

NOTICE 10-01-10:

The following By-Laws, Manual and forms became effective September 25, 2010, and are to be used in all Disciplinary cases until further notice.

**Article IX – DISCIPLINE
By-Law and Manual of Procedure
Changes approved at 111th National Convention**

By-Laws

Sec. 901 – Discipline of Members.

Except as otherwise provided in the Congressional Charter, these By-Laws and the Manual of Procedure, no member shall be subject to the penalties prescribed in Section 907, unless such member shall have been advised in writing of the charges against him and afforded the opportunity to request that such charges be heard and determined at a Disciplinary Hearing as hereinafter provided.

No disciplinary action may be initiated with respect to conduct that has been the subject of previously initiated disciplinary action.

Sec. 902 – Offenses.

Members who have committed offenses recognized by the Veterans of Foreign Wars of the United States may be subject to disciplinary action and may be assessed the penalties provided in this Article. Offenses recognized by the Veterans of Foreign Wars of the United States are:

1. Disloyalty to the United States of America.
2. Failure to fulfill the obligations taken at time of application and admission or the obligations taken upon installation of any office.
3. False representation or deliberate concealment concerning eligibility to membership, office, or acquiescing in or permitting ineligible persons to become members or officers.
4. Disobedience or disregard of the provisions of the Congressional Charter, By-Laws (at all levels), Manual of Procedure, Ritual, General Orders or any other laws and usages of the Veterans of Foreign Wars of the United States or any order of the Commander-in-Chief.
5. Conviction of, or entering a guilty or no contest plea to a felony, or to a misdemeanor or ordinance violation involving moral turpitude, in any court in the United States.
6. Conduct prejudicial to good order and discipline or conduct unbecoming a member in his relations to the Veterans of Foreign Wars of the United States or other members.
7. Divulging any of the private business of the Veterans of Foreign Wars of the United States with the intent or effect of embarrassing the Veterans of Foreign Wars or members thereof.
8. Preparing or signing any false record, return, regulation, order or other official document of or concerning the Veterans of Foreign Wars of the United States, knowing it to be false, or making any other false official statement with the intent to deceive.

9. Selling or otherwise disposing of money or property without proper authority or, willfully or negligently damaging, destroying or losing any such money or property belonging to the Veterans of Foreign Wars of the United States, or any Post, County Council, District, or Department.
10. Aiding, abetting, counseling, concealing, commanding, conspiring, soliciting, procuring or causing to be done any act which, if done, would be punishable under this Article.
11. Knowingly making or causing to be made a false entry in or false alteration of a government record. Knowingly conveying or causing to be conveyed in any form **false information concerning one's military record.**
12. Knowingly providing false information or statements in connection with the initiation of charges against another member.

Sec. 903 - Disciplinary Actions.

Disciplinary actions shall be initiated only when there are reasonable grounds to believe that an offense has been committed by the person charged and a signed incident report or appropriate documentation is submitted by the accuser to the appropriate commander (i.e., Post, Department, Commander-in-Chief).

Prior to the initiation of disciplinary action, a Post or Department or its respective Commander or the Commander-in-Chief, shall appoint an individual or committee to investigate alleged offenses brought to its attention by a member and report on the results of such investigation.

Who May Initiate:

1. A Post may, acting by two-thirds vote at a regular or special meeting, instruct the Post Commander to initiate such action with respect to a member of the Post.
2. A Department Commander may initiate such action with respect to any member within the Department.
3. The Department Convention or Department Council of Administration may, by two-thirds vote, instruct the Department Commander to initiate such a proceeding.
4. The Commander-in-Chief may initiate such action with respect to any member of the Veterans of Foreign Wars of the United States.
5. The National Convention or the National Council of Administration may, by two-thirds vote, instruct the Commander-in-Chief to institute such a proceeding. In the event the Commander-in-Chief is the accused, the National Convention or National Council of Administration shall designate a member to initiate such disciplinary action.
6. If the respective Commander fails or refuses to initiate a disciplinary action after being instructed to do so, another member may be instructed to initiate the action.
7. If the Commander is the accused, action must be initiated by higher authority.

How to Initiate: Disciplinary Actions must be initiated by the preparation and delivery of written Charges and Specifications to the accused member.

Charges and Specifications – How prepared and Delivered: Charges and Specifications must be prepared and delivered in the manner described and authorized in the Manual of Procedure.

Hearing Requested. If the accused member desires a Disciplinary Hearing (with or without mediation), such member must within fifteen (15) days of the receipt of the Charges and Specifications, request a hearing. Such request shall be made in the manner prescribed in the Manual of Procedure.

No Hearing Requested. In the event that the accused member does not properly request a Disciplinary Hearing within fifteen (15) days or, prior to the expiration of the fifteen (15) day period, advises the Commander or the designated member initiating the action that a hearing is not desired, the Commander or the designated member initiating the charges,

may take such action as is deemed appropriate including the ordering of any penalties prescribed in Section 907 of these By-laws.

1. If initiated at the Post, the Commander or the designated member initiating the charges, must have concurrence by majority vote of the Post to order any penalties prescribed in Section 907 of these By-laws.
2. If initiated by the Department Commander, he/she may order any penalties prescribed in Section 907 of these By-Laws.
3. The Department Council of Administration or the Department Convention causing the Charges to be initiated shall, by majority vote, order any penalties prescribed in Section 907 of these By-laws.
4. If initiated by the Commander-in-Chief, he/she may order any penalties prescribed in Section 907 of these By-Laws.
5. The National Council of Administration or the National Convention causing the Charges to be initiated shall, by majority vote, order any penalties prescribed in Section 907 of these By-Laws.

Any action taken must be in writing and delivered by registered or certified mail, return receipt requested to the last known address of the accused member. Such action shall include notification of appellate rights. A copy thereof must also be forwarded to the next higher authority.

Sec. 904 - Appeal.

Any member against whom disciplinary action is taken under this Article shall have the right to appeal such action (with the exception of cases settled through mediation). Such appeal shall be made in the manner prescribed in the Manual of Procedure. If the member fails to properly appeal the action in the manner specified in the manual, the appeal will not be considered. With respect to appeals from the imposition of penalties where no hearing was properly requested, the member shall be entitled to appeal only the severity of the penalty and shall not be entitled to contest the commission of the offense.

Appeals to the Department Commander. Appeals from disciplinary actions initiated by a Post shall be to the Department Commander. The decision of the Department Commander shall be final unless an appeal is timely made to the Commander-in-Chief. The decision of the Commander-in-Chief shall be final unless an appeal is timely made to the National Council of Administration. The decision of the National Council of Administration shall be final.

Appeals to the Commander-in-Chief. Appeals from disciplinary actions initiated by a Department Commander shall be to the Commander-in-Chief. The decision of the Commander-in-Chief shall be final unless an appeal is timely made to the National Council of Administration. The decision of the National Council of Administration shall be final.

Appeals to the National Council of Administration. Appeals from disciplinary actions initiated by the Commander-in-Chief shall be to the National Council of Administration. The decision of the National Council of Administration shall be final.

Except as provided in Section 905, no penalty in a disciplinary action shall be carried into effect if an appeal has been taken and such appeal has not been finally adjudicated. The penalty shall be carried into effect at such time as a decision is final and by execution of a Special Order by the Commander-in-Chief or the National Council of Administration.

Nothing herein shall be construed as preventing the Commander-in-Chief from enforcing the provisions of the Congressional Charter, these By-Laws, the Manual of Procedure, Ritual or laws or usages and/or the duties of his office, regardless of any pending appeal.

Computation of Time. Whenever these By-Laws or the Manual of Procedure requires action, with respect to appeals, within a specific number of days it refers to calendar days. The time shall be calculated beginning with the day upon which the decision at the previous level was delivered to the last known address of the member.

Any required action by the member must be made in writing and mailed by registered or certified mail, return receipt requested, and postmarked no later than the date due. The Commander-in-Chief may, grant an extension provided the request is received prior to the expiration of the time frame originally prescribed and that the request is for good and sufficient cause.

Sec. 905 - Suspension from Office.

At any time after charges are initiated against a member holding office, the Commander-in-Chief or Department Commander having jurisdiction, may suspend the accused member from office pending a final decision on the disciplinary action, provided that with respect to salaried officers, said suspension shall be with pay. During the suspension of a Post, County Council, District or Department Commander, the office shall be temporarily filled by the Senior Vice Commander. Suspensions affected under this section shall not be subject to appeal.

Sec. 906 – Prima Facie Case.

If the accused member has been convicted of a violation subjecting him to discipline under Section 902, certified copies of the judicial record of conviction or plea shall be conclusive evidence of a violation of said section and a Commander or Disciplinary Hearing Panel may consider the matter as if the accused was willfully absent.

Sec. 907 – Penalties.

Penalties for offenses recognized by the Veterans of Foreign Wars of the United States shall be:

1. Termination of membership.
2. Suspension from membership for a specified period of time.
3. Suspension of certain rights or privileges of membership for a specified period of time.
4. Suspension or removal from office.
5. Reprimand.
6. By other administrative action deemed appropriate.

Sec. 908 - Administrative Actions.

A member who has been suspended from any Post by sentence of disciplinary action properly carried into execution, shall be placed in Department Member-at-Large. Upon completion of the suspension of membership a transfer is permitted in accordance with the provisions of Section 107 of the national By-Laws.

In the event that a member transfers his membership and reasonable grounds exist to initiate disciplinary action, the Department Commander or the Commander-in-Chief may transfer the member back to the jurisdiction where the disciplinary action will be initiated.

Any member, or former member, sentenced will be allowed one opportunity to petition directly to the Commander-in-Chief to have his conviction pardoned or his sentence commuted provided at least five years of the pertinent sentence have been served.”

Manual of Procedure

Sec. 901 - Discipline of Members.

It is the purpose of this Article to provide a procedure whereby a member may be appropriately disciplined while assuring that such member is given reasonable notice of the charges against him and afforded an opportunity to request that such charges be heard and determined at a Disciplinary Hearing. Except as otherwise specifically provided in the Congressional Charter or sections of the By-Laws and this Manual of Procedure, no member may have his membership terminated or suspended nor may any member be relieved of any office unless such discipline is imposed as provided in Article IX.

This Article does not apply to action taken by a Post, County Council, District or Department to bar or suspend members from participating in activities or use of club-rooms sponsored or conducted by such Post, County Council, District or Department; such actions are subject to separate regulation by the pertinent Post, County Council, District or Department.

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); Request For Mediation/Hearing (DA-6) and, Record of Mediation (DA-7). (Template forms are in the Appendix.)

Sec. 902 - Offenses.

The recognized offenses shall be as provided in Section 902 of the By-Laws.

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.
- (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), and Request For 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. If mediation is requested, the Mediation Officer is designated by the next higher authority and shall schedule a meeting date within fifteen (15) days of the 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 No Hearing is 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 Commander will select the disciplinary panel members, date, time and location by issuance of an order (Form DA-3 in the Appendix). The order shall detail at least seven (7) members to 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.** Is the presiding officer over the panel and not subject to challenge. He 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.
 - b. **Prosecutor.** Shall present the evidence supporting the Charges and Specifications. He shall not be a member of the panel. The prosecutor should not be a witness with respect to disputed factual matters. He may, however, provide evidence concerning procedural matters.
 - c. **Defense Counsel.** The accused shall select his own professional or lay counsel. The accused may employ or select a private lawyer at his 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. He 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:

- a. Special Order advising of the initiation of a disciplinary action. (Form DA-1)
- b. Charges and Specifications. (Form DA-2)
- c. The written statement that the Charges and Specifications have been personally served or mailed to the accused in accordance with Section 903(e).
- d. The request for the Mediation or Disciplinary Hearing made by the accused. (Form DA-6)
- e. The order appointing the Panel. (Form DA-3)
- f. The tape recording or videotape of the proceedings.
- g. **The President's notes of the proceedings.**
- h. Any exhibits admitted into evidence.
- i. The record of disciplinary action. (Form DA-5)
- j. The findings and sentence. (Form DA-4)
- k. The result of Mediation if applicable. (Form DA-7)

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 he has read the charges and they need not be read. The accused shall be required to plead 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 and delivering the Charges and 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 his evidence first. When the prosecution rests, the defense may introduce its evidence. 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 other than documents, and is 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.

The reason that hearsay testimony is given less credence is that 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.
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.

- a. **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.
 - b. **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.
10. **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 his counsel was not present at the hearing but the accused has been found either guilty or not guilty on all of them, a copy of the Findings and Sentence (Form DA-4) shall be mailed to the last known address within seven days after the hearing.
11. **Record of Hearing of Disciplinary Actions (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 Actions (Form DA-5).

Sec. 904 — Appeal.

Any member on which Disciplinary Action is taken under this Article shall have the right to appeal such action.

Failure of the member to comply with the following rules, including the requirement that each appeal at least state the facts of the case based on the evidence introduced at the hearing, the reasons why the case was erroneously decided, and the relief requested, are grounds for denying the appeal.

(a) Appeals From Post Actions. Appeals to the Department Commander shall be made within thirty (30) days of the imposition of penalties by a Disciplinary Hearing Panel or, in the case when no hearing is requested, the imposition of penalties by the Initiating Officer or Post. All appeals shall be made in writing and be mailed by registered or certified mail, return receipt requested, to the Department Commander at the Department headquarters. The written appeal shall:

1. State the facts of the case based on the evidence introduced at the hearing (if a hearing has been held).
2. Make a clear and concise statement of the reason or reasons upon which the member claims the case was erroneously decided.
3. State the relief requested by the member.

Upon receipt of a proper written appeal, the Department Commander shall request that the Adjutant maintaining the Trial Record forward the same to him within fifteen (15) days. The Department Commander will also provide a copy of the written appeal to the prosecutor, who shall have fifteen (15) days from the receipt of the copy to make a written response directly to the Department Commander. The prosecutor will also mail a copy of his written response to the accused. The accused or his counsel shall then have ten (10) days from the date of such response to make a further written submission to the Department Commander. Once accomplished, the Department Commander shall decide the appeal and inform the accused and the Post Commander in writing as to his determination. The decision of the Department Commander is final unless within fifteen (15) days an appeal is made to the Commander-in-Chief. Such an appeal must be made in writing and mailed by registered or certified mail, return receipt requested, to the Commander-in-Chief at National headquarters in Kansas City. The appeal must include the three criteria listed above.

Upon receipt of a proper written appeal, the Commander-in-Chief shall request that the Department Commander forward to him the Trial Record, together with any papers submitted by the parties on appeal. The Commander-in-Chief will, within thirty (30) days, decide the matter and inform the member, the pertinent Post Commander and the Department Commander of that decision. The decision of the Commander-in-Chief is final unless an appeal is made to the National Council of Administration within fifteen (15) days of the Commander-in-Chief's decision. Such appeal shall be in writing and shall be mailed by registered or certified mail, return receipt requested, to the Chairman of the Committee on Appeals of the National Council of Administration at National headquarters in Kansas City. The appeal must include the three criteria listed above.

Upon receipt of a proper written appeal, the Chairman of the Committee on Appeals shall request the Commander-in-Chief forward the Trial Record and any papers submitted by the parties on appeal. The Chairman shall advise the member of a time and place that the matter will be considered and decided. The member shall have the right to appear, at his own expense, personally or by counsel, at such time and place as the matter is considered. Upon a recommendation by the Committee on Appeals, The National Council of Administration shall decide the appeal and subsequently inform all concerned of its decision in writing.

(b) Appeals From Department Commander Actions. Appeals from disciplinary actions initiated by the Department Commander shall be to the Commander-in-Chief. Such an appeal must be made within thirty (30) days of the imposition of sentence by the Disciplinary Hearing Panel or, where no Disciplinary Hearing is requested, the imposition of penalty. All appeals will be made in writing and shall be mailed by registered or certified mail, return receipt requested, to the Commander-in-Chief at National headquarters in Kansas City. The appeal must include the three criteria listed in section 904(a).

Upon receipt of a proper written appeal, the Commander-in-Chief shall request that the Adjutant maintaining the Trial Record forward the same to him within fifteen (15) days. The Commander-in-Chief will provide a copy of the written appeal to the prosecutor, who shall have fifteen (15) days from the receipt of the copy to make a written response directly to the Commander-in-Chief. (A copy will be mailed to the accused and his counsel.) They shall have ten (10) days to submit a reply. Thereafter, the Commander-in-Chief shall decide the appeal and inform the accused and the Department Commander. The decision of the Commander-in-Chief is final unless an appeal is made to the National Council of Administration within fifteen (15) days. Such appeal shall be made in the manner specified in the foregoing subsection (a) for appeals to the National Council of Administration for cases initially appealed to the Department Commander.

(c) Appeals From Commander-in-Chief Actions. Appeals from disciplinary actions initiated by the Commander-in-Chief shall be to the National Council of Administration. Such an appeal must be made within thirty (30) days of the imposition of sentence by the Disciplinary Hearing Panel or, where no hearing is requested, the imposition of sentence by the Initiating Officer. All appeals shall be in writing and mailed by registered or certified mail, return receipt requested, to the Chairman of the Committee on Appeals of the National Council of Administration at National headquarters in Kansas City. The appeal must include the three criteria listed in section 904(a).

Upon receipt of a proper written appeal, the Chairman of the Committee on Appeals of the National Council of Administration shall request that the Adjutant maintaining the Trial Record forward the same to the Adjutant General within fifteen (15) days. The Council will provide a copy of the written appeal to the prosecutor who may, within fifteen (15) days, submit a written response directed to the National Council of Administration. If a response is submitted, it shall be mailed to the accused and Defense Counsel, who may file a response thereto within ten (10) days.

The National Council of Administration shall advise the member of a time and place that the matter will be considered and decided. The National Council of Administration shall

determine the manner in which the matter will be considered. The member shall have the right to appear, at his own expense, personally or by counsel, at such time and place where the matter is considered.

Upon recommendation by the Committee on Appeals, the National Council of Administration will decide the appeal and subsequently will inform the accused in writing of its decision. That decision is final.

(d) Timeliness of Appeals to the National Council of Administration: Normally, appeals received greater than thirty (30) days before the next scheduled regular meeting will be heard at that meeting. Appeals not within this timeframe may, at the discretion of the Commander-in-Chief, be referred to the council for deliberation at a future scheduled meeting.

Sec. 905 - Suspension from Office.

To effect a suspension under Section 905 of the By-Laws, the Commander-in-Chief, or the Department Commander having jurisdiction, will inform the member in writing and notify the respective Post, County Council, District or Department Commander of such action.

The Commander-in-Chief or Department Commander is not required, however, to suspend the accused member in every instance. They may use their discretion in determining whether or not such suspension is necessary or appropriate.

Sec. 906 – Prima Facie Case.

The term "prima facie" is a legal term used to describe something that is legally sufficient to establish a fact or a case unless disproved. If an accused member has been convicted by a court of law of a felony, misdemeanor or even an ordinance violation, and will not be available for, a disciplinary action, the disciplinary action may still be initiated and conducted in the same manner as any other. Under this section of a Prima Facie case, it would not be necessary for the prosecutor to prove again what the civil authorities have already established in the criminal trial. To establish guilt at this disciplinary Hearing, all the prosecutor needs to do is present a certified copy of the court record of conviction. The burden then shifts to the accused or his counsel to show that the record of conviction is not a true and correct record.

Sec. 907 – Penalties.

(See Section 907 – Penalties, National By-Laws.)

Sec. 908 – Administrative Actions.

(See Section 908 – Administrative Actions, National By-Laws.)

APPENDIX
(Article IX Forms)

SPECIAL ORDER INITIATING DISCIPLINARY ACTION

Special Order No. _____ Date _____

Headquarters, VFW Post No. (or Department) _____

To: _____

A disciplinary action has been initiated against you pursuant to Article IX of the By-Laws and Manual of Procedure of the Veterans of Foreign Wars of the United States. Attached to this order is a copy of the Charges and Specifications (Form DA-2).

You may request an optional mediation as part of the proceedings by using the attached Form DA-6, Request for Mediation/Hearing. Mediation, if requested, will be conducted first and will be final (no further appeal) if you agree with the proposed settlement resulting from that action. If mediation proves unsatisfactory in your opinion or if mediation is not desired, you may still have a Disciplinary Hearing, requested again on Form DA-6.

You must notify _____ in writing, within fifteen (15) days of the date that this order and the attached Charges and Specifications were delivered to you. If you do not, disciplinary penalties may be imposed without these proceedings. Penalties may include termination or suspension of membership and relief from office.

By order of _____

Commander, Post No. _____
(or Department)

Official _____ Adjutant

CHARGES AND SPECIFICATIONS

Charge (1): _____

Specification (1):

Specification (2):

Charge (2): _____

Specification (1):

Specification (2):

On my oath or affirmation as a member of the Veterans of Foreign Wars of the United States, I declare that I have a reasonable belief that the above described act or acts have been committed.

Accuser (s)

Initiating Officer

(If additional Charges and Specifications are required, continue on a separate page and attach to this form.)

**ORDER APPOINTING A DISCIPLINARY HEARING
PANEL AND SPECIAL ORDER**

No. _____
Headquarters, VFW Post No. _____

Department of _____

Place _____

Date _____

Upon orders of _____, Commander of _____, Veterans of Foreign Wars, a Disciplinary Hearing Panel is appointed to meet at _____ at _____ on _____, 20____, or

as soon after this date as practicable for the purpose of trying such person or persons as may be properly brought before it, including: _____

DETAIL FOR THE PANEL

Comrade _____ of Post No. _____
Comrade _____ of Post No. _____
Comrade _____ of Post No. _____
Comrade _____ of Post No. _____
Comrade _____ of Post No. _____
Comrade _____ of Post No. _____
Comrade _____ of Post No. _____
Comrade _____ of Post No. _____
Comrade _____ of Post No. _____, President of Panel
Comrade _____ of Post No. _____, Prosecutor
Comrade _____ of Post No. _____, Defense Counsel

By order of _____

Commander of _____

Official _____ Adjutant

FINDINGS AND SENTENCE

The panel was closed (or adjourned for the purpose of taking a ballot) and reported back as follows:

On all Charges and Specifications: _____

On Charge 1, Specification 1: _____

On Charge _____, Specification _____ : _____

On Charge _____, Specification _____ : _____

On Charge _____, Specification _____ : _____

On Charge _____, Specification _____ : _____

On Charge _____, Specification _____ : _____

On Charge _____, Specification _____ : _____
(attach additional sheets, if necessary)

The panel imposed the following sentence: _____

Prosecutor

President of the Panel

Date

Note: A copy of this form will be mailed to the accused at the last known address within seven (7) days after the hearing.

FORM OF RECORD OF DISCIPLINARY ACTION

Proceedings of a Disciplinary Hearing Panel convened at _____
_____ on _____, 20_____, pursuant to an order issued by

PRESENT

Comrade _____ of Post No. _____, President of Panel
Comrade _____ of Post No. _____, Prosecutor
Comrade _____ of Post No. _____, Defense Counsel
Comrade _____ of Post No. _____, Member
Comrade _____ of Post No. _____, Member
Comrade _____ of Post No. _____, Member
Comrade _____ of Post No. _____, Member
Comrade _____ of Post No. _____, Member
Comrade _____ of Post No. _____, Member

ABSENT

Comrade _____ of Post No. _____, Reason: _____
Comrade _____ of Post No. _____, Reason: _____
Comrade _____ of Post No. _____, Reason: _____
Comrade _____ of Post No. _____, Reason: _____

The accused received notice of the charges and specifications in accordance with Section 903 of the National By-Laws and requested a hearing: Yes ___ No ___

Challenges for cause were made on panel member(s) _____

Such challenges were sustained as to panel member(s) _____

The members of the panel were sworn. Yes ___ No ___

The Charges and Specifications were read to the accused, or the accused stated that he had read the charges, and he responded as follows:

PLEAS

To all Charges and Specifications: _____
Or

To Charge _____, Specification _____: _____

To Charge _____, Specification _____: _____

To Charge _____, Specification _____: _____

The following witnesses testified: _____

The following documents were used in evidence: _____

The defense was given full opportunity to examine each witness. Yes ___ No ___

The rights of the accused as a witness were explained to him. Yes ___ No ___

An argument was made by the Defense Counsel on behalf of the accused.
Yes ___ No ___

The accused did (not) take the witness stand in his own defense.

The accused was (not) present at the trial.

President

REQUEST FOR MEDIATION/HEARING

I have received Special Order No. _____ dated _____ with attached charges and specifications, indicating that a disciplinary action has been initiated.

As a result of this action, I request:

_____ a hearing with pre-hearing Mediation (if mediation proves unsatisfactory).

_____ a hearing without pre-hearing Mediation.

(Accuser)

(Note: This request must be mailed within fifteen (15) days of receipt of the Special Order (Form DA-1), to the person listed on the Special Order.)

RECORD OF MEDIATION

As a result of a request for pre-hearing mediation by the accused and with the mediation having now been completed, the following is the result agreed upon by all parties:

___ No agreement has been reached during this pre-trial mediation; a hearing date shall be scheduled within fifteen (15) days of said meeting.

All parties concerned understand that this form (DA-6) and all other documents related to this action must be forwarded to the Commander-in-Chief, for the issuance of a Special Order imposing the above agreed upon penalty. **There is no further appeal.**

(Mediation Officer)

(Initiating Officer)

(Accused)