

Guide for Post Compliance

To be considered an American Legion Post in “Good Standing” by the state Attorney General Office (AGO), The American Legion Department of Ohio, Inc., and National Headquarters of American Legion, please follow this guide. These are not suggestions, they are requirements. If these policies are not adhered to, your post risks the possibility of a suspended or revoked charter, fines/fees, and may encounter legal liability. Remember, your post is considered a “nonprofit corporate entity” and as such, shall conduct itself as outlined within federal, state, and local laws. To learn more about 501c-19 status, visit this page: <https://www.irs.gov/pub/irs-tege/eotopicj99.pdf>

The Ohio Attorney General has four (4) requirements of any Officer(s) operating and/or serving on a board of a nonprofit corporation:

1. **Duty of Care:** Officers of Boards should be attending and participating its regularly scheduled meetings, have organizational policies, conduct business with care, skill, and diligence, exercise independent judgement, and oversee performance and charity purpose.
2. **Duty of Loyalty:** Officers should act fairly, be aware of potential conflicts of interest, do not engage in activity that would harm the charity, use caution when entering business relationships, avoid personal gain, and have full disclosure.
3. **Duty of Compliance:** Officers have a duty to understand what is required of them and to understand the laws, comply with registration and reporting requirements.
4. **Duty to Manage Accounts:** Officers should develop and maintain policies and procedures of its fiscal operations, develop annual budgets, maintain records, be prudent in spending and investments, develop fundraising goals, and to obtain the best value of goods and services.

FEDERAL

- Posts are considered a 501c-19 nonprofit corporation: <https://www.irs.gov/charities-non-profits/other-non-profits/veterans-organizations>
- Each post shall have its own Employer Identification Number (EIN) that it obtains from the IRS.
- IRS Determination Letter of 1946
 - This letter states that each Department and Post is “**required**” to file an **annual** Form 990 by the 15th day of the 5th month following the close of the individual location’s fiscal year. (*ie; 1 January to 31 December = 5th of May*)
 - Failure to file for three consecutive years results in loss of tax exempt status.
 - <https://www.irs.gov/forms-pubs/about-form-990>
- Each Auxiliary Unit is recognized as a separate small business with its own EIN and must also file annually with the IRS on a Form 990.
- The Sons (SAL) and Riders (ALR) are programs of the American Legion and shall **NOT** ever be incorporated. All revenue, expenses and activities are included in the Post annual Form 990. 990, with documented revenue, expenses, and activities.

STATE

- The Ohio Secretary of State (SOS) recognizes each Post as a small business non-profit corporation and must register their Articles of Incorporation, and any amendments each year, with the Ohio SOS. <https://www.ohiosos.gov/businesses>
- Each Post must register a Statutory Agent with the SOS and update it every five (5) years. Failure to update the nonprofit corporation Statutory Agent of record will result in cancellation of the business with the SOS and will eliminate its “Good Standing.”
- Canteen operations, public or member (D-4/D-5) licensing is within the purview of the Ohio Liquor Control Commission (Rules & Laws) within the Department of Commerce. If your Post is also serving food - there are food safety certifications and requirements with the Ohio Department of Health.
- All American Legion Posts are exempt from paying property tax if their hall rental income revenue is less than \$36,000. Each Post must apply for the property tax-exemption from the County Tax Assessor's office and each county has its own requirements.
- Posts must also file notice with the SOS office if it is merging or closing. The statutory agent is responsible for all unpaid taxes upon closure of a Post and if not properly closed, a lien may be placed onto the statutory agent property for unpaid taxes.
- If a Post hosts any type of Charitable Gaming (Type I, III, III, and Electronic), it must file for a license with the OAG, Charitable Gaming Law section and must file their required quarterly reporting.
- All charitable organizations must register with the Ohio Attorney General annually through their online portal, immediately after the Post 990 is filed with the IRS.
- Failure to do so may result in revocation of “Good Standing.”

NATIONAL/DEPARTMENT/DISTRICT

- The American Legion National Headquarters, American Legion Department Headquarters, and Districts, requires that each Post complete and file with District and Department, their Consolidated Post Report (CPR). This report documents activities of each Post and is used for reporting to Congress, as outlined in the IRS Determination letter, by the National Commander, annually. The deadline for this document is 1 May each year.
- National American Legion requires each Post complete the Annual Data Report that documents its location, address, dues, meeting dates/times, and other things, for PUFL monies, mailings, and other such requirements, as determined by Congress.
- The Certification of Post Officers is due promptly after each Post annual elections of its Officers, whether they changed or not. This is imperative to knowing who the leadership is at each location and for National and Department to be able to communicate with them by phone, email, or mail. This is also used to assist with assigning access to MyLegion.org and any other such reasons.
- American Legion Resources: www.legion.org www.ohiolegion.com www.alohio12.org