

Vote on AB00-06: Motion to insert new Article 5 into the STARFLEET Constitution, and renumber following Articles

Vote started July 14 2000
Vote ended August 7, 2000

Text of resolution:

The Admiralty Board of STARFLEET hereby submits the following Amendment to the STARFLEET Membership for consideration of ratification:

If approved by a majority of the STARFLEET Membership, this Article is to be inserted as Article V of the current STARFLEET Constitution. All Articles following the current Article V ("Removal from position") are to be re-numbered upwards accordingly.

Article V: Disciplinary Process and Appeals

Section 1: The STARFLEET Appeals Process

STARFLEET recognizes the right, codified in the STARFLEET Membership Handbook, of a member to appeal any judgmental decision entered against them BY STARFLEET, OR ANY OF ITS OFFICERS. This Amendment helps to define the appeals process as it applies to both Senior STARFLEET Officers and general STARFLEET members.

Section 2: Discipline of STARFLEET Senior Officers

The Executive Committee of STARFLEET has the right to call upon the Inspector General, STARFLEET, to investigate allegations of misconduct performed by any STARFLEET officer whose position is described in Article 4, Sections 2 through 10, inclusive.

Based on the formal report presented to the EC by the IG, the EC may then recommend formal sanctions be imposed on said officer.

Should the Executive Committee decide to recommend formal sanctions be imposed, the Executive Committee shall prepare a formal list of Articles covering the transgressions and the suggested sanctions. As Chairman of the Admiralty Board, the Commander, STARFLEET, shall present this to the full Admiralty Board.

The Admiralty Board shall have sixty days from the date said Articles are presented to debate the proposed sanctions and render a decision by majority vote. The AB may choose to a) accept the sanctions in total; b) amend the sanctions as they see fit; or c) reject the sanctions in total. Whatever decision is reached, the defendant's Regional Coordinator shall report the findings back to the defendant, at which point the process is completed.

The Admiralty Board may call the Office of the Inspector General to offer clarification

on his report, if necessary. The defendant may call upon a person of his choosing to assist in the presentation of their defense.

If the AB feels that they cannot complete the review of the process due to incomplete information or wish to further review the information provided to them, they may vote to continue the review period for another sixty days. At the end of this additional period, the matter will be brought to a vote.

Section 3: The STARFLEET Appeals Board

The STARFLEET Admiralty Board shall serve as the formal appellate body of STARFLEET. However, in the interests of not burdening the AB with the weight of all the appeals that could possibly be filed by the membership, a body of three members shall be convened as necessary to review all those appeals that do not fall under Section 2 of this article. This includes, but is not limited to, appeals of decisions of the EC against officers not covered under Article 4, Sections 2 through 11, inclusive, decisions of a Regional Coordinator, and decisions of a Chapter/Shuttle Commanding Officer.

The membership of the STARFLEET Appeals Board shall consist of one volunteer member of the Admiralty Board, one volunteer member of the Executive Committee, and one volunteer member at large holding the rank of Commander or above. Should no volunteers avail themselves from any or all bodies mentioned above, a random name shall be drawn from the most current roster of Executive Committee, Admiralty Board and Commanding Officers by the Inspector General, STARFLEET. Should the chosen member decline this duty, another name will be drawn until such time someone agrees to serve. None of the Appeals Board members shall be from the Region of the member filing the appeal. There is no limit to how many times a qualified member may serve on the Appeals Board. The Appeals Board shall review the appeal presented before them for its merit and determine whether there is grounds for sending the appeal to the full Admiralty Board for formal review.

Should the Appeals Board vote that the appeal is without grounds for consideration of the full Admiralty Board by a two-thirds or greater vote, then that appeal is formally ended and the original decision shall stand.

Should the Appeals Board deny a member's appeal, that member may petition a Regional Coordinator to bring a motion before the full Admiralty Board to hear the appeal. If a majority of the Admiralty Board so rules, the Admiralty Board shall then hear the appeal.

Explanation of Amendment V by Chris Wallace (tigger1@nwlinc.com)

Okay. This is a radical restructuring of this Article.

By defining only five specific cases where it can be imposed, the current Article 4 Section 1 is too limited. I expect it was created to prevent the excesses of the McGinnis Administration and to prevent an EC from running roughshod over the members by removing people at will.

However, as a recent situation has shown us, it severely limits the ability of the Fleet Leadership to discipline members for serious transgressions. As it now stands, even if an action could be considered criminal in nature, unless that member is tried and convicted of the crime, they cannot be removed. I do not feel that it is in our best interests in forcing STARFLEET to spend the time and money of pursuing a court conviction against every serious transgression a member makes to allow A4S1 to be enforced.

Now I admit that allowing the EC to define what "allegations of misconduct" are might scare many people. However, Rear Admiral Kurt Roithinger and I developed a safeguard - any such sanction was automatically appealed to the AB. In addition to ensuring that the AB could hear an appeal on such sanctions, the automatic appeal would also prevent what happened recently, when an appellate waited 90 days to file when the Constitutionally-mandated appeal period was only 60 days.

Thinking about that, I realized that if every sanction is automatically appealed, why have the EC even impose a sanction? Why not just model this on the Criminal Justice System of the United States?

The Inspector General, STARFLEET, serves as the Detective. The Executive Committee serves as the District Attorney/Prosecutor. The JAG (or whoever the defendant chooses) serves as their Defense Attorney. And the Admiralty Board serves as the Jury.

In other words, the IG investigates the transgression. The EC determines the applicable charges and recommended sentence. The JAG defends the person charged. And the AB renders the final decision.

This system essentially performs the same function that the current Article 4, Section 1 does, but allows the Fleet Leadership much more flexibility in "prosecuting" transgressions. However, it also allows the "defendant" more safeguard since the body actually "determining guilt or innocence" and "imposing sentence" would be the Admiralty Board. The AB is about "impartial" a body as is possible without creating a dedicated judiciary branch protects the member's rights.

If the EC presents a half-assed case to the AB, it will fail. It will help ensure that the EC has what they believe to be a solid case to offer such sanctions. And by being able to call the IG and "cross-examine" him, the AB will be able to get the information "from the horses mouth", so to speak.

Another thing I discovered is that Article 4, Section 1 specifically covers the EC imposing sanctions against only those members defined under Article 4, Sections 2 through 11, inclusive. It does not make any mention of imposing sanctions against other

STARFLEET officers and members. Now, the AB has supported the EC bringing sanctions against a member holding a position other than that outlined in Article 4, Sections 2 through 11, inclusive, on at least two occasions, so there is precedent for such actions. Nonetheless, Section 3 of this article hereby formally grants the EC the authority to sanction any member, just as an RC or CO may sanction any member under their direct authority. Again, with the AB serving as the jury, "malicious prosecution" by the EC will be curtailed, as they need to present a solid case in order to get a "conviction".

Other STARFLEET members have already presented the idea for the creation of some type of Appeals Board. In my opinion, it is an excellent idea to handle "junior" appeals and determine whether or not they are worthy to bring to the attention of the full AB. And even then, the member has the right to go to an RC and try and get a motion for the entire AB to hear the appeal anyway. But just as the Supreme Court, serving as the final appellate body of the United States, can choose the majority of the cases it hears brought to it from lower appellate courts, so shall the AB do the same by voting on whether or not to hear appeals rejected by the Appeals Board (serving as the STARFLEET equivalent of the US Circuit Court of Appeals). If the AB decides that the appeal denied by the Appeals Board has merit and they wish to take it on, a motion followed by a simple majority vote allows them to do so.

The motion was made by Region 5 (Chris Wallace, Region 5 Representative), and seconded by Region 7 (Jessie Smith).

Report of the voting:

R01: Abstain	R06: Aye	R12: Aye
R02: Aye	R07: Aye	R13: Aye
R03: Aye	R09: Aye	R15: Aye
R04: Aye	R10: Aye	R17: Aye
R05: Aye	R11: Abstain	

By a vote of 12:00:02 this motion passes