

# DRAFT

Veterans of Foreign Wars of the United States

Office of the Adjutant General

## [BY-LAW STUDY GROUP CONSENSUS]

Draft By-Law/Manual of Procedure amendments by BLSG March 14-16, 2016 ----- Revised May23,2016

**By-Law**  
**Sec. 212—Defunct Posts.**

The Commander-in-Chief shall revoke a Post's Charter if such Post has less than ten (10) members ~~on February 1.~~  
**Disposition of Property.** In all cases of surrender, revocation or forfeiture of a charter, title to all real and personal property shall immediately pass to the Department who shall take possession and control for disposition as directed by the Department Council of Administration for the purposes set forth in the Congressional Charter. In addition, the books and records of the post shall be recovered by the Department.  
In case of surrender or forfeiture of a charter, the Department Council of Administration in the case of trust funds or trust property, or both, shall carry out the intent and purpose of such trust to the extent of such funds or property, or both.

**Summary**

The February first date was under the old annual dues structure as members used to pay by January 1. Under the subscription model this change would allow the Commander-in-Chief to revoke a Post charter anytime during the year who fail to maintain a minimum standard of ten (10) members.

**By-Law**  
**Sec. 213—Arrearages, Deficiencies and Omissions.**

Any Post in arrears for any financial obligations to County Council (if applicable), District, Department and National for fees, dues, poppy money, supply money, failing to have the office of Quartermaster properly bonded in accordance with Section 703, failing to ensure that the Post is properly insured in accordance with Section 709, failing to submit properly completed quarterly Post Trustees Report of Audit, Post Election Report for the ensuing year, or other obligations, shall be deprived of all representation in County Council ~~and District~~ meetings ~~(if applicable);~~; **County Council**, District, Department and National Conventions. Such representation shall be restored promptly upon proper adjustment of such deficiencies.

**Summary**

The change clarifies that representation will be deprived at District meetings as well.

## Manual of Procedure

### Sec. 214—Solicitation of Funds.

Posts may solicit funds or contributions or otherwise engage in fund-raising activities or projects only after a prior vote of the Post agreeing to such solicitations, activities or projects. Posts shall assure that such solicitations, activities or projects do not violate any applicable governmental law, ordinance or regulation nor bring or tend to bring dishonor or embarrassment upon the Post, its members or the Veterans of Foreign Wars of the United States. The name, seals, badges and emblems of the Veterans of Foreign Wars of the United States shall not be used in connection with any solicitations, activities or projects not in compliance with the foregoing **and National By-Laws.**

A Post shall not solicit funds or donations, or otherwise engage in fund-raising activities or projects, **which specifically targets such funds or donations, on a repeated or ongoing basis** outside the immediate geographical area or community, **including Web-based communities,** of the Post.

Fund-raising organizations or individuals conducting solicitations, activities or projects for a profit shall not be engaged or used by any Post for such purpose unless such engagement is made by written agreement between the Post and the organization or individual's providing those services. The form of any such written agreement must be submitted to the Department Commander for review and approval at least thirty (30) days prior to any Post entering into any such agreement.

In the event a Post shall employ or enter into an agreement with a fund-raising organization or individual to solicit contributions or engage in a fund-raising project, a surety bond or cash advance in the full amount of expected collections from the solicitation or project shall be furnished by the fund-raising organization or individual, said bond or cash advance guaranteeing payment of the funds solicited or raised to a bonded officer of the Post within thirty (30) days of the close of the solicitation or project, provided, however, that the bond shall be discharged or cash advance returned if such fundraising organization or individual shall make payment within thirty (30) days. If a bond or cash advance cannot be furnished, then all collections shall be made by members of the Post sponsoring the solicitation or fund-raising project and funds shall be paid to a bonded officer of the Post who shall hold the funds pending proper distribution.

#### **Summary**

This change is to include guidance for those utilizing web based crowd funding available on the web based community such as GoFundMe, Ucaring.com and GiveForward. By administering the rules of Section 214, this will allow to help detect of approved versus fraudulent activities using the VFW's name on these new authorized platforms. It clarifies web based communities that a Post may enter, such as a web page or social media platform as a community of a Post.

## Manual of Procedure

### Sec. 220—Vacancies and Removal of Elective Officers or Committee Members.

**Vacancies.** In the event of a vacancy in the office of Commander or Commander-elect, the Senior Vice Commander or Senior Vice Commander-elect shall at once, and without further formality, succeed to the title and duties of such office and the Junior Vice Commander or Junior Vice Commander-elect shall at once, and without further formality, succeed to the title and duties of the Senior Vice Commander. Likewise, in the event of a vacancy in the office of Senior Vice Commander or Senior Vice Commander-elect, the Junior Vice Commander or Junior Vice Commander-elect shall at once, and without further formality, succeed to the title and duties of said office. If the Senior Vice Commander does not move to the position of Commander then the Junior Vice Commander or Junior Vice Commander-elect shall at once, and without further formality, succeed to the title of Commander. If neither the Senior nor Junior Vice Commander succeed as described herein then the Senior Vice Commander shall assume the duties of the Commander until the election of the new Commander.

Should the vacancy occur in the office of Post Quartermaster, the Post Commander may appoint a Pro Tempore Quartermaster to carry out the duties incident to that office. The appointment shall in no instance exceed more than sixty (60) days and shall be null and void upon the election of a Post Quartermaster.

Should the vacancy occur in any other elected Post office, the Post at the next stated meeting, or special meeting called for such purpose, shall nominate and elect a member to that position.

**Removal.** A Post may, upon motion duly passed at any meeting, propose the removal of an officer or committee member at the next stated meeting or special meeting called for such purpose. The member holding such office and the Department Commander shall be notified at least seven (7) days prior to the meeting by certified or registered mail addressed to the member's last known address stating the reasons for the proposed action.

The Post, at the next stated meeting or special meeting, may by two-thirds (2/3) vote of the members present declare vacant the position of any an elective officer or elected chairman or committee member who may have:

1. Absented *themselves* from two (2) consecutive meetings or who has
2. Failed to fulfill the duties of office specified in Section 218 of the By-Laws and Manual of Procedure.

**Notification of Removal.** Such actions and reasons therefore, shall be in the form of a Special Order, and delivered personally or by certified or registered mail at the removed officer's last known address. The special order shall advise the member of *their* rights to appeal under these By-Laws.

### Summary

This is to clarify the procedure as prescribed in the By-Law.

## Manual of Procedure

### **Sec. 414—Solicitation of Funds.**

Districts may solicit funds or contributions or otherwise engage in fund-raising activities and projects only by prior vote of the District agreeing to such solicitations, activities or projects. Districts shall assure that such solicitations, activities or projects do not violate any applicable governmental law, ordinance or regulation or bring or tend to bring dishonor or embarrassment upon the District, its members or the Veterans of Foreign Wars of the United States. The name, seals, badges and emblems of the Veterans of Foreign Wars of the United States shall not be used in connection with any solicitations, activities or projects not in compliance with the foregoing **and National By-Laws.**

A District shall not solicit funds or contributions or engage in fund-raising activities or projects of any kind **which specifically targets such funds or donations, on a repeated or ongoing basis** outside the immediate geographical area, **including Web-based communities,** of the District. A District whose territory is partly within a city may solicit funds within the entire city.

Fund-raising organizations or individuals conducting solicitations, activities or projects for a profit shall not be engaged or used by any District for such purpose unless such engagement is made by written agreement between the District and the organization or individuals providing those services. The form of any such written agreement must be submitted to the Department Commander for review and approval at least thirty (30) days prior to any District entering into any such agreement.

In the event a District shall employ or enter into an agreement with a fund-raising organization or individual to solicit contributions or engage in a fund-raising project, a surety bond or cash advance in the full amount of expected collections from the solicitation or project shall be furnished by the fund-raising organization or individual, said bond or cash advance guaranteeing payment of the funds solicited or raised to a bonded officer of the District within thirty (30) days of the close of the solicitation or project, provided, however, that the bond shall be discharged or cash advance returned if such fundraising organization or individual shall make payment within thirty (30) days. If a bond or cash advance cannot be furnished, then all collections shall be made by members of the District sponsoring the solicitation or fund-raising project and funds shall be paid to a bonded officer of the District who shall hold the funds pending proper distribution.

### **Summary**

This change is to include guidance for those utilizing web based crowd funding available on the web based community such as GoFundMe, Ucaring.com and GiveForward. By administering the rules of Section 414, this will allow to help detect of approved versus fraudulent activities using the VFW's name on these new authorized platforms. It clarifies web based communities that a Post may enter, such as a web page or social media platform as a community of a Post.

## **Manual of Procedure**

### **Sec. 514—Solicitation of Funds.**

Departments may solicit funds or contributions or otherwise engage in fund- raising activities or projects only after prior vote of the Department Convention or Department Council of Administration. Departments shall assure that solicitations, activities and projects do not violate any applicable governmental law, ordinance or regulation nor bring or tend to bring dishonor or embarrassment upon the Department, its members or the Veterans of Foreign Wars of the United States. The name, seals, badges and emblems of the Veterans of Foreign Wars of the United States shall not be used in connection with any solicitations, activities or projects not in compliance with the foregoing **and National By-Laws.**

A Department shall not solicit funds or contributions or engage in fund-raising activities or projects **of any kind which specifically targets such funds or donations, on a repeated or ongoing basis** outside the immediate geographical area, **including Web-based communities,** of the Department. A Department whose territory is partly within a city may solicit funds within the entire city.

Fund-raising organizations or individuals conducting solicitations, activities or projects for a profit shall not be engaged or used by any Department for such purpose unless such engagement is made by written agreement between the Department and the organization or individuals providing those services. The form of any such written agreement must be submitted to the Commander-in-Chief for review and approval at least thirty (30) days prior to any Department entering into any such agreement.

In the event a Department shall employ or enter into an agreement with a fundraising organization or individual to solicit contributions or engage in a fund-raising project, a surety bond or cash advance in the full amount of expected collections from the solicitation or project shall be furnished by the fund-raising organization or individual, said bond or cash advance guaranteeing payment of the funds solicited or raised to a bonded officer of the Department within thirty (30) days of the close of the solicitation or project, provided, however, that the bond shall be discharged or cash advance returned if such fund-raising organization or individual shall make payment within thirty (30) days. If a bond or cash advance cannot be furnished, then all collections shall be made by members of the Department sponsoring the solicitation or fund-raising project and funds shall be paid to a bonded officer of the Department who shall hold the funds pending proper distribution.

#### **Summary**

This change is to include guidance for those utilizing web based crowd funding available on the web based community such as GoFundMe, Ucaring.com and GiveForward. By administering the rules of Section 514, this will allow to help detect of approved versus fraudulent activities using the VFW's name on these new authorized platforms. It clarifies web based communities that a Post may enter, such as a web page or social media platform as a community of a Post.

## Manual of Procedure

### Sec. 520—Vacancies and Removal of Elective Officers or Committee Members and Salaried Officers.

**Removal.** The Department Commander may propose the removal of an elected officer, elected committee member or appointed salaried officer.

The Department Council of Administration may propose the removal of an elected officer, elected committee member or appointed salaried officer upon written request signed by a majority of its members.

The member holding such office and the Commander-in-Chief shall be notified at least seven (7) days prior to the meeting to remove said officer by certified or registered mail addressed to the member's last known address stating the reasons for the proposed action.

The Department Council of Administration, at the next stated meeting, may by two-thirds (2/3) vote of the members present declare vacant the position of any an elective officer or elected chairman or committee member who may have:

1. Absented themselves from two (2) consecutive meetings.
2. Failed to fulfill the duties of office specified in Section 518 of the By-Laws and Manual of Procedure.

### Summary

This proposal keeps intact the Commander's and the Council of Administration the authority to propose removal of any elected or appointed officer, but eliminates the need for a meeting to do so and still provides the committee member or salaried officer the ability to be heard in a meeting setting on the proposed action.

## **By-Law**

### **Sec. 801—Adoption of Seals, Emblems, Badges and Insignia.**

The Great Seal of the Veterans of Foreign Wars of the United States shall be a cross of eight points, or Cross of Malta, between the segments of which are rays of the sun cantoned, forming a star, superimposed upon the center of which shall be an American Eagle with outstretched wings and claws. The right claw of the eagle shall have an olive branch and the left claw a sheath of arrows. From the bill of the eagle a streamer shall be suspended bearing the inscription "Pro Deo—Pro Patria" and over its head shall be grouped thirteen (13) stars. On the breast of the eagle shall be an American shield. The eagle shall be encircled by the legend "Veterans of Foreign Wars of the United States."

The seal of Departments shall be identical with the Great Seal, ~~except that the encircling and an additional outer~~ legend for Department Seals shall ~~be added to~~ read: "Department of (insert name of Department), Veterans of Foreign Wars of the United States" and within ~~the inner circle that outer legend~~ shall be added the date of the institution of the Department.

The seal of Districts shall be identical with the Great Seal ~~except that the encircling and an additional outer~~ legend shall ~~be added to~~ read: "District (insert number of District), Department of (insert name of Department), Veterans of Foreign Wars of the United States" and within ~~the inner circle that outer legend~~ shall be added the date of the institution of the District.

The seal of a County Council shall be identical with the Great Seal, ~~except the encircling and an additional outer~~ legend shall ~~be added to~~ read: "(insert name of County) County Council, Department of (insert name of Department), Veterans of Foreign Wars of the United States" and within ~~the inner circle that outer legend~~ shall be added the date of the institution of the Council.

The seal of Posts shall be identical with the Great Seal, ~~except that the encircling and an additional outer~~ legend shall ~~be added to~~ read: "(insert name of Post) Post No... (and then the name of the City and State in which it is located), Veterans of Foreign Wars of the United States" and within ~~the inner circle that outer legend~~ shall be added the date of the institution of the Post.

The National Convention or the National Council of Administration may adopt such other seals, emblems, badges and insignia as may from time to time be appropriate. Veterans of Foreign Wars of the United States shall have sole and exclusive rights to its seals, emblems, badges and insignia and its seals, emblems, badges and insignia shall not be used without written consent of the Quartermaster General of the Veterans of Foreign Wars of the United States.

### **Summary**

These revisions are necessary in order to remain consistent with the VFW marks registered with the U.S. Patent and Trade Office (USPTO). The marks registered with USPTO should not be altered, but the current language in the By-Law purports to allow for such alteration. This change will provide the guidance for how the marks should be displayed as contemplated by the USPTO. Additionally, requests at the Department, District, County, and Post level have indicated a desire to display the marks in the manner reflected by this change. The "encircling legend" referenced in the current By-Law does not typically allow for sufficient space to properly reflect the names at the Department, District, County, and Post levels.



**Manual of Procedure**  
**Section 901- Discipline of Members (para.3)**

The following forms, as they may be revised from time to time, will be used in conjunction with this section: Special Order Initiating Disciplinary Action (DA-1); Charges and Specifications (DA-2); Order Appointing a Disciplinary Hearing Panel and Special Order (DA-3); Findings and Sentence (DA-4); Form of Record of Disciplinary Action (DA-5); **and Request for Mediation/Hearing (DA-6); and, Record of Mediation (DA-7).** (Template forms are in the Appendix of the Manual of Procedure.)

Summary

Removes mediation.

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## Manual of Procedure

### Sec. 903—Procedure for Disciplinary Actions.

- (a) **Who May Initiate.** (See Section 903 By-Laws.)
- (b) **How To Initiate.** Charges and Specifications shall be signed by the Initiating Officer and attested to by the Adjutant and shall include a copy of the incident report.
- (c) **Charges and Specifications.** Initiation of a Disciplinary Action requires delivery to each accused of written Charges and Specifications. The charges shall identify the subsection of By-Law 902 that has been violated. The specifications shall provide a factual description of the conduct constituting the violation.
- (d) **How To Prepare.** The Commander or the designated member initiating a disciplinary action should do so by issuing a Special Order (Form DA-1) which will have attached to it the Charges and Specifications (Form DA-2), signed incident report, the investigative report, and Request for Mediation/Hearing (Form DA-6).
- (e) **How To Deliver.** Charges and Specifications shall be delivered personally or by registered or certified mail return receipt requested to the accused member's last known address. Documentation of delivery shall be retained by the Adjutant.
- (f) **How Hearings Are to Be Requested.** A request (Form DA-6) must be made in writing and mailed by registered or certified mail, return receipt requested, postmarked no later than fifteen (15) days from the receipt of the Charges and Specifications and must be addressed to the Commander initiating the action or, in the event that the charges are not initiated by the Commander, to the person initiating the charges.
- ~~(g) **Procedure Where Mediation Requested.** Mediation does not preclude the accused's right to a hearing unless an agreed upon decision is accomplished during mediation. If mediation is requested by the accused, and the initiating officer agrees, the Mediation Officer is designated by the next higher authority and shall schedule a meeting date within fifteen (15) days of the accused's request. The mediation shall include the following individuals: the Initiating Officer, the Mediation Officer, and the Accused. If an agreement is reached during mediation, the penalty imposed is binding and not subject to appeal. The result shall be recorded on Record of Mediation (Form DA-7). If an agreement is not reached during mediation, a hearing date shall be scheduled within fifteen (15) days of said meeting.~~
- (h) **Procedure Where A Hearing is Not Requested.** (See Section 903 By-Laws.)
- (i) **Procedure — Disciplinary Hearing Requested.** In the event that the accused member requests a Disciplinary Hearing within fifteen (15) days and in the manner prescribed above, the following procedures apply:
1. **Appointment of Panel.** If the action is initiated at the Post level, the ~~District Department~~ Commander will select appoint the disciplinary panel members, date, time and location by issuance of an order (Form DA-3). The order shall detail at least seven (7) members to the panel, one of which shall be designated as President of the panel.

In the event that the Department Commander initiating the disciplinary action is the accuser, the Commander-in-Chief will issue the order.

If the Commander initiating the disciplinary action or appointing the panel expects to be a witness with respect to factual matters, the Commander should request that the order appointing the panel be issued by higher authority. That request will be in writing.

Only members of the Veterans of Foreign Wars of the United States in good standing may sit on a Disciplinary Hearing Panel. No blood relative of the accused or any accuser or witness for the prosecution shall be appointed to the panel.

The same panel may be appointed to hear more than one case. Related cases may be heard at the same time, provided that the Recording Officer maintains a complete and separate record for each accused.

In the event that appointees are unable to serve or the time or place of a hearing must be changed, a supplemental order may be issued.
  - a. **President.** The panel President is the presiding officer over the panel and hearing process and not subject to challenge. The duties of the President shall commence upon the issuance of the Special Order. President shall be acquainted with the hearing procedures, maintain order and give the necessary directions for the conduct of the proceedings. The President shall rule upon all questions concerning the admissibility of evidence, the competency of witnesses, continuances, adjournments, recesses, motions, challenges and orders, the propriety of any argument or statement of counsel and on any other matter deemed appropriate for the official and efficient conduct of the hearing. The president of the panel shall take notes or cause notes to be taken that summarize the substance of the testimony of the witnesses and exhibits, the arguments of counsel, the objections and rulings on matters brought to the attention of the panel and other matters of significance occurring in the course of the proceedings. The Panel President shall not discuss the merits of the case with members of the panel prior to the Hearing.
  - b. **Prosecutor.** Shall present the evidence supporting the Charges and Specifications. The Prosecutor shall not be a member of the panel. The Prosecutor should not be a witness with respect to disputed factual

matters. They may, however, provide evidence concerning procedural matters.

- c. **Defense Counsel.** The accused shall select *their* own professional or lay counsel. The accused may employ or select a private lawyer at their own expense. Defense Counsel shall not be a member of the panel nor an accuser. Defense Counsel should not be a witness with respect to disputed factual matters. They may, however, provide evidence concerning procedural matters.
2. **Continuance.** The President may, for reasonable cause, postpone and/or reschedule the hearing. A party desiring that the President postpone or reschedule the hearing shall make such request in writing, stating the reasons for such request. All parties and panel members shall be advised in writing of the rescheduled date.
3. **Recording Officer.** The Recording Officer shall record all the proceedings and the recordings shall be retained and included as record. The recording officer should take reasonable steps to assure that all testimony is recorded and that all speakers and exhibits are adequately identified in the record. Any notes taken by the President shall be retained with the record of the proceedings. A complete record should include copies of:
  1. Special Order advising of the initiation of a disciplinary action. (Form DA-1)
  2. Charges and Specifications. (Form DA-2)
  3. The written statement that the Charges and Specifications have been personally served or mailed to the accused in accordance with Section 903(e).
  4. The request for the **Mediation or** Disciplinary Hearing made by the accused. (Form DA-6)
  5. The order appointing the Panel. (Form DA-3)
  6. The tape recording or videotape of the proceedings.
  7. The President's notes of the proceedings.
  8. Any exhibits admitted into evidence.
  9. The record of disciplinary action. (Form DA-5)
  10. The findings and sentence. (Form DA-4)
  11. **The result of Mediation if applicable. (Form DA-7)**
  12. The record shall be delivered to and maintained by the Adjutant.

(j) **Procedure at Hearing.** In the event that a Disciplinary Hearing is requested, the procedure for conducting such hearing shall be as follows:

1. **Selection of the Panel – Challenges.** The entire panel shall initially be seated. Each side may challenge any member or members, but those members may be removed only for good cause. Good cause includes, but is not limited to, prejudice for or against a party, financial or other interest in the outcome or inability to afford an impartial hearing. The challenging party shall state the reasons upon which that party believes good cause exists. When a member of the panel is challenged for cause, the President of the panel will decide on the question. No further panel member may be excused for cause when the effect is to reduce the number of panel members below three. Members of the panel shall swear or affirm that they will judge the case fairly and impartially.
2. **Plea to the Charges.** After the panel is confirmed, the Charges and Specifications shall be read to the accused by the President unless the accused advises the panel that the accused has read the charges and they need not be read. The accused will plea guilty or not guilty to each charge and specification separately. The plea will be recorded on the Form of Record of Disciplinary Action (DA-5).
3. **Objections.** If there have been procedural errors in initiating the disciplinary action, preparing or delivering the Charges or Specifications, appointing the panel, scheduling the time and place of the hearing or any other matter occurring prior to the hearing, Defense Counsel or the accused must make their objections known to the panel before the opening statements are given and evidence heard. Similarly, objections must be made to errors in procedure or in the admission of evidence occurring during the course of the hearing at the time of the error. Unless objections are timely made, the alleged error will not be considered in the event of an appeal.
4. **Opening Statement.** The prosecutor, followed by the Defense Counsel, shall be permitted to make opening statements which outline for the panel what each believes the issues to be and what each expects to show by the evidence to be introduced.
5. **Order of Presentation.** The prosecutor introduces their evidence first followed by the defense. The prosecutor may then present evidence to rebut such evidence as may have been presented by the defense and the defense shall be given an opportunity to rebut any rebuttal evidence presented by the prosecution. Counsel for both sides shall have the opportunity to cross-examine each witness after direct testimony is given.
6. **Rules Concerning Evidence.** Evidence may be testimonial or documentary. Testimonial evidence is evidence given in the form of testimony by witnesses. All testimony shall be taken under oath or affirmation by all parties testifying.

7. **Documentary Evidence.** Includes items presented in the form of exhibits which show or demonstrate factual matters. An adequate showing of authenticity (i.e., that the document is an original or a true and correct copy of the original) must be made with respect to documentary evidence. A Disciplinary Hearing Panel may base its decision on either direct or circumstantial evidence.

Direct evidence consists of testimony or documents which, if believed, would directly prove or disprove facts.

Circumstantial evidence consists of testimony or documents which, if true, would prove or disprove facts or circumstances from which, either alone or in connection with other facts, the existence or nonexistence of a fact in issue could be inferred.

Hearsay evidence consists of testimony based upon the out-of-court statements of persons or documents, i.e., what some other person told the witness or upon something seen by the witness in a document that is not presented. Hearsay testimony is given less credence because there may be no opportunity to cross-examine the person who actually heard or saw the incident or wrote the document. While hearsay evidence can be considered by the Disciplinary Hearing Panel because of a belief that a sufficiently trustworthy basis exists for considering the evidence, it should be considered with an appreciation that the evidence is less credible. Hearsay evidence may be fully considered without that limitation if the witness is testifying concerning something the accused has said or the evidence consists of reinforcing documents or letters prepared or signed by the accused.

Books of account or business records are generally admissible. Evidence must be relevant and material. Evidence is not relevant or material when it does not tend to prove or disprove an issue in the case or the President rules that it's not material to the issue at hand.

The panel will exclude improper evidence to which an objection is sufficiently made. It may, on its own initiative, exclude other improper evidence. Excluded evidence should not be considered by the Hearing Panel. The President should note any evidence which was offered but excluded, giving the reason therefore, and any instances where objection was made but the evidence was admitted over such objection, noting the objection.

The panel should protect every witness from insulting or improper questions, harsh or insulting treatment and unnecessary inquiries into private affairs. It should also forbid any inquiries into irrelevant matters intended to merely annoy witnesses or other pertinent parties.

8. **Closing Arguments.** After both sides have rested, the prosecution commences its closing arguments. The defense follows and the prosecution closes with rebuttal argument.
9. **Deliberations of the Panel.** The panel sits in closed session during the deliberation on the findings and sentence. This should include full and free discussion of the evidence at hand. The panel must consider each charge and specification separately and make a determination whether the accused is guilty or not guilty on each charge and specification.
10. In deciding the case, the sentence should be commensurate with the offense committed. In any event, each case shall be decided on its own merits and the panel shall give due regard to all of the circumstances.
11. **Reasonable doubt.** In order to convict the accused of an offense, the panel must be reasonably satisfied that the accused is guilty of the offense.
12. **Two-thirds Majority Required.** There must be a two-thirds majority vote in order to convict on any charge and specification. If, in computing the number of votes required, a fraction results, such fraction will be counted as one; thus, where five members are to vote, the requirement that two-thirds concur is not met if less than four concur. The sentence must likewise be determined by a two-thirds majority vote.
13. **Findings and Sentence (DA-4).** The findings and sentence shall be announced by the President in open hearing after deliberations are complete. In the event the accused or their counsel was not present at the hearing, a copy of the Findings and Sentence (Form DA-4) shall be mailed to the last known address within seven days after the hearing.
14. **Record of Hearing of Disciplinary Action (DA-5).** In addition to the notes to be maintained by the President of the panel, the president shall also prepare a Form of Record of Disciplinary Action (Form DA-5).

## Summary

Changes in 903 were made to remove mediation, help define charges and specifications, and define when the duties of the panel president begin.

## **By-Law**

### **Sec. 1301—Organization and Disbandment of Men's Auxiliaries.**

A Post, if the By-Laws of the Department having jurisdiction so provide, may form an association separately constituted as a subordinate unit. The Department in which the Post is located shall charter such unit. Such association shall be subject to the rules established by the respective Department Convention, Department Commander and Post.

Departments are not authorized to issue charters to units other than those sponsored by a Post. Formation, control and disbandment of these associations, as well as suspension or cancellation of charters, shall be in the manner prescribed in the Manual of Procedure and as may be provided in Department By-Laws not inconsistent with the Manual.

Notwithstanding the provisions above, no Post may form an association separately constituted as a subordinate unit, and effective December 31, 2016, all charters shall be cancelled, and such subordinate units shall be disbanded in the manner prescribed in the Manual of Procedure.

#### **Summary**

Based on the actions of the 116<sup>th</sup> National Convention, this action is to keep consistent with the intent of Resolution No. 302 at the 115<sup>th</sup> National Convention to eliminate gender bias. We believe this action is necessary to provide equality for all veterans with the growth of our Auxiliary.