

Purpose of the Proposed Model Rules Discipline

State societies face the same problems with member discipline as does national. At national we have Bylaw 33 and provisions in the Member Handbook that specify standards of conduct and disciplinary procedures. Many state societies do not have similar rules so when a problem arises, they do not have a set of rules to ensure the society can discipline its members or to ensure that due process is afforded. These model rules have been drafted by the NSSAR Ethics Committee, reviewed by the NSSAR Legal Advisory Committee and approved for use by the NSSAR Executive Committee. The rules are not mandatory but states are encouraged to consider their adoption. Although states may wish to modify the rules to fit their operating practices, they are encouraged to leave the due process and procedural aspects intact as much as possible. As each State Society is unique in its membership strength, participation, and talent pool, these guidelines are merely intended to be simple, yet comprehensive and empower State Societies to handle ethics issues within their own jurisdictions. It is always a good practice to allow the local State Societies to consider the personalities involved, their history within the State Society and their value to the Society. Offending Compatriots should be judged by those members who know them best, their fellow State Society compatriots.

This is a model set of rules for state societies to use to handle ethics violations and disciplinary proceedings. It is up to the discretion of the state society as to whether or not to adopt these rules. The rules are intended as an aid to help state societies properly handle these matters to make sure everyone receives due process and the ethical standards of the NSSAR and the NSSAR are maintained. It is also up to the state society to modify the rules to fit their Constitution and Bylaws. For example, a state may call their governing body the Board of Managers while another may call theirs the Board of Governors. One state may have a state chancellor while another may not. A state may decide that a part of a recommended procedure will not work in that state so they may choose to modify it. Please keep in mind before you modify the proposed rules that the Ethics Committee, the Legal Advisory Committee and the Executive Committee have reviewed and approved these rules.

The proposed model rules consist of four parts. The first part is a model bylaw or policy that can be adopted that is consistent with Bylaw 33 of the NSSAR Bylaws. This bylaw or policy can be modified to suit differences in each states rules but states are encouraged to try and maintain the procedural safeguards and due process considerations. Where the proposed rules say NSSAR a state may simply replace it with their own state designation. Section 2 deals with ethical standards and is identical with Bylaw 33 at NSSAR. A state could add more specific standards if they desired and some states have even listed specific prohibited conduct. These rules spell out the responsibilities of the State President, the Ethics Committee, the Board of Managers and the Delegates to the Annual Meeting.

The second part consists of the four standards listed in Section 1 and these policies were adopted in compliance with IRS standards. The Code of Business Ethics and conduct was adopted by NSSAR and seems to apply to all SAR members and arguably can be enforced by a state society also if a state society member violates that code. The next three codes are the Conflict of Interest/Code of Organizational Conduct, the Whistleblower policy and the Records Retention and Destruction Policy. These three codes were adopted by the NSSAR but they are specific to

NSSAR and a state would have difficulty enforcing most of the provisions because it applies to NSSAR employees, actions by a NSSAR officer or committee chairman or a member reporting bad conduct by a NSSAR official. Therefore, a state wishing to adopt these codes should replace the TXSSAR designation with their own state designation. Also because of differences in how each state operates some other modifications may need to be made. Even if the state did not wish to adopt the disciplinary rules it is a good idea to adopt these codes as it will help insure the state society operates in accordance with IRS rules for non-profits and it will probably be consistent with any state government laws for the operation of non- profits within that state.

The third part is a bylaw or policy proposal that would allow a state to have a State Compliance Officer. It would be his responsibility to ensure the state complies with the four codes listed above. This could be done with a bylaw or perhaps in a state handbook if that state has one or even under the authority of the State President. The Compliance Officer would be helpful investigating violations of these four codes.

The fourth part is a bylaw or policy proposal that would allow a state to have an Inspector General. The Inspector General may be used for any investigations the State President assigns to him, including ethics investigations.

The foregoing discussion on the Purpose of these Model Rules is intended as an explanation and should not be adopted as part of the state society Bylaw or Policy.

PART ONE

NSSAR MODEL RULES for STATE DISCIPLINE

(FOR ADOPTION BY STATE SOCIETIES)

Bylaw No. ? or Policy for ??SSAR Discipline

Section 1. Ethical Standards

A Compatriot may be charged for: (1) violating the (a) Code of Business Ethics and Conduct; (b) Conflict of Interest/Code of Organizational Conduct; (c) Whistleblower Policy; (d) Record Retention Policy; or (2) for rendering himself unworthy of membership by engaging in felonious conduct, misdemeanor conduct involving moral turpitude, or conduct disloyal to the ideals or prejudicial to the interests of the Sons of the American Revolution.

Section 2. Appointment of State Ethics Committee

When a complaint is filed alleging a violation of the standards found in Section 1 above, the State President will appoint a State Ethics Committee. The committee will be composed ~~on~~ of no

fewer than five voting members including at least two (2) past State Presidents, the State Chancellor (if applicable), and such other members as needed to have an odd number of committee members. The State President will appoint one of the committee members as the committee chairman who will preside over any investigations or hearings. One member of the committee will be appointed as the secretary for the purpose of recording and taking notes of the testimony before the committee. If any member of the committee recuses himself because of a conflict of interest or an inability to serve, then the President ~~will~~ may appoint a replacement member.

Section 3. Reporting Compatriot Violations of Ethical Standards

A. Compatriots with information regarding the conduct of another, that may support the proffering of charges pursuant to Section 1 above, should provide such information to the ??SSAR State President. The report of information must: (1) be submitted in writing and under oath; (2) be signed and dated by the compatriot providing the information; (3) contain an affirmative statement that the facts presented are true, accurate, and complete to the knowledge of the Compatriot; and (4) contain signed statements of the asserted facts from knowledgeable individuals if the Compatriot did not possess personal knowledge of the asserted facts. If a complaint alleges a violation by the State President, the written complaint shall be submitted to the ??SSAR Vice-President or President-Elect in lieu of the ??SSAR President, in which case all actions required by the ??SSAR President set forth below shall be performed by the ??SSAR Vice-President or President- Elect.

B. A Compatriot shall not bring a complaint, or assert allegations against or by another compatriot, unless such complaint, and/or allegations are well grounded in fact and warranted by ??SSAR's governing instruments. The filing of a frivolous and groundless complaint may constitute a violation and make the filing party subject to an ethics complaint.

Section 4. State President's Responsibilities

It is the responsibility of the State President to ensure that any complaints are properly handled and referred as provided for in this Bylaw. The State President may, upon receipt of a written report or complaint that in the President's judgement does not constitute a possible violation of any provision set forth in Section 1 of this Bylaw/Policy dismiss the report or complaint. The State President may, upon receipt of a written report or complaint that in the President's judgment constitutes a possible violation of any provision set forth in Section 1 of this Bylaw, take action as follows:

- A. appoint an investigator to investigate the facts of the report or complaint;
- B. acting within the limits of his powers as ??SSAR State President, resolve the matter without the necessity of a referral to the State Ethics Committee;
- C. If the President determines that the report or complaint has merit, he shall refer it to the State Ethics Committee in accordance with Section 2 of this Bylaw/_Policy;

D. If the State Ethics Committee recommends a sanction, the State President must transmit that recommendation to the State's governing Board of Managers or Directors (hereinafter referred to as "Board of Managers");

F. Whenever the Board of Managers vote a sanction it shall be the responsibility of the State President to ensure that the sanction is implemented.

Section 5. State Ethics Committee Procedures

After referral of a report or complaint to the State Ethics Committee it shall review the information presented including the reports of any investigations. The Committee will first consider whether the conduct alleged in the report or complaint, if true, constitutes a material violation of the ethical standards of the ??SSAR, as enumerated in Section 1 of this Bylaw/Policy or as found in any Compliance Policies adopted by the ??SSAR. The State Ethics Committee will review the report or complaint, reports of the investigation and all evidentiary materials submitted or generated during such investigation to determine whether there is a sufficient basis to proceed with a hearing.

A. If the Committee determines that the alleged conduct does not constitute a material violation of any of those ethical standards, they will take no further action and dismiss the report or complaint.

B. If the Committee determines that the alleged conduct may constitute a violation, they will provide the factual allegations to the respondent (or "subject") and request that the subject respond to those allegations. The response must be sworn to and in writing and must be signed and dated by the subject.

C. If the Committee determines that a hearing is necessary, the chairman will notify the subject of the alleged violation, the complainant (if applicable), and any potential witnesses of the time, date and location of the hearing. The notices shall be made in a manner calculated to ensure that everyone is apprised of the hearing and may be made by multiple methods but at least one notice to each person must be sent by USPS certified mail return receipt requested. The method of notice shall be documented. The hearing is closed to the public and to other SAR members and the only people permitted in the hearing are the State Ethics Committee members, any investigators who participated in the investigation, the subject of the report or complaint and his attorney (if applicable), or his advocate and any witnesses while they are giving testimony, and the State Chancellor (if applicable) if he is not already present, and who will be available to advise the Committee. The subject of the complaint may retain an attorney so long as he is a member of the SAR. Alternatively the subject may have an advocate to assist him who must be a member of the SAR. All participants in the hearing must preserve the confidentiality of the proceedings. At the conclusion of the hearing the Committee will consider the materials and testimony and make a decision that will be transmitted to the State President. The hearing will be conducted as follows;

1. The hearing will be recorded and a transcript made of the proceedings. The Ethics Committee may employ a court reporter, a recording device or any other method legal in that state.

2. The hearing will be informal and the rules of evidence and procedure which may be applicable in (applicable state) are not in effect.

3. The order of the hearing will be as follows;

a. All witnesses will be sworn in,

b. The investigator for the ??SSAR may make an opening statement.

c. The subject, his attorney or his advocate may make an opening statement,

d. The chairman shall call any witnesses who have information relevant to the complaint. The investigator may ask questions of any witnesses and any members of the committee may ask questions,

e. The subject, or his attorney or advocate may ask questions of any witnesses for the committee,

f. Then the subject may call witnesses on his behalf and the investigator and members of the committee may ask questions of the subjects witnesses,

g. At the conclusion of all witness testimony the chairman will allow the investigator and the subject or his attorney or advocate to make a closing statement,

h. After all witness testimony and closing statements the committee will deliberate in private and reach a decision,

i. At the conclusion of the hearing all written materials introduced into the hearing will be collected and made a part of the record of the proceedings along with a recording or transcript.

D. If the Committee finds that the subject of the report or complaint did violate ethical rules, then the Committee will send the complete record of the hearing as well as any recommended sanctions to the ??SSAR State President who will forward this record to the Board of Managers. The State President must also notify the subject of the decision of the Ethics committee. The Committee may recommend a sanction that may include but is not limited to the following, but nothing in this section or any other provision of these Bylaws/Policy shall limit the ability of the State Ethics Committee to recommend additional disciplinary action;

1. If the subject is a state officer, director or appointed official, they may recommend that he be removed from that office permanently or for a specific period of time.
2. If the subject is a chairman of any committees or a member of any committees then they may recommend that he be removed from those committees permanently or for a specific period of time.
3. If the subject is involved in any activities on behalf of the ??SSAR including but not limited to color guard, participating in youth activities or participating in parades or other public events, then they may recommend that he be prohibited from participating in those activities permanently or for a specific period of time.
4. They may recommend that he be suspended from any or all chapter and state activities, meetings or events permanently or for a specific period of time.
5. They may recommend probation for a specific period of time stating the basis for the probation and setting forth any provisions of the probation. The subject will be advised that if the terms of probation are violated that the State Ethics Committee may take up the matter again and may recommend additional sanctions.
6. They may recommend that the subject be given a private admonition setting forth the prohibited conduct. A private admonition is confidential.
7. They may recommend that the subject be given a public reprimand setting forth the prohibited conduct. A reprimand may be announced to the delegates at the Annual Meeting, but should not be released to the public. Any announcement should not contain details of the conduct but should simply state the sanction imposed.
8. They may recommend that the subject be expelled from the ??SSAR.

E. A compatriot who is the subject of a report or complaint is entitled to a hearing before the State Ethics Committee on the proffered allegations. However, the compatriot may waive his right to a hearing and agree to accept a sanction offered by the State Ethics Committee. The agreement must contain a statement in which the subject of the report or complaint waives his rights to a hearing and accepts the sanction. The agreement must contain the following provisions:

1. the agreement must be in writing and signed by the compatriot and the chairman or vice-chairman of the State Ethics Committee;
2. the subject must acknowledge that the agreement is in lieu of a pending disciplinary proceeding;

3. the subject must agree to waive his right to appeal the sanction to the Board of Managers;
4. the type of sanction will be clearly specified and must conform to the sanctions listed in Section 5 of this Bylaw. Upon execution of the agreement by both parties the State Ethics Committee will retain jurisdiction over the report or complaint until the successful completion of the requirements in the sanction;
5. if the agreement is for the subject to resign from the NSSAR then it may also contain a provision that he not be allowed to reapply for membership for a period of time not to exceed 24 months;
6. the agreement shall be confidential, unless subsequent proceedings require that confidentiality provisions be removed for purposes of further enforcement; and
7. the agreement is subject to approval by a majority vote of the Board of Managers.

Section 6. Board of Managers

Whenever a report or complaint results in a recommendation for a sanction from the State Ethics Committee the Board of Managers must review and approve that recommendation. The authority to impose a sanction for an ethics violation rests entirely with the Board of Managers, except where otherwise provided. When the State President transmits the recommendation for a sanction from the State Ethics Committee the Board of Managers must review the entire record including: (a) the report or complaint and the response by the subject as well as any other written statements of the parties, (b) the investigation report, (c) the recording or transcript of the hearing conducted by the State Ethics Committee and (d) the report and recommendation of the State Ethics Committee. The review of a recommendation from the State Ethics Committee will be taken up by the Board of Managers in a closed meeting. The Board of Managers may invite the members of the State Ethics Committee, the subject and his attorney or advocate (if applicable), the State Chancellor (if applicable), and any other investigators or personnel who participated in the State Ethics Committee hearing. The proceeding before the Board of Managers is a review only and is not another hearing with testimony and argument. However, the Board of Managers may ask questions to clarify any issues raised in the hearing.

A. The Board of Managers may accept, reject or modify in whole or in part, the sanctions recommended by the State Ethics Committee. The Board of Managers may also impose a different sanction if they feel it is appropriate. Except as otherwise set forth below, the vote to sanction a compatriot based on an ethics violation must be by a majority vote of the Board of Managers present and voting.

B. If the Board of Managers votes to expel the compatriot from the NSSAR, that expulsion requires a two-thirds ($\frac{2}{3}$) vote of the members of the Board of Managers present and voting. The expulsion of a compatriot from a state society effectively deprives him of membership in the NSSAR if he is only a member of that state society. Therefore, the Executive Committee

of the NSSAR must review each expulsion from a state society. Upon a vote by the Board of Managers to expel a compatriot, the State Secretary will transmit a copy of the minutes of the Board of Managers meeting where the expulsion occurred as well as a copy of the ??SSAR Constitution or Bylaws where the discipline rules for member discipline are found, or the policy adopted by the ??SSAR containing the discipline rules. Additionally, the State President must state the factual basis of the expulsion and certify that the action by the ??SSAR was in accordance with that State's rules. All of these records must be transmitted to the Executive Director or President General of the NSSAR as soon as possible. If the subject does not appeal a vote by the Board of Managers to expel him then the Board of Managers shall inform the State President that he may implement the decision as soon as their decision is final and the NSSAR Executive Committee has completed its review.

C. If the Board of Managers votes to expel or suspend a member from the ??SSAR who is a national officer as defined in Vol III of the Handbook Section 6 (2) under Member Discipline, then that decision must be reviewed by the Executive Committee of the NSSAR. The expulsion or suspension of a compatriot from a state society effectively deprives him of membership in the NSSAR if he is only a member of that state society and that will impact his ability to perform the duties of the national office to which he was elected. Upon a vote by the Board of Managers to expel or suspend a member who is a national officer as herein defined, the State Secretary will transmit a copy of the minutes of the Board of Managers meeting where the expulsion occurred as well as a copy of the ??SSAR Constitution or Bylaws where the discipline rules for member discipline are found or the policy adopted by the ??SSAR containing the discipline rules. Additionally, the State President must state the factual basis of the expulsion and certify that the action by the ??SSAR was in accordance with that State's rules. All of these records must be transmitted to the Executive Director or President General of the NSSAR as soon as possible. If the subject does not appeal a vote by the Board of Managers to expel or suspend him then the Board of Managers shall inform the State President that he may implement the decision as soon as their decision is final and the NSSAR Executive Committee has completed its review.

D. When the Board of Managers votes to impose a sanction for an ethics violation, they must notify the subject of the sanction within 10 days of the vote.

1. In the event the Board of Managers votes to expel the subject the expulsion will be effective when the decision of the Board of Managers is final, and the expulsion has been reviewed by the NSSAR Executive Committee. If the Board of Managers votes to expel a subject, or to suspend a subject for a period of time, they may temporarily suspend the subject from participation in SAR activities pending an appeal if it is justified by the facts of the complaint, unless the member is subject to the provisions of Section 6 (C). This temporary suspension pending an appeal to the Annual Meeting will be in effect until the decision at the Annual Meeting. If the subject does not request an appeal by the delegates at the Annual Meeting then the sanction will be implemented as soon as the time to request an appeal has expired, and the provisions of Sub-section E and F below are complete.
2. If the sanction involves probation those terms shall be set by the Board of Managers, including, but not limited to, length of probation, constructive or rehabilitative steps

- and any other conditions. At the conclusion of the probationary period, the Board of Managers may reconvene to determine whether the probation should be rescinded, or if additional corrective action is necessary. A member who fails to comply with the probation terms may be expelled subject to the provisions of this Bylaw. Unless additional action is taken by the Board of Managers the probation will expire as per the conditions originally set.
3. If the sanction involves a suspension or prohibition of participation in ??SSAR activities the Board of Managers may reconvene to determine whether the suspension should be rescinded, extended or modified, or if additional sanctions should be imposed. Unless additional action is taken by the Board of Managers the suspension will expire as per the conditions originally set.
 4. If the sanction is to suspend or expel the subject then the ??SSAR may rightfully report that the subject is not in good standing if asked by another state society.

E. Unless appealed to the Annual Meeting, any sanction imposed by the Board of Managers will be final upon the expiration of the time in which the subject may appeal, unless the sanction is governed by Sub-section B or C of this Section.

F. Any suspension or expulsion which requires an automatic review by the NSSAR Executive Committee under Section 5 of this Bylaw/Policy is not final until the review by the NSSAR Executive Committee is completed.

Section 7. Appeal

A sanction imposed by the Board of Managers shall be final, provided however, that a Compatriot may appeal his expulsion to the next Annual Meeting of the ??SSAR by providing written notice to the State President within ten (10) days of the date he receives his notice of the sanctions imposed by the Board of Managers. The review would be held at the next Annual Meeting and will be presided over by the State President or his designee. Such appeal before the Annual Meeting will follow the format outlined in Section 6 of this Bylaw for a hearing before the Board of Managers. Expulsion from the ??SSAR requires a two-thirds vote of the delegates present and voting at the Annual Meeting. The only matter that can be appealed from the Board of Managers to the Annual Meeting of the ??SSAR is the expulsion of the subject. In the event the Delegates at the Annual Meeting uphold the decision of the Board of Managers to expel the subject then the ??SSAR shall comply with those provisions for an automatic review by the NSSAR /Executive Committee as provided for in Section 5 of this Bylaw/Policy.

Section 8. Temporary Suspension of Officer

Any state Elected Officer, Appointed Officer or Director may be removed through the disciplinary proceedings as provided for in this Bylaw/Policy. Notwithstanding the foregoing, an Officer or Director may be temporarily suspended from office pending an investigation and/or hearing. During this temporary suspension, the President may appoint another member to fulfill the duties of the suspended officer, subject to the Bylaws of the ??SSAR. An Officer or Director may be suspended from office if: 1) an extended absence is continuous and detrimental to the interests of the state society, 2) substantial evidence is found that the subject has damaged,

destroyed, converted, neglected, misappropriated, embezzled or stolen ??SSAR property, real or personal, or ??SSAR funds, or 3) has engaged in conduct or activity that brings discredit to the Sons of the American Revolution. The Board of Managers has the authority to temporarily suspend an Officer or Director and may do so by majority vote.

Section 9. Roberts Rules of Order

The provisions regarding disciplinary procedures contained in the most recent edition of Robert's Rules of Order as such may be applied by the procedures set forth in this Bylaw/Policy, shall govern the investigation and hearing of any charges brought pursuant to Section 1 of this Bylaw/Policy.

Section 10. Notices

All time periods for notices and for actions to occur, where stated, are intended to encourage the timely processing of ethics complaints. Since most hearings will have to occur during state meetings where all necessary participants are present the timeline of the investigation and hearings should be scheduled for the convenience of the participants and to minimize inconvenience.