



FULFILLING OUR PROMISES
TO THE MEN AND WOMEN WHO SERVED

NONPROFIT ADVISOR

For DAV Departments and Chapters

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FEDERAL CHARTERS: WHAT DO THEY MEAN?

Part Two

The prior issue of this newsletter addressed the lineage and significance of the “federal charter” that has been given to DAV. However, the charter also has some legal implications. In this issue of the *Nonprofit Advisor*, we shall summarize some of those consequences insofar as they pertain to DAV.

Does the charter have anything to do with DAV membership?

Most assuredly it does! In addition to providing the general qualifications for membership in the organization, the federal charter defines the basic three-level structure of DAV and specifies – somewhat uniquely – that DAV may not have honorary members. This is quite significant, and is a limitation that appears in few other charters.

Why is the prohibition on honorary members significant?

This provision in the charter is important for at least two reasons. First, it establishes DAV as an elite fraternity, composed entirely of service-connected disabled veterans. This serves to differentiate the organization from some other veteran-related charities in which membership is open, in essence, to anyone. It is not difficult to infer that DAV’s membership would thus command the attention and respect of the three branches of government in a way that participants in other organizations might not.

Second, the carefully defined requirements for DAV membership qualify the organization as a “private” club. This status can, in certain circumstances, give DAV a greater flexibility in self-governance.

Does the federal charter confer any other specific legal benefits?

In some states, DAV’s possession of the federal charter provides an exemption from registration and reporting requirements that would otherwise apply to its fundraising activities. It is important to note that such exemptions would NOT apply to DAV departments and chapters, since it is only the parent organization that possesses a federal charter.

The federal charter also grants to DAV what is in essence a statutory trademark on the name “Disabled American Veterans.” (DAV has also registered that, and other marks, with the United States Patent and Trademark Office.) The charter goes on to specify that DAV may create departments and chapters that will bear the same name.

Does the federal charter make DAV a part of the government?

DAV remains a private, tax-exempt, charitable organization. Although there have been occasional efforts by litigants to describe (inaccurately) DAV as an agent of the federal government, all of those efforts



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have failed. DAV does not receive federal appropriations, exercises no federal powers and does not have special status for access to the federal courts. In fact, DAV often litigates AGAINST the federal government, which is a sure sign that our organization is private.

Does the federal charter put DAV under the supervision of Congress?

The chartering statute requires DAV to submit an annual report to Congress, which it has faithfully done for decades. The report (which actually takes the form of the proceedings of the National Convention and multiple associated documents) is actually printed as a Congressional document. In addition, DAV is always responsive to Congressional inquiries and requests. Nonetheless, Congress does not oversee DAV operations and management and is not empowered to make any decisions on behalf of the organization.

What, exactly, does the DAV charter say?

As currently amended, here is the text:

Title 36, United States Code

§ 50301. Organization

- (a) Federal charter.**--Disabled American Veterans (in this chapter, the "corporation") is a federally chartered corporation.
- (b) Perpetual existence.**--Except as otherwise provided, the corporation has perpetual existence.

§ 50302. Purposes

The corporation is organized exclusively for charitable and educational purposes. The purposes of the corporation shall include--

- (1) to uphold and maintain the Constitution and laws of the United States;
- (2) to realize the true American ideals and aims for which those eligible to membership fought;
- (3) to advance the interests, and work for the betterment, of all wounded, injured, and disabled American veterans;
- (4) to cooperate with the Department of Veterans Affairs and all other public and private agencies devoted to the cause of improving and advancing the condition, health, and interests of all wounded, injured, and disabled veterans;
- (5) to stimulate a feeling of mutual devotion, helpfulness, and comradeship among all wounded, injured, and disabled veterans;
- (6) to serve our comrades, our communities, and our country;
- (7) to educate the public about the sacrifices and needs of disabled veterans;
- (8) to educate disabled veterans about the benefits and resources available to them; and
- (9) to encourage in all people that spirit of understanding which will guard against future wars.

§ 50303. Membership

- (a) Eligibility.**--An individual is eligible for membership in the corporation if the individual--
 - (1)(A) was wounded, gassed, injured, or disabled in the line of duty during time of war while in the service of the military or naval forces of the United States; and
 - (B) was honorably discharged or separated from that service or is still in active service in the Armed Forces of the United States; or
 - (2)(A) was disabled while serving with any of the Armed Forces of a country associated with the United States as an ally during any of its war periods;



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(B) is a citizen of the United States; and
(C) was honorably discharged.

(b) No honorary memberships.--An honorary membership may not be granted.

§ 50304. Powers

The corporation may--

- (1) adopt a constitution, bylaws, and regulations to carry out the purposes of the corporation;
- (2) adopt and alter a corporate seal;
- (3) adopt emblems and badges;
- (4) establish and maintain offices to conduct its activities;
- (5) establish State and territorial organizations and local chapter or post organizations;
- (6) acquire, own, lease, encumber, and transfer property as necessary to carry out the purposes of the corporation;
- (7) publish a newspaper and other publications devoted to the purposes of the corporation;
- (8) sue and be sued; and
- (9) do any other act necessary or proper to carry out the purposes of the corporation.

§ 50305. Exclusive right to name

The corporation and its State and local subdivisions have the exclusive right to use the name "Disabled American Veterans."

§ 50306. Restrictions

The corporation shall be nonpolitical and nonsectarian, and may not promote the candidacy of an individual seeking public office.

§ 50307. Service of Process

As a condition to the exercise of any power or privilege granted by this chapter, the corporation shall file, with the secretary of state or other designated official of each State in which a chapter is organized, the name and address of an agent in that State on whom legal process or demands against the corporation may be served.

§ 50308. Annual report

Not later than January 1 of each year, the corporation shall submit a report to Congress on the activities of the corporation during the prior fiscal year.

§ 50309. Dissolution

On dissolution or final liquidation of the corporation, any assets remaining after the discharge or satisfactory provision for the discharge of all liabilities shall be transferred to the Secretary of Veterans Affairs for the care of disabled veterans.

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