

FLORIDA DEPARTMENT BYLAWS AMENDMENT

SUBJECT: Processing Category B Charges

SUBMITTED BY:

WHEREAS, ARTICLE X POST ORGANIZATION, Section 2 of the AMVETS National Constitution states "Posts shall be governed locally by their own officers chosen according to their own constitution and bylaws...." and

WHEREAS, ARTICLE XVI POST ORGANIZATION, Section 2 of the Department of Florida Bylaws states "Posts shall be governed locally by their own officers chosen according to their own Constitution and Bylaws...." and

WHEREAS, ARTICLE VIII DISCIPLINE OF POST MEMBERS, Section 1A of the Department of Florida Bylaws states "Each Post of AMVETS shall be the judge of its own membership, subject to the provisions of the National Constitution and Bylaws." and

WHEREAS, the AMVETS National Constitution and Bylaws (CBL) are silent regarding the processing of Category B (Canteen House Rules) processing, and

WHEREAS, ARTICLE VIII DISCIPLINE OF POST MEMBERS, Section 3 Category B Charges. Violation of Post House Rules of the Department of Florida Bylaws states "Each Post that operates a Clubroom/Canteen/Dining Facility/Social Quarters, for the convenience of its members, shall formulate a set of House Rules, which governs the conduct within the facility.... The Post may discipline individuals who violate these rules. The Posts will also formulate standard operating procedures documents for the Canteen/Dining Facility/Social Quarters that it operates and as it applies to their facility. The Post may discipline individuals who violate these procedures." and

WHEREAS, ARTICLE VIII. DISCIPLINE OF POST MEMBERS, Section 4B Processing Category B Charges of the Department of Florida Bylaws repeats much of the extensive processing required by ARTICLE VIII. DISCIPLINE OF POST MEMBERS, Section 4A Processing Category A Charges thereby violating ARTICLE X: POST ORGANIZATION, Section 2 of the AMVETS National Constitution and ARTICLE XVI. POST ORGANIZATION, Section 2 of the Department of Florida Bylaws and ARTICLE VIII DISCIPLINE OF POST MEMBERS, Section 1A of the Department of Florida Bylaws, now therefore be it

RESOLVED, that ARTICLE VIII. DISCIPLINE OF POST MEMBERS, Section 4B Processing Category B Charges of the Department of Florida Bylaws overreaches and interferes with the internal operations of AMVETS Florida Posts and that ARTICLE VIII. DISCIPLINE OF POST MEMBERS, Section 4B Processing Category B Charges of the Department of Florida Bylaws be replaced by:

ARTICLE VIII. DISCIPLINE OF POST MEMBERS

Section 4

B Processing Category B Charges

1. The use of AMVETS Post Clubrooms, Canteens, Dining Facilities, and Social Quarters is a privilege and not a right.
2. Each AMVETS Post shall formulate its own procedures to fairly discipline a member or guest for violation of its House Rules.

COMMITTEE RECOMMENDATIONS:

Finance Committee	<input type="checkbox"/> Adopt	<input type="checkbox"/> Adopt (as amended)	<input type="checkbox"/> Reject	<input type="checkbox"/> None
CBL Committee	<input type="checkbox"/> Adopt	<input type="checkbox"/> Adopt (as amended)	<input type="checkbox"/> Reject	<input type="checkbox"/> None
Floor Vote/Action	<input type="checkbox"/> Adopt	<input type="checkbox"/> Adopt (as amended)	<input type="checkbox"/> Reject	<input type="checkbox"/> None

Rationale for amending Department of Florida Bylaws Article VIII Section 4B Processing Category B Charges

Background

Article VIII Discipline of Post Members, Section 3 of the AMVETS Department of Florida (DoF) Bylaws (VIII DoF §3) defines Category B violations as violations of House Rules. It then goes on to require Posts that operate a Clubroom, Canteen, Dining Facility, or Social Quarters to formulate and display these House Rules. Lastly, it allows Posts to discipline individuals who violate these rules.

VIII DoF §4B specifies how processing a violation of House Rules should proceed. The procedures that are given in this section closely mimic the processing of Category A charges specified in VIII DoF §4A. Category A charges may result in the expulsion of a member, Post, or Department from the AMVETS organization and are far more serious than are violations of House Rules.

The AMVETS National Constitution and Bylaws do not define Category A and Category B violations. Rather they define only actions that may result in expulsion from the AMVETS organization. The DoF took it upon itself to define Category A and Category B violations. And in so doing, it overreached its authority, interfered with the internal operations of Posts, and violated its own Bylaws (XVI DoF §2)

State of Florida Involvement

In Florida, Post Canteens that serve alcoholic beverages are considered alcoholic beverage establishments. They are businesses. Each must obtain and maintain (renew) a Retail Beverage License from the Florida Department of Business and Professional Regulation. Once licensed, a whole slew of rules and regulations apply (Fla. Stat. Ch. 561-569 (2022)). Moreover, along with these rules and regulations comes the responsibility to provide a safe environment. Authority to deal with undesirable guests who pose a risk to other patrons, is provided in § 562.51(1) Fla. Stat. (2022).

Canteen management must remove "undesirable guests" or to take steps to have them removed (i.e., calling the police). Undesirable guests are pretty much anyone who disturbs the peace and comfort of other patrons. Usually, Posts have identified undesirable conduct in their own House Rules.

DoF Steps In

By taking the easy way out and copying, with some minor changes, the contents of VIII DoF §4A, DoF raised the violation of House Rules to a level similar to the treatment of what are considered very serious charges (Category A). DoF also added a host of requirements to a Post's enforcement of its House Rules. Some of these requirements include:

- A signed and notarized grievance.
 - Notarization only asserts that the individual who signed a grievance is the person who signed the grievance. It does not assert truthfulness. Further, obtaining a notary signature requires time and expense and thus reduces the willingness to file a grievance.
- Processing by the Post Commander within fifteen days.
 - Involves the Post Commander too early in the process

Rationale for amending Department of Florida Bylaws Article VIII Section 4B Processing Category B Charges

- Copy of the charges, specifications, supporting documentation mailed, certified within five days.

Preparing charges and specifications again serves to reduce a willingness to proffer grievances.

- Notice fixing a date, place, and time of a hearing to be held not less than thirty days after mailing.

The delay of thirty days means that a violator is in limbo for far longer than necessary.

- Grievance Committee consisting of a minimum of five AMVETS members in good standing shall be designated and recommend disciplinary action.

Requiring that members of the grievance committee not include Post Officers or Trustees excludes the very individuals that the Post membership elected to perform such duties.

Post Policing House Rules

Posts are perfectly capable of policing their own facilities without interference, no matter how well intentioned, from the DoF. More importantly, Posts have financial and legal reasons to perform these policing actions effectively and fairly. It is not the DoF that loses business because some guest behaved badly - it is the Post. It is not the DoF who is sued because someone who was ejected sues for discrimination - it is the Post.

Solution

A solution to the DoF interference in Post processing of their own House Rules is to replace the current VIII DoF §4B by the following:

ARTICLE VIII. DISCIPLINE OF POST MEMBERS

Section 4

B Processing Category B Charges

1. The use of AMVETS Post Clubrooms, Canteens, Dining Facilities, and Social Quarters is a privilege and not a right.
2. Each AMVETS Post shall formulate its own procedures to fairly discipline a member or guest for violation of its House Rules.

FLORIDA DEPARTMENT BYLAWS AMENDMENT

SUBJECT: Hiring, Transfer, or Promotion of Relatives

SUBMITTED BY:

WHEREAS, ARTICLE X: POST ORGANIZATION, Section 2 of the AMVETS National Constitution states "Posts shall be governed locally by their own officers chosen according to their own constitution and bylaws...." and

WHEREAS, ARTICLE XVI. POST ORGANIZATION, Section 2 of the Department of Florida Bylaws states "Posts shall be governed locally by their own officers chosen according to their own Constitution and Bylaws...." and

WHEREAS, the AMVETS National Constitution and Bylaws (CBL) are silent regarding the hiring, transfer, or promotion of relatives, and

WHEREAS, ARTICLE XI. DISCRIMINATION AND HARASSMENT, Section 2 of the Department of Florida Bylaws contains a blanket restriction against the hiring, transfer, or promotion of relatives, and

WHEREAS, this blanket restriction violates ARTICLE X: POST ORGANIZATION, Section 2 of the AMVETS National Constitution, and

WHEREAS, this blanket restriction violates ARTICLE XVI. POST ORGANIZATION, Section 2 of the Department of Florida Bylaws, and

WHEREAS, this blanket restriction keeps Posts from hiring, transferring, or promoting individuals who are qualified to be compensated employees or volunteers, and

WHEREAS, this blanket restriction keeps Posts from electing or appointing Post Officers and Trustees who are willing to take on the duties of the respective positions, now therefore be it

RESOLVED, that ARTICLE XI. DISCRIMINATION AND HARASSMENT, Section 2 of the Department of Florida Bylaws overreaches and interferes with the internal operations of AMVETS Florida Posts and that ARTICLE XI. DISCRIMINATION AND HARASSMENT, Section 2 of the Department of Florida Bylaws be replaced by:

ARTICLE XI. DISCRIMINATION AND HARASSMENT

Section 2

"Relatives" are defined as persons related by blood or marriage or persons with whom a significant personal relationship exists.

If an employee is hired, transferred, or promoted into a position where a relative occupies a position in the supervisory chain under which the employee will be working, the individual in the supervisory position shall be recused from any deliberation involving the employee. This restriction applies to both volunteers and compensated employees.

COMMITTEE RECOMMENDATIONS:

Finance Committee	<input type="checkbox"/> Adopt	<input type="checkbox"/> Adopt (as amended)	<input type="checkbox"/> Reject	<input type="checkbox"/> None
CBL Committee	<input type="checkbox"/> Adopt	<input type="checkbox"/> Adopt (as amended)	<input type="checkbox"/> Reject	<input type="checkbox"/> None
Floor Vote/Action	<input type="checkbox"/> Adopt	<input type="checkbox"/> Adopt (as amended)	<input type="checkbox"/> Reject	<input type="checkbox"/> None

Rationale for amending Department of Florida Bylaws Article XI Section 2 Hiring, Transfer, or Promotion of Relatives

Background

Article XI Discrimination and Harassment, Section 2 of the AMVETS Department of Florida (DoF) Bylaws (XI DoF §2) contains a blanket restriction against hiring relatives where relatives are defined as those related by blood or marriage and those with whom a significant personal relationship exist. This restriction applies to both voluntary and compensated employees (although I am not sure what a "volunteer employee" may be).

Effects

There were three immediate effects:

1. Any AMVETS member who was already elected to a Post Officer or Trustee position and who had a relative in a subordinate position, had to resign.
2. An AMVETS member who has a relative working at the Post could not be elected to a Post Officer or Trustee position.
3. A potential qualified employee who had a relative in either a Post Officer or Trustee position could not be hired.

Posts lost qualified, hard-working individuals from its leadership and employment pools.

Analysis

Posts are relatively small organizations. There is already only a small group of individuals who are willing to perform Post leadership functions. If performed diligently, Post leadership positions are time-consuming and at times frustrating. I do not think they are ever fun. Therefore, any Post member who is willing to assume a leadership position should be encouraged to do so, not discouraged from doing so.

Law must be for the greater good. XI DoF §2 needs to be evaluated regarding its support of the "greater good." It fails in that respect by its blanket restriction.

A blanket restriction is usually over-reaching. A blanket restriction is usually more easily written than a restriction that targets specific situations. In the case of relatives and nepotism, the restriction should have prohibited participation in deliberations and not participation itself.

As an aside, if the DoF were to incorporate the proposed amendment into its Bylaws, there is nothing preventing a Post from implementing a blanket restriction.

Solution

A solution to the DoF interference in Post processing of their own personnel is to replace the current XI DoF §2 by the following:

ARTICLE XI. DISCRIMINATION AND HARASSMENT **Section 2**

"Relatives" are defined as persons related by blood or marriage or persons with whom a significant personal relationship exists.

If an employee is hired, transferred, or promoted into a position where a relative occupies a position in the supervisory chain under which the employee will be working, the individual in the supervisory position shall be recused from any deliberation involving the employee