



Marine Corps League
Department of North Carolina
Office of the Department Judge Advocate

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30 April 2018

To: Department of North Carolina Bylaws Committee
From: Dennis Mathias, Department Judge Advocate

Subj: Proposed Department Bylaws Amendment – ARTICLE FIVE

In accordance with the Bylaws and Administrative Procedures, Article Eight, Section 800, the following is submitted for consideration by the body assembled at the 2018 North Carolina Department Convention.

CURRENT:

ARTICLE FIVE

SECTION 500 - NAME - No Detachment shall be named in honor of a living person. No Detachment shall adopt a name previously adopted by any other Detachment unless such other Detachment has surrendered or by revocation lost its charter.

SECTION 505 - BYLAWS - Each Detachment will adopt Bylaws and Administrative Procedures which are not inconsistent with the Department and National Bylaws and Administrative Procedures and shall be subject to approval by the Department Judge Advocate. In the absence of a jurisdictional Department, the National Judge Advocate shall be the approving authority for Detachment Bylaws and Administrative Procedures.

SECTION 510 - OFFICERS - Each Detachment must elect a Commandant, a Senior Vice - Commandant, a Junior Vice Commandant, and a Judge Advocate. Officers, both elected and appointed, will be selected by the Detachment members as they desire. The Detachment shall elect or appoint a Chaplain, Sergeant-at-Arms, Adjutant, Paymaster or an Adjutant/Paymaster, and such Officers as it deems necessary.

SECTION 515 - MEETINGS - The Detachment Charter or copy, the National Colors and Bible should be displayed at all business meetings

SECTION 520 - QUORUM - Each Detachment may fix the minimum numbers of members required to be present for the transaction of business, such member shall be stated in the Detachment Bylaws. (See Section 225 of Department Bylaws for guidance.)

SECTION 525 - TRUSTEES - The elected Officers of a Detachment shall be its Detachment Board of Trustees. However, a Detachment is authorized to appoint the outgoing Detachment Commandant or a Past Detachment Commandant to serve a one-year term as a member of the Board of Trustees.

SECTION 530 - ELECTION - INSTALLATIONS OF OFFICERS - Each Detachment shall hold an annual election of Officers between 1 September and 15 May. (CH 6-14)

- A. Installation must be conducted no later than the last day of the month following the election.
- B. Report of Officers installation will be completed by the Detachment and forwarded to the Department Paymaster within five (5) days after the installation. The Department Paymaster will retain a copy and forward the report to the Department Adjutant, National Adjutant, and the Division National Vice Commandant. (CH 6-14)
- C. Notwithstanding the above, Report of Officers installation must be received at National Headquarters no later than 30 June each year. (National Administrative Procedures, Chapter 6, Section 620 applies.)

SECTION 535 - DEFAULT - A Detachment which is in default of monies from any source due National and such debt has not been satisfied as required by Section 105 (c) of the National Bylaws, or fails to report its Detachment's Report of Officers Installation as of June 30 prior to the National Convention, such fact shall be reported to the National Convention Credentials Committee, such Detachment and its Officers will not be recognized on the floor of the National Convention.

SECTION 540 – MEMBERS

- A. Each Detachment shall be the sole judge of its membership, providing said person meets the requirements of Article Six, Section 600 National Bylaws. No Detachment, however, may accept as a member any person whose name has been stricken from the rolls of the Marine Corps League. Eligibility shall be verified utilizing the applicant's DD-214.
- B. Once accepted as a member in good standing by the Detachment membership, that member may not be removed from the Detachment's roll except for cause (Chapter 9, National Administrative Procedures or by that member requesting transfer, (Section 710. National Administrative Procedures).
- C. An Associate Member in good standing in a Detachment who subsequently qualifies as a

Regular Member as set forth in Article Six, Section 600 of the National Bylaws, upon vote of the Detachment to accept such associate member as a regular member, shall be transferred from Associate membership to Regular membership by forwarding the standard “Request for Transfer” form as set in Chapter Seven, Section 710 of the National Administrative Procedures clearly indicated on such form that it is a transfer from Associate to Regular membership. In the event that the Detachment voted not to accept an Associate Member as a Regular Member, such Associate Member may transfer to any other Detachment who agrees to accept him as a Regular Member or shall be transferred to Member-At-Large status by completing the standard transfer form as set forth in Enclosure Seven to the National Bylaws and Administrative Procedures.

SECTION 545 - BONDING - All Detachment Officers handling Detachment funds are bonded by the National Headquarters in the amount of \$10,000.00 with a deductible of \$1,000.00. Any additional bonding coverage desired for Detachment Officers shall be arranged by the Detachment at the expense of the Detachment (National Bylaws, Article Eight, Section 815 (m) applies).

SECTION 550 - ADDITIONAL DETACHMENTS - When a Charter is sought for a Detachment which is to be located within the limits of any municipality within which another Detachment exists the written consent of the existing Detachment shall accompany the application. Should such existing Detachment disregard a request for consent, or refuse consent, the Department Commandant employing discretion may approve and recommend the granting of such charter. In the event the Department Commandant fails to act or refuse approval of the proposed new Detachment. An appeal may be made to the National Board of Trustees for its consideration and action. The action of the National Board of Trustees shall be conclusive.

SECTION 555 - CHARTER SUSPENSION, REVOCATION

- A. The charter of a Detachment may be suspended or revoked for;
 - 1. The persistent failure to maintain a minimum of fifteen (15) members in good standing;
 - 2. The persistent failure to promptly forward funds due to the National body;
 - 3. Acts and conduct bringing the Marine Corps League into public disrespect;
 - 4. Willful violations of National Bylaws and Administrative Procedures;
 - 5. The violation of Federal, State, or Municipal law or ordinances; or
 - 6. Other activities detrimental to the good name of the Marine Corps League.
- B. The suspension or revocation of charter may be consummated by a Department Board of Trustees and/or the National Board of Trustees and shall be implemented in accordance with the provisions of the National Bylaws and Administrative Procedures in a manner considerate of the well-being and good name of all concerned.
- C. When a Detachment Charter is suspended or revoked the Board of Trustees of the Jurisdictional Department, or where a Department is non-existent, the Jurisdictional National Division Vice Commandant shall upon written authorization of the National

Commandant, certified by the National Adjutant/Paymaster, assume custody of such Detachment's assets and liabilities. The Board of Trustees of the Jurisdictional Department shall, within the limits of such assets satisfy the liabilities of the Detachment in question. However, if a Jurisdictional Department is non-existent, the responsibility for satisfying the outstanding liabilities shall devolve to the National Board of Trustees upon receiving from the Jurisdictional National Division Vice Commandant, such assets and liabilities which are in the Jurisdictional National Division Vice Commandant's custody.

- D. The Detachments properties and assets will be held by the Department for a period one year or until a new Detachment is formed. Should a new Detachment be formed during that period, and the new Detachment retains the old Detachment name, ALL properties and assets will be returned. After one (1) year, the properties and assets will revert to the Department. The charter will be returned to National Headquarters and placed in the archives. All assets will then become the property of the Department. All ceremonial rifles must be accounted for per issuing regulations (Title 10, US Code 2572) either physically or through police/fire department reports.

SECTION 560 - VOLUNTARY SURRENDER

- A. The Charter of Detachment may be voluntarily surrendered for such reasons as may be determined by the Detachment. Upon a determination that it is no longer practical to maintain said Detachment, the Detachment Board of Trustees shall immediately notify its Jurisdictional Department, or if a Jurisdictional Department is non-existent, its National Division Vice Commandant in writing of its intent to dissolve and surrender its Charter. The Detachment shall then:
1. Call a Special Meeting of the Detachment by giving written notice of such special meeting to all members of the Detachment at least fourteen (14) days prior to such Special Meeting. If the regular meeting date of the Detachment is to be used for the Special Meeting, the afore said written notice must still be given to all Detachment members at least fourteen (14) days before the regular meeting date.
 2. Upon consideration of the voluntary surrender of the Detachment Charter by the Detachment, if it shall be determined that the Detachment Charter shall be voluntarily surrendered and there are not a minimum of fifteen (15) members of the Detachment who remain ready, willing, and able to carry on the Detachment, then:
 - a. The Detachment shall immediately notify, in writing, the Jurisdictional Department, or where such Department is non-existent, the Jurisdictional National Division Vice Commandant of the Detachment's vote to voluntarily surrender its Charter.
 - b. The Detachment shall determine from each member of the Detachment where such member desires to be transferred to upon surrender of the Detachment Charter.
 - c. Prepare for each such member the standard application for the transfer form as set forth in Enclosure Seven of the National Bylaws and Administrative Procedures

and pursuant to the provisions of Chapter Seven, Section 710 of the National Administrative Procedures and shall forward the same to the gaining Detachment for such action as the gaining Detachment shall deem appropriate.

- d. If a member of the Detachment fails to indicate where such member desires to be transferred to, or if a “gaining” Detachment shall not elect to accept a proposed transfer, then and in that event, the member shall be transferred to a “Member-At-Large” upon the surrendering Detachment submitting a standard transmittal form as set forth in Enclosure Six of the National Bylaws and Administrative Procedures.
 - e. The Detachment shall, to the extent assets are available, satisfy all legitimate liabilities of the Detachment prior to voluntary surrender but shall not otherwise dissipate any assets of the Detachment other than the normal course of business of the Detachment.
 - f. Upon acceptance of the surrender of its Charter, if the Detachment is incorporated, the Detachment shall take such action as is deemed appropriate to properly dissolve the corporation in accordance with applicable state law.
3. No surrender of a Detachment Charter shall be deemed effective or accepted until all members of the Detachment have been appropriately transferred.
 - a. Upon acceptance of the surrender of the Detachment Charter by the Jurisdictional Department, or where such Department is non-existent, by the Jurisdictional National Division Vice Commandant, such Jurisdictional Department or Jurisdictional National Division Vice Commandant shall upon written authorization of the National Commandant, certified by the National Adjutant/Paymaster, assume custody of such Detachment’s assets and liabilities. The Board of Trustees of the Jurisdictional Department shall, within the limits of any assets of the Detachment, satisfy any remaining liabilities. However, if a Jurisdictional Department is non-existent, the responsibility for satisfying the outstanding liabilities shall devolve to the National Board of Trustees, within the limits of any assets received from the Jurisdictional National Division Vice Commandant of the Detachment.
 - b. After satisfying the legitimate liabilities of the surrendering Detachment, any Detachment properties and assets will be held by the Jurisdictional Department for a period of one (1) year or until a new Detachment is formed during that period. Should a new Detachment be formed during that period, and the new Detachment retains the old Detachment’s name, all properties and assets will be returned to the Detachment upon the written authorization of the National Commandant, Certified by the National Adjutant/Paymaster, approving the reactivation of the surrendered Charter. After the one (1) year period, the properties and assets will revert to the Jurisdictional Department and will then become the property of the Jurisdictional Department. The Jurisdictional Department shall return the surrendered Detachment Charter to National Headquarters which the Charter shall then be placed in the archives. However, if a Jurisdictional Department is non-existent, the National Board of Trustees shall

hold any Detachment properties and assets subject to the same terms and conditions as set forth above for a Jurisdictional Department except that at the end of the one year period, the Detachment properties and assets shall revert to National Headquarters and will then become the property of National.

- c. All ceremonial rifles must be accounted for and disposed of by the surrendering Detachment as set forth in the issuing agreement and regulations (Title 10, United States Code, Section 2572), either physically or through police/fire reports of any weapon not currently in the Detachment's possession. **(CH 9-09)**

CHANGE RATIONALE:

Article Five was initially copied from the National Bylaws and were the rules by which all departments will operate. They read from the perspective of the National Bylaws. The proposed changes (~~deletions~~ and adds) make this article read from the perspective of the department. As the National Bylaws refer to Jurisdictional Detachments, The Department's Bylaws refer ONLY to the Department of North Carolina. The term "Jurisdictional" as well as any reference the the situation where "no Jurisdictional Department exists" have been struck out. There were no changes of intent, only perspective.

PROPOSED VERBAIGE CHANGE: The proposed text added is underlined and proposed ~~text deleted is struck out~~. Only the proposed changes in the sections and subsections are presented here. The same sections and subsections in ARTICLE FIVE without editing marks follows.

ARTICLE FIVE

DETACHMENTS

SECTION 505 - BYLAWS - Each Detachment will adopt Bylaws and Administrative Procedures which are not inconsistent with the Department and National Bylaws and Administrative Procedures and shall be subject to approval by the Department Judge Advocate. ~~In the absence of a jurisdictional Department, the National Judge Advocate shall be the approving authority for Detachment Bylaws and Administrative Procedures.~~

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- C. When a Detachment Charter is suspended or revoked the Board of Trustees of the ~~Jurisdictional Department, or where a Department is non-existent, the Jurisdictional National Division Vice Commandant~~ Department shall upon written authorization of the National Commandant, certified by the National Adjutant/Paymaster, assume custody of such Detachment's assets and liabilities. The Board of Trustees of the ~~Jurisdictional Department~~ shall, within the limits of such assets satisfy the liabilities of the Detachment ~~in question. However, if a Jurisdictional Department is non-existent, the responsibility for satisfying the outstanding liabilities shall devolve to the National Board of Trustees upon receiving from the Jurisdictional National Division Vice Commandant, such assets and liabilities which are in the Jurisdictional National Division Vice Commandant's custody.~~

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 - a. The Detachment shall immediately notify, in writing, the ~~Jurisdictional Department, or where such Department is non-existent, the Jurisdictional National Division Vice Commandant~~ of the Detachment's vote to voluntary surrender its Charter.
 3. No surrender of a Detachment Charter shall be deemed effective or accepted until all members of the Detachment have been appropriately transferred.
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~~Jurisdictional~~ Department shall, within the limits of any assets of the Detachment, satisfy any remaining liabilities. ~~However, if a Jurisdictional Department is non-existent, the responsibility for satisfying the outstanding liabilities shall devolve to the National Board of Trustees, within the limits of any assets received from the Jurisdictional National Division Vice Commandant of the Detachment.~~

- b. After satisfying the legitimate liabilities of the surrendering Detachment, any Detachment properties and assets will be held by the ~~Jurisdictional~~ Department for a period of one (1) year or until a new Detachment is formed during that period. Should a new Detachment be formed during that period, and the new Detachment retains the old Detachment's name, all properties and assets will be returned to the Detachment upon the written authorization of the National Commandant, Certified by the National Adjutant/Paymaster, approving the reactivation of the surrendered Charter. After the one (1) year period, the properties and assets will revert to the ~~Jurisdictional~~ Department and will then become the property of the ~~Jurisdictional~~ Department. The ~~Jurisdictional~~ Department shall return the surrendered Detachment Charter to National Headquarters which the Charter shall then be placed in the archives. ~~However, if a Jurisdictional Department is non-existent, the National Board of Trustees shall hold any Detachment properties and assets subject to the same terms and conditions as set forth above for a Jurisdictional Department except that at the end of the one year period, the Detachment properties and assets shall revert to National Headquarters and will then become the property of National.~~

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Respectfully Submitted,

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