



American Legion
Department of Ohio
Miamisburg American Legion Post 165

Post Constitution & By-Laws

35 N. Main Street
Miamisburg, OH 45342
937-866-5493

Constitution

Miamisburg American Legion Post 165
Department of Ohio.

PREAMBLE

For God and Country, we associate ourselves together for the following purposes:

To uphold and defend the Constitution of the United States of America; to maintain law and order; to foster and perpetuate a one hundred percent Americanism; to preserve the memories and incidents of our associations in all wars; to inculcate a sense of individual obligation to the community, state and nation; to combat the autocracy of both the classes and the masses; to make right the master of might; to promote peace and good will on earth; to safeguard and transmit to posterity the principles of justice, freedom and democracy; to consecrate and sanctify our comradeship by our devotion to mutual helpfulness.

ARTICLE I

Name, Location, and Objects

Section 1. Name: The name of this corporation shall be Miamisburg Post 165, American Legion Incorporated.

Section 2. Location: The principal office of the corporation shall be the facilities of Miamisburg Post 165, American Legion, Inc. at 35 N. Main Street, in the City of Miamisburg, County of Montgomery and State of Ohio.

Section 3. Objects: The objects of said corporation are:

- a) To conduct a local unit known as a "Post 165 of the American Legion"
- b) To hold title to real estate and personal property which are to be used for the pleasure, convenience, and benefit of the said Post and for carrying out its patriotic, civic, and social purposes.

ARTICLE II

Membership

Section 1. Members: The membership of this post shall be regulated by the rules laid down by The American Legion and the By-Laws herein and as may be from time to time amended by the said American Legion in its conventions or by its Executive Committee. No person shall be a member of this Post unless he or she has been elected to membership in this Post, has paid the dues required of members of this Post and has provided the proper documentation proving eligibility. Swearing ceremonies will occur at the 1st Vice Commander's discretion.

ARTICLE III

Meetings

Section 1. Annual Meetings: Regular Officers will be nominated in March and elected at the April meeting.

Section 2. Monthly Meetings: The Post and/or corporation shall conduct regular meetings on the third (3rd) Monday of each month, at which time may be transacted such business as may be properly brought up for action; such meetings may be converted into entertainment meetings from time to time, as may be deemed advisable by the officers of the Post and/or corporation.

Section 3. Special Meetings: Pursuant to such notices as may be sent out by the Commander of this Post, special meetings may be held at any time. Said notices shall be by e-mail, telephone, or text, but no business materially affecting the assets of the corporation or for the change of the Post Constitution or By-Laws of the corporation shall be taken up or considered at any special meeting unless notice is given as described in Article X, (Repeal and Amendments) Section 2 for the Code of Regulations and as described in Article IX (By-Laws.)

Section 4. Quorum: Ten (10) members shall constitute a quorum, for the transaction of business at any Monthly or special meetings of the Post.

Section 5. In the event of uncontrollable circumstances, a virtual meeting may take the place of a live, in person meeting.

ARTICLE IV

Executive Committee

Section 1. Election of Post Executive Committee (PEC): The election of officers by the Post shall also be considered as the election of the EC of this corporation.

Section 2. Number of PEC: The PEC shall consist of ten (10 members) and shall consist of the Commander, First and Second Vice-Commander, the Adjutant, the Finance Officer, the immediate Past Commander and the three (3) duly elected members At Large, elected each year to serve as member of the "Executive Committee" of the Post and as Executive Committee of this corporation. If the immediate Past Commander elects to not serve on the Executive Committee, the Commander elect may appoint that position. If none is willing to serve as one of the three (3) members At Large the Commander elect can appoint Legion members in good standing.

Section 3. Power of PEC: The PEC shall have the control and management of the business, funds, and property of the Post; subject only to the actions of the members in the meeting assembled. It may propose By-Laws not inconsistent with these regulations, initiate and enforce rules governing the use of the property and privileges of the Post by its members, their children, and guests; fill vacancies in its own membership; appoint standing or special committees of the Post and, at will, change their personnel.

Section 4. PEC Meeting: The Executive Committee shall hold a regular meeting on the 3rd Monday of each month at the Post home, or in his/her absence or disability, the Vice Commander may determine. Special meetings of the Board of Executive Committee may be called by the Commander.

Section 5. Quorum: Five (5) shall constitute a quorum for the conduct of business.

ARTICLE V

Officers

Section 1. The officers of this corporation shall be a Commander, Vice Commander, a Second Vice Commander, an Adjutant, and a Finance Officer. The Post shall elect said officers by a majority ballot cast by regular members of this Post, as detailed in Article II (2) of the by-laws. They shall hold offices for one (1) year or until their successors are elected and qualified.

Section 2. Commander: The Commander shall be the Commander of the Post and shall preside at all meetings of the Trustees. He/or she shall sign the records and minutes. He/or she shall manage and conduct the business generally of the Post under the direction of the Board of Trustees and shall have such other and further duties as may from time to time be required of him by the Board of Trustees. The Commander may appoint any open Elected position, with the majority approval of the trustees.

Section 3. First Vice Commander: The Vice Commander of this corporation shall be the First Vice Commander of the Post. He/or She shall perform all the duties of the Commander in the case of the absence or disability of the Commander, as determined by the Commander or the trustees. He/ or She shall also be the Membership Chairman of the Post and maintain the membership records. He/ or She shall read reports of membership monthly when called upon at any meeting.

Section 4. Second Vice Commander: The Second Vice Commander shall be responsible for assisting the Commander in all his/her duties. The Second Vice Commanders interests shall be in the patriotic observances of all kinds, in developing Post activities and entertainment events.

Section 5. Adjutant: The Adjutant shall have the charge of and keep a full correct record of all proceedings of all meetings, keep records as the Department and National organizations may require, and under the direction of the Commander, handle all correspondence of the Post.

Section 6. Finance Officer: The Finance Officer shall see that all funds in their possession shall be safely deposited in a local bank and shall report to the membership at least once per month at the monthly meeting, the conditions of the finances of the Post. He/or She shall be one of the primary signers for any and all checks disbursing the monies of the general and membership funds, to include: Gaming, Charitable, and Cantina accounts There shall be at least three (3) of the Executive Committee on all Post accounts, including the Finance Officer.

The Finance Officer and any Executive Committee member who is on Post accounts shall be fully bonded or covered through Miamisburg Post 165 liability insurance policy.

Section 7. Non-elected Offices or Officers: The Post Commander may appoint members for the following positions:

a). Chaplain: The chaplain shall be charged with the spiritual welfare of the Post and shall perform such other duties as are prescribed in the Official Ritual of Legion; shall attend, and when requested, officiate at the funeral of deceased comrades, dedications and public functions.

b). Post Historian: The Post Historian shall be the publicity officer of the Post and shall burnish regularly proper publicity material to the local newspaper and to the National and Department publications. He shall be charged with keeping of individual reports and incidents of the Post, and Post members and shall perform such other duties as might be incumbent upon that office.

c). Service Officer: The Service Officer, who may hold any other elective or appointive office, shall advise and assist deserving members and veterans, or their dependents, in the preparation and prosecution of their equitable claims for benefits from any government agency; shall assist deserving members and veterans to secure suitable and gainful employment; shall dispense relief to worthy indigent members and veterans or their dependents, from a fund so provided by the Executive Committee; shall officially contact and cooperate with all the various governmental agencies having to do with veterans affairs; shall submit a report monthly to the Executive Committee and annually to the Post as to activities of his office; shall perform such other duties as may be delegated by the Commander of the Post.

d). Sergeant-at-Arms: The Sergeant-at-Arms shall be responsible for those present in the meetings as to their eligibility for participation therein and shall report to the Commander as to any visitors present. He shall obey and enforce all orders of the Commander in preserving order at the meetings and shall let no one enter or depart during the opening or closing ceremonies. He shall oversee the stand of colors which shall be displayed at Post meetings and ceremonial occasions. He shall be responsible for ensuring that all colors on display at the Post are in serviceable condition. He shall perform such other duties as may be delegated by the Post Commander or prescribed by the Legion Manual.

e). Combined Honor Guard: The Combined Honor Guard shall perform such duties as are prescribed in the Official Ritual of the American Legion and as may be delegated by the Commander.

f. Such other positions and titles as may be deemed necessary, may be created for the betterment of the Post.

Section 8. At the end of their term in office, all elective and non-elective officers shall turn over to their successors and/or the corporation, all Post correspondence and property that may have been entrusted to their care.

ARTICLE VI

Discipline

Section 1. Expulsion or suspension of members or removal of elected officer's shall be accomplished in accordance with the Department of Ohio By-Laws.

Section 2. Each Post of The American Legion, Department of Ohio, shall be the judge of its own membership, subject to the restrictions of the National American Legion Constitution and By-Laws and the Department of Ohio Constitution and By-Laws, except that no person, who is a member of an organization which has for its aim the overthrow of the United States Government by force or violence, or who subscribes to the principles of any group opposed to our form of government, shall be eligible to become or remain a member of The American Legion.

Section 3. Members may be reprimanded, suspended, or expelled from The American Legion, and officers may be reprimanded, removed from elected office, suspended, or expelled from membership only upon providing the member due process and a proper showing of cause. Charges shall be based upon disloyalty, neglect of duties, dishonesty, and conduct unbecoming a member or officer of The American Legion. All charges must be made under oath in writing by an accuser, and no member in good standing shall be reprimanded, suspended, or expelled, nor shall any elected officer be reprimanded or removed from office, suspended, or expelled, until given a fair trial in such manner and form as the Department Executive Committee shall prescribe in the Department of Ohio Uniform Code for the Conduct of Disciplinary Proceedings. The trial proceedings shall be recorded by visual or sound recording or by verbatim transcription. The trial board verdict shall be announced at the next regular meeting of the post membership, whereupon the membership may, except in the case of an acquittal, affirm, modify, or reverse the findings and sentence of the trial board.

Section 4. If the accused is suspended or expelled, or is removed from office, the accused person may appeal such decision to the Department Executive Committee. Said appeal must be filed with the Department Adjutant within thirty (30) days of the decision of the post membership on the trial verdict. The Department Executive Committee shall hear the appeal, with the Department Judge Advocate presiding, and determine the issue at its meeting next following the action of the Post. The Department Executive Committee shall conduct its hearing solely upon the evidence considered by the trial board, and oral argument of the parties. The decision of the Department Executive Committee shall be final, if appeal to it be made; otherwise, the decision of the Post shall be final. The Post Executive Committee shall appoint a member or members of the Post or may retain counsel to prosecute the

charges and the disciplined member may be represented by person or by counsel of their own choosing.

Section 5. Procedure as to removal from officer of County, District and Department elected officers. Charges shall be filed in writing, under oath, with the Department Adjutant. The Department Executive Committee shall appoint a trial board and the matter shall proceed to trial in substantially the same form and manner as set forth in the Department of Ohio Uniform Code for the Conduct of Disciplinary Proceedings. The trial verdict, except in the case of acquittal, shall then be presented to the Department Executive Committee for affirmation, modification, or reversal. The decision of the Department Executive Committee shall be final. Nothing herein shall deprive the accused persons' post of jurisdiction to hear and determine charges against any of its members. Insofar as it may relate to expulsion or suspension of membership or removal from post office. (Amended 102nd Department Convention 2021)

ARTICLE VII

SEAL

This corporation has a seal, which is described as follows: A seal press containing the emblem of the American Legion with the name of the Post and the number of the Post thereon.

ARTICLE VIII

Order of Business

Unless otherwise ordered by the majority vote of the members present, the order of business at all regular and special meetings of the Post shall be as follows:

1. Presentation of the Colors
2. Opening prayer
3. Reading of minutes of previous meeting
4. Introduction of guests and prospective and new members
5. Committee reports
6. Balloting on applications
7. Sick call, relief, and employment
8. Post Service Officer's report
9. Initiation of candidates
10. Unfinished business
11. Election of officers, trustees, or appointment of committees
12. New business (and correspondence)
13. Memorial to a departed Post member

14. The good of the American Legion. (The membership shall be permitted to make any suggestions of any kind, character, or description, save of religion or partisan politics)
15. Closing prayer
16. Retirement of Colors

ARTICLE IX

By-Laws

By-Laws for the further government of membership of the Post may be adopted, amended, or repealed by a majority vote of the membership present at any meeting if there is a quorum. Notice of repeal of the said By-Laws or amendment of said By-Laws, shall have been announced at the previous meeting and a written copy thereof filed with the Adjutant, together with a declaration as to the date of the meeting at which the person proposing the action to be taken.

Delegates

Delegates shall represent the Post as prescribed in the By-Laws of this corporation.

ARTICLE X

Repeals and Amendments

Section 1. This Constitution is adopted subject to the provisions of the National Constitution of the American Legion and the Department Constitution of the Department of Ohio. Any amendments to said National Constitution or Department Constitution, which conflicts with any provision hereof, shall be regarded as automatically repealing or modifying the provisions of this Constitution to the extent of such conflict.

Section 2. This Constitution may be amended at any regular Post meeting by a majority vote of the members of said Post attending such regular meeting, providing that the proposed amendment shall have been submitted in writing and read at the last preceding regular meeting of said Post, and providing further, that written notice shall have been given to all members at least thirty (30) days in advance of the date when such amendment is to be voted upon, notifying said members that at such meeting a proposal to amend the Constitution is to be voted upon.

(End of Post Constitution)

By-Laws

American Legion Miamisburg Post 165

Department of Ohio

ARTICLE I

Membership

Section 1. Any person shall be eligible for membership in this Post of the American Legion who was a member of the Army, Navy, Marine Corps, Coast Guard, Air Force, Space Force or National Guard, of the United States and assigned to active duty during any of the eligibility dates set by the American Legion handbook.

All dates inclusive, or who, being a citizen of the United States at the time of his/her entry therein, served on active duty in the armed forces of any of the governments associated with the United States during any of said periods; provided, however, that such service shall have been terminated by honorable discharge or honorable separation, or continued honorably after any of said periods; provided further, that no person shall be entitled to membership without proof of eligibility provided to the Post Adjutant, or First Vice Commander showing DD-214 or equivalent. who, being in such service during any of the said periods, refused on conscientious, political or other grounds to subject him/herself to military discipline or unqualified service.

Section 2. MEMBER RESPONSIBILITIES: All members and their guests shall immediately report and incident that they are involved in or a witness to, to a Post Officer or the bartender on duty. The member(s) or guest(s) shall also fill out a written statement as so as practical describing the incident.

The Post Officer or bartender shall also fill out a written statement describing what happened and take pictures, if necessary. Examples of pictures might include: Any injury to a person or any area of the Post or property that is involved, etc....

Section 3. This Post shall by acclamation or secret ballot, admit or reject any applicant provided that all applicants admitted to membership be eligible under provisions of Article 1, Section 1 of the By-Laws herein. Majority vote elects.

Section 4. This Post shall forward to Department Headquarters the National and Departmental dues for each of its members as such are collected and/or payable annually.

Section 5. This Post shall forward to the District per capita tax assessments as shall be constitutionally provided.

Section 6. No person who has been expelled by or from another Post shall be admitted to membership to this Post without the consent of the expelling Post, except when permission to admit such person has been granted by the Executive Committee of the Department of the expelling Post.

Section 7. A member, whose dues for the current year have not been paid by January 1 of each calendar year, the member becomes delinquent. If dues have not been paid by February 1, the member is suspended, but nevertheless a member with no privilege except that of reinstatement by vote of the Post and payment of dues. If the delinquent member does not pay any dues owed, the member is dropped from the roll by constitutional mandate and the membership forfeited.

Section 8. Under no circumstances shall the membership roster of names and addresses be used for other than Legion purposes, except by consent from the Post Executive Committee.

Section 9. There shall be no form or class of membership in this Post except an active membership.

Section 10. All new members shall assume the American Legion obligation as prescribed by the Manual of Ceremonies of the American Legion.

Section 11. Each member shall be given a copy of By-Laws, upon request.

Section 12. No Member shall take legal action against American Legion, Miamisburg, Post 165, in the form of lawsuit or any other.

ARTICLE II

Elections

Section 1. No candidate for nomination or election to, or no incumbent of, any remunerative elective public office, shall hold any elective office or any appointive office in this Post of the American Legion, unless approved by the Post Executive Committee.

Section 2. Nomination of candidates for elective offices shall be submitted to the March membership meeting by a nominating member for each year.

Section 3. Nomination for candidates for elective offices shall be submitted to the floor of the Post, during the March membership meeting by a nominating member, then seconded by another member from the floor. All nominations shall be made only with the consent of the person being nominated.

Section 4. The nominations duly made shall be placed for vote by the membership at the April membership meeting. If there is more than one candidate for an elected office, then the vote shall be by secret ballot on a date selected by the Post Commander and elected by majority vote. The ballots shall be counted and new officers shall be announced and presented to the Post.

Section 5. In the event an Officers position is uncontested, the election of that position shall be made by motion of unanimous vote by the membership at the nomination meeting.

Section 6 . There shall be no Absentee Ballots.

Section 7. All elective officers of this Post shall be installed before June 1st following their election. Those elected to fill vacancies caused by death, resignation or removal from office, prior to the completion of their terms, shall be installed as soon as possible.

Section 8. In the event of uncontrollable circumstances, elections may be held electronically as directed by the majority vote of the executive committee.

Section 9. The election of officers for the Legion, shall be on the on the third (3rd) Monday in April.

ARTICLE III

Executive Committee

Section 1. The Post Executive Committee (PEC) shall consist of the current Post Commander, First Vice Commander, Second Vice Commander, Adjutant, Finance Officer, the immediate past Post Commander, and Three (3) duly elected Members At Large, and without vote the Judge Advocate. In addition to the duties prescribed and defined in the Constitution, the PEC shall exercise general supervision over the Post and shall meet at the discretion of the Post Commander. The Post Commander shall call a meeting of the executive committee upon the written request of the five (5) or more members of the PEC. All voting will be held by voice vote with no less than majority vote required for passage of any motion.

Section 2. The Post Commander immediately after taking office shall appoint the Commissions and Committees, subject to ratification by the PEC.

Section 3. The Members At Large will be comprised of the immediate past Post Commander, and Three (3) duly elected members serving a One (1) year term.

ARTICLE IV

Duties of Officers

Section 1. It shall be the duty of all officers, Commander, First Vice Commander, Second Vice Commander, Adjutant and Finance Officer, to attend all meetings of the Post, unless otherwise excused by the Commander. Any officers of the Post missing three (3) meetings shall constitute a resignation.

ARTICLE V

Meetings

Section 1. Notice of all special meetings shall be forwarded to all members of the Post at least one (1) day prior to the date of such meeting. The notice of such meetings and no other business than that specified in such notice shall be transacted at such meeting.

Section 2. Records Retention: The Adjutant shall keep the following Post records indefinitely, but not limited to:

- Meeting Minutes
- Finance Reports
- Membership Records

These records must be kept physically secured at the Post.

ARTICLE VI

Dues and Finances

Section 1. The annual membership dues shall be set by the Executive Committee annually, which shall be payable before January 1st for the succeeding calendar year, and in accordance with Article 1, Section 7 of the By-Laws as such may apply to a delinquent member.

Article 1, Section 7. A member, whose dues for the current year have not been paid by January 1 of each calendar year, the member becomes delinquent. If dues have not been paid by February 1, the member is suspended, but nevertheless, a member with no privilege except that of reinstatement by vote of the Post and payment of dues.

If the delinquent member does not pay any dues owed, the member is dropped from the roll by constitutional mandate and the membership forfeited.

If your post does something for your officer's after so many consecutive years of service, ie. Honorary Life, etc. on a case-by-case basis.

Section 2. All Post officials and employees handling American Legion monies shall be properly bonded, and or covered by the Post liability insurance policy. The bonds and or Post liability insurance policy provided by Post officials shall be approved by the Executive Committee of the Post and paid for by the Post.

Section 3. Bills or invoices shall be paid by checks signed by the approved signee (appointed by the Executive Committee). In the absence of the Finance Officer checks may be signed by one of the other authorized signees for the account.

Section 4. The deposit all funds of this Post shall be done by the designated individual in a local bank to be name by the Executive Committee.

Section 5. All proceeds payable to the Post from any source other than membership dues may be set aside in separate funds.

Section 6. No banking accounts shall be opened or closed without the approval of the Executive Committee.

ARTICLE VII

Committees

Section 1. The Commander may organize any committee that he/she deems necessary.

ARTICLE VIII

Delegates

Section 1. Delegates and alternates to the District and Department conventions shall be elected at a regular monthly meeting of the post held at least (30) days prior to the dates of such conventions.

Section 2. American Legion members of Post 165 that are elected to a Third District Officer Position (Commander, First Vice Commander, Second Vice Commander, and Finance Officer} shall be delegates , with vote, to be exercised with their respective Post,

provided they are present and registered to the District and State Convention in the year which they hold district office.

All Past District Commanders, while in good standing with Post 165, shall be Delegates to all District and State Conventions, with vote, to be exercised by their respective Post, only if they are present and registered at those conventions.

Article IX

Sons of the American Legion, Squadron 165

Section 1. The Post S.A.L. Squadron shall be governed by the Post Constitution & By-Laws.

Section 2. The Post Commander shall appoint the S.A.L. Liaison.

Section 3. The Post Executive Committee shall approve all elected and appointed Officers of the S.A.L.

Section 4. All S.A.L. banking accounts must be at the same bank as the Post bank.

Section 4a. The S.A.L. shall have at least two bank funds.

1. General Fund
2. Membership Fund

Section 4b. There shall be at least four (4) Post Members on said accounts:

1. S.A.L. Finance Officer
2. Post Finance Officer
3. S.A.L. Commander
4. Executive Committee Member that is on Legion Bank account

Section 5. The S.A.L. shall meet monthly on the 2nd Thursday of the month at 6pm.

Section 6. Quorum: four (4) members shall constitute a quorum, for the transaction of business at any monthly or special meetings of the squadron. Ten (10) members shall constitute a quorum for regular business meeting. In the absence of ten (10) members four (4) officers can constitute a quorum and make necessary business decisions.

Section 7. All monthly meetings shall be professional and ran in accordance with “Robert’s Rules of Order.”

Section 8. All S.A.L. records shall be kept indefinitely by the Post Adjutant. All meeting records shall be recorded by the next monthly meeting and presented to the Post S.A.L. Liaison. Said records include, but are not limited to:

- Finance report and bank records
- Membership Records
- Meeting Minutes

Article X

American Legion Riders, Riders Info Here if Applicable or they may their own

Section 1. The Post Riders shall be governed by the Post Constitution & By- Laws.

Section 3. The Post Executive Committee shall approve all elected and appointed Officers of the Legion Riders

Section 4. All Riders banking accounts must be at the same bank as the Post bank.

Section 4a. The Riders shall have at least two bank funds.

1. General Fund
2. Membership Fund

Section 4b. There shall be at least four (4) Post Members on said accounts:

3. Riders Director
4. Riders Finance Officer
5. Post Finance Officer
6. Legion Trustee/Executive Committee Member that is on Legion Bank account

Section 5. The Riders shall meet monthly on Your Meeting day and time

Section 6. Quorum _____ members shall constitute a quorum, for the transaction of business at any monthly or special meeting of the Riders.

Section 7. All monthly meetings shall be professional and ran in accordance with “Robert’s Rules of Order.”

Section 8. All Riders records shall be kept indefinitely by the Post Adjutant. All meeting records shall be recorded by the next monthly meeting and presented to Executive Committee. Said records include, but are not limited to:

- Finance report and bank records
- Membership Records
- Meeting Minutes

(End of Post By-Laws)

2024 Constitution & By-Law Committee

1. John Heinrich
2. Vern Dunn
3. Peggy Gross
4. Garry Mizer
5. John Siciarz
6. Steve Captain

Past Amendments

- Original Constitution and adopted October 14, 1919
- Amended June 5, 1950
- Retyped April 7, 2011
- Amended March 2013
- Amended December 1, 2024

John Heinrich

Steve Captain

Post Commander

Post Adjutant