

City of Portland
Police Accountability Commission
Draft Areas of Agreement on Board Membership

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Definitions

Panel	A subset of the oversight board’s full membership empowered to make decisions related directly to complaints alleging administrative misconduct by PPB sworn officers and supervisors.
Sub-Committee	A subset of the oversight board’s membership empowered to take actions as defined in the oversight board’s bylaws, subject to review by the full oversight board.
Law Enforcement Agency	<p>Agencies that primarily employ police officers, corrections officers, or prosecutors.</p> <p>This includes county sheriffs, municipal police departments, police departments established by a university, state police, tribal police, and law enforcement agencies of the federal government.¹ It also includes district attorney’s offices.² Finally, it includes correctional departments.</p> <p>Agencies which perform duties related to investigating allegations of officer misconduct or reviewing police policies and practices, whose main function is not to engage in policing activities, are not considered law</p>

Commented [PAC 03-271]: Commissioner comment (Cherie): Does it make sense to have a restriction on a DA-type, prosecutor-type position? Would this text include that restriction already?

Commented [PAC 03-272R1]: Commissioner comment (Cherie): The public comment at the CE event was that we wanted the oversight board not to be too close to law enforcement.

Co-Chair comment (Tirsa): This might be worth writing into the restrictions if that’s what the sub-committee wants.

Commissioner question (KC): We should check what legally defines a “law enforcement agency” to see if it includes the DA’s office.

CITY ATTORNEY’S OFFICE QUESTION – also note ORS 131.915.

Commented [PAC3R1]: Staff Notes:
 - City Attorney responses was that yes, the Commission can create a working definition of “law enforcement agency” in this document.
 - This would be done up above, in the definitions section at the top of the document (after table of contents), not here.

¹ From ORS 181A.010.

² From ORS 131.915.

	enforcement agencies under this definition. ³
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³ Terminology taken from ORS181A.010, which defines such “civilian or community oversight boards, agencies or review bodies” as a “criminal justice agency”.

A. Size of the Board, and Panel Sizes

A1. Size of the Board

The oversight board shall have ~~25~~ 33 members.

A2. Alternates

The board shall have no less than 5 alternates, recruited from qualified board member applicants and from former members of the oversight board.

Alternates shall provide historical context, institutional memory, lived experience, and institutional or other expertise to the discussions of the oversight board.

Alternates may not serve on panels reviewing complaints, nor may they vote at the full oversight board. The oversight board may define other responsibilities and rights of alternates in its Bylaws.

A3. Panels

The oversight board may create panels for Hearings, for Due Process, and for Appeals.

1. Hearings Panels

- a. Panels shall be no smaller than five board members.
- b. In more serious cases, including deadly force, these panels shall have no less than seven members.
- c. The panels shall be created to ensure diversity based on life experience, race, gender, ability, and other factors, including, if appropriate, whether members are nominated by different people or entities.

2. Due Process (“Loudermill hearings”)

Commented [PAC 04-204]: Commissioner proposed change (Cherie):

Commented [PAC 04-035]: Note: Angie/Cameron both support 25 as a bare minimum and **want it to be discussed whether it should be higher than 25.**

Commented [PAC 04-066R5]: Public comment (Comm. Dan):
“FYI, the Training Advisory Council here in Portland has 30 members.”

Commented [PAC7R5]: Co-Chairs’ Proposed Change: Given 3-year terms, multiple of 3 is better so change to 27/33.

Commented [PAC8R5]: Dan: ‘there will be between 25-33 members as set by City Council, only by express request of the Board.’

Commented [PAC 04-279]: Flagged for further discussion (5 minutes)

When discipline is imposed by the board, a panel made up of board members shall hold a separate due process ("Loudermill") hearing at the request of the involved officer. This panel shall be no smaller than five board members.

3. Appeals Panels

Appeals will be heard by a different panel of board members than heard the original complaint, except in cases in which the basis for the appeal is the discovery of new information. In either situation, this will be referred to as an Appeals Panel.

- a. If the basis for the appeal is the discovery of new information, members of the original Hearings Panel will form the Appeals Panel. If a member of the original panel is unavailable, a board member who was not part of the original hearing may be assigned to the hearing.
- b. If there is any other basis for the appeal, the oversight board shall create a new Appeals Panel, consisting of at least five members not on the Hearings Panel.

Commented [PAC 04-2710]: Clarification (Comm. Angie/Co-Chair Obi): Intent is for this to be five new members (not previously on hearings panel)

Commented [PAC11R10]: Staff proposed edit for clarity based on comment above.

A4. Sub-Committees

The oversight board shall be empowered to create Bylaws that allow for the creation, management, and elimination of sub-committees.

Sub-committees must include at least five full members of the oversight board.

B. Qualifications and Selection Criteria

B1. Makeup of the Board

1. The Board shall make provisions to ensure its membership includes representation from diverse communities including those from diverse communities and with diverse lived experiences, particularly those who have experienced systemic racism and those who have experienced mental illness, addiction, or alcoholism.⁴
2. Applicants who are members of communities that have been impacted by over-policing practices shall have preference in selection.⁵
3. The board shall have community members that have worked with populations directly affected by over-policing.⁶
4. The board shall have members who have experience doing community outreach.
 - A. It is important to center the voices of the community when implementing changes to the oversight board.

Commented [PAC 05-0112]: Co-chair comment (Katherine): Community input has included a desire for geographical diversity within Portland – is this already included?

B2. Subject Matter Expertise

1. The board shall include people experienced with the police accountability experience, legal knowledge (public defense lawyers, civil rights lawyers), and with advocating for and providing services to houseless community members.
2. The board may include members who have experience with conducting investigations, case review and auditing.
3. Other professional expertise shall also be considered.

B3. Restrictions

1. People currently employed by a law enforcement agency and their immediate family members are not eligible for service on the board. People who were formerly employed by a law enforcement agency are not eligible for service on the board.⁷

⁴ From Charter 2-1002.

⁵ From National Association for Civilian Oversight of Law Enforcement ([link](#))

⁶ <https://cops.usdoj.gov/RIC/Publications/cops-w0952-pub.pdf>

⁷ Charter Section 2-1003, "Restrictions on Board Membership."

2. Board Members cannot simultaneously be members of any other government-related advisory group related to police or policing or any other organization/entity or group that may be a conflict of interest to the oversight board.⁸

Commented [PAC 05-0113]: Commissioner proposed addition (Sophia):

Commented [PAC 05-0114R13]: Flagged for further discussion (5 minutes)

⁸ Added by Commissioners based in part on public comment on 03-27-2023.

C. Recruitment and Appointment Process, including Representation

1. Members of the board shall live, work, play, attend school, or worship in the City of Portland for at least 12 months prior to their appointment.⁹
2. Board members, assisted by a community outreach staff member, shall be available to advance recruitment efforts for vacant board positions.
3. Successors to an unexpired term shall be appointed by approval of Council for the remainder of the term.¹⁰
4. Recruitment efforts for the board should include, but not be limited to, free or paid advertisements on television, radio, print, or digital media directed at the eligible public. Recruitment information should clearly state that these are not police bureau or full-time City of Portland positions.
5. At minimum, staff shall solicit applications to fill vacancies in the board's membership with help from the Office of Equity and Human Rights, the Office of Community & Civic Life, Neighborhood Coalition offices, Mayor and Council offices, other police-focused advisory committees, community organizations working on racial justice, mental health advocacy, and houseless organizing, nonprofits, other grassroots organizations, and the general public.¹¹ The applications of board applicants shall remain confidential to the extent allowable by law.
6. The board may create a nominating committee to refer applicants for board membership to the City Council for appointing.¹² The nominating committee may include people other than current board members.
7. Applicants shall be screened for potential conflicts of interest.
8. The board's members shall be appointed by City Council. The Mayor, while not directly voting for the appointment of nominees, can forward any

Commented [PAC 05-0115]: Commissioner question (Dan): If alternates were approved by Council, does it violate the Charter to have alternates automatically become members upon a member resignation?

Commented [PAC 05-0116R15]: Staff note: **Flagged for legal counsel question.**

Commented [PAC17]: City Attorney's Note / Clarification with sub-committee: Any appointments before January 1, 2025 would be made by a Council which includes the Mayor as a voting member.

Details of this might be worked out in Transition Plan and Broader System Phase / Phase 5 (**Garden Plot**)

⁹ (12 month reference taken from the City of Rochester / definition of an eligible Portland volunteer taken from <https://www.portlandoregon.gov/civic/76209> - Office of Civic Life)

¹⁰ City Charter Section 2-1002.

¹¹ Adapted from City Code 3.21.080 A 1.

¹² Adapted from City Code 3.21.080 A 2.

suggestions or concerns to the City Council.¹³

9. Council shall review applications of nominees to the board and vote whether to approve each appointment within 45 days of receiving the nomination.¹⁴

¹³ From San Diego City, in which the whole council approves their board's members.

¹⁴ Adapted from City Code 3.21.100.

D. Member Support and Compensation

D1. Support for Individual Board Members

- A. The Oversight Board will be a unique type of volunteer service, different from most volunteer boards, committees, and commissions. Individual members shall face unique challenges, including time commitment, exposure to trauma, and risks to privacy and safety, associated with their service. The Board shall create systems supporting and protecting individual members.
- B. Members of the oversight board shall receive compensation for their services, to promote equity, access to membership, and ensure that the board is representative of the community at large.
- C. The oversight board shall allocate roughly 10% of its annual budget to individual board member support and compensation.¹⁵
- D. The board shall regularly review details of its member support and compensation and revise as needed.

D2. Reimbursement for Expenses

The Board shall ensure that expenses associated with service on the board are not borne by individual Board members. This may include reimbursements or per diems. It may also include the Board directly providing the item or service.

- A. Reimbursable expenses, or up front expenses to the extent allowable by law, may include at minimum:
 - i. Travel
 - ii. Food
 - iii. Training, including Board-approved self-selected trainings by individual members
 - iv. Care services, including for child, adult, elder, and other care.

¹⁵ Charter 2-1002, “The board shall make provisions to ensure its membership includes representation from diverse communities including those from diverse communities and with diverse lived experiences, particularly those who have experienced systemic racism and those who have experienced mental illness, addiction, or alcoholism.”

Commented [PAC 04-0618]: Research from fact-finding phase (Comm. Dan):

“From the PAC’s research phase:

- In Chicago, oversight board members are provided with a \$12k annual stipend; the chair is provided a \$15k annual stipend.

- In Los Angeles County, oversight board members receive a \$5k annual stipend.

- In New York, members of the oversight body are compensated per term. Some members decide to decline compensation and work pro bono.

A news story indicates the chair got \$4498 one year and another member \$3150.

<https://citylimits.org/2021/06/18/maya-wiley-defends-record-as-chair-of-nypd-oversight-board/>”

Commented [PAC19]: Drafting Group Suggestion (Sophia/Cameron):

Oversight Staff should include a concierge/navigator-type of role for board Member support – someone whose role is to help connect members and prospective members to services that can support their involvement in the board.

Example: “Shelter support services for any board member needing such services during their term of service.”

Staff note: Suggestion for Oversight Staff.

v. Technology

D3. Financial Compensation

- A. Members shall receive a stipend, no less than the maximum allowed under the federal Volunteer Protection Act (currently \$500/year), reflecting their duties and activities to support the board outside of meetings and hearings.
- B. The board shall provide financial compensation, in the form of a nominal fee, to board members on a per-hour basis for public meetings and other regular public services.
 - i. The nominal fee shall not exceed 20% of the hourly compensation rate of City employees identified by the board as conducting the same type of work.¹⁶
 - ii. The board shall review the rate of compensation annually, following the annual release of City compensation plans.
- C. The board shall ensure at least the same level of compensation for members serving in special or unique ways (including panels).
- D. Each member of the board may decline to receive financial compensation, or to receive a lesser amount, at their individual discretion.

Commented [PAC 05-0120]: Request for further discussion (Faythe) to revisit with legal counsel. "Write this as we want it."

Commented [PAC 05-0121R20]: Flagged for further discussion (5 minutes)

D4. ~~Benefits~~ Other Support for Board Members

- A. Mental Health Support
 - i. Mental health support and services shall be provided free of charge to all board members.
 - ii. The board shall have access to the City employee assistance program, or choose other mental health service providers.
- B. ~~Other Additional Support Benefits~~
To the degree allowable by law for volunteers **and within budgetary limits**, the board shall provide other benefits for board members, including:

Commented [PAC 05-0122]: Question (Dan): Is "benefit" a problem when describing volunteer? Possible proposed change (and in sub-section B header)

Commented [PAC 05-0123]: Commissioner proposed change (Debbie):

Commented [PAC 05-0124R23]: Strong opposition (Sophia):

Commented [PAC 05-0125R23]: Flagged for further discussion (5 minutes)

¹⁶ "The Department will presume the fee paid is nominal as long as it does not exceed 20 percent of what the public agency would otherwise pay to hire a full-time coach or advisor for the same services." US Department of Labor, Wage and Hour Division. FLSA2007-3NA, citing FLSA2005-51.

- i. Health Insurance, including medical, dental, and vision
- ii. Life and Disability insurance
- iii. Retirement support

D5. Protection and Safety

The board shall ensure personal protection for individual board members.¹⁷

A. The board shall work to ensure that its meetings, hearings, and other activities are secure.

B. The board ~~shall~~ may also provide, as needed, additional protection services to individual members upon request.

Commented [PAC 05-0126]: Commissioner proposed change (Dan):

Strong opposition (Sophia):

Commented [PAC 05-0127R26]: Flagged for further discussion (5 minutes)

¹⁷ Charter 2-1002, “The board shall make provisions to ensure its membership includes representation from diverse communities including those from diverse communities and with diverse lived experiences, particularly those who have experienced systemic racism and those who have experienced mental illness, addiction, or alcoholism.”

D6. Support and protections for Oversight Board service

The Oversight Board shall be empowered to advocate to other governmental entities (including the State of Oregon) for protections for oversight board members.¹⁸ These protections may include, but are not limited to:

- A. The services provided by the board members being recognized by the State of Oregon as official services for excused absences from work as a service to the state/local government akin to jury duty.
- B. The board members being protected from prohibited acts by employers against board members.¹⁹
- C. Board members being protected from unlawful employment practices regarding insurance.²⁰
- D. Personal security, including protection of confidentiality of personal data and privacy for board members and applicants, as well as protection from harassment and threats.

¹⁸ Charter 2-1002, "The board shall make provisions to ensure its membership includes representation from diverse communities including those from diverse communities and with diverse lived experiences, particularly those who have experienced systemic racism and those who have experienced mental illness, addiction, or alcoholism."

¹⁹ "ORS Chapter 10 ORS 10.090 Prohibited acts by employers against jurors; notice to jurors; remedy for violations."

²⁰ Including if employers cease to provide health, disability, life, or other insurance coverage for an employee during times when the employee serves or is scheduled to serve on the board. "Akin to ORS 10.092 (1)(a)(b) Insurance coverage for employee during jury service, unlawful employment practices."

E. Onboarding Process and Training

After Council appointment, members and alternates shall go through both training organized by staff and peer training with more experienced members.

1. Training organized by staff may be delivered by staff and/or by experts and affected parties. Topics shall include, at minimum:
 - a. City training applicable to all members of City advisory groups
 - b. Training on public meetings and public records law
 - c. Training about the Portland Police Bureau, including history
 - d. Training about the oversight board and staff, including history
 - e. Training about the oversight board's internal structure, including its Bylaws and other internal processes
 - f. Training about civilian oversight of law enforcement
 - g. Training about local history of overpolicing, including geographically specific training
 - h. Paperwork necessary to ensure access to City resources, including compensation and other support services
2. Peer Training
 - a. Appointees shall be assigned to one or more current full board members for peer training.
 - b. The oversight board shall establish a list of responsibilities and topics to be covered during peer training.
3. The oversight board shall review its own training structures and curriculum and is empowered to revise these on a regular basis.

F. Term Lengths and Renewability

1. Members of the oversight board shall serve terms of 3 years.
2. The oversight board will **serve staggered terms.**
 - a. New members can be onboarded by existing members.
 - b. The work of existing members is not interrupted, as one-third of members will onboard while two-thirds will continue to serve their terms).
3. Members whose term will expire can apply to renew their term ~3 months prior to the expiration date.
 - a. Three months gives the board and necessary staff time to plan to fill the vacancy.
4. Existing members can apply to renew their term **one time twice, with a two-year final term** and will be considered for the position.
 - a. Applying will allow the board and necessary staff to evaluate the board member's renewal application.
5. To prevent a number of vacancies at a time, members whose terms have expired are welcomed to serve on the board until their replacement is appointed.
 - a. Members shall wait no more than three months until their replacement is found.
 - b. These members shall be given a definite timeline by necessary staff/board members.
6. Leave of Absence
Leave of absence time shall be granted, if needed, for good cause, including for issues related to physical or mental health.

Commented [PAC 05-0128]: Co-Chair question (Katherine): At the beginning, do members get appointed for 1 year, 2 year, and 3 year terms to create the staggered terms?

Commented [PAC 05-0129R28]: Staff note: **Garden Plot (Transition Plan and Broader System Phase)**

Commented [PAC 05-0130]: Commissioner proposed change (Dan):

Commented [PAC 05-0131]: Commissioner comment (Sophia): 2-year term for the last renewal was suggested by a community member.

Commented [PAC 05-0132R31]: Flagged for further discussion (5 minutes)

G. Removal Requirements and Process

1. The board may request that the City Council remove a board member for good cause.²¹

a. Good cause for removal includes:

- i. Unexcused absences
- ii. Excessive excused absences. Excused absences include unforeseen events, health reasons, being out of town, or missed meetings due to conflicts of interest²²
- iii. Major, undisclosed conflicts of interest
- iv. Loss of eligibility ~~(such as moving away from the City of Portland)~~ No longer meeting any of the requirements such as live, work, play, attend school or worship in the City of Portland (as outlined in section C1).
- v. Unmet minimum participation, or workload requirement
- vi. Breach of confidentiality²³
- vii. Inactivity in board activities including subcommittee work or hearing, appeals, misconduct, or due process panel participation
- viii. Failure to complete mandatory training within 6 months of appointment²⁴
- ix. Misconduct such as harassment, discrimination, and retaliation²⁵

b. Other reasons for removal could include resignation, death, or incapacitation.

2. The Bureau of Human Resources shall investigate allegations of misconduct regarding board members, and communicate their findings to the oversight board. The Bureau of Human Resources may remove a member following their investigation and finding of misconduct.

Commented [PAC 05-0133]: Commissioner proposed change (Seemab):

Commented [PAC 05-0134R33]: Flagged for further discussion (5 minutes)

Commented [PAC 05-0135]: Proposed change (Tirsa):

Commented [PAC 05-0136]: Commissioner comment (Sophia): Within a specified time?

Commented [PAC 05-0137]: Commissioner proposed addition (Monica):

Commented [PAC 05-0138R37]: Flagged for further discussion (5 minutes)

Commented [PAC 05-0139]: Commissioner proposed change (Dan):

Commented [PAC 05-0140R39]: Flagged for further discussion (5 minutes)

²¹ From Charter 2-1002.

²² Adapted from San Diego City, as well as City Code 3.20C1a(1)(c).

²³ Adapted from City Code 3.20C1a(1)(c).

²⁴ Adapted from San Diego City, as well as City Code 3.20C1a(1)(c).

²⁵ Adapted from HRAR 2.02.

3. Removal of a board member prior to the end of their term requires a vote of City Council or a decision of the Bureau of Human Resources.
4. A board member seeking public office shall resign their seat at the time they announce their candidacy or file their petitions, whichever happens first.²⁶ The individual can choose to apply for the board if they no longer run for office or end their terms in elected office.

²⁶ Taken from the Rochester Police Accountability board.

H. Internal Processes, including Quorum

1. The Oversight board is empowered to write its own Bylaws covering its internal processes not addressed in law.
2. When making decisions about procedures, protocols, or other decisions affecting the full board, quorum shall be defined as a majority of seated members of the board.
3. For adoption of bylaws and other significant matters (including proposed removal of members), the quorum shall be two-thirds of the seated members of the board.²⁷
4. Individual sub-committees of the board shall have a defined number of members, with quorum defined as a majority of said subcommittee members.
5. Quorum for panels of the board shall be a majority of the members of the panel.

²⁷ Adapted from San Diego City and San Diego County, as well as City Code 3.21.080a.