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DISCIPLINARY CODE

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PURPOSE:

This policy is a formal mechanism for remedying inappropriate behaviors and serious disputes. The policy also identifies mechanisms and procedures that address significant acts of misconduct, neglect, dishonesty or breach of confidentiality.

When appropriately administered, this policy provides operational guidelines that promote fairness to all involved parties while maintaining the integrity and functioning abilities of the Associates of Vietnam Veterans of America, Inc. (AVVA). “Appropriately administered” is interpreted as the consistent and competent application of the procedures and policies described herein.

The filing of charges as a result of these disputes or inappropriate behaviors should not be considered until all attempts at informal resolution have failed. *Filing of charges under this policy shall be limited to the most serious offenses or situations.* Any sanctions or penalties imposed pursuant to violations of this code shall be proportionate to the atrociousness of the alleged offense.

Within this policy, use of the word “State” shall also mean Commonwealth, Territory, and the District of Columbia

I. DISCIPLINARY CODE: *Four Classifications of Charges*

A. MISCONDUCT

1. An act, or failure to act, by the accused member, or group of members, in the course of conducting business or participating in any activity or function of the Corporation; **or**
2. Violation of any provision of the AVVA governing documents which is of such seriousness and consequence as to intentionally, or recklessly, damage or jeopardize the reputation, goodwill, security, community standing, facilities and/or property, or the purpose and mission of the Corporation or any of its subsidiaries or members, or associated organizations; **or**
3. Intentional or reckless conduct by the accused member, which results in harassment, intimidation, (bullying), extreme annoyance, or alarm to any member, Incorporated or Unincorporated Chapter, Incorporated or Unincorporated State, associated organization or the Corporation; **or**



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4. Intentional and undue interference with any conduct of business or activity within the Corporation or its subsidiaries; **or**
5. Violations of Federal, State, or Local law by any member, or group of members, resulting in damage to the Corporation, or directed against the Corporation or any of its subsidiaries or members; **or**
6. Reckless or intentional conduct which, at any time, reflects negatively upon the good name and reputation of the Corporation, its members, or any of its subsidiaries or associated organizations.

B. GROSS NEGLIGENCE

1. Intentional failure to perform any duty that is prescribed by the AVVA governing documents, or that is required of the accused member in accordance with his or her standing in the Corporation; **or**
2. Reckless disregard of the consequences of potential or actual damage to the Corporation, or to any of its subsidiaries, members or associated organizations; **or**
3. Conscious indifference to the rights and privileges of others during the course or conduct of the business and activities of the Corporation, its members, or its associated organizations; **or**
4. Utter forgetfulness of the legal obligations and duties required of the accused member, or failure to exercise even the least degree of care reasonably expected of an ordinary person under the same circumstances.

C. DISHONESTY

1. Any intentional act of fraud, deceit, untruthfulness, trickery, forgery, embezzlement or theft, or any other act of moral turpitude which could result, or has resulted in, loss to the reputation, goodwill, security, community standing, facilities, equipment, or the purpose and mission of the Corporation or any of its subsidiaries, members, or associated organizations.

D. EXTREME OR REPETITIVE BREACH OF CONFIDENTIALITY

1. Extreme breach of confidentiality exists when the breach of confidential information could pose a threat to the AVVA and/or its subsidiaries, or endangers the name, reputation and goodwill of the Corporation and /or its subsidiaries or members.



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2. Repetitive breach of confidentiality occurs when there is a documented breach of confidential information followed by documented counseling with the accused member, that is followed by further documented breaches of confidentiality in complete and total disregard for any counseling, warnings or offers of assistance.

II. DISCIPLINARY CODE: *Hierarchy of Charges*

- A. Charges, as set forth in *I. CLASSIFICATION OF CHARGES*, are processed at one of two (2) levels within the Corporation:
 1. Regional Level: Charges are processed at the Regional level when generated from a dispute within an AVVA Incorporated or Unincorporated Chapter, or between members of a Chapter, an Incorporated Chapter Officer, Unincorporated Chapter Representative, or POC and its members, or against an Incorporated State President, Unincorporated State Representative or POC, or other Incorporated State Officer.
 2. National Level: Charges are processed at the National Level when brought against a National Officer, a member of the National Board of Directors, The Chair of a National Committee, Sub-committee or Task Force, or against any member who exhibits such behavior and actions as to be detrimental to the Corporation. In such instances, charges may be filed on behalf of the corporation and its members.

III. DISCIPLINARY CODE: *Filing of Charges*

- A. All charges against the accused member, or group of members, must be brought as follows:
 1. Charges against a member who did not hold any office at the time of the offense may be brought by:
 - a. A majority of the individual members present and voting, or a majority vote of the Directors present and voting, at a regular or special meeting of the appropriate Incorporated or Unincorporated Chapter; **or**
 - b. The appropriate Incorporated State Association President, Unincorporated State Representative, or a majority vote of the delegates present and voting at a regular or special meeting of the appropriate State Association or group; **or**
 - c. The appropriate Regional Director; **or**
 - d. A majority vote of the National Board of Directors present and voting at a regular or special meeting; **or**



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- e. Any National Officer.
2. Charges against an Incorporated or Unincorporated Chapter, an Incorporated Chapter Officer/Director, or an Unincorporated Chapter Representative may be brought by:
 - a. The appropriate Incorporated State Association President or Unincorporated State Representative; **or**
 - b. A majority vote of the delegates present and voting at a regular or special meeting of the appropriate State Association or group; **or**
 - c. The appropriate Regional Director; **or**
 - d. Any National Officer.
3. Charges against an Incorporated or Unincorporated State, an Incorporated State Officer, or Unincorporated State Representative, may be brought by:
 - a. The appropriate Regional Director; **or**
 - b. A majority vote of the National Board of Directors present and voting at a regular or special meeting; **or**
 - c. Any National Officer.
4. Charges against a National Officer, member of the National Board of Directors, Chairperson of a National Committee, Sub-committee or Task Force may be brought by:
 - a. A Majority vote of Directors present and voting during a regular or special meeting of the National Board of Directors.
5. Any member, Incorporated Chapter, or Unincorporated Chapter having evidence that a violation of this policy may have occurred can present evidence to the appropriate Regional Director, or National Officer, and request that he or she bring charges against the individual(s) alleged to have committed said violation(s), regardless of the position the accused member may hold.

B. PROCEDURE FOR FILING CHARGES

1. All charges against the accused member or group of members must be set forth in writing in a formal *Statement of Charges*. The form *Statement of Charges (SOC)* is to be used for this purpose. The SOC is available on the AVVA website: www.avva.org/forms.html.
2. The completed SOC must include all required information and shall be signed by the complainant under oath, before a Notary Public, Commissioner of Deeds or similar officer.



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3. In the event that charges are brought on behalf of a group, the representative designated by that entity is to sign the SOC and will stand as the complainant.
4. The complainant shall forward the completed SOC and all related documents to the Chair of the National Disciplinary Committee. Copies of the SOC, less supporting evidence, shall also be provided to the AVVA National Secretary and the appropriate Regional Director.
5. The Chair of the National Disciplinary Committee shall forward copies of the SOC and supporting documentation to the appropriate Disciplinary Committee.
6. The appropriate Disciplinary Committee will sustain or reject the charges within thirty (30) days receiving the SOC.
7. If the Charge(s) fail to meet procedural requirements of this policy, or the evidence is insufficient to proceed, the Chair of the National Disciplinary Committee will send a certified letter, return receipt requested, to the complainant summarizing applicable deficiencies. The letter will also be copied to the AVVA National Secretary and, as appropriate, either the affected Regional Director or the National President.
8. If the complainant fails to resubmit properly amended or corrected documentation within thirty (30) days of receiving the deficiency letter, then the matter is considered closed. The original SOC, and the supporting documentation, shall then be returned to the complainant.
9. If the charges meet procedural requirements of this policy and there is sufficient evidence to proceed, the charges will be deemed filed and the appropriate disciplinary processes will continue, pursuant to *Committee Processes and Timelines, Section IV.5.C.*
10. The Director of the Region in which the accused member resides, or the President of the Corporation, may, upon filing of charges as defined in *I. Classification of Charges*, immediately suspend all membership rights and duties of the accused member pending final disposition of the charges.
11. In the event that immediate action is required to maintain and preserve the good name, reputation, goals and purposes of the Corporation, the President of the Corporation may, upon establishing good cause, immediately suspend the membership rights and duties of any member for a period not exceeding five (5) calendar days, pending the filing of formal charges. Following the five (5) day suspension (unless restored by the president sooner), all rights and duties of the accused shall be automatically restored, unless continuing or additional suspension under *III. Filing of Charges Section B, Paragraph 9* has been invoked.



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IV. DISCIPLINARY CODE: *Committee Process and Timelines*

A. SELECTION OF THE APPROPRIATE PANEL

1. Upon receipt of the SOC and supporting documents, the Chair of the National Disciplinary Committee will immediately notify the National President that charges have been received.
2. Within five (5) business days of receiving the SOC, the Chair of the Disciplinary Committee will determine at which level of the Corporation the charges will be reviewed. Since the appropriate Disciplinary Committee must sustain or reject the charges within thirty (30) days of receipt, the following task matrices and timelines shall apply:
 - a. The Chair of the National Disciplinary Committee, and either the affected Regional Director or the National President, will select the appropriate Review Panel immediately.
 - b. Within five (5) business days of seating the Review Panel, the Chair of the National Disciplinary Committee shall forward to the panelists, copies of the SOC and supporting documents.
 - c. The Review Panel shall complete its review of the SOC and supporting documents within ten (10) calendar days of receipt. All documents and discussions related to the SOC must be treated with the highest regard for confidentiality. *Breach of such confidentiality is chargeable under this policy.*

B. PROCEDURE

1. Within five (5) business days of completing its review, the Review Panel will provide the Chair of the National Disciplinary Committee with a written summary of its findings.
2. The Chair of the National Disciplinary Committee shall then, in accordance with the findings of the Review Panel, process the charges as stated in *III. Filing of Charges, III.B.7-9* of this code.
3. If the Disciplinary Review Panel finds that the charges have merit and have been submitted in accordance with the procedural requirements of this policy, the charges will be deemed filed and disciplinary processes will proceed accordingly.
4. The Chair of the National Disciplinary Committee shall immediately send to the accused by certified mail, return receipt requested, to his or her last known address, and by regular mail to the Secretary of the Corporation, a package that contains:



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- a. Copies of the SOC and all supporting documents.
 - b. Copy of the AVVA Policy, "Code of Disciplinary Procedure".
 - c. Copy of the form *Statement of Affidavit*.
 - d. A document describing the procedures to be followed.
5. Concurrently, a Hearing Panel will be created and put on standby, to support anticipated disciplinary processes. Members of the Disciplinary Committee who served on the Review Panel that investigated the charges are ineligible for the Hearing Panel.
6. When the charges are brought against an Incorporated or Unincorporated Chapter or State, the SOC and aforementioned set of documents will be sent to all Officers of the accused Incorporate or Unincorporated Chapter or State, at their last known addresses.

C. THE RIGHTS AND RESPONSIBILITIES OF THE ACCUSED

1. Within thirty (30) business days of receiving the SOC, the accused may file a signed and notarized statement that either admits or denies the charges. If the accused denies the charges, supporting evidence must accompany the statement. The notarized statement must be filed with the Secretary of the Corporation and the Chair of the National Disciplinary Committee.
2. If the accused admits the charges, all submissions, including the findings and recommendations of the Review Panel, shall be forwarded to the appropriate Hearing Panel. The Hearing Panel will evaluate the submissions and provide recommendations regarding imposition of sanctions and/or costs.
3. The Hearing Panel shall enter its recommendations within thirty (30) days of completing its review. These shall be forwarded to the National Board of Directors, the accused, and the complainant, in the form of a certified letter, return receipt requested.
4. The National Board of Directors shall then examine the charges and consider recommendations from the Hearing Panel to determine which sanctions and costs, if any, shall be imposed. A copy of the National BOD decision will be sent to the accused and the complainant by certified mail, return receipt requested, and by regular mail to the Secretary of the Corporation.
5. If the accused files a proper and timely statement denying the charges, and provides supporting evidence to that effect, he or she may request a full hearing, or elect to refer the matter directly to the Hearing Panel for a decision. If a hearing is requested, the accused and the complainant shall be notified of the hearing date and



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provided with a copy of the procedures outlined in *Viii. Guidelines for Conducting Hearings*. Hearings shall be scheduled within forty-five (45) days of the date the accused files the notarized denial statement. Notification will be in the form of a certified letter, return receipt requested, and shall provide the accused the opportunity to object to the date of the hearing.

6. Should the accused fail, or elect not to request a hearing in the denial statement, the Disciplinary Hearing Panel may:
 - a. Schedule a full hearing and notify the accused and the complainant of the hearing date. Notification will be pursuant to the stipulations in paragraph 8 above; **or**
 - b. Move forward with a final review of the evidence and provide recommendations regarding disposition of the charges. If the Hearing Panel exercises this option, the accused shall be informed accordingly.

7. If the accused fails to accept delivery of the package containing the SOC and the accompanying documents, or fails to file a proper and timely statement denying or admitting the charges, the Chair of the National Disciplinary Committee shall then notify the appropriate Hearing Panel, the accused member, and the complainant of the next action to be taken. Such action may be:
 - a. Schedule a full hearing and notify the accused and the complainant of the hearing date. Notification will be pursuant to the stipulations outlined in paragraph 8 of this Article; **or**
 - b. Move forward with a final review of the evidence and consider its final recommendations regarding disposition of the charges. If the Hearing Panel exercises this option, the accused shall be informed accordingly. Notification will be pursuant to the stipulations outlined in paragraph 8 of this Article. Charges shall be heard in accordance with procedures defined in *Vii. Guidelines for Conducting Hearings*.

D. FINDINGS

1. The Disciplinary Hearing Panel shall enter written findings within thirty (30) days of completing its review, or of conducting a disciplinary hearing. These finding shall be forwarded to the National Board of Directors, the accused, and the complainant, in the form of a certified letter, return receipt requested. Additionally, the accused and the complainant shall each be provided with a copy of the form *Notice of Objection*.

2. Within thirty (30) business days of receiving said findings, either the accused or the complainant may file an objection with the National Board of Directors. Objections shall be filed pursuant to *X. Filing Objections*.



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3. The National Board of Directors shall examine the charges and consider recommendations from the Hearing Panel to determine which sanctions and costs, if any, shall be imposed.
 - a. If a Notice of Objection is filed, the Board of Directors shall issue its final determination of the charges within thirty (30) days of receiving the objection.
 - b. If no objection is filed, the Board of Directors shall issue its final determination within forty-five (45) days of receiving the findings and recommendations of the Hearing Panel.
4. A copy of the Board of Directors' final determination will be sent to the accused and the complainant by certified mail, return receipt requested, and by regular mail to the Secretary of the Corporation. The decision of the Board of Directors under this paragraph shall not be subject to objection.

V. DISCIPLINARY CODE: *Definitions/Descriptions of Bodies*

- A. Disciplinary Committees are established at both the National and Regional Levels.
- B. The National Disciplinary Committee Chair is appointed by the National President. The National Chair presides over the National and Regional Disciplinary Committees as a non-voting member and ensures that disciplinary processes are exercised with integrity, consistency, and fairness.
- C. The Disciplinary Committees process charges filed within their respective levels of the Corporation.
- D. The Review Panels investigate the charges to determine if they have merit, and verify that the procedural and evidentiary requirements of this policy are met. When charges pass review, the charges are designated as officially filed.
- E. The Hearing Panels process the filed Charges and may determine settlement terms or conduct a hearing of the charges. If the charges are sustained by a majority of its members, the Hearing Panel will recommend which sanctions and/or costs to impose.

VI. DISCIPLINARY CODE: *Establishing Disciplinary Bodies*

- A. REGIONAL DISCIPLINARY COMMITTEES



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1. The Regional Disciplinary Committee shall hear all charges originating in their respective Regions. Regional Disciplinary Committees shall conform to the nine (9) AVVA Regions as outlined in the AVVA National By-laws.
2. Regional Disciplinary Committees will consist of no less than three (3) regular members and the National Chair.
3. Ideally , committee members should be from different states . However , in special circumstances, two (2) regular members from the same state may serve.
4. Special Advisors, or other non-voting AVVA members, may not serve on a Regional Disciplinary Committee.
5. Appointees to any Regional Disciplinary Committee must be regular AVVA members in good standing.
6. Each Regional Director will select candidates for appointment to his or her respective Regional Disciplinary Committee.
7. Each Regional Director will submit his or her candidates to the National Board of Directors. Upon confirmation by the National BOD, the names of appointees to each Regional Disciplinary Committee shall be forwarded to the National Disciplinary Chair and the AVVA National Secretary.
8. The two year term of service on each Regional Disciplinary Committee is concurrent with that of the National Board of Directors.
9. At the end of their terms, if members of a Regional Disciplinary Committee are engaged in pending disciplinary proceeding, their respective terms of service will be extended until such proceedings are concluded.
10. Vacancies occurring on a Regional Disciplinary Committee will be filled as stipulated in this policy and procedure.

B. NATIONAL DISCIPLINARY COMMITTEE

1. The National Disciplinary Committee shall process charges brought forth by the National Board of Directors, or any National Officer, as well as any charges referred by the National Disciplinary Chair.
2. The National Disciplinary Committee shall consist of seven (7) members of the National Board of Directors and a Chair.



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3. Members of the BOD will be selected by lot to consider a particular Statement of Charges.
4. Special Advisors or non-voting members of the Board of Directors may not serve on the National Disciplinary Committee.
5. The National Disciplinary Committee Chair shall be appointed by the National President.
6. Term of service for the National Chair shall be at the pleasure of the AVVA National President.
7. With the exception of the National Chair, term of service in the National Disciplinary Committee is contingent upon the time required to process and conclude a particular Statement of Charges.
8. Should any member of the National Disciplinary Committee be engaged in pending disciplinary proceedings during BOD transition, his or her term of service shall be extended until such proceedings are concluded.

C. DISCIPLINARY REVIEW PANELS/HEARING PANELS

1. Disciplinary Review Panels and Disciplinary Hearing Panels are created as needed to investigate and hear charges filed under the provisions of this policy.
2. Disciplinary Review Panels
 - a. Membership on Disciplinary Review Panels consists of not fewer than three (3) nor more than five (5) members, and the National Disciplinary Committee Chair.
 - b. Review Panelists are selected from his or her respective Disciplinary Committee.
 - c. The National Disciplinary Committee Chair will appoint the Review Panel.
 - d. The National Disciplinary Chair will ensure that all appointees are free from any conflict of interest. Representatives from the state from which the charges were filed are excluded from serving on the Review Panel.
 - e. The National Disciplinary Chair will ensure that all documents and details related to the charges under review shall be treated with the highest regard for confidentiality. *Breach of such confidentiality is chargeable under this policy.*
3. DISCIPLINARY HEARING PANELS
 - a. The Hearing Panel consists of three (3) members of the appropriate Disciplinary Committee.
 - b. Members of the Hearing Panel may not have served on the Review Panel that sustained the Statement of Charges against the accused.



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- c. The Chair is responsible for ensuring that the members selected to hear the complaint do not have conflicts of interest.
- d. The Chair will ensure that all documents and details of discussions related to the charges being heard are treated with the highest regard for confidentiality. Breach of such confidentiality is chargeable under this policy.
- e. The definitions, processes, timelines, and procedures outlined in this code shall be applicable to, and utilized by, all AVVA disciplinary bodies.

VII. DISCIPLINARY CODE: *Jurisdiction*

- A. The power to terminate membership of any member of AVVA will be vested in the Board of Directors, pursuant to the Bylaws of AVVA, Articles 4.04 and 5.04, or in the case of National Board Officers and members, will be determined in accordance with the District of Columbia Nonprofit Corporation Act, title 29. Accordingly, the Board of Directors shall be the final authority in the execution of all charges under this Disciplinary Code, and shall either dismiss, suspend, or act upon such charges.
- B. A member of the National Board of Directors cannot be removed from office unless so removed by the voting members who have the authority to elect them, in compliance with the District of Columbia Nonprofit Corporation Act. *Therefore*, the termination of membership of a member of the Board of Directors may only follow if such action has already been completed.
- C. The National Disciplinary Committee shall hear charges brought against a National Officer, members of the National Board of Directors, the Chairperson of a National Committee, Sub-committee or Task Force, or any member against whom the National Board has deemed it necessary to file charges.
- D. A National Disciplinary Review Panel, which is a sub-committee of the National Disciplinary Committee, shall review all such charges.
- E. Any sub-committee (Panel) of the National Disciplinary Committee, and those of each Regional Disciplinary Committee, shall have full authority to investigate the basis of the charges filed with that sub-committee for appropriate follow-up disciplinary action.

VIII. DISCIPLINARY CODE: *Guidelines for Conducting Hearings*

- A. Hearings will be scheduled within forty-five (45) days of the date the accused files a signed and notarized denial statement.



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- B. At least thirty (30) days prior to the date of the hearing, the complainant and the accused shall file, by certified mail, return receipt requested, with the Disciplinary Committee hearing the matter, and with each other, the following:
 - 1. The name and address of the representative, if any, chosen by the respective party to present his or her witnesses and evidence.
 - 2. A written list of the witnesses that each party intends to present in support of their respective positions.
 - 3. Copies of any documents, photographs or other tangible evidence which is capable of being copied, that each party intends to present in support of their respective positions.
- C. Hearings pursuant to this code shall be conducted in an informal fashion and strict rules of evidence shall not apply.
- D. The National Disciplinary Chair shall preside over the hearing.
- E. The Review Panel *may* tape, or a recording secretary or court reporter *may* be asked or hired, to record the proceedings.
- F. The Majority decision of the Hearing Panel shall be required to sustain the charges against the accused.
- G. The Hearing Panel shall issue to the Chair a written decision and any recommendation(s) for action to be taken, within thirty (30) days of the conclusion of the hearing. The Chair will forward the Hearing Panel's determination to the Complainant and the Accused within three (3) calendar days of receiving it from the Disciplinary Committee.

IX. DISCIPLINARY CODE: *Sanctions and Costs*

- A. Upon finding that the charges against the accused have been sustained as supported by the evidence, the Disciplinary Hearing Panel shall forward its findings and recommendations to the National Board of Directors.
- B. The board shall examine all submissions and determine the appropriate sanctions or actions, if any, to be imposed against the accused.
- C. Revocation of membership has serious consequences and should therefore be imposed for only the most egregious offenses. These include, but are not limited to, intentional



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acts that defraud, take from, or otherwise seriously harm other members or the Corporation, or that violate corresponding State or Federal Statutes.

D. Sanctions shall be limited to one or more of the following:

1. If the accused is an Officer or Director on the National Board of Directors:
 - a. National Officers and Regional Directors may be sanctioned in any manner listed in subsection 2 of section IX.D of this code with the exception of removal from office or revocation of membership, (which would result in the removal from office), except in the following manner:
 - (i) If the accused is a National Officer, the **removing body** shall be all delegates who voted in the election of that officer, in the most recent National Convention. (This includes all State, Chapter, and At-Large Delegates who attended as voting delegates).
 - (ii) If the accused is a Regional Director, the **removing body** shall be all delegates who voted in the election of that Director, in the most recent National Convention. (This includes all State, Chapter, and At-Large Delegates who attended as voting delegates from specific Region affected).
 - b. Removal from office of a member of the National Board of Directors shall require:
 - (i) A Notice of Action and Ballot to be sent to all delegates included in the **removing body**.
 - (ii) A quorum (2/3) total response to the Notice of Action from the delegates in the appropriate **removing body**.
 - (iii) A majority (51% or more) of those delegates who respond and vote must have voted in the same manner, i.e. either for or against the person's removal from office.
2. If the accused is a member, including a member serving in any elected or appointed office or position at any other level within the Corporation:
 - a. Removal of the member from an elected or appointed position within the Corporation;
 - b. Suspension of the member from any elected or appointed position within the Corporation, for a specified period of time, not to exceed one (1) year from the date of suspension;
 - c. Suspension of the membership of the member in the Corporation, for a specified period of time, not to exceed one (1) year from date of suspension;
 - d. Restitution of any monetary loss to the Corporation, or any State Association or member due to the conduct of the accused, which formed the basis of the charges against him or her;
 - e. Revocation of membership in the National Corporation;



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- (i) An individual whose membership has been revoked may petition the Associates of Vietnam Veterans of America, Inc., for reinstatement. A majority vote by the National Board of Directors is required to approve reinstatement. Said petition may be submitted by the party affected, or by any current member in good standing.

3. If the accused is a State Association, or an Incorporated Chapter:

- a. Suspension of the Operations and Charter (or if not chartered, suspension of all operations) of said State or Chapter for a period of time, not to exceed one (1) year from the date of suspension.

E. COSTS

1. If any proceeding brought under this code, particularly those involving a hearing at the request of the accused, the Board of Directors shall be empowered to assess the costs and direct that the losing party shall pay all, or a portion of, the costs incurred by the successful party in prosecuting or defending any complaint brought.
2. Failure or refusal to pay such costs shall be deemed a violation pursuant to 'III' above, however the party so assessed shall be entitled to file an objection pursuant to X: ' *Filing Objections*' below.
3. AVVA is not responsible for attorney fees that may be incurred by either the complainant or the accused.

X. DISCIPLINARY CODE: *Filing Objections*

- A. The accused shall be entitled to file an Objection with the Board of Directors, upon receipt of the findings and recommendations of the National Disciplinary Committee or a Disciplinary Review Panel. The accused or complainant, or both, may object to the afore-referenced findings and recommendations on the following grounds:
 1. Availability of new evidence.
 2. Verifiable conflict of interest of any member of Disciplinary Panels reviewing or hearing the charges.
 3. Supportable misinterpretation or misapplication of AVVA Bylaws, Policy and Procedures, or other applicable statutes, regulations, or policy.
- B. A notice of such objection in the form prescribed in form '*Notice of Objection*' shall be filed with the Board of Directors by registered or certified mail, return receipt requested,



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postmarked within thirty (30) business days of receipt of the findings and recommendations objected to. The Notice of Objection must specify the grounds upon which the objection is based.

- C. Notwithstanding any other provision of this code, the Board of Directors may, upon its own motion, review the findings and recommendations of the National Disciplinary Committee or any Regional Disciplinary Review Panel.
- D. In the event that the Board of Directors determines that further review of such findings or recommendations submitted is necessary, the Secretary of the Corporation and/or his or her designee shall:
 - 1. Forward a copy of the Notice of Objection to the Chairperson of the National Disciplinary Committee or the Regional Disciplinary Review Panel having jurisdiction in the matter.
 - 2. Instruct the National Disciplinary Committee or the appropriate Regional Disciplinary Review Panel to forward copies of any and all evidence considered by that body to the National Secretary.

XI. DISCIPLINARY CODE: Final Determination

- A. After examination and review, the Board of Directors, upon majority vote, shall issue a written decision which affirms, modifies, or overrules the findings and recommendations of the National Disciplinary Committee or Regional Disciplinary Review Panel, and shall issue sanctions, if any, and shall assess costs, if any, within thirty (30) days following receipt of the Notice of Objection.
- B. The Board of Directors shall send written notification of its determination to the accused and the complainant, by certified, return receipt requested mail, and to the Chair of the National Disciplinary Committee or the Regional Disciplinary Review Panel.
- C. The Board of Directors shall ensure that all parties receive notification of their decision.
- D. The determination of the Board of Directors shall be final, and is not subject to appeal.

XII. DISCIPLINARY CODE: Conflict of Interest

- A. In the event that any person or group of persons are responsible, pursuant to the provisions of this code, for taking any action, exercising any judgment, or making any decisions, and said action would present a conflict of interest to said person or group of



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persons, said individual(s) will be disqualified from so acting, and the responsibility for such actions or authority shall be assumed by that person immediately next in line of authority, who shall act in the stead of the person(s) affected by the conflict of interest.

- B. Any member of the Board of Directors who was also a member of a sub-committee of the National Disciplinary Committee reviewing a matter, must abstain from voting on the final determination and sanctions in that matter by the Board.

XIII. DISCIPLINARY CODE: *Unsubstantiated Charges*

- A. If charges are found to be vindictive, malicious, vengeful, or frivolous in nature, the Chair will inform the National President, or if appropriate, the affected Regional Director. The offending complainant may be subject to remedial counseling and/or sanctions.

XIV. DISCIPLINARY CODE: *Revisions to the Code*

- A. It is recognized that the Policies and Procedures Manual, including the Disciplinary Code, is updated from time to time. The approved Disciplinary Code that is in effect at the time the *Statement of Charges* is filed shall be the code that shall be applied to the case. Any pending revisions shall not be applicable.

XV. DISCIPLINARY CODE: *Appendix – Letters and Forms*

- A. Letter to Review Panel - Supports sub-section IV.A.2.b
- B. Notification of Charges - Supports sub-section IV.B.4
- C. Recommendation to National BOD - Supports sub-section IV.C.3
- D. Notice of Recommendation to BOD for Removal From Office – National Board Member - Supports sub-section IX.D.1.b

SAMPLE LETTERS SHOWN BELOW – ALL LETTERS USE AVVA HEADERS:



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Sample Letter: Letter to Review Panel

Month xx, 20xx

Members of the Disciplinary Review Panel,

As National Disciplinary Chair, I have received a formal Statement of Charges against AVVA member, **ACCUSED (name)** According to the Disciplinary Code, a Disciplinary Review Panel is to be seated to review the Charges and all supporting documents. The Disciplinary Review Panel assigned to this case shall consist of: **-PANELIST (name), PANELIST (name), and PANELIST (name)**.

A brief summary of the Disciplinary Code follows. Only those processes involving the Review Panel are included in this summary.

- The Review Panel shall either reject the Charges, without prejudice, or determine that the Charges are, in fact, supported by the evidence provided.
- If the Review Panel determines that the Charges are supported by the evidence, and that procedural requirements of the Disciplinary Code are met, a copy of the Charges filed will be sent to the **ACCUSED (name)**, by certified mail, return receipt requested, at their last known address. A second copy will be sent by regular mail to the Secretary of the Corporation.
- **ACCUSED (NAME)** will have five working days from receipt of the package, to submit to the Chair of the National Disciplinary Committee and the Secretary of the Corporation, a signed and notarized written statement that either admits or denies the Charges. If **ACCUSED (name)** elects to deny the Charges, supporting evidence must be included with the response.
- If **ACCUSED (name)** admits to the Charges, the Review Panel will issue recommendations to present to the Disciplinary Body, which will be the National Board, minus yourselves and the National President, along with copies of all submissions. The Disciplinary Body will then prepare for final action on the case.
- If **ACCUSED (name)** files a proper and timely statement denying the Charges, **ACCUSED (name)** response and any related supporting evidence will be duplicated and forwarded to the Review Panel. The Panel has (15) days to review the submissions and prepare a written recommendation to be presented to the Disciplinary Body.



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Included in this package is a copy of the Statement of Charges and related supporting documents. I have also provided a complete copy of the Disciplinary Code. Understand that the Review Panel's first responsibility is to determine whether the Charges against the Accused have merit. This responsibility cannot be taken lightly. I will do all I can to support your efforts.

As a matter of record, please be advised that this information is extremely confidential and is not to be shared with others. I am the Liaison between the Review Panel, the Complainant, the Accused, the Witnesses, and anyone else who might become involved in this case. Please come to me with any questions or requests for additional information. You may contact me at 1-XXX-XXX-XXXX.

Sincerely,

(name) Chair AVVA National Disciplinary Committee

Cc: AVVA National Secretary

Encl: Statement of Charges and Evidence
AVVA Disciplinary Policy



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Sample Letter: Notification of Charges

DATE

ACCUSED (name)
Street Address
City, State Zip

RE: Disciplinary Charges

Dear **ACCUSED (name)**

The National Disciplinary Review Panel recently met to evaluate the formal Statement of Charges levied against you. The Review Panel subsequently determined that said charges meet procedural requirements of the AVVA Disciplinary Code. Since the evidence submitted appears to support these charges, the Review Panel recommends that the Organization proceed with appropriate disciplinary action.

Article III of the AVVA Disciplinary Code states that within five (5) business days of receiving the Statement of Charges, you may file a written signed and notarized statement that either denies or admits the charges. This filing should also include any evidence supporting your claim.

The original signed and notarized statement, along with supporting evidence, must be sent to the Chair of the National Disciplinary Committee. Copies of these documents must also be submitted to the AVVA National Secretary. Mailing information follows:

Name
Chair, AVVA National Disciplinary Committee
Street Address
City, State Zip

Name
National Secretary, AVVA
Street Address
City, State Zip

If you admit the charges, all submissions, with recommendations from the Review Panel, shall be forwarded to the Disciplinary Body for final action.



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If you deny the charges, you may request a full hearing on the matter. This hearing will follow the timeline and requirements set forth in Article IV of the Disciplinary Code.

If you fail to file a proper and timely statement with the Chair of the National Disciplinary Committee and the National Secretary, disposition will be handled as if you had admitted to the charges and waived your right to a hearing.

Included in this package is a copy of the Statement of Charges and supporting evidence. A full copy of the AVVA Disciplinary Code is also enclosed, along with a Witness Affidavit form and the Notice of Objection form.

I can be reached at 1-XXX-XXX-XXX. If you have any questions or require additional information, please call me.

Sincerely,

Chair (name)

Chair, AVVA National Disciplinary Committee

Cc: AVVA National Secretary

Encl: Statement of Charges
Evidence
Disciplinary Code
Witness Affidavit Form
Notice of Objection Form



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Sample Letter: Recommendation to National BOD

Date

Dear National Board of Directors,

In **Month Year**, a Disciplinary Review Panel was seated to review the formal Statement of Charges brought against AVVA member **Accused (name)**. The Disciplinary Review Panel assigned to this case was comprised of: **Panelist (name), Panelist (name), Panelist (name)**.

The Review Panel subsequently determined that the evidence submitted appeared to support the charges filed against the Accused. Since the charges also met procedural requirements of the Disciplinary Code, the Review Panel advised the Corporation to proceed with appropriate disciplinary action.

Accused (name) was informed of this decision in a letter. The letter was included in a package sent to her by certified, return receipt mail on **Month Day Year**. Copies of the current Disciplinary Code, a Witness Affidavit Form and a Notice of Objection Form, as well as the formal Statement of Charges and accompanying evidence, were also enclosed.

Documentation from the US Postal Service confirms that this package was delivered to **Accused (name)** on **Month Day Year**.

The Disciplinary Review Panel reconvened on **Month Day Year**. The Review Panel was chartered with the following:

- To review the formal Statement of Charges against **(Accused (name))**
- To provide the National Disciplinary Board with recommendations for appropriate sanctions

Having sustained the Charges of Misconduct, Gross Neglect, and Dishonesty, the Disciplinary Review Panel recommends that the Accused, **Accused (name)** be appropriately sanctioned by **(specific sanction)**. The Review Panel further recommends that the Corporation **(impose/not impose)** upon **Accused (name)** any monetary restitution or other financial sanction.



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As National Disciplinary Chair, I concur with the recommendations proposed by the Review Panel. As a body, we hereby submit these recommendations for your consideration.

I have enclosed a copy of the Statement of Charges levied against **Accused (name)**, related supporting documents, and a copy of the Disciplinary Code. As a matter of record, please be advised that this information is extremely confidential and is not to be shared with others. Should you have any questions, or requests for additional information, please call me. I can be reached at 1-**XXX-XXX-XXXX**.

Sincerely,

CHAIR (name)

Chair AVVA National Disciplinary Committee

Cc: AVVA National President
AVVA National Secretary

Encl: Statement of Charges and Evidence
AVVA Disciplinary Policy



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Sample Letter and Ballot: Notice of Recommendation for Removal From Office for National Board Member

NOTICE OF RECOMMENDATION FOR THE REMOVAL FROM OFFICE OF A MEMBER OF NATIONAL BOARD OF DIRECTORS

You are hereby being notified that there has been a recommendation by the National Board of Directors for the removal from office of one of the National Board Members. Under the current Disciplinary Code, Bylaws, P&P, and applicable laws, the persons who are authorized to elect or appoint said member are the persons who must determine if the recommendation should result in actual removal from office.

There is a ballot included in this mailing, which you must fill out and mail back to the address provided. Your response must be postmarked on or before **enter deadline date**, to assure that your vote will be valid and counted. **Failure to mail the ballot by the date provided will result in the waiver of your right to vote in this matter.**

It is irrelevant if you no longer hold the position you held when the last convention was in session. It is still your responsibility to fulfill any duties that are an extension of your having been a Voting Delegate at the most recent Convention and Elections. If you fail to do so, the vote from your state or chapter will be deemed to have been forfeited.

Please know that this is a serious matter, and our organization must treat it as such. Mail the attached ballot to:

Nina Schoffel, National Disciplinary Chair
1244 Shaws Flat Road
Sonora, CA 95370-5433

If you have any questions please contact the National Disciplinary Committee Chair at:
nschoffel@avva.org

Thank you for your respectful action in this matter.

Nina Schoffel
National Disciplinary Committee Chair



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REMOVAL FROM OFFICE BALLOT

It is the recommendation of the AVVA National Board of Directors that **enter name of board member**, who currently holds the position of **enter position title**, be permanently removed from office for the following reason or due to the following charge(s):

(To be filled in by the sender)

Please complete all of the information requested on this ballot and mark your vote. SIGN and return this ballot by the date designated in your notice, to the address provided on page one.

Name: _____ Membership # _____

I am voting as the Voting Delegate for: _____
(Chapter # or State Name)

(Please check one of the following):

- YES, **I AGREE** THAT THE NAMED PERSON SHOULD BE REMOVED FROM OFFICE.
- NO, **I DO NOT AGREE** THAT THE NAMED PERSON SHOULD BE REMOVED FROM OFFICE.
- I CHOOSE TO **ABSTAIN** FROM VOTING IN THIS MATTER.

SIGNED: _____ DATE: _____