

# THE AMERICAN LEGION

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OFFICE OF THE  
NATIONAL JUDGE ADVOCATE

To: American Legion Adjutants & Department Judge Advocates  
From: National Judge Advocate Kevin J. Bartlett, J.D.  
RE: Department Executive Committee Suspending a Post Absent a Formal Hearing  
Date: May 28, 2020

This opinion letter discusses the reasons and circumstances an American Legion Department Executive Committee may suspend a post without following a known documented process, such as the “Uniform Code of Procedure for the Revocation, Cancellation or Suspension of Post Charters” (“UCPRCSPC”) found published in the booklet containing The American Legion’s National Constitution and By-laws. This opinion letter is strictly guidance to any Department that may find itself in a situation where the suspension of a post is immediately necessary due to the public health and safety or in order for the need to follow local and state laws.

The rules governing this issue are in the following documents:

- Article VIII of the National Constitution of The American Legion (“NCAL”) in Section One states that “Departments shall be chartered by the National Executive Committee (“NEC”) and shall be composed of the Posts within their respective areas . . .”
- Article IX of the NCAL in Section One states that “Those who desire to form a Post shall apply for a temporary charter to the Commander of the Department in which they reside. The temporary charter shall be issued . . . only when such applying Post is approved by the Commander of the Department or by the Department Executive Committee.” (“DEC”)
- NCAL Article IX, Section Four (2) states that all posts “shall uphold the declared principles of The American Legion . . .”
- NCAL Article IX, Section Seven states that “. . . (post) charters may be suspended, cancelled or revoked by the Department Executive Committee as provided in their respected Department By-Laws.”
- National By-laws of The American Legion (“NBLAL”) in Article III, Section One states that a DEC may suspend, cancel or revoke a Post Charter.”
- NBLAL Article III, Section Two requires a key point that all Posts “. . . under such other conditions as might make such action necessary shall, upon order of the DEC, surrender its charter for cancellation. Upon failure to surrender such charter, immediate steps may be taken for (the post’s) . . . suspension . . .”

- NBLAL Article III, Section Four gave the NEC the authority to develop a uniform code for the procedure to follow in the suspension of a post charter. Such authority is referred to above as the UCPRCSPC.
- And lastly, upon the principle that The American Legion follows all local, state and federal laws as confirmed by resolutions discussed below.

Clearly, it is the intention of The American Legion to develop posts and not suspend or cancel them. The act of suspending or canceling a post is a long and detailed process – much more difficult, complicated and time-consuming than starting a post. One need look no further than the UCPRCSPC to realize that the time and effort to follow the suggested procedure takes months and months to follow and finish.

What if a Department does not have “months and months” to act on suspending a post charter? What if a local police department contacts the department and informs the department adjutant that local post #xxx has ongoing criminal activity occurring inside and if something is not done immediately the department will be held liable since post #xxx has the American Legion name and emblem on the door? What does a department do?

In other words, what are those exigent circumstances that would cause a department to believe that suspending a post charter, without following a uniformed code of procedure for a post charter suspension, is necessary?

The American Legion is founded on the principles of upholding the United States Constitution, maintaining law, order and justice as declared in its Preamble.

The American Legion has passed numerous National Convention (“NC”) resolutions on these principles. At the 1965 NC, Resolution 261 passed stating The American Legion’s support and maintenance of law and order as the prime objective and pre-requisite to the American way of life, liberty and the pursuit of happiness. At the 1969 NC, Resolution 507 passed whereby The American Legion urged immediate implementation and enforcement of all laws according to the process of the laws at all levels of federal, state and local governments and insist upon the prosecution and punishment of all persons who violated the law. The 1970 NC Resolution 326 reiterated the 1969 Resolution 507. Additionally, there is Resolution 303 from NC 1971, Resolution 40 from NC 1973 and Resolution 250 from NC 1974.

**Therefore, any time a DEC is confronted with, or informed of, questionable activity occurring at a post within that department, the DEC, prior to immediately acting, should determine the following:**

**(1) Is the information of the questionable Post activity provided to the DEC from a verified and trusted, informed source?;**

**(2) Is this alleged questionable activity potentially an illegal activity or an activity that could cause harm to others?; and**

**(3) Is it necessary that the DEC must act quickly to protect the organization, the department, its officers, other volunteers and employees from this potentially illegal activity and from additional liabilities?**

If the answers to these questions are yes, then the DEC should act in the best interest of the organization and community and take the necessary steps to prevent any possible further illegal activity or incur any additional liability.