



## **DUANE ELLSWORTH POST 129**

**The American Legion, Department of Arizona**

**CONSTITUTION AND BY-LAWS**

**FIFTH EDITION**

**(Revised February 25, 2020)**

**PREAMBLE**  
**TO THE CONSTITUTION**  
**OF THE AMERICAN LEGION**

**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.**

# DUANE ELLSWORTH POST 129

## THE AMERICAN LEGION, DEPARTMENT OF ARIZONA

### CONSTITUTION

#### ARTICLE I: NAME

**Section 1.** The name of this organization shall be known as Duane Ellsworth Post 129, The American Legion Incorporated, and Department of Arizona.

#### ARTICLE II: OBJECTIVES

**Section 1.** The objectives and purposes of this Post shall be to promote the principles and policies as set forth in the foregoing Preamble, and the National and Departmental Constitutions of the American Legion. To the extent and in the amount that the majority of the Post membership deems the Post is capable of performing.

#### ARTICLE III: NATURE

**Section 1.** This Post shall be a civilian organization with no member being addressed by his/her Service title in any Post meeting with membership therein not affecting liability for Police or Military Service.

**Section 2.** This Post shall be absolutely non-political and non-partisan and not used for the promotion of a person seeking public preference or office.

## **ARTICLE IV: ELIGIBILITY**

**Section 1.** Eligibility for membership shall be as set forth in the National Constitution of the American Legion.

## **ARTICLE V: OFFICERS**

**Section 1.** All Officers, except the Adjutant, Chaplain, Judge Advocate, Historian and Service Officer shall be elected annually. All officers shall be certified to the Department Adjutant not more than fifty (50) days nor less than ten (10) days prior to the Annual Department Convention. Such officers shall be responsible for upholding the principles of the American Legion and effecting the Post alignment to decisions and regulations set down by duly constituted bodies of the American Legion.

## **ARTICLE VI: FINANCE**

**Section 1.** The revenues of this Post shall be derived from annual dues of membership and from such other sources as may be approved by the Post membership.

**Section 2.** The amount of such membership dues shall be fixed and determined by this Post Executive Committee.

**Section 3.** National and Department membership dues shall be transmitted to the Department as prescribed by National and Department regulations.

**Section 4.** All programs will provide a monthly finance report with debits and credits to the posts Executive Committee.

**Section 5.** All monies over \$300.00 spent on programs will be approved by the Executive Committee prior to disbursement of funds. Accounts shall not be closed or moved without prior approval of the Executive Committee.

**Section 6.** The fiscal year of the Post is July 1st to June 30th.

## **ARTICLE VII: AUXILIARY UNITS**

**Section 1.** The Post recognizes an auxiliary organization known as the American Legion Auxiliary Unit 129.

**Section 2.** The Post recognizes an auxiliary organization known as the Sons of the American Legion Squadron 129.

**Section 3.** The Post recognizes the American Legion Riders Chapter 129 as a program of the post and will be governed as a program. The post recognizes an auxiliary organization known as the American Legion Riders Chapter 129.

**Section 4.** Membership in above mentioned auxiliary organizations shall be prescribed by the National Constitutions of their respective organizations as well as their By-Laws approved by the Post Executive Committee.

## **ARTICLE VIII: AMENDMENTS**

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

**Section 2.** This Constitution may be amended at any regular Post meeting in accordance with the rules set forth in the Post By-Laws, ARTICLE XVII.

## **ARTICLE IX: OMISSIONS**

**Section 1.** Any question of procedure not otherwise provided for in this Constitution or ByLaws, will be governed by the National or Department of Arizona Constitution of the American Legion or by Roberts Rules of Order.

## **ARTICLE X: ENACTING CLAUSE**

**Section 1.** This constitution of Duane Ellsworth Post 129, The American Legion, Incorporated, Department of Arizona, approved and adopted by two-thirds affirmative vote of the Post members present at a meeting held this day and supersedes any and all previously enacted similar documents.

**(This area left blank to allow notation of future amendments.)**

# **DUANE ELLSWORTH POST 129**

## **THE AMERICAN LEGION DEPARTMENT OF ARIZONA**

### **BY-LAWS**

**FIFTH EDITION** (Revised February 25, 2020)

#### **ARTICLE I: MANAGEMENT**

**Section 1.** The management of this Post shall be entrusted to the Officers of this Post hereinafter named the Executive Board (E-Board).

**Section 2.** The Post E-Board shall consist of the following:

Commander

Vice Commander

2nd Vice Commander

Finance Officer

Adjutant

Chaplain

Judge Advocate

Sergeant at Arms

Service Officer

Post Historian

Immediate Past Commander

(If the Past Commander elects not to be on the E-Board the position shall continue onto the next Post commander)

One Member at Large, for each 50 Post members. The Commander shall appoint this member.

**Section 3** All officers of this post will be elected by the Post as prescribed herein, with the following exceptions; Post Adjutant, Chaplain, Judge Advocate, Historian and Service Officer, who shall be appointed by the Post Commander-elect and their names submitted to the E-Board for discussion following their appointment and prior to installation into office. An elected officer may also hold an appointed office, but may not concurrently hold more than one elected office. If an officer holds two offices, they are limited to one vote. The Adjutant and the Finance Officer cannot be the same individual.

## **ARTICLE II • DUTIES OF THE EXECUTIVE BOARD (E-BOARD)**

**Section 1.** The Executive Board (E-Board) will exercise general supervision over the management and affairs of the Post. Their duties shall consist of, but not be limited to, the following: Present to the Post a projected annual budget at the beginning of each fiscal year. Require that all persons having custody of Post funds secure an adequate bond when deemed necessary. The Post will pay the premium for such bonds. Approve each place of deposit of Post funds. Examine the reports of Post Officers and Committees and recommend any appropriate actions. Ensure that at the beginning of each new term of Post officers, a complete independent audit and report on all Post finances/assets are performed if approved by a majority of members present at the meeting after election of new officers OR if approved by vote of the majority of the Executive Board at any E-Board regular meeting. Keep full minutes of all meetings and report the same at the next regular Post meeting. Investigate and make recommendations to the Commander on all matters requested by him/her. Submit written charges against any Post Officer when it appears to be in the best interest of the Post. To investigate any and all impasses and rectify them through an E-Board meeting.

All E-Board meetings are open to the membership except for scenarios involving disciplinary matters or veteran financial aid.

1. A request to attend an E-Board meeting at least 72 hours before the E-Board meeting.
2. Must attend the E-Board meeting
3. Shall present your suggestion, subject or event.
4. After their presentation the person will be asked to leave the E-Board meeting so the E-Board can continue with their business, and make considerations to the request.
5. Person will be notified via email, text or general mail of the E-Board findings and decisions.

## **ARTICLE III • MEMBERSHIP**

**Section 1.** There shall be no form or class of membership except an Active Membership, whose dues, except for PUFL (Paid Up For Life) members, shall be paid annually. A “Member in Good Standing” is defined as a member whose dues are paid for the current year. No person may be a member of more than one Post at the same time.

**Section 2.** A candidate for new membership in Post 129 must submit an application for membership together with his or her DD214 and annual dues to the Post Adjutant, who will verify eligibility requirements. The Post Adjutant will submit the application for vote at the next regular Post meeting. A majority vote of the membership present is required for a candidate to be elected to membership. A rejected candidate may appeal to the Executive Board which will investigate and render its decision at the next regular Post meeting.

**Section 3.** Members in good standing of other Posts may transfer their membership to Post 129, subject to the same membership requirements as those stated above for a new member. There will be no additional cost for this transfer during the current year. Any member in good standing in this Post is entitled to a Certificate of Transfer.

**Section 4.** New members and transfer members will immediately have the same duties, privileges, and responsibilities of current Post members.

**Section 5.** Members may be suspended or expelled from the Post only upon a proper showing of cause. Charges shall be based upon disloyalty to the American Legion or the National Government; neglect of duty, dishonesty, or conduct unbecoming a member of Post 129. All charges must be made under oath in writing by the accusers, and no member in good standing shall lose his membership until given a fair hearing by the Post in such manner and form as the Department By-Laws and Constitution prescribe. Any member who has been suspended or expelled has the right to appeal to his Department Executive Committee, or to the Department Convention, according to the provisions in the by-laws of the Department of Arizona. The decision of the Department shall be final.

**Section 6.** Members of the E-Board will, either jointly or individually, inform members of the PUFL (Paid Up For Life) membership Plan offered by National and make available the appropriate application forms.

## **ARTICLE IV • DUES**

**Section 1.** The dues of this Post will be \$38.00 annually. Dues can only be raised once a year by the Executive Board and by a two-thirds vote of the general membership.

**Section 2.** Post membership is annual, January 1st to December 31st. Dues for next year are payable on or before October 20th of the current year. If dues are not paid prior to January 1st, the member is classified as delinquent. If dues are still delinquent on February 1st, the member is suspended. A member has until June 30th to pay his back dues or be dropped from the roll by National Constitution mandate and his membership is terminated.

## ARTICLE V • MEETINGS

**Section 1.** All Regular and Special meetings will be open to all members in good standing of Post 129, with the exception of article II. Section 1.

**Section 1a.** E-Board meetings shall be attended by current Post Officers, immediate Past Commander and one member at large, as appointed by the Commander

**Section 2.** The Regular monthly meeting time and location will be specified by the E- Board.

**Section 2a** American Legion Riders (A.L.R.), Sons of American Legion (S.A.L) and Operation Wounded Veterans (OWV) meetings shall be held at the same location as the Post. Must be held prior to the monthly Post meeting.

**Section 3.** Special meetings may be called for events at any time by the Commander, or by a majority vote of the E-board, provided that notice of such meeting is prominently displayed throughout the Post.

**Section 4.** A quorum for Regular Business Meetings will consist of no less than a majority of the officers. A quorum for E-Board meeting will consist of no less than a majority of the Board, attended by only the officers of the Post, Immediate Past Commander, and one member at large, appointed by the Commander. These sessions shall be open sessions, with the exception of discipline meetings, at which time the commander shall deem the meeting open or closed. Financial assistance meetings are closed sessions to protect the privacy of the veteran requesting assistance.

## ARTICLE VI • RECORDS

**Section 1.** All records of the post are subject to inspection at any reasonable time by any Post member in good standing.

**Section 2.** All physical records of the Post will be kept in the office of the Adjutant

in the Post Headquarters. No permanent record(s) of this Post will be removed from Post Headquarters without the approval of the Commander or the E-Board.

**Section 3.** All online records shall be maintained on a Google Drive account where the account information is made available to Commander, Vice Commander, Adjutant and Finance Officer.

**Section 4.** If financial records are maintained online, they are done so by the Finance Officer. Any bank account signer must be able to review/edit financial information, as needed. For membership review, see Section 1 of this Article.

**Section 5.** The names and telephone numbers of the E-Board will be prominently displayed on the Post website.

## **ARTICLE VII • ELECTIONS**

**Section1** The Vice Commander will notify the membership of the month for nominations for Post elections. That month shall be April.

**Section 2.** Names of the nominees will be presented to the floor at the April Regular Business Meetings. Nominations will be accepted from the floor at this meeting. At this point, nominations will be closed. The election will then be held at the May Regular Business Meeting. In no case will the election of officers occur less than 10 days, nor more than 30 days before the Annual Department Convention.

**Section 3.** Notice of election meetings and results will be prominently displayed on the Post website.

**Section 4.** Members, eligible under the provisions of the Department Constitution, may vote or hold an elected or appointive office. Officers may be re-nominated.

**Section 5.** Officers will be elected one office at a time, in the order listed in Department By-Laws.

**Section 6.** In order to vote, a member must show their current membership card

and sign the official roster, at which time they will receive an official ballot.

**Section 7.** In case no member wishes to be nominated, the present officers may serve another term if desired.

## ARTICLE VIII • INSTALLATION

**Section 1.** All Post Officers will be installed by the District Commander, or his designated representative. The installation will be on a date fixed by the Commander-Elect and

agreeable to the outgoing Commander. This date will be subsequent to, but not later than sixty days (60) after, adjournment of the Annual Department Convention.

**Section 2.** All elected and/or appointed Officers unable to attend the Official Installation will be sworn in by the Past Commander, or his designated representative, before entering upon their duties of office.

## ARTICLE IX • DUTIES OF OFFICERS

**Section 1.** The Commander presides at all meetings of the Post. He/she is the Chief Executive Officer of the Post responsible for all operations of the Post. Will make an annual report covering the affairs of the Post during his/her term in office, together with any recommendations he/she may have for the ensuing year. A copy of his/her report will be inserted in the Post minutes and a copy forwarded to the Department Adjutant.

**Section 2.** The Vice Commander will assume the duties of the Commander in his/her absence and make membership his/her primary concern.

**Section 3.** The Second Vice Commander is responsible for creating and maintaining an “I like My Post” atmosphere in the Post that encourages members to enjoy Legion activities. Will also be responsible for fundraising and post activities.

**Section 4.** The Adjutant will keep a full and accurate record of the proceedings of all Post meetings. He/she is also responsible for correspondence and secretarial work of the Post under the direction of the Commander and will keep such records as the Post Commander and National and Department Headquarters requires.

**Section 5.** The Finance Officer is in charge of all Post finances and will see that funds are deposited in an approved institution and will prepare a statement of financial disbursements and balances at each regular Post meeting. He/she will sign all checks disbursing Post funds, except as previously noted in Section 2. He/she will assist in preparing a summary of Post expenditures for the preceding year. Duties should also include preparation of all tax returns for Federal, State or Local and resolving all tax issues or questions from these tax agencies.

**Section 6.** The Chaplain is responsible for the spiritual welfare of the Post membership. He/she will perform non-sectarian services for funerals, dedications, or public functions and will adhere to the guidelines prescribed by National and Department headquarters.

**Section 7.** The Historian will maintain a record of Post activities and prepare a book, which at the end of the year will be given to the Post Adjutant for filing as a permanent Post record. He/she will submit a report each year to the Department Historian and perform other duties as requested by the Post Commander.

**Section 8.** The Judge Advocate is the Post's legal authority. When necessary he/she will secure competent advice in the conduct of Post business. He/she is the guardian of the constitutional form for Post meetings and government. He/she is in charge of auditing the Post's financial accounts.

**Section 9.** The Sergeant-At-Arms will preserve order at all Post meetings, set up the meeting room, take charge of the Colors, and perform other duties as assigned by the Commander.

**Section 10.** The Service Officer will render aid and assistance to veterans and their dependents. He/she will maintain contact with the State Service Officer and the National and Department Rehabilitation Commission so that he/she is kept informed of laws regarding aid to veterans and their dependents. He may request

disbursement from the Welfare Fund, under supervision of the Commander, and will report all expenditures from said Fund to the Post membership at the next regular meeting. He/she will submit a year-end report to the Department Rehabilitation Commission Chairperson.

**Section 11.** The E-board will assist in the management and general supervision of Post affairs. Not charged with specific duties, they represent the membership-at-large and may, from time-to-time, be asked by the Commander to perform other assigned duties. The E-Board consists of all present Post Officers, Immediate Past Commander, and one member-at-large, appointed by the commander. E-Board meetings are open to the membership unless the purpose is disciplinary or financial for a veteran. All minutes from E-Board meetings shall be given at the next general meeting.

## **ARTICLE X • CONDUCT OF OFFICERS**

**Section 1.** Officers of Post 129 will conduct themselves in a manner to set a good example to the rest of the post members and to promote a good name for The American Legion. Post Officers shall not do anything to disgrace or bring a bad name to Duane Ellsworth Post 129. Any infraction of conduct of officers shall constitute immediate removal if officer under Article II section I Conduct unbecoming, pursuant to Article XI, Section 1.

**Section 2.** All E-Board members shall make every effort to attend E-Board and regular meetings.

## **ARTICLE XI • REMOVAL FROM OFFICE**

**Section 1.** A Post Officer can only be removed from office for disloyalty, neglect of duty, dishonesty, or conduct unbecoming a member of the American Legion. A trial must be conducted in accordance with the Rules Governing Trials, as outlined in the Constitution of the American Legion, Department of Arizona.

## ARTICLE XII • VACANCIES

**Section 1.** When a vacancy occurs, the Commander will appoint a member in good standing to fill the vacancy and the name will be submitted to the E-Board for discussion. The Adjutant will, within seven (7) days of the appointment, report the name and address of the new officer to the Department Adjutant.

## ARTICLE XIII • COMMITTEES

**Section 1.** The Post Commander, immediately after taking office, will appoint any committees he deems necessary to successfully carry out the programs of the Post for the ensuing year. (Refer to the appropriate section of the National Officers Guide.)

**Section 2.** The duties of the appointed committees will be defined by the Commander and will conform as nearly as possible to the duties as defined by the National, Department, Area, and District Committees of the same nature. The Chairperson of each committee will be prepared to make a verbal report at any regular meeting of the Post. At year's end he will submit a written report to the Commander, which will be filed with the Post minutes.

**Section 2a.** No Program may be discontinued without the Post Commander's approval; all funds will remain in accounts until the Executive Board reallocates the funds.

**Section 3.** The Commander, upon taking office, will appoint a House Chairperson acceptable to and approved by the E-Board. His main duties are maintenance of Post property. He will keep a schedule on the bulletin board of Post activity dates and will be in charge of the use of the hall and kitchen by other organizations. If an unpaid volunteer, he will serve at the pleasure of the Commander. If paid, he will serve under the jurisdiction of the E-Board. (Until a post home is established he/she will look for an appropriate site for a Post Home, keep a schedule on the website of post activities.)

**Section 4. (Will be stricken until a Post Home is acquired)** The Commander, upon taking office, will appoint a Lounge Manager acceptable to, and approved by, the E-Board. This is an unpaid position. No employee, full or part time, may hold this appointive position. The Lounge Manager reports to the Commander and is responsible for the care of the Post Lounge and its equipment; stock, and employees. He/she will maintain complete records of receipts, expenditures, and inventories. He/she will be vested with the authority to, and the responsibility of compliance with the Controls Laws spelled out by the Arizona Liquor Control board that issues licenses for legal and continuous lounge operation. He/she may recommend disciplinary action of any member, employee, or independent contractor. He/she will not be allowed to consume alcohol while appointed manager.

**Section 5.** The removal of any program, committee, committee chairman or committee member when deemed in the best interest of the Post, will be recommended to the Commander, approved by the E-Board; and finalized at a regular Post meeting. (Revised February 22, 2012)

## **ARTICLE XIV • ASSETS & LIABILITIES**

**Section 1.** No member of this Post, individually, as an Officer or otherwise, will at any time create, incur, or authorize any indebtedness or liability against this Post without the prior consent or authorization of the Post membership or the Commander.

**Section 2.** No property of the Post will be sold, transferred, conveyed, or otherwise disposed of without approval of the E-Board and the Post membership. The Commander may at his sole discretion, dispose of non-functioning Post equipment whose value does not exceed \$200 per item.

## **ARTICLE XV • RESOLUTIONS**

**Section 1.** All resolutions of State or National scope presented to this Post by a member or reported to this Post by a committee, merely express the opinion of this Post on the subject. A copy of the same will be forwarded to the Department Headquarters for its approval before any publicity is given or action taken other than passage by the Post floor.

## **ARTICLE XVI • RULES OF ORDER**

**Section 1.** All proceedings of this Post will be conducted under the latest edition of Robert's Rules of Order. In case of conflict, the By-Laws of this Post will prevail.

## **ARTICLE XVII • AMENDMENTS**

**Section 1.** These By-Laws may be amended in any regular meeting of the Post by a two-thirds majority vote of the membership present and voting, a quorum being present. Proposed amendments will be read at a regular meeting, at which hard copies will be available. Bylaws will be posted on the Post website and read for 3 consecutive meetings. The next meeting after the reading the amendments will be voted upon. No motion will be accepted to delay, postpone, table, or otherwise kill any proposed amendment properly presented.

## **ARTICLE XVIII • POST HOME**

**Section 1.** In lieu of the references made to "Post Home" indicated in the By-Laws the E-Board will make use of the website.

## **ARTICLE XIX • PROGRAMS**

**Section 1.** All programs will be regulated by the E-Board.

**Section 2.** Before a program may be started or shut down a proposal in writing must be submitted to the Commander with just reason. The Commander will then submit the proposal to the E-Board with his/her recommendation. Action will need a supermajority vote (2/3) and will not have to be voted on by the general membership.

**In Witness Thereof:**

**Commander: Steven Cain**

**Vice Commander: Scott Sullivan**

**2nd Vice Commander: Bill Fillicetti**

**Adjutant: Peter Anello**

**Finance Officer: Merle Cunningham**

**Sergeant at Arms: Amy Sheridan**

**Submitted on this 25th Day of February 2020**