

# **THE AMERICAN LEGION DEPARTMENT OF CALIFORNIA**

## **Keith Powell Post # 78 BY-LAWS**

### **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 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**

Section 1. The name of this organization shall be: KEITH POWELL POST NO. 78, THE AMERICAN LEGION, DEPARTMENT OF CALIFORNIA. Hereafter referred to as, "Post."

Section 2. The Post is located in Claremont, California.

Section 3. The mailing address shall be: PO Box 128 Claremont, CA 91711-0128.

Section 4. The email address is [post78keithpowell@gmail.com](mailto:post78keithpowell@gmail.com) and website is <https://www.post78keithpowell.org>

Section 5. The Post shall be registered with the Internal Revenue Service as a 501(c)(19) non-profit organization with the registered EIN of 23-7329576.

### **ARTICLE II – OBJECTS**

The objects and purpose of this Post shall be to promote the principles and policies as set forth in the foregoing Preamble, and in the Articles of Incorporation of this Post, and in the National and Department Constitution of the American Legion.

### **ARTICLE III – NATURE**

Section 1. This Post is a civilian organization and membership therein does not affect or increase liability for military or police service. Rank does not exist in the Post. No member shall be addressed by his military or Naval title in any meeting of the Post.

Section 2. This Post shall be absolutely non-political and shall not be used for the dissemination of partisan principles nor for the promotion of the candidacy of any person seeking public office or preferment.

Section 3. Each member shall perform their full duty as a citizen.

#### ARTICLE IV – MEMBERSHIP

Section 1. The eligibility for membership in this Post shall be those dates and conditions set forth in Article IV, Section 1, of the National Constitution of The American Legion.

Section 2. There shall be no form nor class of membership except active membership.

Section 3. Candidates for membership in this Post shall make application upon a form prescribed by the Executive Board of this Post; shall pay therewith the initiation fee and dues for the current calendar year; and shall furnish official evidence of eligibility such as a DD-214.

Section 4. All applications for membership shall be referred to the Executive Board, which shall, at each regular meeting of the Post, report upon all applications received during or after the previous regular meeting. A majority vote of those present and voting shall accept or reject a candidate. No member shall be accepted as a member in this Post who is a member of any other Post of the American Legion. No limitations may be placed on re-application of membership. (e.g. turned down today, they can reapply tomorrow).

Section 5. No person, who has been expelled by a Post, shall be admitted to membership in this Post, without the consent of the expelling Post, except that where such consent has been asked for and denied by such Post, they may then appeal to the Department Executive Board for permission to be admitted to membership in the Post, and shall be ineligible for membership until such permission is granted.

#### ARTICLE V – OFFICERS

Section 1. a). The officers of this Post shall be the Commander, Vice-Commanders, the Adjutant, Finance Officer, Chaplain, Judge Advocate, Service Officer, Historian and Sergeant-At-Arms.

b). The elective officers of the Post shall be: Commander, Vice-Commanders, and three members of the Executive Board.

c). The following officers of the Post shall be appointed by the Commander: Adjutant, Finance Officer, Historian, Chaplain, Judge Advocate, Service Officer, and Sergeant-At-Arms.

d). Any other officer other than the Commander and Vice-Commanders may hold two or more of the above offices.

Section 2. Nomination of elective officers and members of the Executive Board shall be held during the first regular meeting in April of each year and announcement thereof shall be made by the Adjutant for second round of nominations and elections at the regular meeting in May.

Section 3. a). All Post officers shall be elected or appointed for a term of one year at a regular meeting in May and shall be impressively installed, preferably by a ritual team, in accordance with the prevailing National Manual of Ceremonies, prior to the first day of September of that year. The

Executive Board may be elected for a term of one year, but not to exceed three years, provided that at least one-third (1/3) of the said Executive Board shall be elected in each Legion year.

b). All elections for opposed positions shall be by written secret ballot and a majority of all votes cast shall be required for the election of Commander and vice-Commanders. The other elected officers, if any, may be elected by a plurality vote as the Post may determine. Secret ballots shall be retained for thirty (30) days by the Post Adjutant.

Section 4. Every member of this Post in good standing shall be eligible to hold office in this Post. There shall be no limiting qualifications (e.g.-length of time in the Post).

Section 5. The duties of officers and the Executive Board shall be those as provided for in these By-Laws.

Section 6. In event that any Post Officer or member of the Post Executive Board shall be absent for three consecutive meetings of the Post and/or the Executive Board without being excused by the Post Commander or Executive Board, such office may be declared vacant by a majority vote of those present and voting at a regular Post meeting held after a written notice to all members that such vote will be taken. The vacancy so created shall be filled by election or appointment at the next general Post meeting by the same process as prescribed by the original election or appointment of that position.

#### ARTICLE VI – FINANCE

Section 1. No appropriations shall be made without first referring the same to the Finance Officer for report therefrom. This does not preclude any member's right to make a motion on the floor of a Post meeting for any expenditures relating to Post business.

Section 2. The Executive Board shall prescribe the form in which the financial records shall be kept.

Section 3. The fiscal year of the Post shall be from July 1 to June 30 of each year.

Section 4. All Post expenditures, regardless what conveyance or prior approval by the membership has taken place, shall require (2) signatures of the Commander's pre-designated Post Officers.

Section 5. Emergency Expenditures, as defined by "those unanticipated expenditures for the benefit of the purposes of the American Legion and/or Post 78 and directed by Post Commander and pre-approved by at least two other Post Executive Board" will not exceed \$100. All emergency expenditures shall be disclosed to the general membership at the next regular business meeting.

#### ARTICLE VII – THE AMERICAN LEGION AUXILIARY

Section 1. The Post recognizes an auxiliary organization to be known as the, "Auxiliary Unit of Keith Powell Post No. 78, The American Legion, Department of California".

Section 2. Membership in the Auxiliary shall be as prescribed by the National Constitution of the American Legion.

## ARTICLE VIII – PROCEDURE

Section 1. Opening and closing of meetings, initiation of new members, and installation of officers, shall be conducted as prescribed and approved by the National Convention of the American Legion in Kansas City, 1921, with subsequent amendments adopted and approved by later conventions.

Section 2. When not inconsistent with these bylaws or any special rules of order the Post may adopt, the rules contained in the current edition of Robert's Rules of Order Newly Revised will govern American Legion Post 78.

## ARTICLE IX – EXECUTIVE BOARD

Section 1. The Executive Board shall consist of a minimum of three members in addition to the Commander, Vice Commanders and the Adjutant.

Section 2. The Executive Board shall consider all matters affecting the Post and shall make recommendations to the Post, which thereafter shall be approved by the Post by a simple majority vote before becoming effective.

Section 3. The Commander, Vice-Commanders and Adjutant shall be chairperson, vice-chairperson and secretary, respectively, of the Executive Board.

## ARTICLE X – MEETINGS

Section 1. The Post will meet 12 times per year between General and Executive Board meetings.

a). The General meetings of this Post shall be held on the 1ST WEDNESDAY OF EVERY OTHER MONTH @ 6PM at St. Ambrose Episcopal Church, 830 W Bonita Ave, Claremont, CA 91711. General meetings may be rescheduled upon notification in writing, email and/or via phone call to all members prior to the beginning of the month in which the meeting has been changed.

b). The Executive Board meetings of this Post shall be held on the 3RD WEDNESDAY OF EVERY OTHER MONTH @ 6PM at St. Ambrose Episcopal Church, 830 W Bonita Ave, Claremont, CA 91711. Executive Board meetings may be rescheduled upon notification in writing, email and/or via phone call to Executive Board members.

Section 2. Special meetings may be called by the Commander or by the Executive Board or must be called upon the written or email request of a minimum of seven (7) members. No special meeting shall be called unless announcement by the Commander at the General meeting preceding or unless notice be mailed or emailed to each member ten (10) days prior to said meeting stating the time and place of the meeting and the subject to be considered. Only those items for which the meeting was called may be discussed at a special meeting.

Section 3. The Post, at any meeting, may consider and pass upon any matters irrespective of whether such matters have been previously considered by the Executive Board.

Section 4. A quorum at all general membership meetings shall consist of a minimum five (5) members.

Section 5. The Executive Board shall regularly meet at least once between regular meetings of the Post at a time and place designated by said Committee. A simple majority shall constitute a quorum. Said Committee may hold such special meetings as said Committee or the Commander may deem advisable, notice thereof being mailed to each member at least seventy-two (72) hours before the time and place of the meeting and the matter to be considered.

Section 6. Electronic meetings are authorized for all official meetings of the Post including, but not limited to Commission/Committees, Executive Board, and General meetings, using one of the following formats:

- Full-featured Internet, or combination Internet/telephone, meeting services that integrate audio (and optionally video), text, and voting capabilities.
- Telephone meetings, with Internet services for conducting secret votes and sharing documents.
- A speakerphone in the meeting room to allow members who are not physically present to participate by telephone.
- Telephone meetings without Internet support (and without any central meeting room).

Section 7. Electronic, telephonic, and/or written correspondence is authorized for all notification of the General, Executive Board, special meetings or any other official business.

Section 8. No member shall take part in any Post meeting or election unless they are in good standing.

Section 9. No member shall be represented or shall vote by proxy. There shall be no voting by absentee balloting.

## ARTICLE XI – DUTIES OF OFFICERS

Section 1. Duties of the Commander. It shall be the duty of the Post Commander to preside at all meetings of the Post, and to have general supervision over the business affairs of the Post, and such office shall be Chief Executive Officer of the Post. They shall perform such other duties as directed by the Post.

Section 2. Duties of the First Vice-Commander. The First Vice-Commander shall assume and discharge the duties of the office of Commander in the absence of, disability of, or when called upon by the Post Commander, and shall perform such other duties as directed by the Post.

Section 3. Duties of the Second Vice-Commander. The Second Vice-Commander shall assume and discharge the duties of the office of First Vice-Commander in the absence of, disability of, or when called upon by the Post Commander, and shall perform such other duties as directed by the Post.

Section 4. Duties of the Adjutant. The Adjutant shall have charge of and keep full and correct record of all proceedings of all meetings, and under the direction of the Post Commander handle all correspondence of the Post.

Section 5. Duties of the Finance Officer. The Finance Officer shall be charged with the custody of the funds of the Post. They shall keep its accounts and report thereon at regular meetings of the Post. They shall receive all funds of the Post and pay all bills approved by the Post. The office of Finance Officer and any other offices and/or positions charged by the Post Constitution and/or Bylaws, with the responsibility of handling Post funds shall be bonded under a blanket bond, at the actual cost incurred by Department Headquarters, to be purchased from Department Headquarters and billed to the respective Posts at cost.

Section 6. Duties of the Historian. The Historian shall be charged with the individual records and incidents of the Post and Post members, and shall perform such other duties as directed by the Post or the Executive Board.

Section 7. Duties of the Post Judge Advocate. The Post Judge Advocate's duties shall be to advise the Post officers on the construction and interpretation of the Post's By-Laws and to perform such other as are usually incident to the office.

Section 8. Duties of the Post Chaplain. The Post Chaplain shall be charged with the spiritual welfare of the Post comrades and will offer divine but non-sectarian service in the event of dedications, funerals, public functions, etc., and to adhere to such ceremonial rituals as are recommended by the National or Departmental Headquarters from time-to-time.

Section 9. Duties of the Sergeant-at-Arms. The Sergeant-at-Arms shall preserve order at all meetings and shall perform such other duties as may be from time-to-time assigned to him by the Post.

Section 10. The duties of the Service Officer. The Service Officer shall be generally prosecuting claims and protecting the rights and privileges of all veterans, their dependents, and survivors and to handle such other matters as may be properly be considered service work.

## ARTICLE XII – DUES, FEES AND FUNDS

Section 1. The annual dues for this Post shall not be less than the combined amount of Department and National per capita dues, payable annually in advance. This amount may be changed by recommendation of the Executive Board, upon being read at two regular meetings, a quorum being present and adopted by a two-thirds (2/3) majority of those present and voting.

Section 2. The membership initiation fee, if any, shall be a fixed amount, and approved by the Post.

Section 3. From such dues and fees, the Post shall pay all per capita taxes and assessments and such other expenditures as the Post may approve.

Section 4. A member whose dues for the current year have not been paid by January 1<sup>st</sup> shall be classed as delinquent. If their dues are paid on or before February 1<sup>st</sup>, they shall be automatically reinstated. If they are still delinquent after February 1<sup>st</sup>, they shall be suspended from all privileges. If they are still under suspension on June 30<sup>th</sup> of such year, their membership in the American Legion

shall be forfeited. A member so suspended, or whose membership has been so forfeited, may be reinstated to active membership in good standing by vote of the Post and payment of current dues for the year in which the reinstatement occurs. Continuous membership privileges and benefits may be affected by any break in continuous membership. To avoid such termination of continuous membership, a member who has forfeited his membership may make up past dues until December 30<sup>th</sup> for only the immediate preceding year. A separate initiation fee may be charged by the Post to reinstate such continuous membership.

Section 5. The annual membership fee starting in 2021 is \$45. Annual fees will only be changed as per Article XII-Section 1.

Section 6. With approval by the Executive Board, the Post may participate in fundraising activities.

### ARTICLE XIII – DELEGATES AND REPRESENTATIVES

Section 1. The delegates and alternates to represent the Post at Department conventions shall be elected at a regular meeting of the members of the Post by vote of those present and voting. The election shall be held and submitted at least twenty (20) days before the Department convention convenes. The time and place for holding the election must be announced by the Post Commander at least one regular meeting in advance of the election.

Section 2. Delegates of the Post to the Area Council and the representatives to the District Council shall be appointed or elected as prescribed by Area Council and District By-Laws and shall serve a one (1) year per term.

### ARTICLE XIV – APPOINTMENTS

Section 1. The Post Commander, immediately upon taking office each year shall appoint a Finance Officer and such other committees as shall be found necessary. Standing committees shall consist of such members as may be determined by the Post and the chairman thereof shall be designated by the Post Commander.

Section 2. Audit. The Post will keep financial records and shall cause said records to be examined by a licensed accountant or a committee of three (3) competent persons, none of whom will be the Commander, Adjutant, Finance Officer or any other person charged with the responsibility of handling Post funds. Such examination will be made prior to October 1<sup>st</sup> following installation of Post officers, and for the period of the immediately preceding fiscal year of the Post, said fiscal year will be determined by the Post. (Posts with gross annual revenues fifty thousand dollars (\$50,000) and over, will have their books examined by a reputable bookkeeper or certified public accountant and attach a copy of their report to the Post Financial Audit Certification.) The Post shall certify to the Department Adjutant prior to November 15th each year that such an examination has been made and file the original thereof with the Department Adjutant before said date, sending a copy thereof to the District Commander of the District of said Post. The Department Commander, Department Executive Board, the District Commander, the Post Commander, or the Post Executive Board may order an audit of the financial records of the account at such other times during the current year as may be deemed advisable. Failing to submit the certification by deadline or any general or special extension thereof will cause the Post to be placed on probation until submission has been verified by the Department Adjutant.

Section 3. Membership. The Executive Board shall have charge of all matters pertaining to the membership of the Post, including the procuring of new members, reinstatement and eligibility of members, subject to the approval of the Post.

Section 4. Finance. The Finance Officer shall be charged with the administration of the financial policy, preparation of an annual budget with recommendations, and supervisions of receiving, disbursing, and accounting of all Post funds.

#### ARTICLE XV – LIMITATIONS OF LIABILITY

Section 1. The Post shall not incur, nor cause to be incurred any liability or obligations whatsoever which shall be subject to liability any other individuals, corporations or organizations.

#### ARTICLE XVI – ADMINISTRATIVE HEARINGS

Section 1. Members of the Post shall be subject to disciplinary action as provided in the Department Administrative Hearing Manual as adopted, and as the same may be amended from time-to-time hereafter. A copy of the verdict, certified by the Post Commander and Post Adjutant, shall forthwith be forwarded to the Department Adjutant.

#### ARTICLE XVII – RECALL PROVISIONS

Section 1. A petition, signed by ten (10) percent of the membership in good standing requesting the holding of an election for the purposes of recalling an elective officer or a member of the Executive Board may be filed at any time with the Post Adjutant. The Post Adjutant shall, within five (5) days after filing said petition, compare the signatures on said petition with signatures on the applications of the respective signers on file in the Post records. The Adjutant shall deliver the said petition and their report on the correctness of the signatures to the Executive Board at its next meeting. If it shall appear from the report of the Adjutant that ten (10) percent of the membership have signed said petition, the Executive Board shall fix the date for the recall election, which date shall be fixed for a regular meeting of the Post to be held not less than two (2) weeks nor more than six (6) weeks after the meeting of the Executive Board. If the report of the Post Adjutant shall show less than ten (10) percent of the membership have signed, said petition shall be forthwith returned to the member who filed the same with the Adjutant who shall then have ten (10) days thereafter to obtain the required number of valid signatures, and re-file said petition with the Adjutant who shall recheck with their records and resubmit the same to the Executive Board at its next meeting thereafter with his report. If the petition is then found being sufficient, the recall election shall be fixed as set forth above.

Section 2. Notice of the date, time and place of holding the recall election shall be mailed to each member of the Post in good standing at his address as the same appears in the Post records, at least ten (10) days before the election.

Section 3. All recall elections shall be concluded by a written or electronic secret ballot.



Section 4. At the election, the ballot shall read as follows:

“Shall \_\_\_\_\_ be recalled?  
(Name of Officer or Member of the Executive Board)

Yes \_\_\_\_\_

No \_\_\_\_\_ “

A “Yes” vote shall be counted as for the recall and a “No” vote shall be counted as against the recall. Only members in good standing shall be entitled to vote at such elections.

Section 5. If the officer or member of the Executive Board shall be recalled, the Post, at its next regular meeting, shall elect a successor to fill the unexpired term. Nominations shall be held the same night as the election. The person recalled shall not be eligible as a candidate for election to fill the vacancy.

#### ARTICLE XVIII – AMENDMENTS

Section 1. Proposed amendments of these By-Laws must be submitted in writing at a regular meeting of the Post, and read thereat. Following a formal announcement by either the Post Commander, at the next regular meeting, or subsequently if postponed, the proposed amendment(s) may be adopted by a two-thirds (2/3) affirmative vote of those present and voting. Changes of amendments to the Post constitution and bylaws shall be certified in writing by the Post Commander and Adjutant before submission to the Constitution and Bylaws Commission through the American Legion Department of California.

Section 2. a). These By-Laws shall be amended to conform to any changes in the National and Department Constitution and By-Laws no later than 90 days following the close of the National Convention of the American Legion. Failure of the Post to adopt the required amendments shall not delay or modify the effect of such changes.

b). Any amendment initiated by the Post shall not be in final force or effect until approved by the Constitution and By-Laws Commission of the Department, but shall be temporarily enforced pending action thereon if not in conflict with the Constitution and By-Laws or adopted policy of the American Legion, or the Department of California, the American Legion.

CERTIFICATION

Above the signatures of the Commander and Adjutant, certify to the following:

“We hereby certify that the above By-Laws were read at two meetings of the Post and adopted on \_\_\_\_\_, a quorum being present, and by a two-thirds (2/3) vote of those present and voting.”

First reading, \_\_\_\_\_ .

Second reading and adoption \_\_\_\_\_ .

Signed by,

\_\_\_\_\_  
Commander

\_\_\_\_\_  
Adjutant

Note-  
Certification of all subsequent amendments are required.

These By-Laws or any amendments thereto must be sent to Department headquarters for review and approval by a member of the Constitution and Bylaws Commission (Usually the Commissioner assigned to your area), a scanned copy with the approval form is kept by the Department Headquarters for the Post files and is also returned to the Post for their files with a copy being sent to Constitution and By-Laws Chairman.

The Articles of Incorporation for this Post are on file with the California Secretary of State.