



**THE AMERICAN LEGION**

**DEPARTMENT OF CALIFORNIA**

**CONSTITUTION & BYLAWS COMMISSION**

**OPERATIONAL GUIDE**

**MISSION:**

***“To review and help write the Constitution and Bylaws of the Posts, Districts, and the Department of California through Training and Administrative Support.”***

## **FORWARD**

Many hours have gone into bringing the American Legion Department of California Post and District Bylaws up to date by creating a system by which all active Bylaws can be written, reviewed, and approved to be recorded into the Department's Record.

This process was started in October 2019 by converting all the properly recorded bylaws into PDF format for better access and storage. A system has been developed to assure proper tracking of submissions, review and approval process for all bylaws within the Department of California. The bylaw files were audited for the most recent dates and submitted to Department to be added to the Post Compliance Report. District Commanders and Posts now have the means at their disposal to monitor or review the date for the most current approved set of Bylaws.

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## **OVERVIEW**

This is an Operational Manual for the Constitution and Bylaws Commission for The American Legion-Department of California which shall be referred to as the "Commission" in this manual. It will be made available to all Commission members, Technical Advisors, and the Department Office Staff.

The Commission is comprised of six members (one from each of the six Areas within the Department) plus one or more Technical Advisors. Assigned Technical Advisors should have a working knowledge of the National and Department Bylaws, basic knowledge of the California Corporations Codes for Non-profit Organizations as applied to The American Legion, and Robert's Rules of Order Newly Revised.

The Commissioner for each of the six Areas of the Department are recommended by the Area Vice Commander, appointed by the Department Commander, and confirmed by the Department Executive Committee following the Annual Department Convention. There is a Chairman and Vice Chairman which are also appointed by the Department Commander and ratified by the Department Executive Committee. Each member is allowed by the Department Bylaws to serve up to three terms with each term being up to three years but must be reconfirmed on an annual basis. Any member of the Commission can be removed by the Department Commander, with or without the recommendation of the Commission Chairman or the Department Adjutant. The Commission serves at the pleasure of the Department Commander but works for the membership of the Department.

## **PRIMARY GOALS**

The Primary Goals of the Commission are:

- Assist all the Posts, Districts, County Councils, and Department in developing and updating functional bylaws that will serve in the best interest of The American Legion and all its programs.

- Assist the Department on all levels in keeping their Constitution and Bylaws up to date with the National Constitution and Bylaws of The American Legion.
- Provide resources to help accomplish these goals to include, but are not limited to, written guides, sample bylaws, video and live training.
- Provide advice when and where applicable and within the scope of the Commission's knowledge and responsibilities.

## OPERATIONAL PHILOSOPHY

### **WHAT DO YOUR BYLAWS MEAN TO YOUR POST?**

- \* They give you a guide in conducting your Post's Business...
- \* Establish the Structure of your Post Leadership...
- \* Protect the Integrity of your Post's Operations...
- \* Protect the Assets of your Post...
- \* Assure your Post will operate in a Constructive Manner...
- \* Keep your Post in sync with other Levels of the American Legion...



Having a proper mindset when conducting the business of any organized group is critical to its success. W. Edward Deming once defined "Quality" as "*Meeting customer expectations or requirements*". No matter how good you are at making or doing something, it has little to no real value if it does not meet the needs of those you are doing it for. This is reflected in our Mission Statement and Goals. This Commission bears the responsibility of helping the membership of each Post and/or District establish and maintain bylaws that will both serve the needs of the organization as well as protect its membership, assets, and reputation from harm. The membership is the organization, and the rights and responsibilities of each member has value to the organization's success. When a Post and/or District has a good functional set of Bylaws to conduct their business, the Commission will have helped produced a "Quality" product for that unit. This makes us a Customer Service based commission.

Important parts of doing this lies in establishing specific goals at the onset of each fiscal year, conducting regular meetings, submitting regular reports as required, practicing good communication skills, and following through with the process of each submitted set of bylaws until that Post or District has a properly approved set of bylaws to operate by.

## COMMISSION CHAIR RESPONSIBILITIES

- Provide guidance and leadership for other Commissioners through teaching, guidance, mentorship, and needed administrative support.
- Manage the reviewing and approval process of Post, District, and County Council Bylaws.
- Assist other Commissioners when requested to do so.
- Schedule and conduct Commission Meetings.
- Keep the Department Commander and Adjutant informed of Commission activities, needs, and issues concerning the bylaws on all Department levels.

- Submit reports to the Department Executive Committee as required by the Commander and/or the Department Bylaws.
- Track the progress of bylaws submitted for approval.
- Maintain a digital copy of all the most recently approved bylaws by Post, District, and Department.
- Provide support on all matters concerning the maintenance of all Post, District, and Department bylaws.
- Provide training whenever or wherever needed.
- Assure that all reference material available on the Department website is maintained and kept up to date.

*NOTE: When the Chair is not available, these duties will be performed by the Commission Vice Chair. If the Chair fails to meet their responsibilities may be subject to replacement by the Department Commander.*

### **COMMISSIONER RESPONSIBILITIES**

- Review all the Post, District, and County Council bylaws and/or amendments acceptability for entry into the Department Record.
- Work with Post, District, or County Council directly in establishing acceptable bylaws which will serve them and assist them when they need to be updated or replaced. This includes answering questions, making recommendations or providing training.
- Provide reports to their Area Vice Commanders at Area meetings as required.
- Attend Commission meetings.
- Provide support to the Posts and/or Districts within their Area with training or dissemination of pertinent information.

*NOTE: Commissioners who fail to attend meetings without being excused by the Chair or do not meet their responsibilities may be subject to being replaced by the Department Commander.*

### **MEETINGS**

The commission should meet online as often as necessary, but no less frequently than once every two months. All Commissioners will be compelled to attend. The Department Commander, Department Adjutant, Department point of contact, and Commission Technical Advisor will be invited to attend. Other guests may be invited at the request of any Commissioner, the Department Adjutant, or the Department Commander. The meeting should be open to anyone wishing to attend unless a sensitive matter concerning the Commission is being addressed and at the discretion of the Chair or Department Commander. Meetings should be conducted online using a media platform such as Zoom or GoToMeeting.

A meeting agenda will be made by either the Commission Chair or other appointed individual which will include uncompleted goals for the year and other items to be discussed. There should be an oral report given by each Commissioner on their Area. Each member will be afforded the opportunity to bring up any items or issues concerning the Commission and its areas of responsibility.

Minutes for the meeting will be taken and signed by the Commission Chair or other appointed Commissioner. A copy will be forwarded to the Department Commander, Adjutant and Department contact point for the Commission. The minutes will include those in attendance to the meeting and any Commissioners absent or excused.

## **SUBMISSION/APPROVAL PROCESS FOR BYLAWS**

### **INITIAL SUBMISSION:**

Before any bylaws, bylaws revisions, or amendments can be submitted for approval by the Commission, they must first be read at two Post, District, or County Council meetings and approved by the membership. The two readings and voting dates must be documented at the bottom of the document and certified by the Commander and Adjutant. If this is not done, the document will be returned to the submitting Post, District, or County Council for proper certification of its passage. (NOTE: The District is not a formal part of the approval process for Post Bylaws, but the Post is welcome to have them reviewed by the District if desired.)

*NOTE: Bylaws, bylaw revisions, and amendments are approved by the respective Post, District, or County Council. The Commission only certifies that they are in compliance with all the needed criteria and are approved for entry into the Department record for permanent enforcement.*

Bylaws, bylaw revisions, and amendments will be submitted to the Department in digital form using the PDF or Word format (we prefer Word). They will be emailed to [bylaws@calegion.org](mailto:bylaws@calegion.org).- The Commission Chair or their designate will handle the bylaws throughout the entire approval process. All submissions will be logged in, giving them a specific file name:

The file will be named as follows: P.0999..2022.B.SNA. This consists of the letter “P” for Post, one period, a four-digit number for the Post number, two periods, the year the bylaws were adopted by the Post, one period, and the letter “B” for Bylaws and/or “A” for Amendment. Until approved by the Commission, the letters “SNA” will be added to the file name signifying they are “Submitted Not Approved”.

District Bylaws submissions will be given a similar file name such as D.99..2022.B.SNA. The difference is that a “D” will be used, and the district number will have only two digits.

County Council Bylaws will be Named CC.XXX..1900.B. CC for County Council, XXX using three letters for that County, and the year and B for bylaws (SNA will be used when appropriate)

The SNA copy may be logged into the individual Post or District folder in the Department files. This is done at the discretion of the Department Adjutant.

### **FORWARDING AND REVIEWING:**

A digital copy will be emailed to the appropriate Area Commissioner for review along with a copy being maintained by the Commission Chair as a Chair File Copy.

The Area Commissioner will review the Bylaws for the following criteria:

- They are not in conflict with neither the Department nor National Bylaws in any way.
- They are easily readable and can be understood.
- They do not violate member rights.
- They are not in conflict with California Corporations Code for Nonprofit Organizations.
- The approval process is properly documented at the bottom of the document.

Posts should be encouraged to limit the specifics of any Post business or enterprise as the bylaws are for the Post and its American Legion Operations. However, the Post may opt to include the business bylaws into the Post Bylaws. *The Commission does not have the right to interfere with how a Post chooses to conduct its operations so long as the above criteria is met.* When reviewing them, it is understood that National and Department Bylaws along with California Corporations Code come before the Post, District, or County Council Bylaws, which take precedent over Roberts Rules of Order Newly Revised. Commissioners may advise but cannot mandate those things that are not specifically addressed in the National and Department Bylaws.

The basic template for reviewing Post or District Bylaws should be the Sample Bylaws which the Commission is responsible for keeping up to date with National and Department Bylaws. Another good source is to also use the [Guide for Writing & Submitting Post Bylaws](#) which is maintained by the Commission and readily available on the Department website in the “Resource Library”. The Post /District will be free to make changes to their bylaws to meet the needs of that Post/District if the National/Department Bylaws are followed. The *Bylaws Writing Guide* will help you in determining what can or cannot be changed by the Post in their bylaws. The Samples and the Guide only serve mostly as a template by which Post/District Bylaws are written.

Since there are so few County Councils, each with a unique structure and function, within the Department, there will not be a Sample Bylaws maintained or updated by the Commission for County Councils. However, their bylaws will be reviewed using the same basic criteria as for all bylaws.

The following items are commonly found in some bylaw submissions:

- The terms Executive Board or Board of Directors should not be used. The appropriate term is Executive Committee. This is the term that is used on all levels of The American Legion. While an Executive Committee usually functions as the Board of Directors, the term Executive Committee is still used.
- Posts and Districts are encouraged to follow the basic format of the Sample Bylaws. Rearranging them makes it difficult to follow by the Commissioner when reviewing them and can make things more confusing for the Post membership to follow.
- When working on a revision of the Bylaws (or rewriting), Posts should insert the specific needs into the Sample Bylaws and not insert the Sample into their current Bylaws. Older bylaws often use outdated terms and information.

- Posts should be advised not to use specific values when identifying with things such as Post Dues or Initiation Fees (if used). The reference in the Sample Bylaws of “*The annual dues for this Post shall not be less than the combined amount of Department and National per capita dues, payable annually in advance. This amount may be changed by recommendation of the Executive Committee, upon being read at two regular meetings, a quorum being present and adopted by a two-thirds (2/3) majority of those present and voting.*” Is a good example of this and should be left intact. This way, if they change the dues (or whatever) they will not need to write and approve an amendment to their bylaws.
- One of the most critical areas of the bylaws is the article on Finances. The essential elements of this article should be present (some may be mandated by the Department Bylaws). These are:
  - How appropriations are approved (should be by a vote of the membership).
  - How funds are dispensed. (The Bylaws Writing Guide explains more about this.)
  - The fiscal year of the Post.
  - How the Financial Records are maintained (usually determined by the Executive Committee).
  - Emergency Expenditures (how much may be used and that they must be reported to the membership at the next meeting).
- The Department Bylaws are clear on some basic guideline for officer nominations and elections. Some Posts can be creative on how they do this. This is acceptable if the Department bylaw requirements are met.
- Any direct quotes from the Department or National Bylaws should be used as written and cited. This assures that those bylaws will be properly followed.
- During the Pandemic locked down of 2019-2020, many Posts were unable to meet, chose not to meet or were challenged in maintaining their responsibilities as American Legion Posts. It’s during times like this that the bylaws become even more important and should be followed. Some Posts may try to put in their bylaws that they bylaws can be suspended during emergency conditions. **Bylaws can never be suspended.** It is during times like this that they become even more critical to the operation of the organization. What they can do is to insert a means by which they can fulfill their obligations under the bylaws on conducting meetings and other business of the Post. Such contingencies must support the provisions of the bylaws being left intact. A good example would be adding the provision to conduct meetings electronically or using alternate means of voting to maintain secrecy such as an application or even voting by email.

It is important that Commissioners review submitted bylaws in a timely fashion after receiving them for review. The main reason for this is that once a Post has approved and signed off on a set of bylaws or an amendment to their current bylaws, it goes into temporary effect immediately. What they cannot do is enforce anything that is not in compliance with the Department or National Bylaws as well as any legal requirements under the California Corporations Code. The closer the bylaws are written to the Sample Bylaws, the less likely there will be a compliance issue. Any Commissioner who identifies a needed change in the submitted bylaws must let that Post or District know as soon as they can. Another good reason is that if membership rights are being compromised, they must be corrected so that those rights remain in place. NOTE: *When it comes to Corporate Code Issues, the Commissioner may refer they questions to the Department Judge Advocate.*

*NOTE: The Area Commissioner may request that the Post, District, or County Council submit a copy of the submitted bylaws in Word format to help facilitate making recommended or mandated changes directly to the bylaws (this should be done using the method of crossing out and italics to make the changes). Microsoft Word can convert some PDF files over to the Word format in order to accomplish this.*

Once needed corrections are identified, the Area Commissioner needs to contact the Post, District, or County Council in writing letting them know what corrections are needed. There is a Department Directory available from the Department in PDF format which can be used to help you contact Post or District officers. If one is not available, you can get the contact information from a Department Staff Member. Again, good communication is key here. When using email, it is suggested you send all correspondence, at a minimum, to both the Post or District Commander as well as the Adjutant. If the corrections are more minor, you usually can just email them back to make the corrections. However, there should be a point when adding a phone call can be the best practice for the purpose of clarification. This usually includes either when there is a larger number of corrections, more critical corrections, and especially corrections that could create a conflict in resolving. It is good to remember that our purpose is to help them generate a good set of bylaws that will best serve the needs of the Post.

The format for notifying the Post or District in writing can be done in one of two ways. It is up to each Commissioner to determine which method to use.

- You can take what they submitted and make the corrections using crossing out what needs to be removed and use italics for what needs to be inserted.
- You can send them a narrative letter identifying what changes need to be made.
- Either way is acceptable. The critical thing is that they know **specifically** what needs to be changed. Giving them generalized corrections to make can be confusing and usually does not meet the needs of good customer service.

Once the changes are made the organization will need to return the corrected bylaws directly to the Area Commissioner reviewing them. Changes that are required by either Department or National Bylaws become automatic and do not require approval of the Post membership. The Area Commissioner may discuss a recommend change for the Post to approve, but if there are no conflicts with the higher bylaws, California Corporations Code, or membership rights, the Commissioner cannot force the Post to change them. It is not up to the Commission to tell the Post how to run its business. It is only for it to make sure they are appropriately written.

#### **WHEN CORRECTIONS ARE NOT REQUIRED:**

Most Posts will write their bylaws staying close to the sample online and will only change a few specific details. Hopefully you won't have too many bylaw submissions needing changes.

Once you have determined that the bylaws are approved for entry into the Department record, the commissioner will need to generate an approval form. Only fill out approval forms for bylaws that you are approving and not for those being returned for needed changes. The approval form will need to be attached to the top of all approved bylaws and/or amendments. If the Commissioner is unable



to meld the approval form and bylaws into a single PDF document, this can be done by the Commission Chair. It will be up to the members of the Commission on how to best get this done. Once the approval form and the new bylaws or amendment are in one PDF file, the file name will need to be changed by removing only the SNA from the name. Two examples are “P.0999..2022.B.SNA now becomes P.0999..2022.B “or “D.99..2022.B.SNA” now becomes “D.99..2022.B”.

NOTE: A blank copy of the Approval form is available from the Commission Chairman and only for Commissioners.

**Amendments** that are approved should be attached to the bylaws being amended at the bottom and the new file name should be “P.0999..2022.BA”, essentially adding an A to the file name maintaining the original date the bylaws themselves were approved. The order of the documents on the new file should be Bylaws Approval Form, Bylaws, Amendment Approval Form, Amendment. Once the document is completed and the file is properly named, it will need to be sent to the Department Point of Contact once approved for entry into the record.

Again, how this process is executed will be up to each of the Commission members or Chair. It will be the responsibility of a designated Department contact person to file the approved bylaws in the Post or District file and to update the most recent approval date in the Administrative Compliance Report.

#### **CHANGES RESULTING FROM NATIONAL OR DEPARTMENT BYLAW AMENDMENTS:**

Any changes to either the Department and National Bylaws affecting the Post/Districts and their bylaws will become automatic. It is the responsibility of each Post or District to keep their Bylaws up to date and must be done no later than 60 days following the close of the National Convention. The easiest way to do this would be to add an appendix to the current bylaws noting the changes required. This can be easily attached to the Post or District Bylaws and does not require a review or approval by the Commission since the change is required.

#### **COMPLIANCE AND UPDATING**

There are two main challenges that the Department has for the Commission to succeed in its mission.

The first challenge for the Commission is to help all entities within the Department keep their Bylaws up to date. With the changes in the Department Bylaws in Article V, Section 21, Article VI, Section 11, *and Article VII, Section 9*, Post, District, or County Council are required to update or rewrite their bylaws no later than every 7 years. Compliance to this requirement will be monitored and managed by the Department. The Commission should be doing what it must in support helping all Posts and Districts achieve this goal.

The second challenge facing the Commission is getting Posts to make recommended changes in a timely fashion. Posts will be required to submit the required changes given to them by the Area Commissioner within 60 days of a written notification. This will be vital in preventing any backlog of unfinished bylaws for the Commission. Changes or amendments mandated by Department or National Bylaws do not require approval by the membership.

## **TRAINING:**

One of the keys to success lies in Training. This applies to both the Commissioners as well as the Posts and Districts. This will start with a Training/Review session to go over the bylaws as a Commission at the start of each year and discuss what is acceptable and what is for approval. We need to be consistent in what we are doing. There will also be training made available to new Commissioners on the how the Commission works, and Bylaws are processed.

A Power Point Presentation on how to write Post Bylaws is available to all the Commissioners who wish to do a training session at an Area or other Meeting. Each year as the Post Bylaws Sample is updated, so will the Power Point Training tool be updated along with the other resource tools on the Department web page. The Presentation will be updated by the Commission Chair and reviewed by the Commission members. Other resources may be updated by an assigned Commission member.

## **CHANGES TO THIS GUIDE:**

Changes can be made to this guide as needed by the Commission. All updates must be forwarded to all concerned members including the Department Commander, Adjutant, the DEC, and the Point-of-Contact at Department Headquarters. Once the final version is approved, it will be forwarded.

Respectfully Submitted:

*Mark L. Rice*

Mark L. Rice, Chairman  
Constitution and Bylaws Commission  
Department of California

## **APPENDIX**

### **SUGGESTED TIMELINE: (EACH FISCAL YEAR)**

June: Department Convention.

July 1-10: Revise Sample Bylaws and Resource Materials for Department Website.

August: Commission Meeting to discuss the Sample Bylaws and Goals for the year.

September: Conduct an online Bylaws Workshop.

October: Review Sample Bylaws and Resource Material (Be aware of any National Bylaw changes).

January: Discuss any possible Resolutions from the Commission.

February 15: Have Resolutions completed and distributed.

April Meeting: Review the Commission's Progress.