

# DEC 101

## **American Legion Auxiliary Department Governing Board Roles and Responsibilities**

**An orientation for corporate directors,  
commonly referred to as board members,  
of an American Legion Auxiliary department (state-level corporation)  
governing board, often known as the Department Executive Committee (DEC)**

### **Nonprofit Corporate Structure of an ALA Department**

The American Legion Auxiliary (ALA) is a nonprofit organization classified by the Internal Revenue Service (IRS) as a 501 (C) (19) Veterans Service Organization (VSO).

The IRS has classified the American Legion Auxiliary as a tax exempt 501(c) (19) veterans service organization based on our national purpose to serve a charitable mission that serves the public good primarily benefitting veterans, service members and their families.

All American Legion Auxiliary departments are nonprofit corporations (also known as not-for-profit corporations, both mean the same thing), each incorporated in its respective state (along with the District of Columbia and Puerto Rico). Each Department's state corporation bears the name "American Legion Auxiliary Department of ABC", as granted or "chartered" by the American Legion Auxiliary National Corporation. Therefore, each Department is incorporated as a 501 (c) (19) corporation, is permitted to be incorporated using the name American Legion Auxiliary by virtue of being chartered by the American Legion Auxiliary National organization, and is tax exempt by virtue of being part of the American Legion Auxiliary's Group Exemption, as determined and granted to the ALA National organization by the Internal Revenue Service via the ALA National organization's IRS Letter of Determination.

As a state corporation, the Department exists because it has been chartered by the ALA National organization which permits the Department to use the name and trademarks of the American Legion Auxiliary, as long as the department honorably fulfills its incorporated purpose. As a state corporation, the Department must comply with all Federal, State, and local laws and regulations, including the requirements to file all appropriate federal and state tax returns and corporation reports as required by federal, state, and local governmental agencies.

Income generated by a not-for-profit (nonprofit) corporation must be used for its “public good” purpose – the reason the organization exists – which is the organization’s mission, its programs and services, along with its operations that support its mission.

### **Governance and Leadership Roles in Nonprofit Corporations**

All nonprofit corporations are governed by corporate governing officers and a board of directors. The department board of directors is comprised of its officers and directors (board members). All corporations are managed by corporate executives. Corporate governance and corporate management are separate functions that work together via established practices that provide checks and balances for optimal organizational effectiveness.

In the American Legion Auxiliary, directors of the corporation are the members of the entity’s governing board. At the ALA Department level, the governing board is defined in the ALA Department’s Constitution, Bylaws, and Standing Rules (C&B and SR’s). In most Departments, this “governing board” is also known as the “Department Executive Committee” or “DEC”. The C&B and SR’s will define the make-up of the DEC, how often it meets, voting privileges of its members, and other information relevant to the position of a governing board member. Most DEC’s include the Department officers along with some representation by District presidents or Divisions (however your Department is structured). Some Departments include department chairmen on their governing boards. It is important to know how your Department’s governing board is structured, so be sure to read the C&B&SR’s for who serves on the DEC.

The structure of a Department governing board is similar to those of other business and nonprofit corporations, as all incorporated entities are required to have a corporate structure identified in its Articles of Incorporation to fulfill the purpose of the corporation.

### **ALA Department Governing Board (DEC) Role and Responsibilities**

The Department governing board (hereafter referred to in this document as the Department Executive Committee or DEC) is entrusted with adopting sound corporate policy, ensuring fiduciary standards and fiscal health of the organization, and bears responsibility for the strategic direction of the organization.

The Department Executive Committee serves as the governing body of the organization between Department Conventions with fiduciary, policy, and strategic responsibility for the organization. The duty of the Department Executive Committee, as corporate directors for the American Legion Auxiliary Department, is to ensure that the organization has adequate resources to fulfill its mission. The Department Executive Committee is responsible for the organization’s adherence to legal standards and ethical norms.

The Department Executive Committee is responsible for adopting the annual budget for the Department. The DEC adopts policies and standing rules, unless otherwise noted in the Department Constitution, Bylaws or Standing Rules. The DEC is responsible for adopting strategic plans and agreements, and memorandums of understanding; reviewing financial statements, and accepting the department's annual external audit or financial review; ratifying committees; confirming the nomination of the Department Secretary and the Department Treasurer, confirming committee and other department appointments as well as the appointment of officials not otherwise provided for in the Department bylaws; levying assessments as needed; adopting the cancellation of charters report; and for receiving, reviewing, and adopting reports from department subsidiary organizations such as incorporated Department ALA Girls State programs, including confirming the ALA Department Girls State corporations bylaws, board members, officers, and directors, and reviewing the subsidiary's monthly program reports and monthly financial reports, and ensuring the Department has signatories on all bank accounts of the subsidiary. The DEC has other duties and responsibilities that are the normal function of a corporate board of directors.

Any intermediate body established by the Department is subordinate to the Department and must report to the DEC and is accountable to the DEC which ratifies the intermediate body's actions.

The DEC is responsible for determining all questions affecting the election, eligibility, conduct, and capacity of Department officers. The DEC is responsible for establishing the process and procedure for making the determination that a Department officer or a Department committee member serving a single- or multiple-year term is incompetent, incapacitated, or otherwise unable to discharge the duties of the Department office. The National Standing Rules provide guidance for how the DEC must fulfill this purpose.

### **The DEC is responsible to:**

#### **Review, Adopt, and Adapt Measures to Ensure Effective Governance**

- The DEC is responsible for reviewing and approving the ALA's vision, mission and strategic direction; annual budget and key financial transactions; and fiscal and governance policies.
- A Department convention body establishes the structure, size, and terms of its department governing board. The term of the DEC as a collective seated body is one year.
- The national governing documents do not restrict the number of terms an individual member of the NEC may serve. ALA department governing bodies set policy regarding the number of consecutive terms a NEC member from the department may serve.
- The ALA governing board should be comprised of members from a diverse background with organizational and financial skills, and expertise and experience in many professions.

#### **Ensure Financial Stability and Oversight**

- As the ALA's governing body, the DEC receives and reviews timely financial and audit reports and ensures that a qualified independent financial expert audits the financial statements

annually, ideally under the oversight of the Department audit committee. At the National level, the NEC assigns the review and submission of the ALA National IRS Form 990 and ALA Foundation IRS Form 990s to the ALA National Audit Committee.

- The DEC reviews and approves the annual budget and monitors budget performance.
- The DEC is responsible for the ethical compliance with rules of conduct. The DEC shall ensure that no loans or the equivalent be provided to DEC members or officers, ensure and adhere to written policies for paying or reimbursing expenses incurred by anyone conducting business or traveling on behalf of the organization; and neither pay for nor reimburse unauthorized or unallowable travel expenditures.
- The DEC is responsible for the fiduciary integrity and fiscal soundness of the ALA Department. Each member of the governing board should be expected to donate to the ALA. Organizations that do not demonstrate 100% financial support from its board fails to qualify for most corporate and foundation support.
- The DEC is responsible for overall GOVERNANCE; the function of an Audit Committee is RISK MANAGEMENT and OVERSIGHT; the function of the Department Finance Committee is FINANCIAL REVIEW and ANNUAL BUDGET DEVELOPMENT; and the function of the Department Headquarters is MANAGEMENT.

### **Ensure Legal Compliance and Appropriate Public Disclosure**

- Comply with all applicable federal, state, and local laws and regulations.
- Adhere to the code of ethics.
- Ensure that policies are in place to effectively know and address all conflicts of interest.
- Ensure that a whistleblower policy in place.
- Ensure a document retention policy is in place.
- Ensure that plans are in place to protect assets – property, financial, human resources, programmatic content and material – against damage or loss.

### **Responsibilities and Legal Obligations of a DEC Member**

**As a member of the governing board of the American Legion Auxiliary Department, you are a corporate director. Corporate officers and directors, collectively and individually, are accountable and liable for the safekeeping, wellbeing, and actions of the corporation.**

As a corporate director, your primary **role** as a member of the organization's governing body is to protect the organization.

Your primary **responsibility** as a DEC member is to serve as a forward-thinking fiduciary steward of the organization to ensure its financial sufficiency and organizational integrity through strategy and policy that afford future generations the opportunity to participate in our mission.

Your primary **duty** is to ensure that the organization has adequate resources to fulfill its mission. The National Executive Committee is responsible for the organization's adherence to legal standards and ethical norms, and to articulate the organization's mission, accomplishments, and goals to the public and to your Department.

The role and responsibility of the DEC should be clearly specified in the ALA Department Constitution, Bylaws, and Standing Rules.

- The ALA Department's governing board members must be "independent"; meaning not compensated by the organization as an employee or consultant, or receives financial benefit from the organization (with the exception of expense reimbursements associated with an actual meeting.)
- The ALA Department's governing board should ensure an effective process is in place for education and communications with governing board to ensure members are aware of their legal and ethical responsibilities, and carry out oversight functions effectively.
- The ALA Department's governing board should periodically evaluate its performance as a group and individually, and should have procedures in place to remove those board members unable to fulfill their responsibilities.
- As the ALA Department's governing body, the DEC should review regularly the organization's mission and goals and evaluate programs, goals, and activities every five years to be sure they advance its mission and make prudent use of its resources.

**All ALA Department leaders and its governing body and board are obligated to:**

- Act in the best interest of the ALA's future.
- Adhere to the tenets of corporate law in serving as fiduciary and organizational stewards.
- Encourage discussion and promote support for actions that are in the best interest of the Department.
- Review and address governance matters.

Members of the DEC have serious legal, ethical and fiduciary responsibilities which may include making decisions regarding the organization's vision, strategic direction, financial resources, fundraising, and compliance with all regulations and laws.

No single member is solely responsible for any of these things alone; this structure depends upon the collective decision-making of a group of people serving together.

The DEC is collectively responsible for acting in the best interest of the organization to further its mission.

Members of the DEC are individually and collectively liable for the committee's actions.

Any DEC member who neglects these duties could be held personally accountable, particularly if something were to go wrong and there was a lawsuit.

Each DEC member is afforded limited liability, which shields her from personal debts and damages only as long as she is meeting established standards of responsible behavior. Many Departments purchase an Officers & Directors Omissions Insurance policy that affords limited liability coverage.

Limited liability may not protect a DEC member who fails to meet these basic responsibilities or who is negligent. If there is ever a lawsuit or dispute that questions the committee's conduct, courts will look for committee members to have met reasonable standards of conduct.

### **DEC Members Must Meet the Standards of Care and Responsibility**

DEC members serve in a position of trust. They have been selected to lead an organization that is performing a service for the public good.

In the ALA, DEC members are entrusted to set the direction of the organization and to ensure that the organization has sufficient resources to carry out its purpose and fulfill its mission.

DEC members are not expected to be perfect or know everything; however, it is very important that members fully understand their responsibilities, take them seriously, and take reasonable care and effort individually and as a group to meet their obligations.

Fulfilling fiduciary responsibility requires DEC members to be knowledgeable, present, and actively engaged in financial oversight matters of the Department, and ensuring that the Department's finance committee is comprised of members with professional expertise in finance and accounting.

DEC members are entrusted to ensure that the organization is in a healthy financial position, its funds are properly managed, and responsible policies are established regarding spending, fundraising, budgeting, and accountability standards for management of the Department.

A Department DEC is strongly encouraged to adopt a "Code of Ethics," and policies and procedures for Whistleblowers, Conflict of Interest and conflict disclosure, and ensure that compliance forms are completed annually and maintained on file for all Department officers, directors (DEC members) and committee chairmen.

**For the organization to thrive, the ALA needs to invest in itself; adopt and adhere to best practices in nonprofit governance.** Members of the DEC are to serve according to standards well established principles and obligations of nonprofit leaders. The following is expected of DEC members:

- Be present for all committee meetings. Listen to other committee members and speak up when you can make an important contribution.
- Ask questions when necessary. It is a core responsibility for members to be well-informed. Request more information if you don't understand something about the organization's policies or finances.
- Make decisions that put the best interests of the organization first, above any personal, family or professional interest.
- Exercise independent judgment when voting. Be informed about matters requiring a vote; vote based on what is best for the organization and not any individual; and never be pressured to vote for something against your better judgment.
- Read financial statements in a timely manner. It is a key board member responsibility to read and understand financial statements. If you don't know how to read a financial statement, seek assistance from finance professional.
- Review and adopt a budget every year. Be prepared by having reviewed past budgets, and be prepared to raise any pertinent questions you may have.
- Act responsibly in an oversight capacity when a department delegates the management of the organization's finances to a finance committee, audit committee, or other standing or special committee. Review financial policies and risks at appropriate intervals and be sure that appropriate policies are in place to address financial risks.
- Ensure that the organization is compliant with applicable laws and regulations.
- Ensure employees and key volunteers are performing acceptably. It is not the DEC's role of the DEC chairman's role to oversee employees, but it is the DEC chairman and DEC board's responsibility to support staff and ensure the department is able to operate smoothly and in accordance with all applicable government laws and regulations. Guidance for could be found in the Department's CBL&SR's or other documents.

### **Important Resources**

- **ALA Department Operations Guide**
- ALA Department Constitution, Bylaws, and Standing Rules
- ALA National Constitution, Bylaws, and Standing Rules
- Roberts Rules of Order, Newly Revised

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*This document is the outcome of an initiative by ALA Centennial Strategic plan Goal 4, Strategy A. Team members contributing to this initiative: Erin Pierce, Sue Britton, Mary Beth Revoir, Donna Hatfield, Louise Winesett and goal champions Tina Washington and Tim Bresnahan, with contributions from the National Secretary.*