Dept. of Ohio Disciplinary Training Part I - II

Part I – Post Violations

Part II - Canteen Violations

Post Discipline
Introduction to part I & II

- The post disciplinary process is one of the most misunderstood or ignored aspects of running a post.

Many post trustees / officers fail to realize the importance of a proper disciplinary process.

Why is it important ?

Most members know they have rights in the organization and that there is a disciplinary process that needs to be followed.

And they will rightfully call foul if it is not followed correctly or not done at all. Causing the

District / Department to step in on the members behalf.

It can also Cause

- morale problems in the post.
- and can decrease the confidence and respect the membership have in their officers and trustees.

Every post officer and trustee, by accepting the responsibility their position:

Owes it to the membership and themselves to study & learn this process.

And to treat every member the same, no matter who they are, what position they may or may not hold or the offense they are accused of…Because!!!!

Nothing Angers a member more than when he or she is not treated justly and by the book, or see's that the rules are not enforced fairly or consistently.

This will drive members away from your post faster than anything else.

" That wasn't fair, I'm Outta Here!"

5 things every officer and trustee should know.

1.

A member cannot be given a post or Canteen suspension without a proper hearing.

The **only** exception to this would be if there is reason to believe that letting the violator back in the post before their hearing date could cause physical harm to persons or property of the post.

2.

The difference between a Canteen Violation and a Post Violation.

Simply a canteen violation is a violation of any posted Canteen rule.

If the violation is for anything else it is a post violation.

3.

Who receives and hears (handles) the violation.

a) The Chairman of the board of Trustees receives written canteen violations. The violations are heard by the post 3 member disciplinary panel.

b) The post Commander receives written post violations. The violations are heard by the post Eboard.

4.

Who is the 3 member panel and what is their purpose?

The panel is selected by the BOT at its first meeting after elections. They may hold the position for 1 year or as long as the BOT wishes.

The panel is made up of three post members (should not be officers) that are in good standing and of high morals.

They hear Canteen violations only. (They do not hear post violations) They listen to and read the evidence in the case and make a recommendation for punishment or acquittal to the BOT.

5.

Every Member is entitled by the CBL to know the Identity of there accuser and to have a written copy of the Charges against them!

Continue to Part I or Part II

Part I
Post Violations

CBL's used

- NCBL – Appendix B.
- Step by Step guide to suspension or expulsion of a member

- Dept. CBL Art. XX
- UPCBL Art. XVIII, XX, XXII

Preliminary

- Who Receives the charges –
- Post Commander

- Who Hears the Charges –
- Post Executive board

- Who Prosecutes the Charges –
- Post Judge Advocate

- Hearing is held in closed session (executive Session)
- NO spectators or Audience

Example violation

Member Smith is a life member and Vice Commander of the post

One evening he takes and unauthorized Jar of Shine into the canteen, which is in violation of the posts standing rules art. 7 and possibly State liquor law and starts pouring shots for his friends and himself.

He is asked to stop by the Bartender and refuses. He is then asked to leave for the evening by the bartender.. He complies.

The next day he is written up by the Canteen Manager and charges are signed by a Trustee.

Is this a Canteen violation or a post Violation?

- Post Violation- even though it happened in the canteen.
- He violated post Standing Rule
- He was written up on a standard form.
- Charges signed by a Trustee.
- Who receives the charges?

The Post Commander
(Commander Jones)

- Receives the charges

- He/She checks that the charges have been completed properly and are signed by the complainant.

- Commander then signs and dates the complaint form. Thereby officially receiving the charges.

- On receipt of the charges and specifications, Commander Jones, within five days sends a copy of the charges by certified mail to member Smith, together with a notice fixing a date, place and time of a hearing to be held not less than 30 days after said date of mailing.
  Complies w/ NCBL Appendix B sec.3

- Key points to remember

- Notice must be sent within 5 days of officially receiving the charges
- Copy of the charges are sent with the notice.
- Hearing date- No sooner than 30 days of said mailing

Sample Notice

- Dear Vice Commander Smith

You are hereby notified to appear before the post Executive board on August 20th 2019 at 1900hrs in the post meeting room. To answer to charges, that you violated Post standing rule article 7. (No unauthorized Beverages allowed in Canteen)

Respectfully

Commander Jones

Hearing

- **No member against whom charges have been preferred, or who has preferred charges against, shall sit in judgment on any board, committee, or panel deciding the issue. (NCBL appendix B sec.4)**

- If the accused is not present at the start of the hearing the case will continue to finalization in their absence. **(per Roberts Rules of Order)**

- Member Smith has the right to be represented by counsel of his choosing. (Counsel can be an attorney or not (but must be an AMVET member)
- He also has the right to question and cross-examine his accuser(s) as well as any witnesses for or against him. **(NCBL appendix B sec.4)**

- The presiding officer (Commander Jones) shall decide all questions as to the relevancy of evidence and the regularity of the proceedings.**(NCBL appendix B sec.6)**

- On the conclusion of the hearing, a vote shall be taken first as to whether there is a basis for the charge or charges and, if by the vote, it is determined that there is none, then charges may be dismissed.
- If the charges are not dismissed,
- then a vote shall be taken on the guilt or innocence of each of the charges and each of the specifications. A two-thirds vote of the members of the executive committee hearing the charges and specifications shall be required to sustain any charge or specification. Voting herein provided for shall be secret or open as said executive committee may, by majority vote thereof, determine (NCBL Appendix B)

- Note: The JA after prosecuting the case. Is not part of the deliberations
- But should be available for procedural questions.

- ***Three (3) votes by the board are required at the end of the hearing to sustain a guilty verdict.***

- *(vote 1) Majority vote of board is held to determine the basis of the charge(s).*

If it is determined that there is no basis the charges are dismissed. If the charges have merit the board moves to vote 2.

(vote 2) A vote to determine guilt. A 2/3rd is taken on <u>each</u> of the charges and specifications

*If by a 2/3rd vote a verdict of innocent is reached on **ALL** charges and specifications, the accused must be found innocent and the charge(s) are dismissed.*

If by a 2/3rd vote a verdict of guilty is reached on **ANY** of the charges or specifications. The member shall be deemed guilty.

The officer presiding at the hearing shall then put the question of the degree of punishment.

- *(vote 3) Majority vote of board shall determine the punishment that will be issued.*

- Any member whose membership is suspended or forfeited may appeal to the next highest level applicable from that which heard the charges and specifications

- District to State to National.

- If guilt is found the member may be called in and given the verdict in person. If not a certified letter must be sent to the member.

- They should also be told about the appeal process.

QUESTION?

- *After the Hearing- Is the Executive board allowed to discuss the case with other members? –*

- ***NO**!! Proceedings as in any meeting that is held in executive session are confidential. Only the final result (verdict) may be released as needed. Discussing case details opens the post to a libel suit.* ***(Roberts Rules of Order)***

Things to Remember

Post Adjutant should keep all minutes or recording and documents locked up securely. In case of appeal.

- Keep any and all references pertaining to the case out of social media.

- All charges other than canteen violations against a subordinate member must be turned over to the organization the accused is a member of for adjudication.

- The post Veteran Eboard cannot put a member of a subordinate organization on a post suspension.. Or any member on a canteen suspension (There are exceptions)

- If a verifiable and documented violation occurred and the subordinate organization refuses to discipline its member please contact the Department JA.

- Can a subordinate organization member file a charge against a Veteran?

- Not directly but they can file a request for charges.

- Dept. CBL Art. XX Sec. 3 (New June 2018)
- Members of a subordinate organization may file letter of complaint against a Veteran with the Post commander. The Commander shall investigate and take appropriate actions as provided for in the constitution and bylaws. If the said letter of complaint is not already cosigned by a Veteran, The Commander and Executive Board after completing their investigation deems the incident worthy of adjudication by a majority vote, shall direct the post Judge Advocate to cosign the letter of complaint previously signed by the subordinate.

- If a member from another post comes into your post and commits a violation. Charges are written up and sent to the Commander of the post to which the offender belongs.

QUESTIONS

Part II
Canteen Violations

What is a Canteen Violation

- Simply, a canteen violation is a violation of any posted Canteen rule.

- If the violation is for anything else it is a post violation.

- Canteen Violation are handled differently than Post Violations
- The Initial hearing is held by a selected Panel of 3 post members called the disciplinary panel.
- These Members are chosen by the BOT for their good standing and good values
- If done correctly Canteen Violations "Start and Finish" at the Post.
- The District, Department or National are not involved.

If the BOT is in charge of the Canteen. Why don't they hear the charges? (Good Question)

- Since Canteen Violations are handled at the post level (from start to finish).
- Allowing the three member panel to hear the charges first, permits the accused member to exercise their right of appeal.

- The Board of Trustees is the appellate Board and…

- Their decision is final.

Procedure

- Upon written receipt of a written Canteen violation. The Chairman of the BOT checks it for completeness and that it is properly signed by the accuser… Once satisfied.
- The Chairman will sign for receipt of the charges.
- The Chairman within 5 days will send a notification letter by certified mail to the accused.

- The letter must contain the date, time and location of the hearing as well as a copy of the charges.

- While no time limit is set in the CBL in regard to how soon a hearing can be held on a canteen violation. It is highly recommended that sufficient time for the post office to deliver the letter be allowed.

- The notification letter must be sent by certified mail.

Sample notification letter

Dear Mr. ----

You are hereby cited to appear for a hearing in the AMVETS Post __ meeting room before a 3 member panel at 8:00p.m. on Wednesday November 15, 20__, to show cause why you should not be suspended from the canteen on the following charges:

[Text or copy of charges and specifications]

By order of the Board of Trustees,

Joey E. Brown,
Chairman
Post __ Board of Trustees

(Copy of Charges must accompany Notification letter)

Hearing

- **No member against whom charges have been preferred, or who has preferred charges against, shall sit in judgment on any board, committee, or panel deciding the issue. (NCBL appendix B sec.4)**

- If the accused is not present at the start of the hearing the case will continue to finalization in their absence. **(per Roberts Rules of Order)**

- The presiding member of the 3 member panel shall decide all questions as to relevancy of evidence and the regularity of the hearing.

- The accused has the right to question and cross-examine his accuser(s) as well as any witnesses for or against the him.

- At the conclusion of the hearing a verdict will be reached by the panel by majority vote.

- Upon reaching a verdict and deciding on any sanctions the panel will then present their recommendations to the board of Trustees. The board after receiving the recommendation may uphold the panel's decision or lesson the panels recommended sanctions.
- But the board cannot issue a more severe punishment. **(Roberts Rules)**
- The board will then send a copy of its decision to the member by certified mail. Along with information on the appeal process.

Appeal

- If the member appeals the decision the process starts over starting with the certified letter announcing the time, date and place of the appeal hearing before the entire Board of Trustees in which the chairman of the BOT is the chair.

Appeal

- Note that after the appeal hearing the board may render and issue any verdict and sanction the board desires in regard to a canteen suspension and are no longer limited to any decision made by the 3 member panel.

- If the appeal hearing was conducted properly the member has no further appeal and the decision of the BOT is final.

Things to remember
(canteen violations)

- Unlike Post violations the three member panel hears all Canteen violations regardless of who committed the violation or what AMVET organization they belong too. Likewise the BOT hears all appeals pertaining to Canteen violations.

- DO not try to bypass any of the steps involved in the disciplinary process. Doing so invites the District or Department to intervene on behalf of the accused.

- Putting a member on a suspension without a hearing could result in charges against the officers, trustees or manager involved.

disclaimer

- In no way is this guide meant to replace the CBL's of the National or Department organizations.

- Please read the CBL's before handling a disciplinary case.