make such action necessary, shall upon order of the Detachment Executive Committee surrender its Charter for cancellation. Upon failure to surrender its Charter, immediate steps may be taken for its revocation, Suspension or cancellation

Section 3 Upon revocation, cancellation or suspension of the Charter of a Squadron of the Sons of The American Legion, said Squadron shall immediately cease operations and upon revocation or cancellation shall turn over its charter to the Detachment Executive Committee, The "Post" to which the Squadron is attached, is authorized, empowered and directed to take possession, custody and control of all Squadron records, property and assets of said Squadron. The Detachment Executive Committee may provide/ or assist for the transfer of the members of said Squadron to another Squadron of their choice, subject to the approval of such other Squadrons.

Section 4 The sponsoring American Legion Post shall also have the authority to cancel, or suspend the charter of their Squadron upon showing of cause of the Squadron to cease functioning as a subordinate program of The American Legion, Department of Virginia, Inc. and "The American Legion".

## **Article VI Discipline of Members**

Section 1 Any member who violates the National or Detachment Constitution, or who, in the opinion of the Squadron of which he is a member, has been found guilty of conduct unbecoming a member of The Sons of The American Legion, shall expelled or otherwise suitably punished after notice and upon hearing by any such Squadron member.

### **Charges**

Section 2 Members may be suspended or expelled from the Legion only upon a proper show of cause. Charges shall be based upon disloyalty, neglect of duty, dishonesty and conduct unbecoming a member of The Sons of The American Legion.

Charges against any member shall be made under oath and in writing by the

accuser/accusers, said charges shall specify with reasonable particularity, the act or the failure to act constituting the offense complained of, together with a definite statement as to the time and place of the said act or failure to act. No member in good standing shall lose his membership until given a fair trial as set forth in this article.

## **Investigation**

Section 3 Charges against any member shall be presented to the Commander of the Squadron to which the member belongs. The Squadron Commander shall then, without making the nature of the charge or the name of any parties thereto known to the Squadron, submit the same to a committee of three members of the Squadron, to be by him appointed. They shall investigate the matter, and make an endeavor to reconcile the parties making the charges and the accused if the matter be merely personable and should they fail to effect an amicable arrangement, or the charge be such nature as to require the action of the Squadron, they shall report accordingly. If the squadron Commander were charged then the Squadron Vice-Commander shall appoint the investigation committee.

## **Service on Accused**

Section 4 When the committee has reported that a trial is necessary, the Squadron Adjutant shall serve upon the accused a copy of the "charges", the name of the witnesses relied upon to prove the same and summons him to appear, and answer the charges in writing with in ten (10) days from the time the same has been served upon him. The accused is to file a written answer to the charges on or before the date given. He is to furnish the names and residences of such witnesses as he may wish to examine in his defense. Failure to do so in the manner and form set forth, the charges and matters and things stated shall be taken as "Confessed" and the prayer for expulsion or suspension granted. The Adjutant shall endorse upon said summons the time and manner of service.

Section 5 After the expiration of ten (10) days, whether the accused has answered or not, the Squadron Commander shall fix a time for trial, and summon all members of the Squadron Executive Committee or any other members he selected as jurors,

living in its jurisdiction, the party accused, and all the witnesses, to appear at the time appointed.

Should there be witnesses who cannot attend the trial the Squadron must take the testimony of such witnesses. This committee shall give due notice to the “accused” of the time and place of such testimony, shall reduce the testimony to writing and cause it to be sworn to by the party giving it.

## **Judge Advocate Presides**

Section 6      The Post Judge Advocate shall preside at the trial. He shall have the power and authority to pass upon the materiality and relevancy of all the evidence presented and shall have general power to prescribe the necessary and reasonable rules and regulations for the orderly procedure of said trial. In the event of death, removal, vacancy or resignation of the Post Judge Advocate, it shall be the duty of the Post Commander to appoint a “Special Judge Advocate”, who shall have the power and authority of a duly elected Judge Advocate.

At anytime before the final decision is made by the jury. At the trial of a member upon expulsion or suspension, amendments may be allowed by the presiding Judge Advocate upon such terms as are just and reasonable.

## **Conduct of Trial**

Section 7      On the day of the trial the Squadron shall first determine by a majority vote of the members present, whether the several votes taken will be viva voce or by ballot, after which the trial shall commence, and after the charges shall have been read and all testimony heard of the witnesses named and of such others as may have been discovered, the accused shall be allowed to speak in his defense, or avail himself of the assistance of someone to speak for him. He shall then retire and the Squadron shall proceed at once, and with out debate vote on guilt or innocence of the accused, taking a separate vote on each specific charge,

## **Penalty**

Section 8 If the accused be found guilty, the vote shall then be taken in the following order on different degrees of punishments.

First	Expulsion
Second	Indefinite Suspension
Third	Suspension for a fixed period of time

## **Votes needed to Convict**

Section 9 An absolute majority of all votes cast shall be necessary to convict, Three-fourths (3/4) to expel; and two-thirds (2/3) to suspend; and in no case shall a member be allowed to vote who was not present at the commencement, and during the whole process.

## **Reprimand**

Section 10 Should the member, found guilty, not be suspended, he will stand sentenced, with out any further vote to reprimand in an open meeting, provided the reprimand not be given until the delay for an appeal has passed, or unless the member waives his right to appeal; or if an appeal be taken, not until the sentence shall have been affirmed by the Squadron Executive Committee.

If the vote be ordered viva voce in order to determine the guilt or innocence of the accused, the question, "is the accused guilty or not guilty?" shall be distinctly put by the presiding officer to each member of the jury by name and in alphabetical order. The Adjutant shall record the answer given. The same mode will also be adopted in determining the degree of punishment.

## **Absent Accused**

Section 11 Whenever the accused cannot be found, or fails to answer or appear, the Squadron Commander shall appoint some member to appear for him, with whom all the proceedings shall be adversely conducted; but should any member be convicted during his absence and with out having been notified of the charges

preferred against him, he shall, on his return and demanding it, shall have a new trial granted him.

## **Appeal**

- Section 12 When any member shall have been convicted and sentenced he shall, on giving notice in writing, if with in thirty (30) days after receiving notice of his sentence, be allowed an appeal to the Detachment Executive Committee, and shall immediately forward to the Detachment Adjutant the grounds upon which he relies for a reversal of the verdict and sentence.  
The Squadron Commander with in thirty (30) days after the reception of such notice, shall cause to be made up and forwarded to the Detachment Adjutant, a complete transcript of all the proceedings, documents and testimony in the case and such testimony as not have been reduced to writing shall be taken by a committee or Adjutant of the Squadron.
- Section 13 Should the Detachment Adjutant find the transcript incomplete he shall, under the instructions of the Detachment Commander, order the Squadron forth-with to complete the transcript, in case the Squadron should neglect to send up the transcript in the first instance, with in the time required, or should refuse or neglect, to complete the transcript with in thirty (30) days after notice, The Squadron Commander will be guilty of contempt, and punished accordingly. Any member who is making an appeal of the sentence against himself, failing to forward to the Detachment Adjutant his reasons for a reversal, shall have his appeal dismissed.
- Section 14 Should any of the grounds for reversal be that the trial was not conducted in conformity with the By-Laws, the papers shall be referred to the Detachment Judge Advocate, who shall proceed to examine the case, and if he finds that the proceedings have been irregular, he shall report the same to the Detachment Commander, who shall remand the case to the Squadron for a new trial in conformity with the By-Laws.
- Section 15 The Detachment Adjutant will furnish the Squadron with a copy of the Detachment Judge Advocates report. The member injured, or any member of the Squadron may appeal to the Detachment Convention, appeals pursuant to this section may be perfected by the accused only and not by his surrogate.



## **Reversal by Detachment Executive Committee**

Section 16 If a sentence of expulsion or suspension be reversed and annulled by the Detachment Executive Committee, it shall restore his membership in the Squadron. A member who has been expelled and sentence affirmed, cannot be restored to membership except by the Detachment Executive Committee and on the recommendation of the Squadron which expelled him by vote required for the expulsion; provided that an application for reinstatement, in cases other than suspension for non-payment of dues, shall be read at a meeting, due notice having been given in writing to members of the Squadron of intended action.

## **No Further Appeal**

Section 17 The decision reached by the Detachment Executive Committee or Detachment Convention shall be “ final”.

## **“Club” Suspension is Not Legion Suspension**

Section 18 Suspension or expulsion from privileges of a Post Club or other non-Legion activity for disciplinary reasons does not constitute suspension or expulsion from the Sons of The American Legion, and the member so suspended or expelled does not lose any of the rights or privileges that accompany membership in The Sons of The American Legion.

Section 19 This includes the right to access the Legion premises to attend meetings or participate in American Legion activities, to be a candidate, or serve as an officer of The Squadron and to serve on, or chair a committee of The Squadron. Nothing here in shall preclude the offense, resulting in suspension or expulsion from non-legion activities from serving as a basis for a trial and punishment under the article.

## **Article VII Governing Rules**

Section 1 All meetings of all bodies on the Detachment or subordinate will be governed by the Robert’s Rules of Order unless otherwise specified herein.

## **Article VIII Amendments**

- Section 1      These By-laws can only be changed or revised at the Detachment Convention providing each active Squadron has been given thirty (30) days notice prior to The Detachment Convention of the proposed changes.  
All changes subject to ratification by The Sons Sub-Committee, The Department Executive Committee, The American Legion, Department of Virginia, Inc.
- Section 2      These By-laws can only be amended at The Detachment Convention by the affirmed vote of two-thirds (2/3) of the registered delegates present.  
All changes subject to ratification by The Sons Sub-Committee, The Department Executive Committee, The American Legion, Department of Virginia, Inc.

## **Article IX Document Dates**

- Section 1      These Constitution and By-Laws have been amended and approved at The Detachment Convention, July 12, 2003.
- Section 2      These Constitution and By-Laws have been amended and approved at The Detachment Convention, July 2015, in Roanoke, Va..
- Section 3      These Constitution and By-Laws have been approved at The American Legion, Department of Virginia Executive meeting, March 12,2016, Virginia Beach..