

**MARINE CORPS LEAGUE  
PROFESSIONAL DEVELOPMENT  
PROGRAM  
GRIEVANCES & DISCIPLINE  
LESSON PLAN 5**



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# ADMINISTRATIVE PROCEDURES

## CHAPTER NINE

### GRIEVANCES AND DISCIPLINE

#### SECTION 900

#### DEFINITIONS

**PETITIONER:** The Petitioner is the member or Detachment or Department filing a grievance or disciplinary charge. The Petitioner shall be in good standing (See National Bylaws, Section 615 (a)). If the Petitioner is a Detachment or Department, each member of the Board of Trustees Shall sign the disciplinary charge and state his office.

**RESPONDENT:** The Respondent is the member or Detachment or Department against whom a grievance or disciplinary action has been filed.

**GRIEVANCE:** A grievance is an injustice, which gives grounds for complaint because it is harmful or unjust.

1. The written grievance shall specify:
  - What is alleged to have occurred,
  - When it was alleged to have occurred,
  - Where it was alleged to have occurred,
  - The names of parties and witnesses, and such other supporting information as may be necessary to adequately inform the Respondent so a defense may be prepared.
2. A Grievance does not subject the member, Detachment, or Department to punishment. The goal of the grievance is to resolve the injustice.
3. Prior to the written Grievance being filed with the Jurisdictional Judge Advocate, the Grievance may be considered by the Detachment in an attempt to mediate the problem.
4. When a Grievance is filed with the Jurisdictional Judge Advocate by the aggrieved member, in accordance with Section 901 of AP Chapter 9, the role of the Detachment is then terminated and the Grievance moves forward in accordance with those procedures.

**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.

## SECTION 900-A

### RULES OF EVIDENCE

**RULES OF EVIDENCE:** The rules of evidence prevailing in courts of law and/or equity shall not be controlling in actions under this chapter.

- **Admissibility and Credibility:** All questions of admissibility of evidence and the credibility of witnesses and evidence shall be determined by the Hearing Board. The Board's ruling shall not be overturned on appeal unless the ruling is clearly in error.
- **Oath:** All testimony will be given under oath. The oath will be: "I do solemnly affirm to tell the truth, the whole truth, and nothing but the truth."
- **Burden of Proof:** The Petitioner has the burden of proving his allegations. Any countercharges made by the Respondent must be proved by the Respondent.
- **Standard of Proof:** The Petitioner must prove the allegations by a preponderance (51%) of the evidence.
- **Admissibility:** To be admissible evidence must be relevant and trustworthy.
  1. **Relevant:** Evidence having any tendency to make the existence of any fact that is of consequence to the determination of the disciplinary charge or grievance more probable or less probable than it would be without the evidence;
  2. **Trustworthy:** There is no compelling reason not to believe the information from the witness or in the exhibit.
- **Objections.** Either party or a board member may object to the admission of an exhibit or facts testified to by a witness based on the standard in Section 900A(f).
  1. The party will state the basis for the objection and facts to support the objection.
  2. The chairman of the Hearing Board shall rule on the objection as: "overruled" or "sustained", in which case the evidence may not be considered by the Hearing Board in deliberations.

# SECTION 900-B

## RULES OF PREHEARING PROCEDURE

The rules of procedure prevailing in courts of law and/or equity shall not be controlling in actions under this chapter. All questions as to the regularity of the proceedings shall be determined by the Hearing Board. The Hearing Board's ruling shall not be overturned on appeal unless the ruling is clearly in error. The goal of this chapter shall be to ensure that matters are expeditiously, fairly and justly heard.

### PART 1. FILING, SERVICE OF COPIES, CORRESPONDENCE

- **Filing by Petitioner and Respondent.** Petitioner and Respondent shall submit all documents required to be filed by this chapter by certified mail return receipt requested.
- **Correspondence and Service of Copies by Petitioner and Respondent.** Copies and correspondence from and to the Petitioner and Respondent required by this chapter shall be served by certified mail return receipt requested.
- **Notices and correspondence** between the Hearing Board and the National Judge Advocate or the National Judge Advocate and National Headquarters and/or Board of Trustees only requires regular mail.
- **Electronic Communications.** The use of electronic communications such as email and fax notices: (1) are not sufficient for filing, copy, or notice purposes except as permitted below for the National Board of Trustees and (2) do not meet deadlines as set forth in this chapter.
- **Vote by National Board of Trustees not in active Session.** On any vote under this chapter by the National Board of Trustees while not in active session, notice by e-mail directed to the National Adjutant/Paymaster shall be deemed sufficient.
- **Filing Grievance or Disciplinary Charge.** The Petitioner shall file the grievance or disciplinary charge in writing with the Jurisdictional Judge Advocate by certified mail return receipt requested.
  - (1) The day after receipt by the Jurisdictional Judge Advocate is Day One on the 75-day clock.
  - (2) The Petitioner shall serve copies of the disciplinary charge or grievance upon the Respondent, the Department Commandant, the National Commandant, and the National Judge Advocate by certified mail return receipt requested.

- (3) A failure to accept or a refusal to accept certified mail or sign for the receipt of such mail after due notice from the U.S. Postal Service shall be deemed to be good service.
  - (4) When the disciplinary charge is filed, the Chapter Nine procedures triggered thereby become effective when it is received by the Jurisdictional Judge Advocate.
- **Respondent's Reply to Grievance or Disciplinary Charge.** The Respondent shall have ten (10) days to respond to the Jurisdictional Judge Advocate in writing concerning his defense to the alleged grievance or disciplinary charge, but need not respond if he so chooses.
    - **75-Day Clock.** The Jurisdictional Judge Advocate is responsible for ensuring that the time limits of the 75-day clock in the various sections of Chapter Nine are met as closely as possible.
    - **Computing Time Limits in Sections.**
      - (1) The day after the date of receipt of a document is counted as Day One (1).
      - (2) The postmark on USPS mail is considered the date of filing for purposes of computing whether a document has been filed within the time limits stated in the applicable section.
        - A. On Certified mail the postmark on the certified receipt is the date of filing.
        - B. On first class mail the postmark on the envelope is considered the date of filing.
        - C. In the absence of a postmark or an illegible postmark the postmark is presumed to be the date of the document. The presumption may be rebutted.
      - (3) The day after the date of:
        - A. Receipt of certified mail return receipt requested as shown on the green card or
        - B. Refusal to accept certified mail return receipt requested is day one of the period to respond to the enclosed document.
      - (4) First class mail is presumed to be received four (4) days after the date of postmark and the fifth day is Day One of the time period in effect.
      - (5) Proof of timely filing or service is on the proponent. A certified mail receipt issued and postmarked by the U.S. Post Office at the time of mailing constitutes proof of date of filing or service.

## **PART 2. PREHEARING DUTIES:**

- **Counsel.** If a party will be represented by counsel, that party shall notify the Jurisdictional Judge Advocate of the name of the counsel within five (5) days after counsel accepts the party's request.
- **Petitioner's Witnesses.** The petitioner is responsible to invite witnesses to testify on his behalf. The Petitioner may submit notarized statements from any witness that cannot appear at the hearing in person.
- **Respondent's Witnesses.** The respondent is responsible to invite witnesses to testify on his behalf. The respondent may submit notarized statements from any witness who cannot appear at the hearing in person.
- **Notice of Hearing.** The Jurisdictional Judge Advocate shall notify the parties of the date and location of the hearing not less than twenty days prior to the convening date of the Board.
  - (1) A request for a change of hearing date or location shall be filed in writing with the Jurisdictional Judge Advocate, who shall immediately forward the request to the Chairman of the Hearing Board. The Chairman shall respond in writing to the request using his best judgment. Copies of the request and the Chairman's ruling shall be attached to the record as a Board exhibit.
  - (2) With the notice the Jurisdictional Judge Advocate shall enclose copies of Section 900, Section 900A, Section 900B, Section 901 or Section 904, Section 909, and Section 909A.
  - (3) If the Respondent is absent from the hearing the Jurisdictional Judge Advocate shall make the return receipt (green card) a Board exhibit to document notice.
- **Notice of Composition of Hearing Board.** The Jurisdictional Judge Advocate shall notify the Petitioner and Respondent of the names of the members appointed to the Hearing Board no less than twenty (20) days prior to the convening date of the Board.
- **Challenges to Members of the Hearing Board.**
  - (1) Both the Petitioner and Respondent shall have ten (10) days from the date of receipt of the notice to challenge in writing any appointed member. A challenge shall be filed with the Jurisdictional Judge Advocate. Absent a timely challenge, the Hearing Board shall be deemed to be fair and impartial.
  - (2) Petitioner and Respondent shall each have one preemptory challenge. All other challenges must be for good cause.

- (3) The Jurisdictional Judge Advocate is not subject to challenge except for good cause. If the challenge to the Jurisdictional Judge Advocate is sustained, the appointing authority will appoint a replacement, preferably a past National Judge Advocate or Past National or Department Commandant.
- (4) After conferring with the Jurisdictional Judge Advocate, the appointing authority shall determine if the challenge(s) is sustained.
- (5) The appointing authority will appoint replacements for all sustained challenges and the Jurisdictional Judge Advocate will notify the Petitioner and the Respondent of such replacements. Replacements are subject to challenge for good cause. The challenge shall be made within ten (10) days of receipt of the notification.
- (6) When challenges are made to the composition of the Hearing Board, it may cause the process to be more lengthy than would fit into the normal timing of the sample chronology suggested in Attachment 3. In such case, the appointing authority will have the authority to adjust the timeline accordingly and will ensure that all parties are notified on a timely basis.
- (7) Appointed Hearing Board members who may have a conflict of interest through friendship, marriage, family relationship or prejudice shall recuse themselves from sitting on the Hearing Board.

- **Parties Lists of Exhibits and Witnesses to Jurisdictional Judge Advocate.** Not less than fifteen (15) days before the hearing, the Petitioner and the Respondent shall mail to the Jurisdictional Judge Advocate a complete list of witnesses and copies of
  - (1) Notarized statements from any witness who cannot appear at the hearing in person and
  - (2) All exhibits to be offered into evidence. Any witness not listed or exhibit offered, but not previously provided may be heard or admitted at the discretion of the Hearing Board under such terms and conditions as it shall require.
- **Jurisdictional Judge Advocate Lists to Petitioner and Respondent.** The Jurisdictional Judge Advocate will mail to the Petitioner and Respondent:
  - (1) A list of witnesses to be called by the Board;
  - (2) Copies of all exhibits with exhibit numbers to be introduced by the Board;
  - (3) A list of all witnesses to be called by the parties and
  - (4) Copies of all exhibits with exhibit numbers or letters provided by the Petitioner and the Respondent not less than five (5) days prior to the convening of the Hearing Board.

- **Motion of Failure to Follow Procedure.**

- (1) A complaint of failure to comply with the prehearing procedure required in Chapter Nine shall be made in writing with supporting exhibits attached and filed with the Jurisdictional Judge Advocate not later than five days prior to the date of the hearing.
- (2) The motion shall state: (a) the procedure allegedly not followed and pertinent section, (b) the facts supporting the allegation of failure and (c) the remedy asked.
- (3) The proponent shall serve the other party a copy at the time of filing.
- (4) Allegations of failure of Jurisdictional Judge Advocate to comply with Section 900B(q) of National Administrative Procedures, may be presented in writing at the hearing.
- (5) The motion shall be argued at the hearing prior to evidence being taken and ruled on by the Chairman.
- (6) A complaint of failure to follow procedure not raised at the hearing is deemed waived.

## **SECTION 901 GRIEVANCES**

- **Written Grievance:** If a member, detachment, or department has a grievance against another member, detachment, or department, the following procedure will be followed:
  - (1) Prior to the grievance being filed with the Jurisdictional Judge Advocate, the grievance may be considered by the Detachment to mediate the problem. When a grievance is filed with the Jurisdictional Judge Advocate, by the aggrieved member, the role of the Detachment is then terminated and the grievance moves forward in accordance with Section 901.
  - (2) The Petitioner shall file the grievance in writing with the Jurisdictional Judge Advocate clearly stating the basis for the grievance. The grievance shall specify: what is alleged to have occurred, when it was alleged to have occurred, where it was alleged to have occurred, the names of the parties and witnesses, and such other supporting information as may be necessary to adequately inform the respondent so a defense may be prepared.
  - (3) The Petitioner shall serve a copy of the grievance upon the Respondent, the Department Commandant and the National Judge Advocate by certified mail return receipt requested.

- (4) A failure to accept or a refusal to accept certified mail or sign for the receipt of such mail after due notice from the USPO shall be deemed to be good service.
- (5) The Respondent shall have ten (10) days to file a written response with the Jurisdictional Judge Advocate by certified mail return receipt requested stating his defense to the alleged grievance, but need not respond if he so chooses.

- **Jurisdictional Judge Advocate Action:**

- (1) Upon receiving the grievance, the Department Judge Advocate shall have twenty days in which he shall review the grievance and response (if any) and act as mediator in the dispute.
- (2) If the Department Judge Advocate is successful in resolving the grievance, he shall in writing report the settlement to the Department Commandant and serve a copy of the report on the parties and the National Judge Advocate.
- (3) If the grievance is not settled the Department Judge Advocate may conduct an informal investigation to determine the merit of the grievance.
- (4) If the Department Judge Advocate determines that the grievance does not have merit, he may dismiss the grievance. The Petitioner may appeal the dismissal to the National Judge Advocate as provided in Section 909A(d).

- **Appointment of Hearing Board:** Upon receiving the report from the Jurisdictional Judge Advocate that the grievance is not resolved, the Department Commandant shall then appoint a Hearing Board composed of himself as chairman, the Jurisdictional Judge Advocate and a minimum of two other members. No member of the Petitioner's detachment or the Respondent's detachment may be appointed to a Hearing Board, including the Jurisdictional Judge Advocate and Department Commandant. Appointed Hearing Board members who may have a conflict of interest through friendship, marriage, family relationship or prejudice shall recuse themselves from sitting on the Hearing Board. Any challenge to the composition of the Board shall be made in accordance with Section 900B(m) of this chapter.

- **Convening the Hearing Board.** The Hearing Board shall convene a hearing at a time and place of its convenience within forty (40) days of the appointing order.

- **Notice of Hearing:**
  - (1) The Jurisdictional Judge Advocate shall notify the parties of the date and location of the hearing not less than twenty (20) days prior to the convening date of the Board.
  - (2) The Jurisdictional Judge Advocate shall enclose copies of Section 900, Section 900A, Section 900B, Section 901 or Section 904, Section 909, and Section 909A with the notice, which shall state (1) the right to counsel and (2) the requirement to submit a list of witnesses and copies of exhibits.
  
- **Change of Location or Date:** A request for a change of the hearing date shall be made in accordance with Section 900B(m).
  
- **Notice of Composition of Hearing Board:** The Jurisdictional Judge Advocate shall notify the Petitioner and Respondent of the names of the members appointed to the Hearing Board not less than twenty (20) days prior to the convening date of the Board. The notice is normally sent with the notice of hearing.
  
- **Challenges to Members of the Hearing Board:** A challenge to a member of the Hearing Board shall be made in accordance with Section 900B(o) of this chapter.
  
- **The Hearing.** The hearing shall be conducted in accordance with Section 909 - HEARING PROCEDURE of this chapter.
  
- **Written Summary of the Hearing:** The Jurisdictional Judge Advocate shall write a summary of the hearing as required in Section 909(u) of this chapter.
  - (1) If the grievance is proved, the Hearing Board shall state in its decision the corrective action necessary to eliminate the grounds for the grievance.
  - (2) If the grievance is not proved, the written decision shall so state and the matter shall stand dismissed.
  - (3) The Jurisdictional Judge Advocate shall serve the written summary within fifteen (15) days of the hearing on the Petitioner and Respondent with copies to the National Commandant, the National Judge Advocate, the Department Judge Advocate, and the Department Commandant.
  
- **Failure to Take Corrective Action:** The failure of a Respondent to take the corrective action directed by the Hearing Board to resolve the grievance, which has been proven may be grounds for disciplinary charges filed by the Petitioner or any member not on the Hearing Board.

- **Appeal to National Judge Advocate:** Either the Petitioner or the Respondent may appeal the decision of the Hearing Board to the National Judge Advocate. See Section 909A(a) of this chapter for procedure.
- **Appeal to National Board of Trustees.** Either the Petitioner or Respondent may appeal the National Judge Advocate’s ruling to the National Board of Trustees. See Section 909A(d) of this chapter for procedure.
- **Hearing Board Member Expenses.** The legitimate travel and lodging expenses of the Hearing 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 Department.

**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, DIVISION OR NATIONAL GRIEVANCE**

- If a Department, a Division, a Department Officer, a Division Officer or a National Officer is the Petitioner or the Respondent, 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).
- Either the Petitioner or the Respondent may appeal the Hearing Board’s decision to the National Board of Trustees, in writing via the National Commandant.
  - (1) Such appeal must be filed within thirty (30) days of the decision of the Hearing Board stating as clearly as possible the basis for such appeal.
  - (2) The National Judge Advocate will distribute copies of all pertinent material to the members of the Board of Trustees.
  - (3) The Board of Trustees shall render their opinion in writing to National Headquarters within fifteen (15) days; whereupon the National Judge Advocate will inform the Petitioner of the decision of the majority of the National Board of Trustees, either sustaining or denying such appeal with copy to the National Adjutant/Paymaster.
  - (4) The decision of the National Board of Trustees is final.

## **SECTION 903**

### **NATIONAL CONVENTION GRIEVANCE**

If a grievance arises during a 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:

- (1) 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.
- (2) The Hearing Board may call witnesses. It shall hear appropriate testimony either orally or by affidavit as set forth in this chapter. A Hearing Board may also conduct its own independent investigation.
- (3) The Hearing Board's decision, which must be affirmed by a majority of the board, shall be served in writing upon the Petitioner and respondent immediately.
- (4) If the grievance is substantiated and proved, the Hearing Board shall state in its decision the corrective action necessary to eliminate the grievance.
- (5) The Petitioner may appeal the Hearing Board's decision directly to the Convention and has the burden of proving such grievance to the Convention.
- (6) 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 seating at 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 Section 903(a).

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

- **Violation of the National bylaws or the National Administrative Procedures:** Whenever a member, Detachment, Detachment Officer, Department Officer other than the Commandant, or a Member of the Board of Trustees of a Detachment or Department violates the National bylaws or the National Administrative Procedures of the Marine Corps League, a petitioner may file a disciplinary charge(s) against said member, Detachment, Detachment Officer, Department Officer, or a Member of the Board of Trustees of a Detachment or Department.
- **No Detachment Jurisdiction:** Detachments **DO NOT** have disciplinary jurisdiction over any member.
- **Filing Disciplinary Charge(s)**
  - (1) A Petitioner shall file a written disciplinary charge(s) setting forth in detail the basis for the disciplinary charges (See Section 900(d)) with the Department Judge Advocate by certified mail return receipt requested.
  - (2) When a disciplinary charge is filed, the Chapter Nine procedures triggered thereby become effective when it is received by the Department Judge Advocate.
  - (3) The Hearing Board may call witnesses. It shall hear appropriate testimony either orally or by affidavit as set forth in this chapter. A Hearing Board may also conduct its own independent investigation.
- **Response to Disciplinary Charge.** The respondent shall have 10 days to file with the Department Judge Advocate his written response to the disciplinary charge. He shall serve a copy of the defense on the petitioner. The respondent need not respond if he so chooses.
- **Department Judge Advocate Action.**
  - (1) Upon receiving disciplinary charge, the Department Judge Advocate shall have twenty (20) calendar days in which he:
    - (A) May conduct an informal investigation to determine the merit of the disciplinary charge; and
    - (B) Should explore the possibility of a negotiated settlement.
  - (2) If the Department Judge Advocate determines that the disciplinary charge does not have merit, he may dismiss the charge. The Petitioner may

- appeal the dismissal to the National Judge Advocate as provided in Section 909A(a).
- (3) If a settlement is negotiated, the Department Judge Advocate shall in writing report the settlement to the Department Commandant with a copy to the parties and the National Judge Advocate.
  - (4) If there is merit and no settlement has been negotiated, the Department Judge Advocate shall in writing so inform the Department Commandant.
- **Appointment of Hearing Board:** Upon receiving the Department Judge Advocate's report that the disciplinary charge has merit and a settlement has not been reached, the Department Commandant shall immediately appoint a Hearing Board.
    - (1) The Hearing Board shall be composed of the Department Commandant as chairman, the Department Judge Advocate and a minimum of two other members. No member of the petitioner's detachment or the respondent's detachment may be appointed to a Hearing Board, including the Department Commandant and Department Judge Advocate. Hearing Board members who may have a conflict of interest through friendship, marriage, family relationship or prejudice shall recuse themselves.
    - (2) A challenge to the composition of the Board shall be made in accordance with Section 900B (m) of this chapter.
  - **Convening of Hearing Board:** The Hearing Board shall convene at a time and place of its convenience within forty days from its appointment.
    - (1) The Department Judge Advocate shall notify the parties of the date and location of the hearing not less than twenty (20) days prior to the convening date of the Board.
    - (2) The Department Judge Advocate shall enclose copies of Section 900, Section 900A, Section 900B, Section 904, Section 909, and Section 909A with the notice, which shall state (1) the right to counsel and (2) the requirement to submit a list of witnesses and copies of exhibits.
    - (3) A request for a change of hearing date or location shall be filed in writing with the Department Judge Advocate within ten (10) days of the receipt of the notice(s). The Department Judge Advocate shall immediately forward the request to the Chairman of the Hearing Board, who shall respond in writing to the request using his best judgment.
  - **Conducting the Hearing:** The hearing shall be conducted in accordance with Section 909 of this chapter.

- **Findings of the Hearing Board:** The findings of the Hearing Board shall be a section of the written summary of the hearing. See Section 909(u)-Hearing Procedure.
  - (1) The Department Judge Advocate shall write the findings of the Hearing Board within 15 days of the hearing.
  - (2) The Board shall make a finding of “guilty” or “not guilty” on each charge and specification;
  - (3) A finding of “guilty” requires a vote for “guilty” by a majority of the Board members;
  - (4) The findings shall also state the punishment awarded by the Board;
  - (5) If any disciplinary charge is not proved, the findings shall state “not guilty”; and
  - (6) A copy of the written summary of the hearing shall be served on the Petitioner, the Respondent, the Department Commandant, the Department Judge Advocate, the National Judge Advocate, and National Adjutant/Paymaster (less exhibits).
  
- **Appeal to National Judge Advocate:** An appeal of the Hearing Board’s decision may be made to the National Judge Advocate by either the Respondent or Petitioner. See Section 909A of this chapter.
  
- **Appeal to National Board of Trustees:** Either the Petitioner or Respondent may file an appeal of the National Judge Advocate’s ruling to the National Board of Trustees. See Section 909A of this chapter.
  
- **Expenses:** The legitimate travel and lodging expenses of the members of the Hearing Board shall be a charge against the Department, which shall reimburse the members upon submission of a voucher to the Paymaster of the Department.

## **SECTION 905**

### **DEPARTMENT COMMANDANT OR DEPARTMENT**

In the event the Respondent is a Department Commandant or Department, the following procedure shall be followed:

- (1) Disciplinary Charges shall be submitted in writing to the National Judge Advocate and to the Respondent, with a copy to the National Commandant.
- (2) Proof of service upon the Respondent shall be provided to the National Judge Advocate by the Petitioner by either service in hand by the Department Sergeant at Arms or by certified mail, return receipt requested as set forth herein.

The National Judge Advocate may, at his discretion, conduct a preliminary investigation to:

- (1) Determine the merit of the charge.
- (2) Explore the possibility of a negotiated settlement.

If the charge appears to be valid, and if it appears to the National Judge Advocate that a negotiated settlement is not likely, or upon his own initiative, the National Judge Advocate shall proceed to:

- (1) 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, at his discretion, appoint current or former members of the Board of Trustees.
- (2) The Hearing Board shall convene a hearing in the state in which the disciplinary charges arose at a time and place of its convenience. Any challenge to the composition of the Hearing Board or to the notices given concerning such hearing must be made at least ten days prior to the start of the hearing or shall be deemed to have been waived.
- (3) The Hearing Board may call witnesses but is under no obligation to do so. The petitioner has the burden of proving any and all disciplinary charges against the Respondent to the satisfaction of the Hearing Board.
- (4) The Hearing Board shall hear appropriate testimony either orally or by affidavit as set forth in this chapter. A hearing board may also conduct its own independent investigation.

The decision of the Hearing Board shall be made in writing and must be affirmed by a majority of the Hearing Board.

- (1) If any disciplinary charge is substantiated and proved, the Hearing Board shall so state in its decision its finding relating to the evidence and shall also state the punishment awarded by the Hearing Board.
- (2) If any disciplinary charge is not substantiated or proved} the written decision shall so state.
- (3) The written decision shall be forwarded within fifteen (15) days to the National Commandant with a copy to the National Judge Advocate. The National Judge Advocate will affect proper service upon the Petitioner and the Respondent, with copies to all of the participating parties and the National Adjutant/Paymaster.

The Respondent or Petitioner may appeal the decision of the hearing board 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.

- (1) The National Adjutant/Paymaster will distribute copies of all pertinent material to the members of the Board of Trustees.

- (2) The Board of Trustees shall render their opinion in writing to National Headquarters within fifteen (15) days; 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 such appeal.
- (3) Any member of the Board of Trustees who shall have served on the subject Hearing Board shall abstain from voting on the appeal.

The Respondent or Petitioner may appeal the decision of the National Board of Trustees in writing setting forth as clearly as possible the basis for such appeal directly to National Convention via the National Adjutant/Paymaster.

- (1) Any appeal to the convention must be made within thirty (30) days of the receipt of the decision of the National Board of Trustees and not less than thirty (30) days prior to the commencement 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 a National Officer or member of the National Board of Trustees, other than the National Commandant or National Judge Advocate, the procedure shall be as follows:

- (1) Charges shall be filed with the National Judge Advocate, who will thereupon cause service of same either in hand by the National Sergeant at Arms or by certified mail, return receipt requested as provided herein upon the respondent, with copies to the National Board of Trustees.

The National Judge Advocate may conduct a preliminary investigation to determine:

- (1) The merit of the charge.
- (2) The possibility of a negotiated settlement.

If the charge appears to be valid and has merit, and if it appears to the National Judge Advocate that a negotiated settlement is not likely, or upon his own initiative, the National Judge Advocate shall proceed to:

- (1) 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.

If the charge is not found to merit further proceedings such charge shall be dismissed and the petitioner shall be so notified by the National Judge Advocate.

- (2) The Hearing Board is empowered to convene a hearing at a time and place of its convenience. Any challenge to the composition of the Hearing Board or to the notices given concerning such hearing must be made at least ten days prior to the start of the hearing or shall be deemed to have been waived.
- (3) The Hearing Board may call witnesses but is under no obligation to do so. The petitioner has the burden of proving any and all disciplinary charges against the respondent to the satisfaction of the Hearing Board.
- (4) The Hearing Board shall hear appropriate testimony either orally or by affidavit as set forth in this chapter. A hearing board may also conduct its own independent investigation.

The decision of the Hearing Board shall be made in writing and must be affirmed by a majority of the Hearing Board.

- (1) If any disciplinary charge is substantiated and proved, the Hearing Board shall so state in its decision and findings relative to the evidence and shall also state the punishment awarded by the Hearing Board.
- (2) If any disciplinary charge is not substantiated or proved, the written decision shall so state.
- (3) The written decision shall be forwarded within fifteen (15) days to the National Commandant with a copy to the National Judge Advocate. The National Judge Advocate will affect proper service upon the petitioner and the respondent, with copies to all of the participating parties.

The Respondent or Petitioner 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.

- (1) The National Adjutant/Paymaster will distribute copies of all pertinent material to the members of the Board of Trustees.
- (2) Each member of the Board of Trustees shall render their opinion in writing to National Headquarters within fifteen (15) days; 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 such appeal.
- (3) Any member of the Board of Trustees who shall have served on the subject Hearing Board shall abstain from voting on the appeal.

The Respondent or Petitioner may appeal the decision of the National Board of Trustees in writing setting forth as clearly as possible the basis for such appeal directly to National Convention via the National Adjutant/Paymaster.

- (1) Any appeal to the convention must be made within thirty (30) days of the receipt of the decision of the National Board of Trustees and not less than thirty (30) days prior to the commencement 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 907**

### **NATIONAL COMMANDANT**

In the event the National Commandant shall be the respondent the following procedure shall be followed:

- (1) The National Senior Vice Commandant and the National Judge Advocate shall determine if the charge is serious enough to merit further proceedings. If it is not found to merit further proceedings such charge shall be dismissed and the petitioner shall be so notified by the National Judge Advocate.

If found to have merit, the disciplinary charges shall be deemed filed with the National Judge Advocate, who will thereupon cause service of same upon respondent, with copies to the National Board of Trustees.

The National Senior Vice Commandant 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 Hearing Board finds it is in the best interest of the Marine Corps League, it may, by a two-thirds (2/3rds) vote, temporarily suspend the National Commandant from the duties of his office.

The Senior Vice Commandant shall serve as Chairman of the Hearing Board.

- (1) The Board shall conduct a hearing at National Headquarters at its own convenience, call witnesses, hear testimony, and it may conduct its own independent investigation.

The Hearing Board's decision, which must be affirmed by a two-thirds (2/3rds) vote, shall be served upon the National Commandant within fifteen (15) days of date of decision.

The National Commandant may appeal within thirty (30) days to the Senior Vice Commandant, via the National Adjutant/Paymaster, who shall appoint an appeals board (Board of Appeals) 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 of Appeals shall concern itself only with the appeal and a majority vote by the Board of Appeals is required for a decision.

The National Commandant may further appeal the decision of the Board of Appeals directly to the National Convention in writing, via the National Adjutant/Paymaster.

- (1) Any appeal to the convention must be made 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 commencement of the National Convention.

The legitimate travel and lodging expenses of the Hearing Board or Board of Appeals 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:

- (1) The charges shall be filed with the National Commandant, who shall affect service upon the Respondent and all participating parties.

The Junior Past National Commandant and National Senior Vice Commandant shall determine if the charge is serious enough to merit further proceedings. If it is not found to merit further proceedings such charge shall be dismissed and the petitioner shall be so notified by the Jr. Past National Commandant.

If any charge is found to have merit:

- (1) The National Senior Vice Commandant as Chairman shall immediately convene a Hearing Board, comprised of himself and four (4) other members of the National Board of Trustees.
- (2) The Hearing Board is empowered to convene a hearing at a time and place of its convenience. Any challenge to the composition of the Hearing Board or to the notices given concerning such hearing must be made prior to the start of the hearing or shall be deemed to have been waived.

- (3) The Hearing Board may call witnesses but is under no obligation to do so. The petitioner has the burden of proving any and all disciplinary charges against the respondent to the satisfaction of the Hearing Board.
- (4) The Hearing Board shall hear appropriate testimony either orally or by affidavit as set forth in this chapter. A hearing board may also conduct its own independent investigation.

If the Hearing Board finds it is in the best interest of the Marine Corps League, by a two-thirds (2/3rds) vote, it may temporarily suspend the National Judge Advocate from the duties of his office.

The decision of the Hearing Board shall be made in writing and must be affirmed by a majority of the Hearing Board.

- (1) If any disciplinary charge is substantiated and proved, the Hearing Board shall so state in its decision its findings relating to the evidence and shall also state the punishment awarded by the Hearing Board.
- (2) If any disciplinary charge is not substantiated or proved, the written decision shall so state.
- (3) The written decision shall be forwarded within fifteen (15) days to the National Commandant who will affect proper service upon the petitioner and the respondent, with copies to all of the participating parties.

The Respondent or Petitioner may appeal in writing within thirty (30) days to the National Commandant setting forth as clearly as possible the basis for such appeal.

- (1) Upon appeal, the National Commandant shall appoint an appeal board 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 Appeal 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.

- (1) Any appeal to the convention must be made 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 commencement 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 909**

## **HEARING PROCEDURE**

### **PART 1. DUTIES AND RIGHTS AT THE HEARING**

#### **Duties and Rights of Petitioner.**

- (1) The Petitioner has the burden of proving the grievance or disciplinary charge by a preponderance (51%) of the evidence. Failure to meet the burden is grounds for dismissing the grievance or disciplinary charge.
- (2) The Petitioner is responsible for inviting witnesses to testify on his behalf.
- (3) The Petitioner is responsible to present admissible evidence relevant to the grievance or disciplinary charge.
- (4) The petitioner shall file 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 with the Jurisdictional Judge Advocate fifteen (15) days prior to the convening of the Hearing Board. Any witness not listed or exhibits offered but not previously provided may be heard or admitted at the discretion of the Hearing Board under such terms and conditions, as it shall require.
- (5) The petitioner may have a member of the Marine Corps League act as his counsel but the counsel must have been a member of the Marine Corps League for at least a year.
- (6) The petitioner or his counsel has the right to examine and cross examine witnesses.

#### **Duties and Rights of Respondent**

- (1) A Respondent has the right to file a written response with the Department Judge Advocate to a grievance or disciplinary charge filed against him, but need not do so at his choice.
- (2) The Respondent is responsible for inviting witnesses to testify on his behalf and to present admissible evidence in his defense relevant to the grievance or disciplinary charge against him.
- (3) The Respondent's failure to appear or provide evidence shall not prevent the Hearing Board from making appropriate findings.
- (4) The Respondent shall file a complete list of his witnesses, notarized statements from any witness that cannot appear at the hearing, and copies of all exhibits to be offered into evidence with the Jurisdictional Judge Advocate fifteen (15) days prior to the convening of the Hearing Board. Any witness not listed or exhibits offered but not previously provided may be heard or admitted at the discretion of the Hearing Board under such terms and conditions, as it shall require.

- (5) The Respondent may have a member of the Marine Corps League act as his counsel but the counsel must have been a member of the Marine Corps League for at least a year.
- (6) The Respondent or his counsel has the right to examine and cross examine witnesses.

**Duties of the Recorder: Official Recording of the Proceedings**

- (1) The chairman of the Hearing Board will appoint a recorder, preferably from the local area, to record the proceedings by audio tape or digital recording. The recorder shall:
  - A. Be the sole operator of the recording device;
  - B. Maintain a log of audio tape or digital recording activities (See Attachment 9-1);
  - C. At the close of the hearing, turn over all audio tapes or digital recordings to the Jurisdictional Judge Advocate, who will sign the log as custodian. The recording shall be filed with the written summary of the hearing. See Section 909 (u);
  - D. A duplicate of the log will be sent with all requests for copies of audio tapes or digital recordings; and
  - E. Not participate in the Hearing Board's deliberations.
- (2) There will be no audio tape or digital recording of the proceedings other than the official recording taken by the recorder.
- (3) The Board will make available to the parties upon written request filed with the Jurisdictional Judge Advocate a copy of the recording of the hearing. The request shall be made in writing within ten (10) days of receipt of the copy of the summary of the hearing.
- (4) The cost of reproduction of the audio tapes or digital recordings will be paid by the party requesting the copy.
- (5) If the Petitioner or Respondent requests a copy of the recording of the hearing, the thirty (30) day appeal period in Section 909A(a) shall commence upon receipt of the copy of the recording.

**Duties of Sergeant of Arms:** The chairman of the Hearing Board will appoint a Sergeant of Arms preferably from the local area. The duties of the Sergeant of Arms are to preserve order and to perform other duties as required by the Chairman of the Hearing Board.

**Duties of Hearing Board:**

- (1) Hearing shall be held in executive session.
- (2) The Hearing Board shall conduct the hearing following Section 909 Part 2 below.

- (3) The Hearing Board may, but is not obligated to invite witnesses and obtain exhibits other than those designated by the Petitioner and the Respondent.

## **PART 2. CONDUCTING THE HEARING**

**Preliminary Events:** The Chairman calls the hearing to order and:

- (1) Announces that the hearing will be held in executive session;
- (2) Directs the Sergeant-at Arms to: (A) Secure the hearing room: only the members, parties, counsel, and recorder may be present and (B) Lead the pledge of allegiance.
- (3) States who is present and the billet of each person.
- (4) Directs the Jurisdictional Judge Advocate to enter the exhibits in the record.

### **Exhibits:**

- (1) Prior to the hearing the Jurisdictional Judge Advocate marks exhibits as follows:
  - A. Board Exhibits. At a minimum the following exhibits are marked as board exhibits: B-1 Appointing and Convening Order; B-2 Grievance or Disciplinary Charge\*; and B-3 if Respondent is absent a copy of the Notice of Hearing sent to the Respondent with a copy of certified receipt with postmark and the return receipt (green card) attached.

**NOTE.** \*If the charge(s) or grievance filed does not number or letter the clearly different actions alleged, the Jurisdictional Judge Advocate shall make such designations on the charges filed or on a separate page submitted as a Board Exhibit for purposes of taking evidence and making findings.

- B. Petitioner's Exhibits. The Petitioner's exhibits are marked: P-1, P-2, etc.
- C. Respondent's Exhibits. The respondent's exhibits are marked: A, B, C, etc.

**NOTE:** The exhibits shall be marked before copies are mailed to the parties.

- (2) On the record the Jurisdictional Judge Advocate announces the list of exhibits.
- (3) On the record the Jurisdictional Judge Advocate asks in turn if Petitioner or Respondent has an objection to any exhibit. See Section 900A(f) for basis for objection.

- (4) The Chairman of the Board shall rule on each objection that the exhibit is: (a) admitted; (b) not admitted; or (c) admitted subject to conditions.
- (5) On the record the Jurisdictional Judge Advocate announces which exhibits have been admitted in evidence.

**Motions on Failure to Follow Prehearing Procedure:** (See Section 900B(q)).

- (1) The proponent shall offer his written motion of failure to comply with the prehearing procedure required in Chapter Nine, which has been filed with the Jurisdictional Judge Advocate not later than five (5) days prior to the date of the hearing. The Chairman may allow a written or oral motion submitted at the hearing if the proponent has good cause for not filing timely.
- (2) The Jurisdictional Judge Advocate shall mark a copy of the motion as the party's exhibit next in order.
- (3) The proponent of the motion shall argue his case and present relevant exhibits.
- (4) The Jurisdictional Judge Advocate shall respond to the proponent's case.
- (5) The Chairman shall rule on the motion: granted or denied.
- (6) A complaint of failure to follow procedure not raised at the hearing is deemed waived.

**Witnesses Sworn:**

- (1) Oath. All testimony will be give under the oath: " I do solemnly affirm to tell the truth, the whole truth nothing but the truth."
- (2) The Jurisdictional Judge Advocate shall administer the oath to the witnesses:
  - A. As a group prior to opening statements;
  - B. Individually as called.

**Opening Statements:** Each party may give an opening statement. The Petitioner is first and the Respondent is second.

**Petitioner's Case:** The Petitioner calls his witnesses. Any witness called but not listed or exhibit offered but not previously provided may be heard or admitted at the discretion of the Hearing Board under such terms and conditions as it shall require. The sequence of questioning of each witness is:

- (1) **Direct examination.** Either Petitioner or his counsel, but not both, shall examine a witness by question and answer. At the Board's discretion a witness may read a statement into evidence.
- (2) **Cross-Examination.** Either Respondent or his counsel, but not both, may cross-examine the witnesses on topics covered during the direct examination. The Board may permit questions into additional topics.

- (3) **Redirect.** Either Petitioner or his counsel, but not both, may ask questions on topics covered in cross-examination.
- (4) **Recross.** Either Respondent or his counsel, but not both, may ask questions on topics covered in redirect.
- (5) **Board Questions.** Board members may ask questions (a) at any time during direct, cross, re-direct or re-cross and (b) after the parties have no further questions.

**Respondent's Case:** Respondent is not required to present a defense. The case the Respondent does present follows the same format outlined for Petitioner in Section 909(k) Administrative Procedures of the National Bylaws.

**Rebuttal:** Petitioner may present evidence in rebuttal to evidence presented by respondent.

**Surrebuttal:** Respondent may present evidence in surrebuttal to evidence presented by Petitioner in rebuttal.

**Board Evidence:** The Board may invite additional witnesses to testify and introduce additional exhibits. The Chairman shall designate a member of the Board to conduct the direct examination of the Board witness. Each party or his counsel may cross-examine the witness.

**Additional Session:** If the hearing cannot be concluded on the scheduled day, the hearing may be continued to another day.

**Closing Arguments:** Each party may give a closing argument. Because the Petitioner has burden of proof he has the last word. The Petitioner closes first and the Respondent is second. The Petitioner may offer rebuttal.

**Adjourn the Hearing:** Before declaring the hearing adjourned the Chairman states that:

**NOTE:** It is advisable to keep the parties and witnesses present until deliberations have been completed in case questions arise during deliberations.

(1) The findings will be made within 15 days; (2) the findings will be in writing; and (3) copies will be mailed to: the parties, the National Judge Advocate, the National Commandant, The National Adjutant, and the MODD if applicable.

**Deliberations on Findings:** The Board shall close (go off the record with only Board members present) to deliberate on findings.

(1) Charges and specifications.

A. Finding shall be made on each charge and specification.

**NOTE:** If the charge(s) or grievance filed does not number or letter the clearly different actions alleged to be violations, the Jurisdictional Judge Advocate shall make such designations on the charges or grievance on a separate page submitted as a Board Exhibit for purposes of taking evidence and making findings.

- B. Findings of guilty shall be made by a majority vote.
- C. Less than a majority vote for “guilty” is a finding of “Not Guilty.”

**Punishment in the case of a finding of guilty in a disciplinary hearing (See AP Section 911- Punishment).**

- A. finding for punishment shall be by a majority vote.
- B. The Board may make a finding of “No punishment.”
- C. A member at any level may be punished by:
  - (1) Written reprimand;
  - (2) Suspension for a specified period of time; or
  - (3) Expulsion from the MCL.
- D. A Detachment or Department:
  - (1) May receive a reprimand;
  - (2) Charter may be suspended; or
  - (3) Charter may be revoked.
- E. A punishment more than a reprimand and less than suspension, that is reasonable, e.g. letter of apology; restitution, is authorized by this section.

**Corrective action in the case of a finding of Guilty in a grievance hearing:**

- A. Any corrective action necessary to eliminate the grounds for the grievance shall be directed by a majority vote.
- B. The Board may find “no corrective action is necessary.”

**PART 3. RESULTS OF THE HEARING**

**Written Summary of the Hearing:** Within 15 days of the hearing, the Jurisdictional Judge Advocate shall write a summary of the hearing to include: (See Attachment 4, Section 900, Sample of a Written Summary)

- (1) Date and times convened and adjourned of each session;
- (2) The names and billets of those present;
- (3) A list of the exhibits of the Board, Petitioner, and Respondent with each exhibit attached to the original summary of the hearing;
- (4) A summary of each witness’s testimony;
- (5) The findings of the Hearing Board:
  - A. Each charge and Specification: guilty or not guilty and
  - B. Any punishment in a disciplinary hearing; or

- C. Any corrective action directed in a grievance hearing; and
  - (6) Appeal rights of the parties.
  - (7) The summary shall be signed by all members of the Board.
- See Attachment 4, Sample of a Written Summary.

**Original and Service of Copies of the Written Summary of the Hearing.**

- (1) The original of the written summary of the hearing and the official recording of the hearing shall be retained in the Department Headquarters files or National Headquarters files for at least five years with the Jurisdictional Judge Advocate as custodian.
- (2) Upon obtaining all members' signatures, the Jurisdictional Judge Advocate shall serve a copy of the written summary of the hearing on the parties, the Department Commandant, the National Judge Advocate, and the National Adjutant (less exhibits).

**Duties of National Judge Advocate and National Adjutant:**

- (1) If no appeal is filed and the punishment is suspension or expulsion from the Marine Corps League, the National Judge Advocate shall request in writing by first class U.S. mail that the National Adjutant/Paymaster strike or suspend Respondent from the roles.
- (2) The National Adjutant/Paymaster shall strike or suspend the Respondent from the roles and inform the National Judge Advocate of the action taken by first class U.S. mail and email.
- (3) The National Judge Advocate shall serve a copy of the notice that the Respondent's name has been stricken or suspended from the roles on:
  - A. The parties by certified mail return receipt requested; and
  - B. The National Commandant; the National Division Vice Commandant, the Department Commandant, the Department Judge Advocate, and if appropriate a National Officer in the MODD by U.S. mail or by email.

# SECTION 909 A

## APPEALS

### PART 1. APPEAL TO NATIONAL JUDGE ADVOCATE

**Appeal to National Judge Advocate:** Either the Respondent or Petitioner or the counsel of either may file a written appeal of the Hearing Board's decision to the National Judge Advocate. The appeal shall clearly state the basis for the appeal.

#### **Filing the Appeal:**

- (1) The appeal shall be filed with the National Judge Advocate by certified mail return receipt requested within thirty (30) days after receipt of the Hearing Board decision. A certified mail receipt postmarked within such period constitutes proof of filing of the appeal. Any appeal not filed timely shall be deemed waved absent a showing of good cause, which shall be decided by the National Judge Advocate.
  - A. If the appeal is not timely the National Judge Advocate shall notify the appealing party in writing stating the reasons for the decision with a copy to the National Commandant.
  - B. If the appealing party (a) contests the National Judge Advocate's decision that the appeal is untimely or (b) asserts good cause, he shall file a written request with the National Commandant to reinstate his appeal and serve a copy on the National Judge Advocate.
  - C. If the National Commandant grants the request, the National Commandant shall direct the National Judge Advocate to decide the appeal on the merits.
- (2) A complete copy of the appeal shall be served on the other party (Respondent or Petitioner) and to the Jurisdictional Judge Advocate concurrent with the filing of the appeal to the National Judge Advocate. All copies shall be served by certified mail return receipt requested.
- (3) If the Petitioner or Respondent requests a copy of the recording of the hearing, as provided in Section 909 (c)(3), the thirty (30) day appeal period in Section 909A(b)(1) above shall commence upon receipt of the copy of the recording.

#### **National Judge Advocate Ruling:**

- (1) The National Judge Advocate shall rule on the appeal in writing within thirty (30) days of receipt of the appeal, either granting or denying the appeal.
- (2) The National Judge Advocate shall serve copies of his decision on:
  - A. The parties by certified mail return receipt requested, and
  - B. The National Commandant, the Division National Vice Commandant, the Department Commandant, and the Department Judge Advocate by email.

- (3) The National Judge Advocate may make his decision from the official recording and the written summary of the hearing, or he may permit the Petitioner or Respondent or the counsel of either to make an oral or written argument concerning the appeal after written notice to the other party. No oral or written argument to or contact with the National Judge Advocate should be made concerning the appeal absent his specific request for the same.
- (4) If the record of the hearing is insufficient or there exists material irregularities in procedure, the National Judge Advocate may refer the matter back to the Hearing Board to supplement the record or correct such material irregularity.
- (5) Questions of admissibility of evidence, the regularity of the proceedings, and the credibility of witnesses and evidence determined by the Hearing Board shall not be overturned on appeal unless the Hearing Board is clearly in error.

## **PART 2. APPEAL TO NATIONAL BOARD OF TRUSTEES**

**Appeal to National Board of Trustees:** Either the Petitioner or Respondent or the counsel of either may appeal the National Judge Advocate's decision to the National Board of Trustees. The appeal shall be in writing and state the basis for the appeal.

**Filing the Appeal:** The appeal shall be filed with the National Judge Advocate, copy to the National Commandant and to the other party, by certified mail return receipt requested within thirty (30) days after receipt of the National Judge Advocate's ruling. A certified mail receipt postmarked within such period constitutes proof of filing the appeal.

- (1) Any appeal not filed timely shall be deemed waved absent a showing of good cause.
- (2) The National Judge Advocate shall determine if an appeal is timely.
  - A. If the appeal is timely, the National Judge Advocate shall inform the National Commandant in writing.
  - B. If the appeal is not timely the National Judge Advocate notifies the appealing party in writing stating the reasons for the decision with a copy to the National Commandant.
- (3) If the appealing party
  - A. Contests the National Judge Advocate's decision that the appeal is untimely or
  - B. Asserts good cause, he shall file a written request with the National Commandant to reinstate his appeal and place it on the agenda of the National Board of Trustees.
  - C. The party shall serve a copy of the appeal on the National Judge Advocate.

**Agenda of National Board of Trustees:** If the appeal is timely or good cause is shown, the National Commandant shall

- (1) Place the appeal on the agenda of the National Board of Trustees for review at the next scheduled meeting of the Board and
- (2) Notify the National Judge Advocate that the appeal is on the Board's agenda for a certain date.

**Preparing the Appeal for the Board:** The National Judge Advocate shall

- (1) Inform the appellant by written notice that:
  - A. The appeal will be on the National Board of Trustees agenda on a certain date.
  - B. He has until the date certain to submit seventeen copies of his appeal to the National Judge Advocate for distribution to the National Board of Trustees members.
- (2) Draft a brief for the Board:
  - A. stating the charges and specifications and findings and pertinent evidence,
  - B. commenting on each basis for the appeal, and
  - C. attaching a copy of his ruling denying the appeal to the National Judge Advocate.
- (3) Prepare the appeal for distribution to Board members.

**The National Judge Advocate** shall not sit as a member of the National Board of Trustees to hear the appeal. The National Commandant shall appoint an acting National Judge Advocate while the appeal is before the National Board of Trustees.

**Basis for the Board Ruling:** The Board may:

- (1) Make its decision based on the official recording and the written summary of the hearing;
- (2) Permit the Petitioner and/or the Respondent or the counsel of either to appear and argue the matter before the National Board of Trustees after written notice to the other party.
- (3) Permit the National Judge Advocate to present his brief orally to the Board.
- (4) Take further evidence, including evidence in mitigation or aggravation, under such rules and conditions as it may adopt.

**The Board Ruling:** The National Board of Trustees may sustain or reject the ruling of the National Judge Advocate. If the National Board of Trustees fails to sustain the ruling of the National Judge Advocate, it shall issue its own decision in writing. The acting National Judge Advocate shall draft the ruling of the Board. The National Adjutant/Paymaster shall serve a copy of the Board ruling on the Petitioner, Respondent, Department Judge Advocate, Department Commandant, the National Division Vice Commandant, and the National Judge Advocate.

**No Further Appeal.** The decision of the Board of Trustees is final and there is no further right of appeal.

## **SECTION 910 SUSPENSIONS 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 the Marine Corps League into public disrepute, and/or conduct unbecoming a member of the Marine Corps League, or if he 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. (See Section 909, Paragraph (s) (2) (D))
- (2) A Detachment or Department may receive a reprimand; its Charter may be temporarily suspended; or its Charter may be permanently revoked.
- (3) The National Adjutant/Paymaster shall be notified of all actions taken pursuant to this section.

When the Respondent has been adjudged guilty, and punished by suspension, or expulsion the Respondent is stricken from the roles of the Marine Corps League for the specified period of time specified by the adjudication. During that time, the Respondent is not permitted to attend or participate in any functions of the Marine Corps League, subsidiary and subordinate organizations or to represent that he is a member of the Marine Corps League. If the Respondent is found in violation of a suspension, the Respondent is subject to further charges and possible expulsion from the Marine Corps League.

The administrative procedures for Suspension and Reinstatement are delineated in Attachment Six (6). The administrative procedures for Expulsion are delineated in

Attachment seven (7). The administrative procedures for Resignation in Lieu of Hearing are delineated in Attachment Eight (8).

## **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:

- Violation of Oath of Membership.
- Violation of Oath of Office.
- Conduct unbecoming a member of the MCL.
- Any action detrimental to the MCL.
- 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**

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 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 re-convene 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).

## **SECTION 915**

### **ADMINISTRATIVE EXPULSION OF A MEMBER**

In the case wherein a Member is convicted of a crime which constitutes a felony in a County, City, State or Federal Court in the United States of America, the Detachment or Department in which the member is in good standing, may file appropriate charges in accordance with the guidelines set forth in Chapter Nine. However, the Member may be given the opportunity to resign from the Marine Corps League with prejudice, in lieu of filing of charges under Chapter Nine.

In the event the convicted felon Member does not wish to resign and the Detachment or Department does not desire to retain the convicted felon as a Member, the Detachment or Department may obtain the applicable court documents wherein the Member was convicted of the felony and submit the certified court documents to the Department Judge Advocate with a request to approve the Administrative Expulsion from the rolls of the Marine Corps League with prejudice.

If the Department Judge Advocate approves the Administrative Expulsion request, the member will be notified by Certified Mail, copies being provided to the National Headquarters, Marine Corps League and to the Detachment. The Member may appeal the decision of the Department Judge Advocate in accordance with Section 904 (e) within 30 days.

## **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 75 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 (20) 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 Department Commandant, Department 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 75 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.

**Administrative Note:** Copies of specific Sections of Chapter 9 must be forwarded to the Petitioner and Respondent with this notification. See Section 900B, Paragraph (m) (2).

### **DAY 21 TO DAY 30**

The Petitioner and the Respondent each have ten (10) days to file a written challenge to the composition of the Hearing Board in accordance with Section 900B (a). The Judge Advocate is not subject to challenge.

Upon receipt of a sustained challenge, the appointing authority shall appoint a replacement that shall be subject to challenge only as specified in Section 909B, Paragraph (o) of this Chapter.

## **DAY 60**

Not less than five days before the established hearing date, the Petitioner and the Respondent must provide the Judge Advocate with a full list of all witnesses and a list and copy of all exhibits and all notarized statements to be presented to the Hearing Board. Note that if the hearing date is less than 75 days then you count backwards from the hearing date to establish the date upon which these materials must be provided.

**Administrative Note:** The date these materials must be provided should be included in the notification sent to the Petitioner and Respondent on Day 20.

## **DAY 70**

Not less than 5 days before the date of the hearing the judge Advocate shall provide copies of the lists of witnesses, the list of the exhibits, copies of the exhibits and copies of the notarized statements to the Petitioner and 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 Respondent. Again, if the hearing date is less than the 75<sup>th</sup> day, you count backwards from the hearing date to establish this date.

## **DAY 75**

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 the Respondent have 30 days to file a notice of appeal as set forth in these procedures.

## **NOTE:**

**All mail under this chapter must be by certified mail/return receipt requested.**

**E-mail or facsimile transmissions are not acceptable except as may be specifically allowed by the procedures in this chapter.**

2015 Administrative note: The timeline and certain references for these procedures were modified in the text of Chapter 9 by change 21. Adjustments to co-inside with the modified timeline and references were made to this chronology, recognizing that this chronology is only a guide and is not mandatory. See Section 900, Paragraph (f) of this chapter.

# END OF LESSON PLAN 5

