



American Legion Newport Harbor Post 291

Judicial Procedures



1) Purpose:

- a) Provide documentation used for training and reference by all elected and appointed officers of the American Legion Post 291, by all members appointed as members of the Judicial Committee.
- b) Provide interview and investigation guidelines for those assigned to the Judicial Committee.

2) Overseeing Authority:

a) *Post 291 Bylaws*

a) *MEMBERSHIP.*

4.7. Post Member's Rights and Privileges

4.7.1. Rights. An individual Post member in Good Standing has the customary rights of membership including the right to:

- (1) Run for an elected Post office,*
- (2) Attend and vote at General Meetings and Special General Meetings,*
- (3) Attend Executive Committee meetings, and*
- (4) Appeal to the Department of California Commander for grievances that cannot be resolved at the Post.*

4.7.2. Privileges. Post members in Good Standing have the Privilege of using the Post facilities according to the Post Bylaws, Rules, and Regulations. The Executive Committee may restrict a Post member's Privileges following Post Judicial Procedures, conducted under the Department Administrative trial Manual.

b) *COMMITTEES*

7.2.4. Judicial Committee.

7.2.4.1. Composition. The Judicial Committee shall be composed of the Judge Advocate (as Chair) and at least four Post Members in Good Standing selected by the Commander.

7.2.4.2. Responsibilities. The Committee shall investigate and evaluate complaints brought against any Post member or guest and recommend remedies. For minor Post infractions, the Committee may hold investigation Hearings; for major infractions the Committee will participate in a Post Trial according to the Department of California Administrative Hearing Manual.

c) *JUDICIAL PROCEDURES*

13.1. Purpose. To enforce Post rules and regulations, Post 291 shall be the judge of its own membership and guests, and other individuals on Post 291 property, subject to the restrictions of the Post 291 Bylaws and the Department of California Administrative Hearing Manual.

13.2. Authority. The Executive Committee, by a majority vote, may suspend any or all Post Privileges or Post Membership subject to the outcome of any Judicial Procedure.

13.3. Judicial Procedures Details

13.3.1. Incident Report. Any Post Member, Post Employee or Post guest — including members of SAL Squadron 291 and Auxiliary Unit 291 as well as their guests — may file a complaint against another Post Member, Post employee, or Post guest — including members of SAL Squadron 291 and Auxiliary Unit 291 as well as their guests — by properly filling out an Incident Report and submitting it to the Executive Committee. The complaint must be related to an action that occurred on Post property. The format for the Incident Report shall be established by the Executive Committee and shall conform with the Department of California Administrative Hearing Manual.



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13.3.2. Preliminary Evaluation. Upon receiving an Incident Report, the Post Commander (or in his/her absence, disability or disqualification, one of the Vice Commanders), shall within 10 days consult with the Post Judicial Committee to evaluate the origin, content and sufficiency, and severity of the Incident Report and present their findings and recommendations to the Executive Committee.

13.3.2.1. Origin.

(1) Only Post 291 Legionnaires - If the Incident Report involves only Legionnaires who are members of Post 291 and their guests, then the Incident Report will be processed as described in Sections 13.4., 13.5., 13.6., below, and the Department of California Administrative Hearing Manual.

(2) Only SAL Squadron 291 Members - If the Incident Report involves only members of one of the Post 291 Family organizations (SAL Squadron 291, or one or more of their guests), then the Incident Report shall be initially processed in accordance with internal judicial procedures of that organization. If the content and severity of the Incident Report have significant implications for Post 291 and its operations, the head of that organization shall provide to each of the Executive Committee members copies of the Incident Report identifying the remedies available the results of the internal organizational judicial procedures along with any recommendations for Post 291 disciplinary actions.

(3) Only Post 291 Employees - If the Incident Report involves only Post 291 employees, then the Incident Report shall be initially processed in accordance with internal employee practices and rules. If the content and severity of the Incident Report have significant implications for Post 291 and its operations, the employee supervisor shall provide each of the Executive Committee members copies of the Incident Report identifying the remedies available the results of the internal organizational judicial procedures along with any recommendations for Post 291 disciplinary actions.

(4) SAL Squadron 291 and Guests - If the Incident Report involves members of Post 291 and Post 291 Family organizations (SAL Squadron 291 and their guests), then the Incident Report shall be initially processed by designated representatives of the respective organizations. If the incident involves undesirable impacts on Post 291 operations or the Post 291 social environment, a recommendation shall be forwarded to each of the Executive Committee members copies with the remedies available.

(5) Post 291 Legionnaires and Employees - If the Incident Report involves members of Post 291 and Post 291 employees, then the Incident Report shall be initially processed by designated representatives of the Post Executive Committee and the employee supervisor. If the incident involves undesirable impacts on Post 291 operations or the Post 291 social environment, a recommendation shall be forwarded to each of the Executive Committee members copies with the remedies available.

13.3.7. Judicial Committee Hearing. A Post Hearing or Trial shall follow the procedures stated in the most current edition of the Department of California Administrative Hearing Manual as adapted from time to time.

13.3.8. Hearing or Trial Penalties. Post Members have the right to accept the results of a Hearing or Trial and the penalties or may appeal following the procedures defined in the Department of California Administrative Hearing Manual.



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13.4. Judicial Procedure Records. The results of all Judicial Procedures shall be documented and preserved to establish a record of precedence to help determine future cases. Unless charges against a defendant are dismissed, the remedy shall be documented including the time period and types of Post privileges withheld; and these records shall be maintained in the Post Member's file for a minimum of five years.

13.5. Right of Appeal. As stated in the Department of California Administrative Hearing Manual, any member of The American Legion tried before a Post or a District who has been reprimanded, suspended, or expelled shall have the right to appeal to the Department Board of Review. The decision of the Department shall be final.

3) Meetings:

- a) Official Meetings of the Judicial Committee will be held as needed, or at the request of the Post Commander or Judge Advocate.
 - i) Chaired by the appointed Judge Advocate; or in the absence of, a member in good standing as appointed by the Commander and ratified by a majority vote of the voting members of the Executive Committee.
 - ii) All official meetings require a quorum of 50% or more of the voting members assigned to the committee.
 - (a) In the absence of a quorum, no official business can be conducted.
- b) Verbal or Virtual meetings may be held at the discretion of the committee chair.

4) Preliminary Evaluation:

- a) Following bylaws 13.3.2.1:
 - (1) Content and Sufficiency. The content of the Incident Report must contain sufficient information to determine:
 - (a) Sufficient factual allegations to inform the accused of all charges he/she may be asked to admit, deny, or defend.
 - (b) The act or acts with which the person is accused occurred at Post 291.
 - (c) The act or acts with which the person is accused compromises the character of a Legionnaire , or which bring shame or dishonor upon the American Legion, on or off Post 291 .
 - (2) Severity. The severity of the accusations of the Incident Report, as well as its origin as defined in Bylaws section 13.3.2.1, will guide further actions by the Executive Committee.

5) Sufficiency of Accusations:

- a) Following bylaws 13.3.2:
 - (1) The incident report will be presented to the Executive Committee at the next regularly scheduled Executive Committee meeting. The Executive Committee, by majority vote of the voting members of the Executive Committee, will determine if the incident report has enough merit to be turned over to the Judicial Committee for investigation.
 - (2) Insufficient Incident Report. If a majority of the Executive Committee members vote that the accusation(s) in the Incident Report is/are found insufficient, the Judge Advocate will provide a letter to the accuser and the accused advising them of the insufficiency of the Incident Report.
 - (3) Sufficient Incident Report. If a majority of the Executive Committee members vote that the accusation(s) in the Incident Report is/are found sufficient, the Commander shall then meet with the Judicial Committee, within ten days, to present the charges and request an investigation in order to present its findings and recommendations to the Executive Committee.



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6) Judicial Committee Investigation:

- a) Following bylaws 13.3.2:
 - (1) Judicial Committee Investigation. The Judicial Committee shall investigate the accusations, make a determination as to their severity and make a recommendation(s) for further action and/or discipline to the Executive Committee. A Post Investigative Hearing will be held for minor infractions or if the defendant is a Post Guest. The Judicial Committee will conduct interviews with the accused, the accuser, and any named witnesses to the incident to determine what disciplinary action, if any, is warranted. A Trial will be held for major infractions by a Post Member.
 - (2) Interviews. Conducting individual interviews with all parties involved must be done with no less than a quorum of the Judicial Committee.
 - (a) Interviews may be conducted in person, telephone conference, or by online virtual meetings.
 - (b) With reasonable accommodation to an individual's personal schedule, the Judge Advocate is responsible for scheduling interviews with all parties involved.
 - (c) The Judge Advocate must allow a maximum of a 30-day window to conduct an interview after first contact with the individual.
 - (d) If the individual to be interviewed chooses not to be interviewed within the 30-day window, the opportunity to be interviewed will be forfeited.
 - (i) The individual can properly decline an interview in writing to the Judge Advocate.
 - (ii) If the individual fails to respond, the Judge Advocate will document the correspondence history of attempted contact.
 - (e) If during the investigation, the Judicial Committee determines that the accusations are actually major in nature, the investigation would stop, and the committee would vote to recommend a Post Trial be conducted.
 - (f) After conclusion of the investigation, the Judicial Committee will meet for the purpose of reviewing the evidence obtained during the investigation, to vote on guilt or innocence of each accusation, and to recommend any sanctions if sanctions are determined to be needed.
 - (g) The Judge Advocate will communicate the Judicial Committee's recommendation(s), to the Executive Committee at the next scheduled Executive Committee meeting.

7) Executive Committee Decision:

- a) Following bylaws 13.3.2:
 - (1) Executive Committee Decision. Unless contradicted by new information, the Executive Committee shall follow the recommendation of the Judicial Committee. If a Trial is warranted, then the Executive Committee shall direct the Judicial Committee to proceed according to the current Post Rules and Regulations and the Department of California Administrative Hearing Manual.
 - (2) Disciplinary Actions:
 - (a) For a minor infraction, the disciplinary recommendation could be for anything from the issuance of an admonition letter from the Commander to a maximum punishment of 12 months suspension of Post 291 privileges; per occurrence.
 - (b) Post Investigative hearings under the Post Judicial Procedures can offer a recommendation to move the incident to a Post Trial for more major infractions.
 - (c) Post Trials held in accordance with the Department of California Administrative Hearing Manual can result in suspension or expulsion of membership from Post 291.



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8) Rights vs. Privileges:

- a) Following bylaws 4.7.2:
 - (1) Rights:
 - (a) Individual membership rights are outlined in bylaws section 4.7.1.
 - (2) Privileges: Specific to Newport Harbor Post 291, privileges are listed as, but not limited to:
 - (a) Leisure time on the property
 - (b) Food and Beverages
 - (c) Attendance at an onsite event
 - (d) Parking Lot Access
 - (3) Membership with affiliates and programs:
 - (a) As a dual member with any affiliates and/or programs of Post 291, your membership rights will match those of the Legionnaire membership as outlined in bylaws section 4.7.1.
 - (b) If any or all privileges are restricted or suspended through the outcome of any Judicial Procedure, the disciplinary measure will transfer to any other affiliate and/or program membership of Post 291.

=====END OF POLICY=====