

National Executive Committeeman December 2025 Newsletter



Merry Christmas and Happy New Year. This is your monthly update of everything National in The American Legion.

We had a great visit with National Commander Dan Wiley during his brief stay with us November 12th – 14th. He met with Doctor Michael Moore, Director of the Central Arkansas Veterans Healthcare System and Robert Ator, Secretary of the Arkansas Department of Veterans Affairs. We were also able to bring him to Post 20 in Russellville, Post 39 in Morrilton, and Post 19 in Benton. Commander Wiley needed to cut his visit short with us because he was summoned to a meeting at the Veterans Administration with Secretary Collins. Each one of the posts we visited did an outstanding job in making him feel welcome and donations were made to his Commander's Project, the Veterans and Children Foundation.

I want to use the rest of this letter to explain the relationship each Post has with the Department and the National Organization. As you know, The American Legion is chartered by Federal Law under Title 36 U.S. Code. The specific section is 217. This section grants our charter, describes eligibility for membership, the purpose of our existence, and other conditions under which we must operate. Section 21704 is subtitled "*Powers*" and gives our National Organization the right to adopt a Constitution, establish State Departments and local Posts, and perform other acts necessary and proper to carry out the organization's purposes. Subsection 21704-(5) is what I want to focus on.

Subsection 21704-(5) is only one sentence long, but it carries significant weight in the relationship the post has with their Department and National organization. It states, "*The Corporation may – provide guidance and leadership to organizations and local chapters established under paragraph (4), but may not control or otherwise influence the specific activities and conduct of such organizations and local chapters.*" While this provision explicitly refers to National, by inference, it also applies to the relationship between the Post and Department.

There are two parts to this sentence. The first is that Department and National are expected to provide guidance and leadership down to the post level. The guidance may be in the form of manuals and publications, reports from meetings and conferences, advice from legal experts and other specialists, and interpretations of state and federal laws as they apply to non-profit organizations. The leadership includes establishing meeting platforms, electing our leadership, collecting dues, reports, and documents, and providing controls when a Post violates the Department or National Constitution. Consider both of these provisions as what The American Legion must do for your post.

This same sentence has some items that the Department and National must not or cannot do for or to your post, as it would violate federal law. They "*may not control or otherwise influence the specific activities and conduct of such organizations and local chapters.*" This means that National and Department cannot come into your Post to run your meetings, elect your officers, or control your finances. They cannot manage your programs, direct your activities, or discipline your members. They have limited control over your daily operations. But wait a minute, I just said in the previous paragraph that the parent organization can provide controls when a post violates the Constitution.

This is not a contradiction; your Post is expected to operate under the conditions established within Title 36 U.S.C., which includes adhering to the provisions specified in the National and Department Constitutions. This is why your Post Constitution must be reviewed and approved by the Department Executive Committee. If your Post chooses to violate the Department or National Constitution and By-Laws, the Department is obligated to take control of your operations until you can correct the issue that caused the Department to intercede. This is done by suspending your Charter.

The Post Charter hanging on your wall is the official document that allows your existence and is your letter of autonomy. It allows you to operate and participate in the organization and use the name and emblem of The American Legion. It assigns your Post name, number, and city you call your Post home. It is the Establishment Document for every program and activity you perform. If you do not have this

document in the procession of your Post, you cannot function as a post of The American Legion. Your Post officers and membership are responsible for maintaining the autonomous operation of your organization by staying within the provisions of Title 36 U.S.C. and the National and Department Constitutions, obeying state and federal laws, maintaining their 501(c)19 non-profit, and the Secretary of State requirements for incorporation

If your Post and/or membership are operating outside the provisions of the Constitution, Department can and will suspend your charter. National By-Laws Article III, Section 2 has the following language: *“Any Post failing to meet the obligations imposed upon it by the Constitution and By-Laws, or ceasing to function for six months as an American Legion Post, or voluntarily ceasing to function as a Post, or merging with one or more other Posts, or refusing to pay the Department and National per capita dues, or under such other conditions as might make such action necessary shall, upon order of the Department Executive Committee, surrender its charter for cancellation.”* Your Department may not immediately begin the process to cancel your charter; however, following the Uniform Code of Procedure for the Revocation, Cancellation, and Suspension of Post Charters, your Department Executive Committee can take control of your post, including all operations, or may choose to shut down the post permanently.

If the Department suspends a Post Charter, they will take control of Post operations only to the extent of getting your organization realigned with the State and National requirements. They cannot elect Post officers, run Post programs, or manage a Post bar. Consequently, the Department is not obligated to work with the Post or help them reopen. They can choose to shut it down, especially if the DEC finds that the post may be a public nuisance and it would not be in the Department's best interest to reopen. It is up to the DEC to decide if they will advise and facilitate the Post in internally reorganizing and revitalizing. If a Post cannot or will not progress towards regaining the confidence of the Department, the next and final step is to start the proceedings to cancel the Post charter. Once a charter is cancelled, everything that is and was that post, its property, furnishings, and finances, becomes the property of Department. The members will be dispersed to other posts or transferred into the Headquarters Post.

What are your Post responsibilities and how to protect your Charter? – Verify that your Post Constitution does not conflict with the Department and National Constitutions. Determine that your operation and programs are within the character and scope of our Federal Charter. Apply discipline to your members fairly, appropriately, and with due process. Comply with State and Federal laws. Protect your Post and members by being incorporated. Maintain your non-profit status for IRS and State purposes. Protect the name and emblem of The American Legion and the image of your Post as a representative of our organization.

This may seem to be a lot of context from such a short sentence within Title 36 U.S.C, but it is established from all the documents that were developed through our interpretation of Federal Law and the controls that have been placed on us by the IRS, Congressional Reviews, and Supreme Court decisions. Our Department and the National Organization will always protect our Charter against any poor decisions made by any Post.

Enough said – I hope to see you at our Mid-Winter Conference January 9-11. Please contact me if I can be of any assistance to you or your Post.

Sincerely,

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