



RULES FOR GOVERNING TRIALS

These rules shall govern any and all trials held by the Sons of The American Legion Detachment of Florida or any Squadron within the Sons of The American Legion Detachment of Florida. The rules written are identical to ones written by and approved by The American Legion Department of Florida and modified for use by the Sons of The American Legion Detachment of Florida.

1. Any disciplinary action where the potential punishment is suspension or expulsion from the Sons of The American Legion, or in the case of an Officer, the removal from office, against any Member or Officer shall be upon sworn or verified written charges by the accuser(s).
2. Said sworn or verified written charges shall be filed with the Adjutant of the Convening Authority.
3. A copy of the sworn or verified written charges shall be served upon the accused, either in person or by certified mail with proof thereof by a return receipt.
4. The Adjutant of the Convening Authority shall cause to be served upon the accused, in the same manner as above mentioned, a Summons for the accused to appear on a specified date, time, and location for a trial. The trial shall be held at the next regularly scheduled Squadron Meeting after fifteen (15) days have lapsed from the time of service of the charges upon the accused.
5. The accuser(s) must be a member(s) of the same Squadron as the accused and shall set forth the charges of disloyalty, neglect of duty, dishonesty, and/or conduct unbecoming a Member of the Sons of The American Legion in terms whereby the accused shall be able to determine what conduct is being complained of, which shall at a minimum, include the date, time, place, and the details of the offensive conduct, in order that the accused may properly prepare a defense.
6. The accused may appear at the trial in person, through written answer, or with counsel. Counsel may be a member of The American Legion, the Sons of The American Legion, or a licensed attorney.
7. Either the Convening Authority or the accused may apply for a continuance before the day of the trial. However, such a request must be in writing, show just cause for said request, and be sworn to by the moving party. The presiding Judge Advocate shall rule on any such motion filed.
8. The Judge Advocate of the Convening Authority shall preside at the trial and shall have the power and authority to pass upon the materiality and relevancy of any evidence presented and shall have general power to prescribe the necessary and reasonable rules and regulations for the orderly procedure of said trial.
9. In the event that the Judge Advocate of the Convening Authority is unable to preside at the trial, the Detachment Commander shall be noticed of said inability, and the Detachment Commander will then appoint a Judge Advocate from within the physical jurisdiction of the Sons of The American Legion, Detachment of Florida, to preside over the trial. The Squadron shall bear the expense of any Judge Advocate so appointed.
10. At any time before the trial commences, the charges may be amended. However, if the charges are amended the accused must be served with the amended charges and allowed fourteen (14) days before the trial can commence at a regularly scheduled Squadron Meeting.



11. The entire trial, including all votes taken, will be conducted by the Squadron Judge Advocate or a Judge Advocate appointed by the Detachment Commander.
12. At the regularly scheduled Squadron Meeting, where a quorum is present, the trial is the first order of business. Prior to the start of the trial, the membership will need to determine if the votes to determine guilty/not guilty and any other punishment be taken via voice (by voice) or by ballot.
13. Only the Squadron members, in good standing, sitting in attendance at the regularly scheduled Squadron Meeting will be the jury to hear the trial.
14. The start of the trial shall be the reading of the charges in front of the membership.
15. All testimony of witnesses must be taken under oath. The accused shall have the right to confront and cross examine any witnesses against him. No written statements, whether sworn or not, shall be admitted into evidence if the person who wrote the statement is not present to confront and be cross examined by the accused or counsel. The accused shall be allowed to speak in his own defense, if he so desires.
16. Either the Convening Authority or the accused shall have the right to have the trial and associated proceedings recorded by tape, video, or court reporter. The Squadron which arranges for the recording/reporting of the trial shall be responsible for any cost associated therewith.
17. Once the witnesses have been heard and the accused has been heard (if desired), the accused shall retire from the meeting room and the Squadron members present shall proceed at once, and without debate, to vote on the guilt or innocence of the accused, taking a separate vote on each charge.
18. If the accused is found guilty by a majority vote of the members present and voting, a second vote will be taken to determine if the accused will be permanently expelled from the Sons of The American Legion, suspended from the Sons of The American Legion or a lesser punishment as determined by a majority vote. In no case shall a member be permitted to vote who was not present at commencement and during the entire progress of the trial. Expulsion means no longer eligible to be a member of the Sons of The American Legion (requires a 67% affirmative vote from members present). Suspension means suspended from the Sons of The American Legion for a maximum of the remainder of the current membership year and one additional membership year. A not guilty verdict dictates no punishment.
19. Such decision at the general membership meeting of the Squadron shall be binding upon the accused and the Squadron unless the accused, within forty-five (45) days from such decision, appeals to Sons of The American Legion, Detachment of Florida. Any appeal, including filing deadlines, shall be governed by those rules enacted by the Detachment Executive Committee entitled "Rules Governing Appeals."
20. In the event of a conflict between these Rules and either the Constitution or By-Laws of Sons of The American Legion, Detachment of Florida, the Constitution and/or By-Laws shall be controlling.



RULES GOVERNING APPEALS

Any appeal taken from a trial held within the jurisdiction of Sons of The American Legion, Detachment of Florida shall be governed by these rules.

1. A Notice of Appeal, in accordance with the attached form entitled "Notice of Appeal" must be received within forty-five (45) days of the final action of the Convening Authority or any appeal is waived.
2. The Notice of Appeal shall contain the following:
 - a. The date, location, participants (accused, Judge Advocate, witness(es), counsel(s), accuser(s), and jurors) and verdict.
 - b. A concise and specific statement of why the accused believes he did not receive a fair trial.
 - c. A brief summary of the testimony of each and every witness.
 - d. A concise statement of the final disciplinary action taken by the Convening Authority.
 - e. Attached to the Notice of Appeal shall be a copy of the charge(s) against the accused and any evidentiary material such as papers or photographs used during the trial. If no such documents were used, then this shall be so stated.
 - f. A copy of the Notice of Appeal must be delivered to the Commander of the Convening Authority contemporaneous with delivery to the Sons of The American Legion, Detachment of Florida.
3. The entity that brought the charge(s) shall have a right to respond to any allegations or statements in the accused's Notice of Appeal. Said response shall be in writing and filed with the Detachment Adjutant within sixty (60) days from the Convening Authority's decision.
4. The Detachment Adjutant shall schedule the appeal at the next regularly scheduled meeting of the Detachment Executive Committee.
5. At the hearing on the appeal before the Detachment Executive Committee, both the accused, either in person or through counsel, and the Convening Authority, through a representative designated by the Convening Authority's Commander or counsel, shall have five (5) minutes to argue their points on appeal. The points on appeal are limited to whether the accused received a fair trial.
6. Any member of the Detachment Executive Committee may question either party.
7. The Detachment Judge Advocate will preside over any such appeal.
8. Upon the Detachment Executive Committee rendering a decision on the appeal, the Detachment Judge Advocate shall reduce said decision to writing and direct said opinion to be distributed to each member of the Detachment Executive Committee, the Department Judge Advocate, the accused, and the Convening Authority.