



# Marine Corps League

## Professional Development Grievances & Discipline





# **ADMINISTRATIVE PROCEDURES**

## **CHAPTER NINE**

### **GRIEVANCES AND DISCIPLINE**



# SECTION 900 DEFINITIONS

# SECTION 900

## Definitions



- **PETITIONER:** The petitioner is the person or unit bringing either a grievance or disciplinary charges under this chapter.
- **RESPONDENT:** The respondent is the person or unit against whom a grievance or disciplinary action is sought.
- **GRIEVANCE:** A grievance is an injury, injustice or wrong which gives ground for complaint because it is unjust, harmful, afflictive or oppressive. It does not subject the member, detachment or department to punishment, but seeks to resolve the injury, injustice or wrong if such is found.



- **DISCIPLINARY CHARGES:** A formal complaint, accusation, information or indictment of a member, detachment or department in which disciplinary punishment is sought. “Charges” preferred under this chapter need not be by reference to a section. A disciplinary charge shall specify: What was alleged to have occurred, when it was alleged to have occurred and such other supporting information as may be necessary to adequately inform the respondent so a defense may be prepared. Detachments do not have any disciplinary jurisdiction upon any member.



- **RULES OF EVIDENCE OR PROCEDURE:** The rules of evidence or procedure prevailing in a court of law and/or equity shall not be controlling in actions under this chapter. All questions as to the relevance and admissibility of evidence and the regularity of the proceedings and the credibility of witnesses and evidence shall be determined by the appropriate Hearing Board and such shall not be overturned on appeal unless such Hearing Board is clearly in error. The goal of this chapter shall be to insure that matters are expeditiously, fairly and justly heard.



- **BURDEN OF PROOF:** The party bringing the grievance or the disciplinary charge has the burden of proving his allegations to the satisfaction of the Hearing Board. Any counter-charges or allegations made by another party must be proved by that party.
- **SERVICE OF NOTICES:** All notices and correspondence required by this chapter must be served by Certified Mail, return receipt requested.



- **WRITTEN COMMUNICATIONS** - The use of e-mail or fax is not allowed as notices of appeal except as permitted by the National Board of Trustees nor do such transmissions meet time deadlines. The proof of timely service is upon the proponent. A Certified Mail receipt constitutes timely service. If the Respondent refuses service and the Proponent displays a Certified Mail receipt, this constitutes timely service.
- **BOARD OF TRUSTEES VOTES:** If the Board of Trustees is not in active service, as stated above, e-mail communication is approved on any vote taken by the Board if the notice is from the National Adjutant/Paymaster.



- OATH: All testimony will be given under oath. The oath will be: "I do solemnly affirm to tell the truth, the whole truth, nothing but the truth."



- **TIMELY APPEALS** - All appeals will be served in a timely manner. If not, the appeal shall be deemed waived absent a showing of good cause. All appeals of any decision are due no later than thirty (30) days from the date of the decision. A Certified Mail receipt within such period constitutes proof of service for the appeal.
- If a member, Detachment or Department, feels that there is material grievance or wrong doing within the unit, or that a member has a grievance himself/herself you must do the following:



- The person with the grievance (Petitioner) shall present to the Department Judge Advocate a grievance in writing setting forth as clearly as possible the basis for the grievance. A copy will be sent to the Respondent and additional copies sent to the Department Commandant and the National Judge Advocate. The Respondent, if he/she wishes has ten (10) days in which to answer in writing to the Jurisdictional Judge Advocate concerning the defense.



- The Department Judge Advocate will examine the grievance and immediately attempt to mediate the dispute. If he is successful, he will so notify the Respondent and the Petitioner in writing that the matter is resolved and no further action is needed. The National Judge Advocate is to also receive copies of the report. If the mediation fails, the Judge Advocate will so notify the Department Commandant.



## REMEMBER

- All correspondence will be sent by Certified Mail, return receipt requested.
- Make certain that copies are disbursed to the participating parties.
- Keep within the time limits for mailings.



# **SECTION 901 GRIEVANCES**



- Upon notice that the grievance is not resolved, the Department Commandant will appoint a Hearing Board consisting of Himself/Herself as the Chairman, the Department Judge Advocate and at least three (3) other members, none of whom shall be members of the unit involved.
- Board has the AUTHORITY to convene a Hearing at a time and place of its convenience within the Department on which the alleged grievance did occur. If there are any challenges to the makeup of the Hearing Board, they must be made prior to the convening of the Hearing Board or they shall be deemed waived.



- The Hearing Board may or may not call witnesses. It will hear testimony either orally or by affidavit and it may also conducts its own investigation. As always, the Petitioner has the responsibility to prove his/her allegations brought against the Respondent.
- The decision of the Hearing Board must be affirmed by the majority in writing. If the grievance is substantiated and proved, the Hearing Board shall so state in its decision the action necessary to eliminate the grounds for the grievance. If the grievance is not substantiated or proved, the written decision shall so state. It must be forwarded within fifteen (15) days to the Petitioner and Respondent, with copies to all of the participating parties and the National Judge Advocate.



- If the grievance is substantiated and the Respondent later refuses to by action or otherwise take the action to remove the grievance, he/she may face Disciplinary Charges.
- The right to appeal is afforded to the Respondent and the Petitioner if they disagree with the decision of the Hearing Board. The appeal would be sent by Certified Mail, return receipt requested directly to the National Judge Advocate and must be filed within thirty (30) days of the decision of the Hearing Board. The appeal should be clearly written stating the basis for such appeal.



- The National Judge Advocate will rule on the appeal and advise all parties involved in writing within fifteen (15) days of receipt of such appeal the decision to substantiate or deny the appeal.
- The National Judge Advocate may base his decision solely from the record or may permit the Petitioner/Respondent or any other party to make written or oral argument concerning the appeal before the National Judge Advocate after due written notice to all other participating parties.



- If the record of the hearing is insufficient or there exist material irregularities in procedure, The National Judge Advocate may refer the matter back to the Hearing Board to supplement the record or to correct such material irregularity to insure that justice prevails.
- The Petitioner/Respondent may appeal the National Judge Advocates decision in writing setting forth the basis for such appeal within fifteen (15) days to the National Board of Trustees via the National Commandant.
- The National Board of Trustees shall review the appeal at the first scheduled meeting subsequent to receiving such appeal.



- The Board may make its decision merely from the records or it may permit the Petitioner/Respondent or any other party to appear and argue the matter before the Board after due written notice to all other participating parties. It may take, but is not required to take, further evidence relating thereto under such rules and conditions as it may from time to time adopt.
- The National Board of Trustees may sustain or reject the decision of the National Judge Advocate. If they fail to sustain the National Judge Advocates decision, it shall rule on the appeal and issue its own decision in writing to all participating parties through the National Adjutant/Paymaster.
- The decision of the National Board of Trustees is FINAL and there are no further rights of appeal except as may be specifically granted by this chapter.

# SECTION 901

## Grievances



### REMEMBER

- All correspondence must be by Certified Mail, return receipt requested.
- The Hearing Board is convened by the Department Commandant who acts as Chairman and three (3) other members including the Judge Advocate.
- No member of the Hearing Board can be from the units involved.



- Petitioner/Respondent have the right to appeal the decision to the National Judge Advocate.
- Follow time constraints.
- The Hearing Board is the result of a failed mediation.

**WHEN YOU HAVE TWO PEOPLE YELLING AT EACH OTHER,  
THEN YOU HAVE NO ONE LISTENING!!!  
IF YOU HAVE PROBLEMS, WORK THEM OUT...**



# **SECTION 902**

## **DEPARTMENT OR DIVISION GRIEVANCE**



## SECTION 902

### Department or Division Grievance

- If a Department, a Division, a Department Officer or a Division Officer is the Petitioner, all matters shall be handled directly by the National Judge Advocate; he and the National Commandant will proceed in accordance with the procedures outlined in 901 (a), (b), (c), (d), (e) and (f).
- The Petitioner/Respondent has the right of appeal to the National Board of Trustees if he/she is not in agreement with the Hearing Boards decision. The request for appeal must be in writing directly to the National Adjutant/Paymaster clearly stating the basis for the appeal.



- The appeal must be filed within thirty (30) days of the decision of the Hearing Board.
- The National Adjutant Paymaster will distribute copies of all pertinent information to the members of the Board of Trustees. Each member of the Board will render their opinion in writing to National Headquarters within fifteen (15) days; whereupon the National Adjutant/Paymaster will inform the Petitioner/Respondent of the decision of the majority of the National Board of Trustees, either-sustaining or denying such appeal. The decision of the National Board of Trustees is final...

## SECTION 902

### Department or Division Grievance



- If a grievance arises during the National Convention, it shall be immediately presented in writing to the National Judge Advocate.
- The National Judge Advocate shall attempt to mediate the grievance.



If mediation is unsuccessful:

- The National Judge Advocate shall petition the National Commandant to immediately convene a Hearing Board of at least three (3) members of the National Board of Trustees or such other members as the National Commandant shall designate. The National Commandant may serve as the Chairman of that Hearing Board or shall appoint a Chairman to serve in his stead.
- The Hearing Board may call witnesses and hear appropriate testimony either orally or by affidavit and may conduct its own investigation.



- The Hearing Boards decision must be affirmed by the majority and shall be served immediately in writing upon the Petitioner and Respondent immediately.
- If the grievance is substantiated and proved, the Hearing Board shall state in its decision the corrective action necessary to eliminate the grievance.
- The Petitioner may appeal the Hearing Boards decision directly to the Convention but has the burden of proving such grievance to the Convention...



## SECTION 902

### Department or Division Grievance

- A majority vote of the Convention, with the affected member and/or delegation(s) abstaining, will prevail.
- If the grievance concerns the seating or voting of a delegate or delegation, the Convention shall stand in recess until the matter is resolved.
- Any grievance applicable to a National Convention, shall be filed in writing with the National Judge Advocate, prior to commencement of the Convention; whereupon he shall proceed in accordance with Sections 903 (a).



**SECTION 903  
NATIONAL CONVENTION  
GRIEVANCE**



- The grievance shall be presented to the NJA immediately, in writing.
- The NJA shall petition the National Commandant to convene a Hearing Board.
- The Commandant will appoint at least (3) members of the Board of Trustees or other members as he/she wishes.
- The Commandant can stand as Chairman or appoint another to stand in their stead.



- The Hearing Board may or may not call witnesses. It can hear oral testimony or testimony from affidavit. The Hearing Board can also conduct its own investigation.
- The Hearing Boards decision must be affirmed by the majority and shall be served on the Petitioner/Respondent immediately.
- The Petitioner may appeal the decision directly to the Convention.



- A majority vote of the Convention, with the affected member and/or delegation will not vote.
- If the grievance concerns the seating or voting of a Delegate or Delegation, the Convention will stand in recess until the matter is resolved.
- Any grievance applicable to the National Convention, shall be filed in writing with the National Judge Advocate, prior to the commencement of the Convention; whereupon he shall proceed in accordance with Section 903 (a).

## SECTION 903

### National Convention Grievance



- If the grievance is substantiated and proved, the Hearing Board shall state in its decision the corrective action necessary to eliminate the grievance.
- The Petitioner may appeal the Hearing Boards decision directly to the Convention but has the burden of proving such grievance to the Convention...
- A majority vote of the Convention, with the affected member and/or delegation(s) abstaining, will prevail.



- If the grievance concerns the seating or voting of a delegate or delegation, the Convention shall stand in recess until the matter is resolved.
- Any grievance applicable to a National Convention, shall be filed in writing with the National Judge Advocate, prior to commencement of the Convention; whereupon he shall proceed in accordance with Sections 903 (a).



**SECTION 904  
DISCIPLINE  
MEMBER, DETACHMENT, DEPARTMENT OFFICERS  
OR  
BOARD OF TRUSTEES**



Whenever an individual member, Detachment, Detachment Officer, Department Officer or a member of the Board of Trustees of a Detachment or Department commits an act contrary to the National Bylaws and Administrative Procedures of the Marine Corps League, or an act deemed not in the best interest of the Marine Corps League, said individual member, or member of the Board of Trustees shall be charged as follows:



- A written complaint setting forth in detail the basis of the disciplinary charges shall be served upon the Respondent (This is commonly referred to as the SPECIFICATIONS) with copies to the Department Commandant and the Department Judge Advocate by Certified Mail, return receipt requested.
- The written complaint may be served in person by the Department Sergeant-at-Arms, upon service, the Sergeant-at-Arms shall file a written return of service specifying the date and time the Respondent was served.

**A FAILURE TO ACCEPT OR REFUSAL TO ACCEPT CERTIFIED MAIL  
OR  
TO SIGN THE RECEIPT OF SUCH MAIL AFTER DUE NOTICE  
FROM THE USPS SHALL BE DEEMED GOOD SERVICE!**

## SECTION 904



- After receiving the written complaint with the charges and specifications, the Department Judge Advocate shall have twenty (20) calendar days in which he/she may conduct a preliminary informal investigation to determine the merit of the disciplinary charge and should explore the possibility of a negotiated settlement.
- In the absence of a settlement being accomplished in the twenty (20) calendar day period, the Department Commandant shall immediately appoint a Hearing Board as required herein which shall convene within forty (40) calendar days subsequent to such appointment.



- The appointed Hearing Board shall be composed of the Department Commandant as Chairman, the Department Judge Advocate and a minimum of two (2) other members. Ideally, there should be an odd number such as five (5) totally.
- The Hearing Board is empowered to convene a Hearing Board at a time and place of its convenience subject to limitations as set forth above in Paragraph 904 (c). Any challenge to the composition of the Hearing Board or to the notices given must be made at least ten (10) days prior to the start of the hearing or they shall be deemed to have been waived.



- The decision by the Hearing Board shall be made in writing and must be affirmed by a majority of the Hearing Board. If the disciplinary charge(s) are substantiated and proved, the Hearing Board shall also state the punishment awarded by the Hearing Board. Additionally, if the disciplinary charge(s) is not substantiated or proved, the written decision shall so state.
- The written decision shall be forwarded within fifteen (15) days to the Petitioner and the Respondent, with copies to all of the participating parties (NOT THE WITNESSES), and the National Judge Advocate and Nat'l Adjutant/Paymaster.



- A written appeal may be made to the National Judge Advocate by either the Respondent or the Petitioner on the Hearing Board's decision. Any appeal must be made in writing within thirty (30) days after receipt of the Hearing Board's decision setting forth as clearly as possible the basis for such appeal.
- The National Judge Advocate shall rule on the appeal and shall advise all participating parties in writing of his/her decision either substantiating or denying the appeal within thirty (30) days.



- The National Judge Advocate may render his decision merely from the records or he/she may allow any other party to make an oral or written argument concerning the appeal. The National Judge Advocate must first notify all participating parties by written notice that he/she is allowing such argument. Under no circumstances will you contact the National Judge Advocate unless he/she allows the supplement to the record.
- If the record of the hearing is insufficient or there exists material irregularities in procedure, the National Judge Advocate may refer this matter back to the Hearing Board to supplement the record or to correct such material irregularity to insure that justice prevails.



- The Petitioner/Respondent may appeal the National Judge Advocate's decision in writing setting forth the basis for such appeal within fifteen (15) days of receipt of the National Judge Advocate's decision to the National Board of Trustees via the National Commandant.
- The National Commandant will place the appeal on the agenda of the next scheduled meeting of the Board. The Board of Trustees shall review the appeal at the first scheduled meeting subsequent to receiving the appeal.

## SECTION 904



- The Board may make its decision merely from the record or they may permit the Petitioner/Respondent or any other party to appear and argue the matter before the Board. The Board must have received written notice as well as all participating parties.
- The Board may, but is not obligated to, take further evidence including mitigation (lessening) and/or aggravation (worsening) of such disciplinary charge(s) and/or the punishment awarded relating thereto under such rules and conditions as it may from time to time adopt.



- The Board may sustain or reject the decision of the National Judge Advocate.

**YEA! or NAY!**

- If they fail to sustain the finding, they must issue their own findings in writing to all of the participating parties through the National Adjutant/Paymaster.
- **THEIR DECISION IS FINAL! THERE ARE NO FURTHER RIGHTS OF APPEAL!**
- The legitimate travel and lodging expenses of the Board shall be a charge against the Department, which shall be reimbursable to the members upon submission of a voucher to the Paymaster of the appropriate Department.



**SECTION 905  
DEPARTMENT COMMANDANT  
OR DEPARTMENT**



- In the event the Respondent is a Department Commandant or a Department, the following procedure is in place.
- A Disciplinary charge(s) shall be submitted in writing to the National Judge Advocate and to the Respondent, with a copy to the National Commandant.
- Proof of Service by Certified Mail, return receipt, shall be provided to the National Judge Advocate by the Petitioner(s).



- The National Judge Advocate may or may not conduct an independent investigation.
- He will determine if the charge(s) has merit.
- He will also explore the possibility of a negotiated settlement.

## SECTION 905



If it appears that the charge is valid and there is no chance for a negotiated settlement, upon his/her own initiative, the NJA shall proceed to do the following:

- Petition the National Commandant, who shall appoint a Hearing Board of not less than three (3) nor more than five (5) members, including the National Judge Advocate. The National Commandant may, with discretion, appoint current or former members of the Board of Trustees.



- The Hearing Board is empowered to convene in the Department in which the disciplinary charges(s) arose at a time and a place of its convenience. Any challenge to the makeup of the Hearing Board or to the notices given concerning such hearing must be made at least ten (10) days before the start of the hearing or shall be deemed to have been waived.
- The Hearing Board may or may not call witnesses. The Petitioner has the burden of proving any and all disciplinary charge(s) against the Respondent to the satisfaction of the Hearing Board.
- The Hearing Board shall hear appropriate testimony, either orally or by affidavit, as set forth in this chapter. The Hearing Board may also conduct its own independent investigation.



- The decision of the Hearing Board shall be written and must be affirmed by a majority of the Board.
- If the charge(s) is/are substantiated and proved, the Board shall so state in its decision its finding relative to the evidence and shall also state the punishment awarded by the Hearing Board. There are three (3) forms of punishment relating to a member under Section 910, they are:
  1. Reprimand (Slap on the hand)
  2. Suspension (Specify for how long)
  3. Expulsion (Termination of Membership)



- Now, if the disciplinary charge(s) is/are not substantiated or proved, the written decision shall so state.
- The written decision shall be forwarded within fifteen (15) days to the National Commandant and the National Judge Advocate will affect proper service upon the Petitioner/ Respondent and all of the participating parties and Nat'l Adjutant/Paymaster.



- The Petitioner/Respondent may appeal in writing within thirty (30) days to the National Board of Trustees via the National Commandant setting forth as clearly as possible the basis for such appeal.
- The National Adjutant/Paymaster will distribute copies of all pertinent materials to the members of the National Board of Trustees.
- Each member of the Board of Trustees shall submit their opinion in writing within fifteen (15) days to National Headquarters, whereupon the National Adjutant/Paymaster will inform the Petitioner and the Respondent of the decision of the majority of the National Board of Trustees, either sustaining or denying the appeal.



- Any member of the Board of Trustees who shall have served on the Hearing Board, shall abstain from voting on the appeal.
- The decision may be appealed by the Petitioner/Respondent to the National Convention setting forth as clearly as possible the basis for the appeal directly to the National Convention via the National Adjutant/Paymaster.

**SECTION 905**  
**DEPARTMENT COMMANDANT**  
**or DEPARTMENT**



- If the appeal is made to the National Convention, it must be made within thirty (30) days of receipt of the decision of the National Board of Trustees and not less than thirty (30) days prior to the start of the National Convention.
- The legitimate travel and lodging expenses of the Hearing Board shall be charged against National Headquarters and shall be reimbursable upon submission of a voucher to the National Comptroller.



**SECTION 906  
NATIONAL OFFICERS  
AND BOARD OF TRUSTEES**



If the Respondent is an ELECTED NATIONAL OFFICER or a member of the NATIONAL BOARD OF TRUSTEES, other than the NATIONAL COMMANDANT or NATIONAL JUDGE ADVOCATE, the procedure shall be as follows:

- Charges shall be filed with the National Judge Advocate, who will thereupon cause service of same upon the Respondent, with copies to the National Board of Trustees.
- The National Judge Advocate may conduct a preliminary investigation to determine:

The Merit of the charge and the possibility of a negotiated settlement.



- If the charge(s) appear to be valid and has merit, and if it appears likely that there will be no negotiated settlement, the National Judge Advocate upon his own initiative shall proceed to:

Petition the National-Commandant, who shall appoint a Hearing Board of not less than three (3) members nor more than five (5) members including the NJA. The National Commandant may, with discretion, appoint current or former members of the Board of Trustees.



- The Hearing Board is empowered to convene at a time and place of its convenience. Any challenges to the makeup of the Board or to the notices given concerning the hearing must be made at least ten (10) days prior to the start of the hearing or shall be deemed to have been waived.
- The Hearing Board may or may not call witnesses and are under no obligation to do so. The Petitioner has the burden to prove any and all charges against the Respondent to the satisfaction of the Hearing Board.
- The Hearing Board shall hear appropriate testimony either orally or by affidavit as set forth in this chapter. They may also conduct their own independent investigation.



- The decision handed down by the Hearing Board shall be in writing and must be affirmed by a majority of the Board.
- If the charges are substantiated and proved, the Board shall state so in its finding relative to the evidence and shall also state the punishment awarded by the Board.
- If the charge(s) are not substantiated or proved, the written decision shall so state.

# SECTION 906

## NATIONAL OFFICERS AND BOARD OF TRUSTEES



- The written decision shall be forwarded within fifteen (15) days to the National Commandant and the National Judge Advocate will affect proper service upon the participating parties.
- The Petitioner/Respondent may appeal in writing within thirty (30) days to the National Board of Trustees via the National Commandant setting forth as clearly as possible the basis for such appeal.
- The National Adjutant/Paymaster will send copies of all pertinent material to the members of the Board of Trustees.



- Each member of the Board of Trustees will have fifteen (15) days to render his/her opinion in writing to National Headquarters; whereupon the National Adjutant/Paymaster will inform the Petitioner/Respondent of the decision of the majority of the National Board of Trustees, either sustaining or denying such appeal.
- Any member of the Board of Trustees who shall have served on the Hearing Board shall abstain from voting on the appeal.



BUT!!! - This member may be called to testify in front of the Board of Trustees.

- The Petitioner/Respondent may appeal the decision in writing directly to the National Convention via the National Adjutant/Paymaster. This appeal must be made thirty (30) days of the receipt of the decision and not less than thirty (30) days prior to the start of the Convention.
- The legitimate travel and lodging expenses of the Hearing Board shall be charged against National Headquarters and shall be reimbursable upon submission of a voucher to the National Comptroller.



# SECTION 907 NATIONAL COMMANDANT

## SECTION 907



In the event the National Commandant shall be the Respondent, the following procedure shall be followed:

- The National Senior Vice Commandant and the National Judge Advocate shall determine if the charge(s) is serious enough to merit further proceedings.
- If so found, the disciplinary charge(s) shall be filed with the National Judge Advocate, who will thereupon cause service of same upon the Respondent, with copies to the National Board of Trustees.



- The Senior Vice shall immediately convene the entire National Board of Trustees (excluding the National Commandant) to serve as a Hearing Board. A quorum shall consist of at least eight (8) Board members.
- If the Board finds that in the best interest of the MCL, it may, by 2/3rds vote, temporarily suspend the National Commandant from the duties of his/her office.
- The Senior Vice shall serve as Chairman of the Hearing Board.

## SECTION 907



- The Hearing Board will convene at National Headquarters at its own convenience, call witnesses, hear testimony and it may also conduct its own independent investigation.
- The decision must be by at least 2/3rds vote and affirmed shall be served upon the National Commandant within fifteen (15) days of the date of the decision.
- The National Commandant may appeal within thirty (30) days to the Senior Vice via the National Adjutant/Paymaster who shall appoint an Appeals Board which shall be comprised of a minimum of five (5) Past National Commandants, none of which shall be current-members of the-National Board of Trustees.



- The Board shall concern itself only with the appeal and a majority vote by the Board is required for a decision.
- The National Commandant may further appeal to the National Convention the decision of the Board of Appeals in writing via the National Adjutant/Paymaster. This appeal must be submitted within thirty (30) days of the receipt of the decision of the Board of Appeals and not less than thirty (30) days prior to the start of the Convention.
- Again, the legitimate travel and lodging expenses of the Hearing Board shall be charged against National Headquarters and shall be reimbursable upon submission of a voucher to the National Comptroller.



# SECTION 908 NATIONAL JUDGE ADVOCATE



In the event the National Judge Advocate shall be the Respondent, the following procedure shall be followed:

- The charge(s) shall be filed with the National Commandant, who shall effect service upon the Respondent and all participating parties.
- The Junior Past Commandant and the National Senior Vice Commandant shall determine if the charge is serious enough to merit further proceedings.

IF SO FOUND “Then what”



- The National Senior Vice as Chairman shall immediately convene a Hearing Board, comprised of himself and four (4) other members of the National Board of Trustees.
- This Board will be empowered to convene a hearing at a time and place of its convenience. Any challenge to the makeup of this Board must be made prior to the start of the hearing or shall be deemed to have been waived.
- They may or may not call witnesses. The Petitioner has the burden of proving any and all disciplinary charges to the satisfaction of the Hearing Board. The Board shall hear appropriate testimony either orally or by affidavit as set forth in this chapter. It may also conduct its own investigation.



- If the Hearing Board finds it is in the best interest of the MCL, it may, by a 2/3rds vote, temporarily suspend the National Judge Advocate from the duties of his/her office.
- The decision shall be made in writing and must be affirmed by a majority of the Hearing Board.
- If the disciplinary charge(s) is/are substantiated and proved, the Hearing Board shall so state in its decision its finding relative to the evidence and shall also state the punishment awarded by the Hearing Board.



- If the disciplinary charge(s) is/are not substantiated or proved, the written decision shall so state.
- The written decision shall be forwarded within fifteen (15) days to the National Commandant who will effect proper service upon the Petitioner/Respondent, with copies to all of the participating parties.
- The Petitioner/Respondent may appeal in writing within thirty (30) days to the National Commandant setting forth as clearly as possible the basis for such appeal.



- Upon appeal, the National Commandant shall appoint an Appeal Board (Board of Appeals) which shall be comprised of a minimum of five (5) Department Judge Advocates, none of which shall be a current member of the National Board of Trustees. This Appeals Board shall concern itself only with the appeal and a majority vote by the Board is required for a decision.
- The National Judge Advocate may further appeal the decision of the Board of Appeals directly to the National Convention in writing via the National Adjutant/Paymaster.



- Any appeal to the Convention must be made within thirty (30) days of receipt of the decision of the Board of Appeals and not less than thirty (30) days prior to the start of the Convention.
- The legitimate travel and lodging expenses of the Hearing Board shall be charged against National Headquarters and shall be reimbursable upon submission of a voucher to the National Comptroller.



# SECTION 909 PROCEDURE



The following procedures will be adhered to in addition to the provisions of this chapter.

## **NOTICE OF COMPOSITION OF THE HEARING BOARD**

- The jurisdictional Judge Advocate must notify the Petitioner/ Respondent of the members appointed to the Hearing Board no less than twenty (20) days prior to the convening of the Hearing Board. No member of an affected unit may serve on the Hearing Board.



- The Petitioner/Respondent will have ten (10) days to object in writing to any or all of the appointed Board members. Such written notice will be directed to the jurisdictional Judge Advocate. Absent a timely objection, the Hearing Board shall be deemed to be fair and impartial.
- The jurisdictional Judge Advocate is not subject to challenge except for good cause.



- Upon receiving a challenge, the jurisdictional Judge Advocate will petition the appointing authority for replacements and notify the Petitioner/Respondent of such replacements. Replacements may be subject to challenge only for good cause.
- Potential Hearing Board members who may have a conflict of interest through friendship, marriage, family relationship or prejudice must recuse themselves from sitting on the Hearing Board.



- If the jurisdictional Judge Advocate must be recused from sitting on the Board, the appointing authority will appoint a replacement, preferably a Past National or Department Judge Advocate or a Past National or Department Commandant.
- In the event an investigator or a committee is appointed to investigate the circumstances of any allegations, the investigative report must be presented to the Hearing Board, except to the members who must be recused as stated above, and the investigator or members of the committee may be called as witnesses by the Hearing Board.



## DUTIES OF THE PETITIONER

The Petitioner ALWAYS has the burden of proving any grievance or disciplinary charge(s) to the satisfaction of the Hearing Board. Failure to present sufficient evidence may be grounds for dismissal of the grievance or disciplinary charge(s).

- The Petitioner will be responsible to invite any and all witnesses to testify on his/her behalf and to present any and all proper evidence relative to the grievance or disciplinary charge(s).



- A complete list of witnesses, notarized statements from any witness that cannot appear at the hearing in person and copies of all exhibits to be offered into evidence must be submitted to the jurisdictional Judge Advocate fifteen (15) days prior to the convening of the Hearing Board. Any witness not listed or exhibits attempted to be introduced but not previously provided may be heard and admitted subject to the sole discretion of the Hearing Board under such terms and conditions as it shall require.



- The Petitioner may have a member of the MCL act as his/her counsel, but the representative Counsel must have been a member of the MCL for at least a year.
- The Petitioner or his/her representative has the right to examine and cross-examine witnesses.



## DUTIES OF THE RESPONDENT

- A Respondent has the right to but need not file a written response to any grievance or disciplinary charge filed against him. However, failure to appear or to provide evidence shall not prevent the Hearing Board from making appropriate findings.
- The Respondent will be responsible to invite witnesses to testify on his behalf and to present proper evidence in his defense relative to the grievance or disciplinary charge against him.



- A complete list of witnesses, notarized statements from any witness that cannot appear at the hearing in person and copies of all exhibits to be offered into evidence must be submitted to the jurisdictional Judge Advocate fifteen (15) days prior to the convening of the Hearing Board. Any witness not listed or exhibits attempted to be introduced but not previously provided may be heard and admitted subject to the sole discretion of the Hearing Board under such terms and conditions as it shall require.



- The Respondent may have a member of the MCL act as his/her counsel, but the representative Counsel must have been a member of the MCL for at least a year.
- The Respondent or his/her representative has the right to examine and cross-examine witnesses.



## OFFICIAL RECORD OF THE PROCEEDINGS

The Chairman of the Hearing Board will appoint a recorder, preferably from the local area to keep a record of the proceedings by tape recording.

The duties of the recorder shall be as follows:

1. The recorder will be the sole operator of the recording device.
2. The recorder will maintain a log of tape activities (See attachment 9-1).



3. At the close of the Hearing, the recorder shall turn over to the jurisdictional Judge Advocate, all tapes.
4. The jurisdictional Judge Advocate will sign the log as custodian of the tapes.
5. A duplicate of the log will be sent with all requests of copies of the tapes.
6. The recorder will not participate in the Hearing Board's deliberations.

## SECTION 909 PROCEDURE



7. There will be no other recordings permitted but the official one taken by the Recorder. The Board will make available to the principals, upon written request to the jurisdictional Judge Advocate, a copy of the recording. Such request must be made in writing to the jurisdictional judge advocate within ten (10) days of the notice of the decision.
8. The actual cost of the tape reproduction shall be borne by the principal requesting the copy.
9. In a grievance or disciplinary procedure, as set forth in this chapter, if the Petitioner/Respondent requests a copy of the Hearing Board's proceedings, as is provided in Section 909 (D)(7), above the thirty (30) day appeal period shall commence subsequent to receipt of the copy of the record.



## JURISDICTIONAL JUDGE ADVOCATE AND APPEALS

1. The jurisdictional Judge Advocate cannot sit on any Appeal Board.
2. The Jurisdictional Judge Advocate may be called as a witness by the party or board hearing the appeal.
3. The National or Department Commandant as the case may be, shall appoint an acting Judge Advocate to replace any recused Judge Advocate.
4. This acting Judge Advocate shall preferably be a Past National or Department Judge Advocate, Past National Commandant or Department Commandant.

# SECTION 909 PROCEDURE



## DUTIES OF THE SERGEANT - AT – ARMS

- The Chairman of the Hearing Board will appoint a Sergeant-at-Arms, preferably from the local area. The duties of the Sergeant-at-Arms are to preserve order and to perform other duties as required by the Chairman of the Hearing Board.



## DUTIES AND RESPONSIBILITIES OF THE HEARING BOARD

1. The Hearing Board may or may not invite additional witnesses other than those designated by the Petitioner/Respondent.
2. The jurisdictional Judge Advocate will provide the Petitioner and the Respondent with a list of witnesses and copies of all exhibits as identified and provided by the Petitioner/Respondent not less than five (5) days prior to the convening of the Hearing Board.



3. The Hearing Board will demand that proper decorum be maintained at all times. Spectators will not be permitted to participate in the hearing in any manner. Disturbance or poor manners may result in the Chairman ordering the Sergeant-at-Arms to clear the room and the hearing will continue in closed session.
4. The Petitioner/Respondent or their representatives will conduct the examination and/or cross-examination of witnesses. Only one (1) party, either the Petitioner/Respondent or their appointed representative, from each side will be permitted to examine or cross-examine witnesses.
5. The Hearing Board Chairman and members of the Board may conduct a separate inquiry of any witness.



# **SECTION 910**

# **SUSPENSION PENDING HEARING**



**In all disciplinary proceedings brought under Sections 904, 905 and 906, herein, the designated jurisdictional Judge Advocate shall possess the discretionary authority to temporarily suspend the respondent from membership, office or function pending the final resolution of the disciplinary charge(s). The National Judge Advocate and the National Adjutant/Paymaster shall be notified in writing of such suspension.**



# SECTION 911 PUNISHMENT



Following conformance with the procedures outlined in this Chapter, if the Respondent is adjudged guilty of committing any act which would tend to bring discredit or bring the Marine Corps League into public disrepute, and/or conduct unbecoming a member of the Marine Corps League, or if he/she has violated any of the applicable provisions of the National, Department or Detachment Bylaws or Administrative Procedures, or any offense set forth in Section 913 hereof, the Respondent shall be subject to the following:

1. A Member or Officer at any level, may be punished by written reprimand, suspension for a specified period of time or be expelled from the Marine Corps League.



2. A Detachment or Department may receive a reprimand, its charter may be temporarily suspended, or permanently revoked.
3. The National Adjutant/Paymaster shall be notified of all actions taken pursuant to this section.
4. When the Respondent has been adjudged guilty, and punished by suspension, the Respondent is stricken from the roles of the Marine Corps League for the specified period of time. During this time, the Respondent is not permitted to attend or participate in any functions of the Marine Corps League, subsidiary and subordinate organizations. If found in violation of their suspension, the Respondent is subject to further charges and possible expulsion from the Marine Corps League.



# SECTION 912 CIMINAL ACTS

## SECTION 912

### Criminal Acts



Should any member of the League, or any subsidiary organization, subordinate group or members thereof, violate any of the criminal laws of the United States, or a State having jurisdiction thereof, the complaint should be made directly to the proper Federal, State or local authority, and not to the League although such conduct may also be the basis for a disciplinary charge under this chapter.



# SECTION 913 OFFENSES



The following offenses are recognized and must be processed in accordance with the applicable section or sections of Chapter Nine:

1. Violation of Oath of Membership.
2. Violation of Oath of Office.
3. Conduct unbecoming a member of the MCL.
4. Any action detrimental to the MCL.
5. Conviction of any crime which constitutes a felony in a County, City, State or Federal Court in the United States.



**SECTION 914**  
**CHARGES STEMMING FROM**  
**A PREVIOUSLY HEARD MATTER**

## SECTION 914

### CHARGES STEMMING FROM A PREVIOUSLY HEARD MATTER



In the event a charge stems from a previously heard grievance or disciplinary charge, the failure to take corrective action to resolve a grievance, the failure to comply with a temporary suspension or the punishment issued during a previously heard matter, the jurisdictional body shall be deemed to be the body who last heard the proceedings and/or whose findings were the basis of such finding, suspension or punishment.

- (a) A charge filed under this section shall be submitted in writing to the National Commandant and the National Judge Advocate.



1. If the charge stems from a matter previously heard, the National Judge Advocate will determine and immediately notify the Commandant of the jurisdictional body to reconvene a hearing at a time and place of its convenience at or near the previous hearing. It may hear testimony and may conduct its own independent investigation and shall make such additional findings and render such additional punishment, if any, that it finds necessary to enforce the prior decision.



2. If the charge stems from a violation of a temporary suspension, the National Judge Advocate will determine and immediately notify the jurisdictional Commandant who may, prior to convening a hearing, conduct his own investigation, document his findings and make such findings known to the Hearing Board. If a violation is found, the Hearing Board shall render such additional punishment as may be deemed necessary to enforce the prior punishment.



3. The Hearing Board's decision, which must be affirmed by a majority of the Hearing Board, shall be forwarded to the Petitioner/Respondent and the National Judge Advocate within fifteen (15) days, the National Judge Advocate will thereupon effect proper service of the Hearing Board's decision to the National Board of Trustees and Nat'l Adjutant/Paymaster.
  
4. The Hearing Board's decision may be appealed in accordance with the appropriate section of the Administrative Procedures governing the original charge(s).

## A SAMPLE CHRONOLOGY



- All hearings whether for a grievance or a disciplinary action start with the basic proposition that from the date of the filing of the complaint to the date of the start of the hearing should be 60 days or less. This chronology is only a guide and assumes a grievance or disciplinary procedure at the primary Department level where the jurisdictional judge advocate is the Department Judge Advocate and the jurisdictional Commandant is the Department Commandant.



## DAY ONE

- Judge Advocate receives by certified mail from Petitioner the Grievance or the Disciplinary Charge(s) against a Respondent with copies to the Department Commandant, the National Judge Advocate and the National Commandant. The petitioner must provide evidence of service of the original of the grievance or disciplinary charge(s) upon the respondent by certified mail/return receipt requested.

## DAY 2 TO DAY 19

- The Judge Advocate and/or the Department Commandant have twenty days in which to conduct a preliminary investigation and/or attempt to negotiate a settlement to grievance or disciplinary charge(s).



## Day 20

- If the matter is not settled, the Commandant shall immediately appoint a Hearing Board composed of the Judge Advocate and at least two other members. The Judge Advocate shall notify the Petitioner and the Respondent in writing of the composition of the hearing board and the date of the convening of the hearing which should be within 60 days of the original receipt of the grievance or disciplinary charge(s). The convening date cannot be less than 20 days from the original receipt.



## DAY 21 TO DAY 30

- The Petitioner and the Respondent each have ten days to file a written challenge to the Composition of the Hearing Board. The Judge Advocate is not subject to challenge. Upon receipt of a challenge, the Commandant shall appoint replacements who shall be subject to challenge for cause only.



## DAY 45

- Not less than 15 days before the established hearing date, Petitioner and Respondent must provide the Judge Advocate with a list of all witnesses and a list and a copy of all exhibits and all notarized statements to be presented to the Hearing Board. Note that if the hearing date established is less than 60 days that you count backwards from the hearing date to establish the date upon which these materials must be provided.



## DAY 55

- Not less than five days before the date of hearing, the Judge Advocate shall provide copies of the lists of witnesses, list of exhibits, copies of the exhibits and copies of the notarized statements to the petitioner and the respondent. If the Hearing Board intends to call its own witnesses and/or introduce its own exhibits, the Judge Advocate should prepare the appropriate list and forward copies to the Petitioner and the Respondent. Again, if the hearing date is less than the 60th day, you count backwards from the hearing date to establish this date.



## DAY 60

- Hearing is started. From the date of the conclusion of the hearing, the Hearing Board has 15 days in which to render its written decision. Upon entry of the finding and the decision, the petitioner and respondent have 30 days in which to file notice of appeal.

- **NOTE:**

**All mail under this chapter must be by certified mail/return receipt requested. E-mail or fax transmissions are not acceptable except as may be specifically allowed by the procedures in this chapter.**

**End of Lesson Plan 5**