

## Resolution to Amend the Administrative Procedures

February 3, 2022

### **Resolution Submittal**

#### CHAPTER NINE / GRIEVANCE AND DISCIPLINE SECTION 9000 - DEFINITIONS

##### **Current Text:**

i. Counsel. A member of the Marine Corps League selected by the Petitioner or the Respondent to represent him in prehearing, hearing, and post-hearing procedure under Chapter Nine. The member selected must be:

- (1) in good standing and
- (2) a member of the Marine Corps League for at least a year.

##### **Proposed Amendment:**

i. Counsel. **An individual** selected by the Petitioner or the Respondent to represent him **or her** in prehearing, hearing, and post-hearing procedure under Chapter Nine. The **individual** selected **may** be either:

- (1) **a member of the Marine Corps League in good standing with a minimum of one year membership, or**
- (2) **an independent, non-member of the Marine Corps League.**

##### **Amendment Rationale:**

The goal of the Marine Corps League is to be fair and just in all its Grievance and Discipline hearings. To that end, it makes common sense that a petitioner or the respondent whose counsel is a member of the Marine Corps League and a practicing or retired attorney at law has a distinct and unfair advantage over a petitioner or respondent that doesn't. Unfair justice is no justice.

Consider the following important reasons for permitting the petitioner or the respondent, or both to select a non-MCL member attorney as counsel for a grievance and discipline hearing:

- Marine Corps League members aren't all articulate, confident and emotionally detached to best represent themselves or another at a hearing.
- Most MCL detachments don't have one let alone two attorney-members in a detachment, so each petitioner and/or the respondent can be properly represented by an attorney.
- Chapter Nine / Grievance and Discipline is detailed and complicated, if not overwhelming to a unqualified member, and an attorney representing either the petitioner or the respondent will take advantage of this inequity.
- A petitioner or the respondent, or his or her counsel more often than not don't have the expertise and experience in investigating, compiling and presenting evidence.
- A solid grievance and discipline case can quickly unravel without the help of a trained and emotionally detached attorney, who is a member or non-member of the MCL.
- Without the proper legal training, a petitioner or the respondent or their counsel may not be able to know whether a key piece of evidence (including testimonials) against either was improperly obtained or that the testimony of a witness contradicts an earlier statement.

## Resolution to Amend the Administrative Procedures

- If a petitioner or the respondent's counsel is not an attorney, he or she may struggle with the deadlines and protocol for properly filling out and filing certain legal documents. One late or incorrect filing could derail their case, delay a given procedure or worse - have the case thrown out altogether (and not in your favor).
- An experienced lawyer probably has seen cases similar to either, or at least knows enough to make a calculated guess about how it might get resolved at a hearing. Sometimes a settlement is the best choice, while other times it makes more sense to see the petitioner or the respondent case through to hearing.
- An attorney can also help negotiate a fair settlement with the opposing petitioner or respondent.
- Non-attorney counsel is generally at a disadvantage when squaring off against opposing petitioner or respondent employing attorney counsel.
- There exists no substantial rationale for not permitting a non-MCL member attorney to represent a petitioner or respondent, or both at a grievance hearing.

Submitted for the betterment of the MCL and its membership as a whole.

### **Sponsor/Proposer**

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