**THE AMERICAN LEGION**

**DEPARTMENT OF CALIFORNIA**

**1601 7TH STREET, SANGER, CA 93657-2801**

**103rd Annual Department Convention, Visalia, California**

**June 23-26, 2022**

**Department Resolution No. \_\_2022-016\_\_**

**Subject: PREVENTION OF MEMBER’S TRANSFER TO ANOTHER POST WHILE UNDER THE THREAT OF HEARING CHARGES**

**Original Author (print) Rudolph Valadez, Post # 079**

**RESOLUTION**

WHEREAS, Significant examples, as herein attached, of members transferring to another Post to avoid Post jurisdiction and charges the Administrative Hearing Manual for violations under Article IV Section 2 of the Bylaws of The American Legion; and

 WHEREAS, The American Legion Constitution, Article IV, Section 4. Provides that no person, who has been expelled from the American Legion by a Post shall be admitted to membership in another Post without the consent of the expelling Post” and

WHEREAS, Under The American Legion Bylaws, Article IV, Section, 1, “Each Post of The American Legion shall be the judge of its own membership, subject to the restrictions of the Constitution and By-Laws” and

WHEREAS, Under The American Legion Bylaws. Article IV, Section 2. “A Post may suspend or expel a member from The American Legion only after providing the member due process and a proper showing of cause”; and

WHEREAS, The Department of California Bylaws Article XVI, Section 2, “Members of the American Legion who are members of Posts of this Department shall be subject to disciplinary action as provided in the Department Administrative Hearing Manual as adopted by the Department Convention and amended by the Departments Executive Committee” and is silent on a Post’s actions against its members after they transfer to another Post while under investigation for wrongdoing or under the threat of possible charges; and

 WHEREAS, The American Legion Department of California, Administrative Hearing Manual, (Revised August 2018), Title 1, Section 1, provides for vestiture of Post disciplinary authority of their members, due process, and procedure, but which is silent on any Post’s authority to maintain jurisdiction until the disciplinary process has been adjudicated; and

 WHEREAS, While The American Legion does not have a process to prevent members from transferring other Posts to avoid their home Post’s disciplinary investigation or charges: and

 Whereas, While it appears on the surface that appropriate disciplinary Articles are in place to handle disciplinary issues effectively but must stop any disciplinary action for lack of jurisdiction when such member transfers to another Post and the rules and by-laws are silent on maintaining the jurisdiction of those members who transfer to avoid discipline.: and

WHEREAS, Specific language must be added to close the gap used as a loophole that allows wrongdoers to evade the spirit and intent of these mandates while accepting Posts fail or are not interested in vetting the incoming egregious members and allow the transfer; therefore, be it

**RESOLVED, By The American Legion in the Department of California Convention assembled in Visalia, California on June 23-26, 2022, that Article XVI of the Department of California Bylaws add the following provision: “Section 3. Any Post that has initiated disciplinary action against an offending member under the Department Administrative Hearing Manual will maintain jurisdiction of that member’s disciplinary process until the cause of such action is resolved, and that the member shall not transfer to any other Post during this process.**

The following is to certify that the Area and Department adopted the above resolution:

 Jerry Salcedo \_\_\_\_\_\_\_6/13/2022 \_\_Brian Johnson 6/13/2022

 Department 5th Area Commander Date Area Adjutant Date

 Department Commander Date Department Adjutant Date