GRIEVANCE TRAINING

AMVETS DISCIPLINE PHILOSOPHY

The AMVETS discipline procedures are designed to balance the members' individual rights with the need for good order within our organization, while also allowing for the correction of inappropriate behavior. AMVETS members do not forfeit their constitutional rights when they join, or when they violate our standards. They maintain the right to face their accuser and they have the right against self incrimination. AMVETS cannot be disciplined without due process and punishment can only be administered following a finding of guilt at a hearing. One of our primary discipline objectives is that each Post will be the judge of its own membership.

Discipline of employees is covered by State and Federal Statutes which are included in the Department of Florida Personnel Policy. All matters involving employees will be handled in accordance with the Personnel Policy.

TYPES OF GRIEVANCES

AMVETS Department of Florida recognizes two categories of infractions for which a member can be disciplined. Category A and Category B.

- Category A is for the most serious offenses. Category A complaints must be filed within 45 days of discovery (statute of limitations). If the charges filed are against an AMVET then they are heard by the Post Executive Committee. If the charges are against a member of a subordinate organization or a member of another Post, they are forwarded to the Department Commander who will forward to the appropriate Post Commander or Department Subordinate Organization for their further handling. If the charge is against the Commander, it is forwarded to the Department Commander for his further handling. If an AMVET member is found guilty of a Category A charge, the member may be suspended or expelled from AMVETS.
- Category B charges are for violation of House Rules. Category B complaints must be filed within 15 days of the incident. All Post members enjoy the same privileges, responsibilities and rights within the AMVETS Post canteen. It does not matter whether they are an AMVET, Auxiliary, Sons, Juniors member or a member of another AMVETS Post. Once they are a member of a Post they are expected to conform to the same set of published House Rules. Because Category B offenses relate to behavior issues within the canteen; the maximum punishment, if found guilty, is the permanent denial of canteen privileges. Category B charges apply to all members with canteen privileges. If the accused is a member of the Ladies Auxiliary or Sons of AMVETS, their Category B charges are processed by the Post Commander the same as an AMVET

member. If an AMVETS member of another post it is handled through the Department Commander to the Post Commander of the Post he/she belongs to. Commanders are authorized to appoint Auxiliary and Son members to the Grievance Committee for Category B hearings involving an Auxiliary or Sons member. Neither auxiliary member nor a son's member can be selected to sit on a grievance committee not involving their member. When the Commander chooses to do so, they should request a representative from the Ladies President or the Sons Commander. When they function as a member of a Grievance Committee, they have the same responsibilities as an AMVET member.

GRIEVANCE PROCEDURES

- Discipline procedures begin when a member in good standing files charges against another. These charges must be made under oath specifying the date, time and location of the offense, sworn to, signed and notarized. Filing frivolous charges as determined by the hearing authority constitutes conduct unbecoming an AMVET, a category A charge,
- Charges and specifications should be filed with the Post Commander or in case of a member at large, the Department Commander. If the accused is a member of another post, the charges are submitted to the Department Commander, who in turn will send it to the Post Commander of which the AMVET belongs.
- Once charges are validated, the proper commander determines if a suspension pending the hearing is warranted.
- The proper Commander shall within 5 days send a copy by certified mail to the member complained about, with a notice setting a date, time, and place for a hearing to be held no less than 30 days after date of mailing. The accused should be notified that his/her AMVET privileges ae suspended pending resolution of the charges. This means that he/she is not eligible to participate in any Post functions, any meetings, or the Canteen. It is best to send the same notice by first class US mail to ensure delivery.
- Charges and specifications will be heard by the executive committee of the post or department. If it is a Category B offense the members should not be from the Post Executive Committee, because they may be needed to hear a possible appeal of the case. The member complained about has a right to be represented by counsel and cross-examine the accuser and any witnesses presented. If there is an objection to a question, the Presiding Officer of the committee shall decide all questions as to the relevancy of evidence and the regularity of the proceedings
- Charges shall be prosecuted by the Post Judge Advocate or in case of an MAL, the Department Judge Advocate. Use of a court reporter is permitted. Presiding

officer shall decide all questions as to relevancy of the evidence and regularity of proceedings.

- Following a presentation of both the prosecutors' and the defense's case the Committee is left alone to deliberate. Committee members are the only ones in the room during deliberations. These deliberations are secret and not recorded. The committee must first decide if there is a basis or foundation for the charge, if yes, they determine guilt or innocence. A vote of two thirds is required to determine quilt. If not guilty, the case is closed. If the accused is found guilty the Committee must determine the proper punishment.
- The Judge Advocate and the accused are then notified of the findings. The accused should also be officially notified in writing of the results and their rights of appeal. All grievance hearings and deliberations are closed. Only the results should be made available to the membership. For example: AMVET John Smith was found guilty of conduct unbecoming of an AMVET and the punishment is, "the committee recommends he be banned from the Post and placed in MAL (Member At Large) status".
- Because the accused is presumed innocent until proven guilty, the Committee is expected to have a full hearing to conclusion regardless of the presence of the accused. The accused is still expected to be officially notified of the hearing results and their appeal rights. The accused must be notified that they only have 15 days to appeal the sentence of the grievance committee.
- The presiding officer of the Committee reports to the membership at the next general membership meeting advising their recommendations.

APPEALS

- Members who have had a grievance hearing, where they are found guilty have the right to appeal. Appeals are reserved to ensure the rights of the members have not been abused; procedural error is the normal basis to review the actions. In other words, appeals need to be based on a procedural error in the proceedings that substantially affects the rights of the member and undermines the fairness and integrity of the system. The appeal process is not designed or empowered to rehear the case and replace the judgment of the body who originally heard the case. The member requesting an appeal must specify the procedural errors that may have led to a violation of their rights. The case should be thoroughly reviewed to determine if there is merit in the appeal items the member has brought forward.
- These appeals will be referred to one level above where the original hearing was held. Appeals must be filed with the appropriate Officer within 15 days. If the hearing was for a Category A offense the appeal must be filed with the Department Executive Director. If the hearing was for a category B offense the

appeal must be filed with the Post Commander to be handled by the Post executive Board.

- For an appeal of a Category A charge, the Department Commander and the Department Judge Advocate will provide a recommendation to the Department Grievance Committee. The Committees decision regarding the appeal is final.
- For an appeal of a Category B charge, the Post Commander will refer the appeal to the Post Executive Committee. The Committees decision regarding the appeal is final.
- The committee considering the appeal must take a vote to determine
    - the charges and punishment on appeal shall be upheld,
    - The charges are upheld and the punishment reduced or
    - charges and punishment are not upheld.
- A 2/3 vote of the committee shall be required to sustain the charges and punishment on appeal.
- Under no circumstances can the Committee increase the punishment.

SUSPENSION OF MEMBERSHIP AND MEMBERSHIP PRIVILEGES

- The suspension of members privileges prior to a hearing is a tool Commanders can use to help maintain good order within the Post. These suspensions pending hearings are not punishment; they are intended to protect both the accused member and the membership from what can be a contentious situation. Punishment can only occur after a finding of guilty at a hearing.These suspensions can only be imposed after the Commander has received notarized charges and determined they are valid. Post Commanders are expected to use discretion when imposing suspensions prior to hearings. The suspension can only be from the time the Commander notifies the accused until the hearing.
- If a member is charged with a" Category A" offense, the commander is authorized to suspend their AMVETS membership pending their hearing. When an AMVETS membership has been suspended, they are not allowed on Post property except for their hearing. Any violation of this can be considered trespassing.
- If a member is charged with violating house rules, "Category B" offense, Commanders are authorized to suspend the members canteen privileges only, pending their hearing. If canteen privileges have been suspended, members are still allowed to participate in AMVET, Auxiliary and Sons functions and meetings. They are not allowed to enjoy the canteen and must leave the premises after the function or meeting. They are not eligible to be signed in as a guest. Bylaws, Standing Rules, House Rules and Commanders can not automatically impose suspensions on members. Any such imposition would violate the members right to due process.

- Bartenders/servers within canteens still maintain the authority to deny alcohol service to intoxicated or unruly members and to ask them to leave the premises for the night. These actions are not considered a suspension of privileges. They can be no longer than 24 hours. Caution must be exercised when removing a member or guest for intoxication. Alternate transportation should be arranged.

SPECIAL CIRCUMSTANCES

Certain circumstances may require a modification to the normal procedures to ensure a fair conclusion to discipline matters.

- **Charges of a Criminal Nature**
  If AMVET discipline charges are brought concerning a criminal matter, Commanders should work with law enforcement and allow them to determine if the member is going to be criminally charged. It is strongly suggested that the AMVET discipline procedures run in concert with the criminal proceedings. If you begin AMVET proceedings before law enforcement has made any decisions, you may jeopardize their proceedings. You also do not want the individual to use the AMVETS actions to their advantage with law enforcement. It could be embarrassing for the Post if you hurry proceedings and find the member not guilty while the court finds them guilty or vice versa. Once law enforcement has charged the member you can use that action to begin AMVET discipline proceedings. Commanders should delay Grievance Hearings until the conclusion of any legal actions. The court findings can and should be used during the grievance. The notice of hearing must be sent out to the accused with the date of hearing dependent on the conclusion of the legal proceedings.
- **Commander as Accuser**
  In some circumstances the Commander may be the person who brings charges against a member, in other words the Commander is the accuser. In this situation, the Commander gives their notarized charges to the First Vice Commander and then removes himself from all decisions regarding the case. In these cases, the Vice Commander has all the responsibilities and authorities of the Commander for the particular case. They are expect ed to handle the matters without influence, input or consultation from the Commander. The Commander is expected to participate as the accuser only.
- **Judge Advocate Not Available**
  If the Post Judge Advocate is not available to perform their duties for a particular case, the Commander may appoint another AMVET to assume these responsibilities for the particular case only. This appointment must be an AMVETS member of the Post. The Commander cannot appoint a member of another post to be the Judge Advocate.
- **Executive Committee Members Not Available**

If sufficient numbers of unbiased Executive Committee members are not available for a hearing the Commander shall appoint other AMVETS members. If possible, the Commander should attempt to get the Post memberships approval of the appointments.

- **Charges Against Post Commanders**
  Charges against Post Commanders are handled at the Department level. Because of the nature of the duties and responsibilities of a Post Commander, notarized charges against a Post Commander are sent to the Department Commander.

- **Charges Against subordinate member of AMVETS by an AMVET**
  If an AMVET charges a member of the Ladies Auxiliary, or the Sons of AMVETS for an offense other than violating the House Rules; the Post Commander forwards these charges to the Department Commander. The Department Commander will forward the charges to the appropriate Subordinate Organization for their further handling.

- **Charges Against an AMVET by a subordinate Member of AMVETS**
  Members of subordinate organizations may not initiate charges against a member of AMVETS, except for violations of House Rules.

OTHER CONSIDERATIONS

- **Record Keeping**
  Commanders should keep written records of all actions related to discipline. They should communicate in writing with the accused and the accuser. If they need an investigation this appointment should also be done in writing. They should keep a timeline with dates and times of all conversations and actions. These records need to be securely maintained for a minimum of two years following the end of all appeals.
- **Timeliness of Actions**
  There is a five-day requirement for the Commander to take action on charges. Validity needs to be determined and appropriate action taken. There is a minimum of 30 days required before a hearing can take place. There is no stated maximum time frame. Commanders are expected to settle matters in a timely manner and to delay discipline is not conducive to good order and discipline. Commanders are accountable for excess delays. Delaying grievance hearings because of pending criminal proceedings is allowed.AMVETS has a statute of limitations for discipline matters. Category A charges must be filed within 45 days of discovery, while Category B must be filed within 15 days of occurrence.

- **Member in Good Standing**
  An AMVET member is in good standing when they are fully paid up in all accounts and there are no charges pending against them. Only members in good standing can charge other members.
- **Retaliation**
  Retaliation against an AMVET who in good faith filed charges against another member will not be tolerated.
- **Observing Discipline Actions of Subordinate Organizations**
  The disciplinary actions of a subordinate organization will be recognized or obeyed by the Post of AMVETS to which that subordinate organization belongs to. If for example the Ladies Auxiliary suspends a member from their organization, then the Post cannot allow that individual to be in the Post as a guest.