

Chapter 35 Community Police Oversight Board

1 35A.010 Creation of City of Portland Community Police Oversight Board 2 (“Board”).

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4 A. Portland City Charter Chapter 2, Article 10 has established the City of Portland
5 Community Police Oversight Board. The name of the Board shall be the
6 Community Board for Police Accountability (“Board” or “CBPA”).

7 1. Reporting to the Board and established by this Code is the Office of
8 Community-based Police Accountability (“Office” or “OCPA”) which will
9 be staffed with professional administrative staff and professional
10 investigators. The Office shall be an independent bureau of the City.

11 2. The oversight board (Board) and independent bureau (Office), which are
12 described above, collectively form the “Oversight System.” References
13 to “Oversight System” in this Code are intended to refer to the Board
14 and the Office, consistent with their roles and functions as outlined in
15 Charter and this Code. References to “Board” and “Office” in this Code
16 chapter should be understood as referring to the Oversight System
17 collectively, and specifically, the Board may delegate authority given to
18 it under the Charter and this Code to the Office, to permit the Oversight
19 System to fulfill its obligations established under Charter 2-10.
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22 B. Purpose. The mission of the Board is to independently investigate Portland
23 Police Bureau (PPB) sworn employees and supervisors thereof promptly, fairly,
24 and impartially, to impose discipline as determined appropriate by the Board,
25 and to make recommendations regarding police practices, policies, and
26 directives to the Portland Police Bureau with a primary focus on community
27 concerns.

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29 C. To the extent that any provision in this Code package (or any implementing
30 rules) require bargaining, those provisions shall not go into effect unless and
31 until the City fulfils its bargaining obligations with the Portland Police
32 Association (PPA) and Portland Police Commanding Officers Association
33 (PPCOA), consistent with the Public Employees Collective Bargaining Act
34 (PECBA).

34

- 35 D. Board Commitment to Continuous Improvement.
36 The Board shall ensure qualified staff, a team or independent expert(s)
37 examine the Board’s performance, the Charter, City Code and Board policies,
38 protocols on an ongoing basis. The Board may make recommendations to the
39 appropriate decision-making bodies.
40
- 41 E. Other City advisory groups related to police and policing, whose functions
42 incorporate officer accountability and/or policy recommendations, may
43 independently and voluntarily seek to conclude operations and request that
44 the Board assume their duties. This process would be initiated through mutual
45 consent by the advisory group, the Board, and the bureau associated with the
46 advisory group. Other details would be developed between the incorporated
47 group, following their voluntary choice to pursue incorporation, and the Board.
48
- 49 F. No sooner than two years after the Board has begun receiving complaints from
50 the public, it may undertake a review of all advisory groups related to oversight
51 of police and policing, including communicating directly and transparently with
52 volunteers serving on those groups, and may make recommendations to the
53 Mayor and/or City Council regarding how the different aspects of the current
54 oversight system will function, or cease to function, including how and when to
55 wind down the current oversight systems.
56
- 57 G. Prior to establishing any new advisory groups related to police or policing, the
58 Mayor and/or City Council shall discuss the proposal with the Board and give
59 sufficient time for a response.
60
- 61 H. The Board shall have the authority to adopt bylaws, and as part of developing
62 bylaws, it will decide, among other things:
63
- 64 1. whether or not to establish a chairperson, co-chairs, or other leadership
65 positions;
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 - 67 2. the role of Board alternates;
 - 68
 - 69 3. procedures that allow for the creation, management, and elimination of
70 sub-committees;
 - 71

- 72 4. voting thresholds for the full Board, sub-committees, and panels
73 (preliminary, hearings, disciplinary, and appeals); and
74
75 5. any other internal Board procedures, including but not limited to those
76 identified for elaboration in this Code and not otherwise addressed by law.
77
- 78 Unless stated otherwise by the Board, all bylaws changes are effective upon
79 adoption.
80
- 81 Copies of all current bylaws will be posted on the Oversight System’s website.

82 **35A.020 Definitions**

83

84 In this Chapter:

85 A. **“Board”** refers to the Community Board for Police Accountability, the
86 community police oversight board established under Charter 2-1001.

87

88 B. **“Office”** refers to the Office of Community-based Police Accountability, an
89 independent bureau of the City of Portland, whose Director is established
90 under Charter 2-1005.

91

92 C. **“Oversight System”** refers collectively to the Board and Office.

93

94 In this Chapter, the following definitions are also used:

95 D. **“Accountability”**

96 A comprehensive system of checks and balances aimed at ensuring that when
97 law enforcement fails to carry out their duties properly, including when their
98 actions are damaging to other individuals or the community at large, they are
99 held responsible through a fair and transparent process.

100

101 E. **“Case”**

102 An incident or situation involving potential misconduct by a sworn Portland
103 Police Bureau (PPB) sworn employee or supervisor thereof. Cases are either
104 complaints, which are filed by a community member or a PPB officer, or are
105 incidents which the Board is required by law to investigate.

106

107 F. **“Complainant”** a person who has filed a complaint about misconduct, or has
108 been the recipient of alleged misconduct even if they did not file a complaint.

109

110 G. **“Effective/Constructive Custody”**

111 The custody of a person who is not under direct physical control but whose
112 freedom is controlled by legal authority.

113

114 H. **“Garrity warning” or “Garrity Notice”:**

115 An advisement given to a sworn officer who is the subject of an internal
116 administrative investigation or review. This notice warning apprises the officer
117 that they are required to answer questions asked by investigators and are

118 subject to discipline, up to and including termination, for failing or refusing to
119 answer the questions.

120

121 I. **“Independent Judgment”** A demonstrable absence of real or perceived
122 influence from law enforcement, political actors, and other special interests
123 looking to affect the operations of the Office.

124

125 J. **“Just Cause”** is a cause reasonably related to the public safety officer’s ability
126 to perform required work. The term includes a willful violation of reasonable
127 work rules, regulations or written policies.

128

129 K. **“Law Enforcement Agency”**

130 Agencies that primarily employ police officers, corrections officers, or
131 prosecutors.

132 1. This includes county sheriffs, municipal police departments, police
133 departments established by a university, state police, tribal police, and
134 law enforcement agencies of the federal government. It also includes
135 district attorney’s offices. Finally, it includes correctional departments.

136 2. Agencies which perform duties related to investigating allegations of
137 officer misconduct or reviewing police policies and practices, whose
138 main function is not to engage in policing activities, are not considered
139 law enforcement agencies under this definition.

140

141 L. **“Officer”**

142 A sworn employee of the Portland Police Bureau (PPB). This term will be used
143 throughout this Chapter to also include supervisors of officers, in line with the
144 Board’s authority noted in Charter 2-1001, 2-1007(a), and 2-1007(d).

145

146 M. **“Panel”**

147 A subset of the Board’s full membership empowered to make decisions related
148 directly to cases of potential administrative misconduct by PPB sworn officers
149 and supervisors.

150

151 N. **“Preponderance of the Evidence”** is a standard of review in which a majority
152 of evidence is required to support a finding on an allegation (applies to In
153 Policy, Out of Policy and Unfounded findings).

154

- 155 O. **“Responsibility Unit Manager”**
156 A commanding officer or manager of a PPB division, unit or precinct.
157
- 158 P. **“Sentinel Event Reviews”**
159 Forward-looking, root cause reviews of undesirable police-related outcomes,
160 designed to allow for the development of recommendations for preventing
161 reoccurrence through continuous process improvements.
162
- 163 Q. **“Sub-Committee”**
164 A subset of the Board’s membership empowered to take actions as defined in
165 the Board’s bylaws, subject to review by the full Board.
166

167 **35A.030 Obligation to Follow Law**

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169 In the performance of its duties, the Board is obligated to follow all applicable
170 federal, state and local laws and rules, including but not limited to the United
171 States Constitution and Oregon Constitution (and protecting the rights of all
172 parties under both constitutions); City Charter; collective bargaining agreements
173 (as per the Public Employees Collective Bargaining Act); *USDOJ v. City of Portland*
174 *(Case No. 3:12-cv-02265-SI)* Settlement Agreement, including any amendments;
175 Oregon public records and public meetings law, and as of July 1, 2025, statewide
176 discipline guides.

177

178 **35A.040 Status as Independent Bureau**

179

180 A. As specified by Charter, the Board and the Office of Community-based Police
181 Accountability (“OCA” or “Office”) will be an independent bureau. Collectively,
182 these two entities comprise the Oversight System.

183

184 B. The Board has an obligation to exercise independent judgment and offer
185 critical analysis in the performance of its duties under this Chapter. The
186 Oversight System shall exercise its responsibilities under this Chapter without
187 interference from any person, group, or organization, including the Mayor, City
188 Council, Auditor, City departments, Police Chief, bureaus, and other
189 administrative agencies.

190

191 C. The Board shall be operationally independent of the Portland Police Bureau
192 (PPB) in all respects. To maintain the independence of the Board and PPB, the
193 Board shall not hire current and former police officers as staff. The Board’s
194 location and communications shall reflect its independence and impartiality.

195 1. As a general matter, staff shall not seek administrative and legal
196 guidance from the Police Bureau, unless necessary to perform their
197 duties. In addition, as a general matter, staff shall not be trained
198 alongside administrative investigators within the Portland Police Bureau
199 (PPB), unless necessary to perform their duties.

200

201 D. The physical office of the Board shall be located outside of a Portland Police
202 Bureau facility.

203 1. The Board and Office shall also not be housed in the same building as
204 the Mayor, City Council, and any other agency that has a law
205 enforcement or public safety component as part of its function.

206 2. The Board and Office shall not be in a space where security is provided
207 by law enforcement.

208 3. The Board and Office shall be located in a location convenient for the
209 public, including accessibility to public transit.

210 4. The offices of the Board may be located in private office space.

211

212 E. Notwithstanding its independent status, the Board shall develop working
213 relationships with other parts of City government to ensure its ability to
214 participate in relevant City processes related to the tasks required of the Board

215 by law or regulation. These include but are not limited to the Portland Police
216 Bureau, Bureau of Human Resources, City Attorney's Office, and Office of
217 Government Relations.
218

219 **35A.050 Powers and Duties of the Oversight System**

220

221 The Board and Office have the following powers and duties, as mandated by the
222 Charter and by the authority of City Council:

223

224 A. **Intake.** The Board and Office shall receive complaints concerning police actions
225 and select the appropriate manner to address all complaints consistent with
226 this Code and Board procedure.

227

228 B. **Initiate and conduct administrative investigations.** The Board exclusively is
229 authorized to initiate and conduct administrative investigations that involve
230 any of the following: 1) all deaths in custody and uses of deadly force; 2) all
231 complaints of force that result in injury, discrimination against a protected
232 class, violations of federal and state constitutional rights; and 3) other
233 complaints or incidents of misconduct that are of community concern because
234 of their impact on community members.

235

236 1. For formal investigations conducted by the Board, investigation reports
237 will include factual findings and will be resolved in one of four ways: 1)
238 out of policy (meaning the action is found to have violated City policy; 2)
239 in policy (meaning the officer's actions were within the law and City
240 policy; 3) unfounded (meaning the evidence shows the alleged events
241 did not occur; and 4) insufficient evidence (meaning there is not enough
242 information or evidence to determine if the officer's actions were out of
243 policy or in policy).

244

245 2. The Board shall notify the Police Chief that it intends to conduct an
246 administrative investigation into misconduct before initiating the
247 investigation.

248

249 C. **Communicate with Complainants.** The Board and Office will be the primary
250 contact with the complainant and the PPB officer or supervisor regarding the
251 status and results of the complaint.

252

253 D. Conduct hearings as described in Sections 35D.190 and 35D.200.

254

- 255 E. Hold Loudermill (due process) hearings as described in Section 35D.230.
256
- 257 F. Arrange hearings of appeals. The Board or Office will explain the appeal
258 options to complainants and schedule hearings before an appeals panel as
259 described in Section 35D.240
260
- 261 G. Recommend policy changes. The Board shall have authority to make policy and
262 directive recommendations including but not limited to the Portland Police
263 Bureau and City Council as well as the inherent or implied authority to take
264 other measures as necessary to effectuate this as described in Section 35E.010.
265
- 266 H. Outreach. The Board and Office will widely distribute complaint forms in
267 languages and formats accessible to community members, educate them on
268 the importance of reporting complaints, and hold public meetings to hear
269 general concerns about police services.
270
- 271 I. The Board and Office shall have the authority to obtain information to
272 administratively respond to allegations of misconduct, incidents which may
273 involve allegations of misconduct, and conduct structural oversight effectively.
274
- 275 1. Consistent with other provisions of this Code, the Board and Office shall
276 have the authority and ability to compel all evidence during the course
277 of an investigation.
278
- 279 2. Consistent with other provisions of this Code, the Board and Office shall
280 have the authority to compel sworn officers of the Portland Police
281 Bureau and their supervisors to participate in investigations and to
282 completely and truthfully answer all questions. The Board is authorized
283 to direct Portland Police Bureau officers to cooperate with administrative
284 investigations.
285
- 286 J. Board access to information. In accordance with City, state or federal law and
287 collective bargaining agreements, the Board and Office shall have direct access
288 to and be authorized to examine and copy, without payment of a fee, any PPB
289 information and records, including confidential and legally privileged
290 information and records so long as privilege is not waived as to third parties,
291 and police databases.

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1. Records includes but is not limited to PPB policies and directives, police reports, body camera footage, Digital Information Management System (DIMS), Versaterm Computer-Aided Dispatch (VCAD), or other, future CAD systems, after action reports, training records, global positioning system (GPS) data; discipline and complaint history of individual officers; and audit records related to PPB.
2. Access to Police data and data sources. In order to perform its duties, the Oversight System shall have access to Portland Police Bureau data and records, including but not limited to raw data, tabulated summary statistics, other source materials, and any other format source necessary for the Board to perform its duties. The Board shall also have direct access to original database sources (such as, but not limited to, Regional Justice Information System (RegJIN) and Criminal Justice Information Systems (CJIS) as permitted by state and federal law.
3. The Oversight System shall have direct access to all relevant database networks to which PPB subscribes (such as, but not limited to, Regional Justice Information System (RegJIN) and Criminal Justice Information Systems (CJIS) as permitted by state and federal law.
 - a. The Board shall allot adequate funding from the Board’s budget, using the best estimate available, to fully pay for any fees the Board incurs when accessing information from a non-PPB source.
4. The Portland Police Bureau must make available to the Oversight System its records for copying, inspection and access within five business days after a written request from the Board. Consistent with the City Charter and this Code, the Police Chief remains the custodian of record for all Portland Police Bureau records. If the Police Chief (or designee) determines that specific records requested by the Board pursuant to this section should be withheld or redacted, the Portland Police Bureau must provide the Board with a written explanation setting forth the specific records or reasonably segregable portions of the records being withheld or redacted, the reason for the withholding or redactions, and the legal justification supporting the

329 withholding or redactions. If the Board disagrees with the Police Chief's
330 decision to withhold records or redact information, the Board may seek
331 disclosure through its subpoena power as defined by the Charter and this
332 Code.

333

334 5. The Board and Director shall ensure that staff who access PPB records
335 described above are trained and certified to do so.

336

337 6. All body camera footage of every event that is made available to the
338 Oversight System pursuant to this section shall be available in full without
339 any editing or tampering and will be verified for authenticity.

340

341 The Board and Office shall maintain confidentiality where required to do so
342 and support transparency where allowable. The Oversight System shall not
343 disclose confidential or legally privileged information or records and shall be
344 subject to the same penalties as the legal custodian of the information or
345 records for any unlawful or unauthorized disclosure.

346

347 K. As a separate source of information for the Oversight System's administrative
348 investigations, the Board shall have access to PPB officers' statements from any
349 criminal investigation, as well as relevant police reports. Information shared
350 pursuant to this provision will not be done in a way that undermines or
351 interferes with an ongoing criminal investigation or prosecution or impacts the
352 officer's Garrity rights.

353

354 L. Attend Portland Police Bureau Trainings. The Board and Office shall have access
355 and be authorized to attend PPB trainings as observers for the purpose of
356 evaluating, monitoring, and making recommendations to PPB regarding
357 training, policy and directives.

358

359 M. Adoption of bylaws. The Board is empowered to write its own bylaws covering
360 its internal processes not addressed in law.

361

362 1. Establish sub-committees as appropriate.

363

364 N. Adoption of rules. The Board and Director shall adopt, promulgate, amend and
365 rescind rules and procedures required for the discharge of the Board's duties,

366 including policies and procedures for receiving and processing complaints,
367 conducting investigations, and reporting findings, conclusions and discipline
368 procedures. The Oversight System may also adopt rules and procedures for
369 making raw data available to the public. However, the Oversight System may
370 not levy any fees for the submission or investigation of complaints.

371
372 O. Review of closed investigations. The Oversight System shall hire a qualified staff
373 member, a team, or independent expert(s) to review closed investigations
374 pertaining to officer-involved shootings, deaths in custody and uses of deadly
375 force that do not result in death on an ongoing basis.

376
377 1. For purposes of this section, “closed investigation” shall mean that the
378 investigation has been completed, any discipline arising from the incident
379 has been issued and the involved officer(s)’ grievance and appeal rights
380 have been exhausted.

381
382 2. Consistent with applicable law and collective bargaining agreements, the
383 completed reviews of these closed investigations shall be described in
384 periodic reports available to the public and include case and investigative
385 summaries, policy implications, and recommendations for improvements in
386 police and Oversight Board policies or practices.

387
388 3. These deadly force reports will be presented to the public and City Council.
389 Contemporaneous public testimony, including oral testimony, will be
390 accepted at City Council sessions.

391
392 P. Review of undesirable police-related outcomes (“Sentinel Event Reviews”)
393 Separate from an investigation regarding individual officer misconduct and any
394 related disciplinary action being proposed, the Board may initiate forward-
395 looking root cause systemic reviews of undesirable police-related outcomes
396 and develop recommendations for preventing reoccurrence through
397 continuous process improvements.

398 1. The review may involve representatives from law enforcement, the
399 judicial branch, forensics, Board members, civil rights lawyers, members
400 of the public, and other relevant participants. The Board may consider
401 provisions to require participation in these reviews.

402 2. The Board will take public comment throughout the process.

403 3. The Board will issue a report at the conclusion of the review, which may
404 include proposed policy recommendations.

405

406 Q. The Board will publish a written annual report with an Executive Summary by a
407 consistent date each year. The report will be presented at a public meeting of
408 the Board with public comment and questions encouraged. The annual report
409 will also be presented at a public City Council session with oral testimony
410 accepted.

411

412 1. The Annual Report shall include the following information:

- 413 a. Overview of the Board, its staff, and its functions;
- 414 b. Summary of recommendations submitted by the Board to the Police
415 Bureau and/or City Council regarding changes to policy, directives or City
416 Code along with status and outcomes (accepted/rejected/modified) for
417 each listed recommendation;
- 418 c. A status update on implementation for those policy recommendations
419 (with an emphasis on persistent community concerns) which are
420 accepted in whole or in part by the Council or Police Bureau;
- 421 d. Recommended changes to collective bargaining agreements (if
422 applicable) and state or federal law;
- 423 e. Analysis of closed case reviews;
- 424 f. Summary of complaints received by the Board over the year (including
425 as applicable and as consistent with the law and collective bargaining
426 agreements, the named employee, nature of allegations, type (as in
427 35D.060), case-handling decision, findings and discipline imposed);
- 428 g. Number of employees who have received two or more complaints
429 where their actions were deemed out of policy within one year;
- 430 h. Number of complainants who filed multiple complaints, and issues that
431 were raised by multiple complaints;
- 432 i. Demographic profiles of the complainants to the extent that information
433 exists or is voluntarily provided by the complainants;
- 434 j. Number and percentage of cases that were appealed to the Board and
435 the outcomes (i.e., whether the findings or case-handling decision
436 changed);
- 437 k. Number and percentage of cases that were resolved by informal
438 resolution (including mediation) and the outcomes;
- 439 l. Number and percentage of cases referred to mediation;

- 440 m. Number of discipline decisions that were grieved under the applicable
441 collective bargaining agreement or appealed to the Civil Service Board
442 and outcome;
- 443 n. Number and percentage of all complaints handled directly by frontline
444 supervisors, referred for Supervisor Action, Management Action, training
445 or alternative resolution;
- 446 o. Number of times a PPB employee failed to comply with the Board’s
447 request for an interview or for the production of documents, and the
448 number of times a PPB sworn employee failed to comply with a valid
449 subpoena, and whether discipline was imposed for any such non-
450 compliance;
- 451 p. Number, nature, and settlement amount of civil suits against PPB officers
452 regardless of whether the City is a defendant in the litigation;
- 453 q. Number of cases involving either uses of deadly force or deaths in
454 custody, as well as (to the degree allowable by existing legal standards)
455 details about how the Board processed those cases, the outcomes
456 where available, and the names of the involved parties;
- 457 r. Number of cases in which the Board failed to complete its administrative
458 investigation within 6 months of receipt of a complaint of misconduct, or
459 discovery of misconduct by other means as specified in Code Sections
460 35D.010 through 35D.240;
- 461 s. Identification of trends with respect to officer history, complaint types,
462 and frequency, consistency and adequacy of discipline imposed; and
- 463 t. Complainant satisfaction survey results and community feedback.
464
- 465 2. In addition to its Annual Report, the Board may issue quarterly reports to
466 Council.
467
- 468 R. Public Access to Raw Data. The Oversight System shall make raw data available
469 for download, inspection, and analyses by members of the public. “Raw Data”
470 shall be redacted as consistent with existing legal standards and shall include
471 as applicable complaints, case-handling decisions, findings, discipline,
472 complainant demographics and geographic origin of complaints.
473
- 474 S. The Oversight System shall develop interactive dashboards around the
475 oversight data so that it can be visualized in different ways. The Oversight
476 System may also display policy recommendations in a dashboard.

- 477
- 478 T. Conduct investigative interviews of Portland Police Bureau employees,
479 consistent with applicable law and collective bargaining agreements.
480
- 481 1. All PPB employees shall be truthful, professional, and courteous in all
482 interactions with the Board. No PPB employee shall conceal, impede, or
483 interfere with the filing, investigation or resolution of a complaint.
484
- 485 U. The Board may obtain legal advice and representation from the City Attorney
486 or may retain or employ independent legal counsel. If the Board retains or
487 employs independent legal counsel, the Board shall be the client and is entitled
488 to the benefits and privileges thereof.
489
- 490 V. Establish a standard by which the Portland Police Bureau reports data to the
491 Oversight System, including required aggregated information (e.g., use of force
492 cases) and frequency (e.g., monthly, quarterly, annually).
493
- 494 W. The Board and Office may retain or employ independent experts, including law
495 enforcement experts, as needed to advise on any matter under investigation,
496 review, or evaluation by the Board or Office.
497
- 498 X. Maintain Working Relationships.
499
- 500 1. The Board and Office shall maintain working relationships with other
501 parts of City government, and collaborate with those entities to ensure
502 there is no duplication of names and titles, processes and terminology.
503
- 504 2. The Board and Office will maintain a working relationship with the PPB
505 Professional Standards Division, including staff working on the Employee
506 Information System (EIS).
507
- 508 3. The Board and Office shall maintain a working relationship with other
509 advisory committees related to police and policing. Representatives from
510 the Board and other advisory committees will meet periodically in public
511 to discuss emerging issues and policy concerns they have encountered in
512 the course of their work. If meetings are not practical, at a minimum
513 they will share by email or other means information on those topics

514 among themselves. This information will be reported back to members
515 of the various advisory committees. They may choose to create joint
516 study committees to research those issues and develop joint
517 recommendations.

518
519 4. Other Law Enforcement Agencies. Maintenance of the following working
520 relationships will be beneficial to the Board and Office fulfilling their
521 duties due to police collaborations and joint operations, and police
522 activity with relation to jails, prisons and detention centers.

523
524 i. The Board and Office shall maintain a working relationship with
525 the Multnomah, Clackamas, and Washington Counties' Sheriff's
526 Offices, as well as each county's corrections agencies, medical
527 examiners' offices, and with oversight groups for those entities.

528
529 ii. The Board and Office may seek membership for a representative
530 in Multnomah County's Local Public Safety Coordinating Council
531 (LPSCC), to assist with developing working relationships and
532 exchanging information in pursue of oversight goals and
533 responsibilities.

534
535 iii. The Board and Office shall maintain a working relationship with
536 the Oregon State Police (OSP), including the State Medical
537 Examiner's Office, as well as the Department of Corrections (DOC),
538 and with oversight groups for these entities.

539
540 iv. The Board and Office shall also maintain a working relationship
541 with law enforcement agencies outside of the Portland Police
542 Bureau, including but not limited to those municipalities whose
543 law enforcement officers may interact with community members
544 in Portland, TriMet police, and private security agencies serving in
545 public spaces while acting in an official or unofficial law
546 enforcement capacity.

547
548 5. Coordination with District Attorneys' Offices.

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- 550 i. In instances where officer misconduct that is investigated by the
551 Board also results in criminal complaints alleging criminal
552 misconduct by officers, the Board and Office shall coordinate to
553 the extent allowable under law with the Multnomah, Clackamas,
554 and Washington County District Attorneys' Offices, including
555 information sharing where appropriate, which may include access
556 to court records and case information pertinent to complaints
557 under Board investigation. To ensure officers' constitutional rights,
558 in no case shall compelled testimony from officers be transferred
559 to any prosecutors' offices.
560
- 561 ii. The Oversight System, working through legal counsel, shall
562 coordinate with the District Attorneys' offices to determine
563 appropriate disclosure of requested public records, and protection
564 of confidential information, including through clarifying and
565 appeal to the District Attorneys' offices.
566
- 567 6. Sharing of Information with DPSST. The Board and Office shall also
568 maintain a working relationship with the Department of Public Safety
569 Standards and Training (DPSST), including in a manner consistent with
570 applicable law, sharing information about cases in which officers were
571 found to have committed misconduct and cases in which a finding of
572 "training failure" was reached. This relationship shall benefit the
573 community by promoting improvement in training and performance of
574 officers.
575
- 576 7. The Board and Office shall maintain a working relationship with the state
577 Employment Relations Board (ERB). This relationship will be beneficial to
578 the Board for understanding arbitration and its role in the process of
579 addressing allegations of officer misconduct.
580
- 581 8. Criminal and Civil Proceedings Involving Officer Misconduct. In instances
582 where officer misconduct that is investigated by the Board also results in
583 criminal complaints alleging criminal misconduct by or civil lawsuits
584 against officers, the Oversight System shall cooperate with these judicial
585 proceedings to the extent requested and as permitted by law. To ensure
586 officers' constitutional rights, in no case shall compelled testimony from

587 officers be transferred to any prosecutors' offices.

588

589 Y. Alone or in cooperation with other city agencies/bureaus, the Office will also
590 audit police surveillance and other technologies. Relevant data from these
591 Board-conducted audits will be published, including on online dashboards.

592

593 Z. The Office may reach outside city structures to complete its work. The Board
594 and Office may consider working with law school faculty and/or students or
595 other community resources. The Director will establish internal procedures.

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597 **35B.010 Oversight Board Membership**

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- A. The Board shall consist of thirty-three members.
 - 1. The Board shall also have no less than five alternates, selected by the Council from individuals who apply for Board membership and meet the qualifications included in this Code section.
 - 2. Whenever there is a vacancy on the Board, Council will select a successor Board member from among the current alternates.
 - 3. Alternates may not serve on panels reviewing complaints, nor are they considered voting members of the Board. However, the Board may define other responsibilities and rights of alternates in its bylaws.
- B. Board members and alternates shall be appointed to the Board by a vote of the City Council.
 - 1. Individual applications shall be referred by the Board to City Council based upon its review of the qualifications and selection criteria (below).
 - 2. Council shall review applications of nominees to the Board and vote on whether to approve each appointment within 45 days of receiving the nomination.
- C. **Quorum Requirements.**
 - 1. **Matters Affecting Full Board:** A simple majority of Board seats shall constitute a quorum of the Board for decisions about procedures, protocols, or other decisions affecting the full Board.
 - 2. **Adoption of Bylaws or Other Significant Matters Affecting Full Board:** A quorum for purposes of adopting bylaws or other significant matters (including a proposed recommendation to Council to remove a Board member) shall be two-thirds of Board seats.

633 3. **Panels (Hearings, Due Process and Appeals):** Quorum for panels shall be a
634 majority of the members of the panel.

635
636 4. **Sub-Committees:** Sub-Committees established by the Board shall have a
637 defined number of members as established by the Board. A simple majority
638 of Sub-Committee members shall constitute a quorum.

639
640 D. Board members shall be appointed as follows:

641
642 1. At a minimum, Board staff shall solicit applications to fill vacancies in the
643 Board's membership from the Office of Equity and Human Rights, Office of
644 Community and Civic Life, the Neighborhood Coalition offices, Mayor and
645 Council offices, other PPB-focused advisory committees, community
646 organizations that focus on disciplines important to the Board's work (such
647 as those working on racial justice, mental health advocacy, and houseless
648 organizing, nonprofits, other grassroots organizations and others), and the
649 general public. After review based on the evaluation of each applicant
650 against the listed qualification and selection criteria for Board membership,
651 qualified applicants shall be referred to City Council for consideration and
652 possible appointment.

653 a. The Board may create a nominating committee to review applicants for
654 Board membership prior to referring to the City Council for
655 consideration for appointment. The nominating committee may include
656 individuals who are not current Board members.

657
658 2. **Qualifications and Selection Criteria:** Prospective applicants shall be
659 considered for vacancies on the Board based upon the following
660 qualifications and selection criteria:

661
662 a. Individual Board members must live, work, play, attend school or
663 worship in the City of Portland for at least twelve months prior to their
664 appointment.

665
666 b. Board members must be representative of Portland's diverse population,
667 drawn from different socio-economic backgrounds and racial, ethnic,
668 gender identity, and age groups. In order to allow the Board to fulfill its
669 responsibilities, some members shall represent or be knowledgeable of

670 those who (1) have encountered systemic racism; (2) have been
671 impacted by over-policing policies; (3) have mental illness, or substance
672 abuse disorders or (4) are houseless. In filling Board vacancies from
673 alternates, consideration shall be given to the current composition of the
674 Board and appointments shall be made that will cause the Board to best
675 reflect the demographic make-up of Portland to the extent possible.
676

677 c. The Board shall include people experienced with community outreach;
678 law enforcement practices; law enforcement oversight; police
679 accountability; investigative procedures; case-handling and audit
680 procedures; constitutional, criminal, or labor law; social justice;
681 advocating for and providing service to houseless community members;
682 or other relevant professional experience. Altogether, there shall be a
683 balance that allows the Board as a whole to benefit from the knowledge
684 and expertise of its individual members.
685

686 d. Individual Board members must have a commitment to the need for and
687 responsibilities of civilian police oversight in ensuring that Portland
688 policing practices comply with state and federal constitutional
689 protections and other applicable legal standards. Individual Board
690 members must also have a demonstrated commitment to racial justice.
691

692 e. Board members must be capable of making fair and impartial decisions
693 based on the evidence presented to them in an environment where
694 controversy is common. Fairness includes considering lived experience,
695 the experiences of the community members, and of the police officers
696 involved in the case.
697

698 3. Prerequisites for Appointment:
699

700 a. A prospective Board member must comply with ORS Chapter 244
701 (Government Ethics) and Portland City Code Chapter 1.03 (Code of
702 Ethics) and disclose at the time of their application any potential or
703 actual conflicts of interests.
704

705 b. The Board member must sign a confidentiality agreement.
706

707 c. Background Check
708 Prior to nominating any applicant to the City Council for appointment to
709 the Board, potential nominees will undergo a criminal background
710 check. The primary purpose of this background check is to ensure that
711 Board members may access police databases and facilities necessary to
712 perform their duties. Background checks are not intended to be used to
713 exclude people who have important lived experience from service on the
714 Board.

715
716 i. Staff shall initiate a criminal background check, and shall use an
717 agency other than the PPB itself, or an agency used by PPB for
718 its checks. The only exception is that staff may initiate a
719 criminal background check through the Oregon State Police.
720

721 ii. Where the substance of an offense that led to a previous
722 conviction would impact the applicant's ability to perform their
723 duties if appointed, the nominating entity shall discuss with the
724 prospective board member about how they would respond to
725 concerns that they are unable to fully discharge their duties.
726 The Board may also request a review of the criminal record in
727 question by the appropriate law enforcement entity to
728 determine whether to grant a waiver to allow the applicant to
729 have access to law enforcement databases.
730

731 iii. The nominating entity may opt to pass an applicant's
732 nomination to City Council after this conversation and review.
733

734 iv. The nominating entity shall only consider potentially-
735 disqualifying convictions which would impact the applicant's
736 ability to fully perform their duties if appointed.
737

738 4. Restrictions on Board Membership. The following individuals are not
739 eligible for service on the Board:

740 a. An individual currently employed by a law enforcement agency;
741

742 b. An immediate family member of an individual currently employed by a
743 law enforcement agency;

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- c. An individual formerly employed by a law enforcement agency;
- d. An individual who is currently a member of any other government-run advisory group, board, or commission related to police or policing, except for the Citizen Review Committee and Police Review Board, and any other body as defined in the Ordinance(s) establishing the Board.

E. **Training Requirements.** A Board member (and alternates) shall complete these training requirements within six (6) months of appointment, unless they can show good cause for having not done so:

1. Complete all paperwork necessary to ensure access to City resources, including compensation and other support services;
2. Complete orientation and training applicable to all members of a City advisory body;
3. Become familiar with the City Charter Chapter 2, Article 10, chapters of this Code, that address the Board’s roles and responsibilities;
4. Receive training on the Board’s history, internal structure and processes (including bylaws, and rules and procedures);
5. Receive training in the legal requirements of Oregon’s Public Records and Public Meetings laws;
6. Receive training about the Portland Police Bureau, including the following: its history, procedures, the relevant provisions of the City’s collective bargaining agreements with the Portland Police Association (“PPA”) and Portland Police Commanding Officers Association (“PPCOA”) and as applicable other represented City employees; and receive a briefing on the settlement agreement in the case of *United States v. City of Portland*, Case No. 3:12-CV-02265-SI, all related court orders for so long as they remain in effect and a discussion of the historical policing practices addressed in the litigation;

- 781 7. Training about how civilian oversight of law enforcement functions;
782
783 8. Training about the City’s Civil Service Board, and other relevant City
784 personnel policies and procedures;
785
786 9. Receive training in basic principles of constitutional due process,
787 constitutional civil rights guaranteed to all people as such rights are affected
788 by law enforcement, and administrative hearing procedures;
789
790 10. Receive training in the legal requirements for maintaining the
791 confidentiality of personnel records and other confidential documents or
792 information.
793

794 The Oversight Board shall review its own training structures and curriculum on a
795 regular basis and may revise these training requirements, including establishing a
796 peer training component and establish a list of responsibilities and topics to be
797 covered during peer training.
798

799 **F. Term Lengths and Renewability.**

- 800 1. Board members shall each serve a term of three years, subject to
801 reappointment by Council.
802
803 2. Upon expiration of the term, a Board member shall serve until re-appointed
804 or replaced or removed by Council.
805
806 3. A Board member may apply to renew their term twice, and will be
807 considered for the position. The Board will establish procedures to allow
808 Board members to seek reappointment.
809
810 4. Board Member Leave of Absence. A Board member may be granted a leave
811 of absence, if needed, for good cause, including in instances of illness or
812 injury or other personal hardship.
813

814 **G. Board Member Support and Compensation**

815 Board members shall be eligible for compensation subject to applicable law, City
816 policy, and rulemaking. This compensation can be up to the maximum allowable
817 for volunteers under applicable law. In addition, Board members shall be

818 reimbursed for expenses associated with service on the Board. The Board may
819 establish non-financial support systems within or outside of City structures to
820 support Board members. The Board shall establish processes, systems, and
821 applicable amounts and/or limits for member support and compensation in its
822 Bylaws and Administrative Rules. The Board shall regularly review details of its
823 member support and compensation, and revise as needed.

824 **35B.020 Resignation and Removal from Board**

825

826 A. A Board member may resign prior to the expiration of their term with written
827 notice to the Board and the Council.

828

829 1. A Board member seeking election or appointment to a public office shall
830 inform Board leadership of their intent to seek office. A Board member
831 seeking election or appointment to a public office that will give rise to a
832 conflict of interest shall resign their Board membership at the time of their
833 appointment or election. Depending upon the position which they are
834 pursuing, the Board member may be required to disclose a conflict of
835 interest upon their decision to run for office or seek appointment. An
836 individual Board member who resigns to seek other public office may re-
837 apply for a future Board vacancy upon conclusion of holding the other
838 public office.

839

840 2. Upon this notification, the Council must consider the position vacant and
841 eligible for the Council to appoint a new member from the alternates to
842 serve for the remainder of the vacating member's term. In filling Board
843 vacancies, consideration shall be given to the current composition of the
844 Board and appointments shall be made that will cause the Board to best
845 reflect the demographic make-up of Portland to the extent possible.

846

847 B. City Council may remove a Board member for cause.

848

849 1. A member must immediately notify the Board and cease further
850 participation on the Board, pending a vote of removal by the Council, if any
851 of the following circumstances occur during the member's term:

852

853 a. the member is incarcerated in any jail or prison and unable to complete
854 their responsibilities as a Board member; or

855

856 b. the member is convicted during the member's term of a criminal offense
857 that would preclude the member from continuing to perform their
858 duties.

859

- 860 2. The Council’s consideration of the removal and replacement of the member
861 pursuant to this section must occur within 45 days following the Council’s
862 receipt of notice under this subsection.
863
- 864 3. Cause for removal includes but is not limited to:
865
- 866 a. Official Misconduct (See ORS 162.405-162.415);
867
 - 868 b. Unexcused absence;
869
 - 870 c. Excessive excused absences (including unforeseen events, health
871 reasons, being out of town, or missed meetings due to conflicts of
872 interest);
873
 - 874 d. Failure to timely disclose an actual conflict of interest which prevents the
875 Board member from performing their responsibilities;
876
 - 877 e. Loss of eligibility: No longer meeting any of the requirements such as
878 live, work, play, attend school, or worship in the City of Portland (as
879 outlined in Code section XX);
880
 - 881 f. Unmet minimum participation, or workload requirement;
882
 - 883 g. Breach of confidentiality agreement;
884
 - 885 h. Inactivity in Board activities including subcommittee work or hearing,
886 appeals, misconduct, or due process panel participation;
887
 - 888 i. Failure to complete training within 6 months of appointment unless
889 good cause exists to excuse this;
890
 - 891 j. Misconduct, such as harassment, discrimination, and retaliation; or
892
 - 893 k. Any other cause which impacts the Board’s effective operations,
894 standing or independence.
895

- 896 4. Other reasons for removal could include death, or incapacitation.
897
- 898 C. The Bureau of Human Resources shall investigate allegations of misconduct
899 regarding Board members, and communicate their findings to the Oversight
900 Board. In instances where the complaint of misconduct is sustained, Council
901 may remove a member.
902
- 903 D. Removal of a Board member prior to the end of their term requires a majority
904 vote of City Council. Removal of a Board member may occur upon a
905 recommendation from BHR, a recommendation of the Board, or upon Council's
906 own motion. The Board retains discretion to suspend a member, or place them
907 on leave, pending action by Council.
908

909 **35B.030 Meetings of the Board**

910

911 In conducting its meetings and hearings, the Board shall comply with all
912 requirements of Oregon Public Meetings Law (ORS 192.610 through 192.710).

913

914 A. Proper notice, agendas, meetings summaries, and meeting materials will be
915 made available to the public in a timely way.

916

917 B. The Board shall hold regular meetings open to the public and offer time for
918 community input, including through public comment, testimony, or other
919 means. At public meetings, public comment will be allowed at a minimum
920 before key decisions are made, consistent with applicable law. Public
921 involvement in hearings is addressed in 35D.190 and 35D.200.

922

923 C. The Board may also hold special meetings of the full Board or sub-committees
924 as necessary.

925

926 D. The Director will provide written updates at full Board meetings with
927 information on the status of investigations and of those conducted by the
928 Police Bureau.

929

930 E. The Board will regularly host the Police Chief, Mayor and other relevant
931 officials at its public meetings.

932

933 F. While matters may be addressed in executive session, consistent with the law,
934 any final action or final decision by the Board shall be made in open session.

935

936

937 **35B.040 Board Budget**

- 938 A. The Board shall have a publicly disclosed budget.
- 939 1. As per Charter 2-1004, “funding for the Board shall be proportional to no
940 less than 5 percent of the Police Bureau’s Annual Operations Budget.”
- 941 2. The Board will have discussions in public about how to allocate its budget,
942 and, at its discretion, may appoint an independent budget advisory
943 committee from the community.
- 944
- 945 B. After evaluation of its budget, the Board shall be able to request a larger
946 budget allocation as part of the City’s annual budget process.
- 947
- 948 C. The Director shall comply with the City’s purchasing procedures and except as
949 otherwise provided here, the Director shall have sole discretion in choosing
950 staff persons, contractors, and other employees and in making other decisions
951 about expenses. The Board may require that the Director make certain
952 hiring/purchasing decisions only with the Board’s approval.
- 953
- 954

955 **35C.010 Director Selection and Removal**

- 956
- 957 A. The Board shall hire a Director for the Office of Community-based Police
- 958 Accountability (“OCA” or “Office”) who shall be appointed by, and serve at the
- 959 will and pleasure of the Board. As specified by Charter, and consistent with
- 960 these procedures, the selection process for the Director shall be done through
- 961 a community process led by the Board.
- 962
- 963 B. The Board shall select the Director of the OCA, in accordance with the City’s
- 964 human resource policies and rules and any other applicable laws, by the
- 965 following process:
- 966
- 967 1. A subset of the Board (“Hiring committee”) shall work with the Director of
 - 968 the Bureau of Human Resources (BHR) or designee to create a job posting
 - 969 that comports with the necessary and desired qualifications for a Director;
 - 970
 - 971 2. In coordination with the Bureau of Human Resources, the Hiring Committee
 - 972 shall assess minimum qualifications by screening applicants and resumes,
 - 973 and the Hiring Committee shall select at least three candidates best
 - 974 qualified to interview. The Hiring Committee may choose to involve
 - 975 community members in the screening process.
 - 976
 - 977 3. The full Board shall interview the candidates and the top scoring candidate
 - 978 will be moved forward;
 - 979
 - 980 4. At that meeting or the next appropriate meeting, the Board shall vote
 - 981 whether to appoint the top scoring candidate;
 - 982
 - 983 5. If the top candidate is not appointed, then the Hiring Committee shall
 - 984 present the next top scoring candidate to the Board for consideration and a
 - 985 vote. The selection process shall continue as stated until the Board votes to
 - 986 appoint a candidate as the Director; this shall include reopening the
 - 987 recruitment process if none of the interviewed candidates are appointed.
 - 988
- 989 C. The hiring procedures described in section B, above, are intended to comply
- 990 with ORS 192.660(2)(a).
- 991

- 992 D. Director Qualifications.
993 At a minimum, the Director shall possess the following necessary and desired
994 qualifications:
995
996 1. Be well-equipped to analyze problems of administration, and public policy;
997
998 2. Working knowledge in criminal justice sufficient for the powers and duties
999 of the Office;
1000
1001 3. Experience and knowledge working with communities impacted by police
1002 misconduct;
1003
1004 4. Be trauma-informed, possess an equity lens, and have experience engaging
1005 the community in collective decision making; and
1006
1007 5. The Director shall possess other necessary and desired qualifications for the
1008 position as identified by the Board.
1009
1010 E. As part of its role in managing the Director, the Board shall, at a minimum,
1011 conduct annual performance reviews.
1012
1013 F. The Director shall serve at will and may be removed from office by a vote of a
1014 supermajority of the Board (to be determined by the Board according to its
1015 procedures). The decision of whether to remove a Director shall be in the
1016 Board's sole discretion and may be for any reason.
1017

1018 **35C.020 Director Roles, Responsibilities, and Delegation**

1019

1020 A. The Director shall manage the professional administrative staff and
1021 professional investigators, and make operational and administrative decisions
1022 for the Office.

1023

1024 B. The Director may appoint other personnel necessary to carry out the duties of
1025 the Office, keeping within the adopted budget for the Office.

1026

1027 1. The Director shall hire an auditor/monitor/inspector-general, who will be in
1028 charge of auditing records and other aspects of the accountability system.

1029

1030 a. Audits conducted by staff will include but not be limited to police
1031 practices, policies, training, and directives, including regular audits of
1032 police communications with the public (news releases, social media,
1033 etc.).

1034

1035 b. Board members will be involved in the hiring of the
1036 auditor/monitor/inspector-general and participate in, at minimum,
1037 annual performance reviews for this position.

1038

1039 2. The Director shall hire legal counsel to provide legal advice for the Board
1040 and staff separate from the City Attorney's office.

1041

1042 a. Board members will be involved in the hiring of legal counsel and
1043 participate in performance reviews for this position.

1044

1045 3. Professional staff of the Oversight System shall be appointed by and serve
1046 under the direction of the Director. The Director shall hire part or full-time
1047 staff members focusing exclusively or in a combination on the following:

1048

1049 a. Policy work;

1050

1051 c. Investigation;

1052

1053 d. Hearings support;

1054

e. Records;

f. Outreach/Community Engagement;

g. Intra-governmental affairs;

- 1055 h. Data analysis;
1056 i. Equity and inclusion;
1057 j. Public affairs/communications; and
1058 k. Other administrative staff and personnel as necessary for the Board and
1059 Office's functioning, including to assist Board members.
1060
- 1061 C. The Director shall ensure that a qualified staff person goes directly to the scene
1062 of an officer deadly force incident and other incidents which may involve police
1063 misconduct needing immediate attention.
1064
- 1065 D. The Director shall protect the confidentiality of Board members, complainants,
1066 officers, and witnesses consistent with the requirements of Oregon Public
1067 Records law. Consistent with the law, disclosures may be necessary to enable
1068 the Director to carry out their duties, to comply with applicable collective
1069 bargaining agreements, where the public interest requires disclosure in a
1070 particular instance, or other reasons consistent with the law.
1071
- 1072 E. The Director is authorized to adopt, amend, and repeal rules, procedures, and
1073 forms to implement the provisions of this Chapter including for the discharge
1074 of duties, including policies and procedures for receiving and processing
1075 complaints, conducting investigations and hearings, and reporting findings,
1076 conclusions and recommendations. All such policies shall be sent to the Board
1077 for its review and feedback prior to beginning the public comment period (if
1078 applicable).
1079
- 1080 1. Before adopting, amending, or repealing a rule, the Director must notify
1081 interested parties and hold a public comment period. Such notice, which
1082 may be provided by mail or electronic means, such as posting on the
1083 Office's website, must be published at least 33 days before the close of the
1084 public comment period. The notice must include instructions on how an
1085 interested party may comment on the proposed rule, a brief description of
1086 the subjects covered by the proposed rule and how to access the full text
1087 of the proposed rule.
1088
 - 1089 2. During the public comment period, the Director will receive written
1090 comments concerning the proposed rule. At the conclusion of the public
1091 comment period, the Director will either adopt the proposed rule, modify

1092 it, or reject it, taking into consideration the comments received. If a
1093 substantial modification is made, an additional public comment period will
1094 be held. Unless otherwise stated, all rules are effective upon adoption by
1095 the Director. Copies of all current rules will be posted on the Office's
1096 website.

1097
1098 3. Notwithstanding Subsections 1. and 2., the Director may adopt an interim
1099 rule without prior public notice upon a finding that failure to act promptly
1100 will result in serious prejudice to the public interest or the interest of the
1101 affected parties, stating the specific reasons for such prejudice. An interim
1102 rule adopted pursuant to this Subsection is effective for a period of no
1103 longer than six (6) months. The Director may extend the interim rule past
1104 the six (6) months for good cause, as determined in the Board's sole
1105 discretion.

1106
1107 F. The Director may delegate to a designee any or all duties or responsibilities.
1108

1109 **35C.030 Staff Training and Qualifications**

1110

1111 A. Staff shall be trained on issues specific to their roles, such as:

1112

1113 1. PPB and Board policies and directives,

1114 2. Interviewing,

1115 3. Evidence,

1116 4. PPB patrol training and tactics,

1117 5. PPB and Board operations,

1118 6. Legal issues including stops, frisks, and searches.

1119 7. Trauma-informed service delivery, focused on interviewing and other
1120 community interactions.

1121 8. Anti-racism, anti-bias, cultural competency, and collaborative decision-
1122 making; and

1123 9. Other training needs as identified by the Director.

1124

1125 B. Minimum experience requirements. While the Director has authority in hiring
1126 staff, the following shall be considered in their hiring process:

1127

1128 1. The Director, in consultation with the Bureau of Human Resources including
1129 evaluating experience requirements of comparable positions, may specify a
1130 minimum number of years of experience required for each position, such as
1131 investigators. The minimum number of years of experience shall not exceed
1132 five years, and the experience requirement should not be a barrier to
1133 consideration of otherwise qualified applicants.

1134

1135 C. Preferred qualifications for Office staff shall include working with community;
1136 being versed in contemporary legal topics related to policing; public defense or
1137 civil rights backgrounds; and investigative, policy, and/or management skills
1138 such as civilian homicide investigation certification and use of force expertise.
1139 Investigative backgrounds can include Child Services, personnel, safety,
1140 housing, and medical and insurance investigations.

1141

1142 **35C.040 Staff community engagement**

1143

1144 A. The Board shall conduct public education on the role of the oversight system
1145 and community members' rights, keeping the community informed of its
1146 activities, how to file complaints and seek recourse in case of retaliation, and
1147 receive input.

1148

1149 B. Where appropriate, oversight staff shall train trainers who can go into specific
1150 communities and train in ways that work for those groups, in addition to the
1151 Board training the public at large directly.

1152

1153 C. Staff shall set up community engagement events, which may involve the Board
1154 members when available.

1155

1156 D. The outreach shall be conducted in ways that are accessible in terms of
1157 language, abilities, and other considerations.

1158

1159 E. Communities to engage shall include youth and community partners,
1160 immigrant communities including people of undocumented status, people with
1161 mental illness, and other communities disproportionately affected by police
1162 misconduct.

1163

1164 F. Outreach locations shall include but not be limited to schools, libraries,
1165 community organizations, neighborhood meetings, and organizations serving
1166 the houseless population.

1167

1168 G. Community engagement shall include discussions on how to improve police
1169 practices and policy, which includes soliciting community input. These
1170 discussions may include local, state, and federal laws and policies, not solely
1171 Police Bureau policies.

1172

1173 H. The oversight system shall conduct education on its activities for law
1174 enforcement personnel and bargaining unit representatives.

1175 **35D.010 Basic Elements of Administrative Investigations**

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- A. Beyond the basic elements listed here and in other parts of this Code, the Oversight System shall develop investigative procedures to provide guidance for staff operations and shall train staff on these procedures.
- B. Investigations shall comply with federal and state constitutions and laws, city charter, Oversight System rules and regulations including Administrative Rules adopted by Bureau (ARBs), relevant collective bargaining agreements, and the National Association for Civilian Oversight of Law Enforcement (NACOLE) ethics code. For non-represented sworn officers of the Portland Police Bureau, investigations shall be conducted in a manner that is consistent with applicable law and the officer’s employment status.
- C. In all investigations involving Officer Involved Shootings and other cases which may involve criminal misconduct, officers shall receive Garrity warnings that they are being compelled to testify for administrative investigation, and the content of the interview cannot be used in a criminal proceeding.
- D. Investigations must be conducted in a manner that is ethical, independent, thorough, timely, fair, and impartial.
- E. Investigations shall follow these steps and shall include, if these elements exist and are reasonably available:
 - 1. When an investigation begins, except for information that would compromise the integrity of the investigation, an officer shall be informed in writing:
 - a. of the nature of the investigation;
 - b. whether the officer is a witness or an involved party; and
 - c. other information necessary to reasonably inform the involved officer of the nature of the allegations, including the time, date, and location of the incident (if known).

- 1212 2. Interviews of the complainant, officer(s), and witness(es);
1213
1214 3. Gathering evidence including photos, videos, proof of injuries and other
1215 relevant medical records;
1216
1217 4. Examining police roll calls, logs, assignments, and other relevant
1218 information; and
1219
1220 5. Site visits as deemed appropriate.
1221
1222 F. Interview Guidelines:
1223 1. Interviews with officers shall all be recorded and conducted in a manner
1224 that is consistent with the applicable collective bargaining agreement.
1225
1226 2. Interviews with community members will be recorded, unless the
1227 community member requests not to be recorded. In these instances, the
1228 request by the community member shall be documented, and a
1229 stenographer will be enlisted to ensure the interviewee's answers are
1230 captured accurately.
1231
1232 a. However, a community member concerned about confidentiality of
1233 certain information may request that parts of their transcript be
1234 redacted for confidentiality purposes, so long as the redaction does
1235 not interfere with the ability to fully investigate or the due process or
1236 other contractual rights of the officer. In these cases, the City shall
1237 treat the information as submitted confidentially to the extent
1238 permitted by law.
1239
1240 3. Civilian interviews can take place at locations other than the oversight
1241 system's offices.
1242
1243 G. An investigation shall be completed even if an officer retires, resigns, or is
1244 terminated.
1245
1246 H. The Board will investigate complaints submitted anonymously and complaints
1247 with unidentified officers to the full extent possible. If necessary, such
1248 complaints will be left open pending identifying the person(s) involved, in a

1249 manner consistent with other provisions of this Code, applicable law, and
1250 collective bargaining agreements.

1251

1252 I. If during the investigation, investigators decide that there is not enough
1253 information to finish the investigation, the investigator shall close the
1254 investigation on this basis. (This is considered a “decision not to investigate”)
1255 The complainant has the right to appeal that finding as outlined in this Code
1256 (35D.240) by providing further information.

1257

1258 J. Staff shall review all misconduct investigations to ensure they are complete
1259 before they are sent to the Board to make findings and determine discipline.

1260

1261 **35D.020 Timelines for Completion**

1262

1263 A. Investigations shall be completed within 6 months. Investigations may extend
1264 past 6 months and continue until resolved consistent with applicable law.

1265

1266 1. If investigators are unable to meet these timeframe targets, the staff shall
1267 undertake and provide a written review of the process for the Board to
1268 identify the source of the delays and implement an action plan for reducing
1269 future delays.

1270

1271 B. Informal complaints shall be resolved in 60 days or less.

1272

1273 C. The timelines listed in paragraphs (A) and (B) may be extended if more time is
1274 needed, including at the request of a complainant and/or their attorney,
1275 consistent with applicable law.

1276

1277 D. The investigative staff shall inform the Board, the complainant (and their
1278 assigned complaint navigators) and the officer(s) (and their support persons) if
1279 an investigation goes beyond the mandated timeline. They shall also inform
1280 the officer's supervisor, the Chief of Police, and other officials who may be
1281 involved in the discipline process.

1282

1283 E. Investigations related to use of deadly force and deaths in custody (as defined
1284 in 35D.060) shall be prioritized for completion.

1285

1286 **35D.030 Providing information to complainants**

1287

1288 A. During intake, the complainant shall be informed of any obligations the Board
1289 may have to report something that is stated to them as part of a complaint and
1290 to provide the complaint itself to the involved officer where required by law or
1291 collective bargaining agreement. Except as otherwise required by law, the
1292 Board shall not turn over any admission of civil violations, criminal conduct, or
1293 criminal intent unless there is an imminent threat of harm to the complainant
1294 or others. That part of the investigation or interview which could incriminate
1295 the complainant in criminal proceedings will be considered confidential.

1296

1297 1. During intake, staff shall not express opinions about the complainant or the
1298 truth or merit of their allegations.

1299

1300 2. However, if the staff conducting intake has some kind of bias or conflict
1301 regarding the complaint, complainant, or nature of the allegations, they
1302 shall disclose that bias. At that point, the Director or designee shall assign
1303 another staff member to complete the intake.

1304

1305 3. If they perceive bias, complainants may request another staff person to
1306 complete the intake.

1307

1308 B. The Board shall provide Complainants with records of their complaint,
1309 including:

1310

1311 1. Confirmation of the receipt of the complaint, including a summary of the
1312 allegations;

1313

1314 2. Literature about the Board and its process including explanation of
1315 confidentiality issues;

1316

1317 3. If appropriate, a medical release form for records related to the complaint;

1318

1319 4. Notice if the investigation cannot be completed in the timeline required by
1320 this Code;

1321

1322 5. Notice of completion of the investigation in a final report; and

- 1323
- 1324 6. A survey about their experience with the complaint system.
- 1325
- 1326 C. The Board shall make information about the complaint available to the
- 1327 complainant online.
- 1328
- 1329 D. The complainant shall be provided as much information about their complaint
- 1330 as possible, consistent with applicable law, even if some material has to be
- 1331 redacted.
- 1332
- 1333 1. The complaint navigator shall have access to all available records in order to
- 1334 best advise the complainant, even information the complainant or their
- 1335 support people are not legally authorized to access. Such materials may also
- 1336 be redacted to comply with applicable law.
- 1337
- 1338 E. The oversight system shall not charge any fees to complainants for access to
- 1339 information about their complaint.
- 1340
- 1341 F. Board communication with a complainant shall not be made by postcard or
- 1342 other means of written communication that jeopardizes the complainant's
- 1343 privacy.
- 1344

1345 **35D.040 Referral of criminal investigations**

1346

1347 The Board has the authority to refer cases to the District Attorney or other
1348 authority for criminal investigation when the incident or allegations indicate
1349 possible criminal activity by the officer(s). To ensure officers' constitutional rights,
1350 in no case shall compelled testimony from officers be transferred by the oversight
1351 system.

1352

1353 **35D.050 Who May File**

1354

1355 A. Anyone who experiences or witnesses alleged officer misconduct can file a
1356 complaint with the oversight system. The right to file a complaint is absolute
1357 and unconditional.

1358

1359 1. Parents and guardians may file complaints on behalf of minors up to the age
1360 of 18. Minors can file complaints on their own beginning at age 15.

1361

1362 2. The complainant pool is inclusive regardless of age, immigration status,
1363 residence, criminal record, or language used. Incarcerated people can file
1364 complaints.

1365

1366 3. Anonymous complaints will be accepted, and will be placed in priority
1367 depending on the nature and severity of allegations and, for more minor
1368 complaints, the Board's workload.

1369

1370 4. Complaints involving any community members can be filed by third parties,
1371 such as other individuals or organizations.

1372

1373 B. Police officers from the Portland Police Bureau can file complaints alleging
1374 misconduct by other Portland police officers.

1375

1376 C. Law enforcement officers from other law enforcement agencies can file
1377 complaints alleging misconduct by Portland police officers.

1378

1379 D. No member of the community, or Portland Police Bureau employee, shall face
1380 retaliation, intimidation, coercion, or any adverse action for filing a complaint,
1381 reporting misconduct, or cooperating with a misconduct investigation.

1382

1383 **35D.060 Types of conduct/complaints within Board jurisdiction**

1384

1385 A. The Board shall investigate certain Police actions, including but not limited to:

1386

1387 1. All deaths in custody (including effective/constructive custody) and uses of
1388 deadly force;

1389

1390 2. All complaints of force that result in injury, discrimination against a
1391 protected class (whether defined by applicable local, state, or federal law),
1392 or violations of federal or state constitutional rights.

1393

1394 B. The Board shall also investigate allegations of the following to determine if City
1395 or Police Bureau policy has been violated:

1396

1397 1. dishonesty/untruthfulness including perjury;

1398

1399 2. false reports & concealing evidence;

1400

1401 3. sexual assaults, sexual misconduct, or sexual harassment;

1402

1403 4. domestic violence;

1404

1405 5. unlawful search/arrest;

1406

1407 6. neglect of duty;

1408

1409 7. discourtesy, including use of profanity;

1410

1411 8. improper discharge of a firearm;

1412

1413 9. criminal conduct, including off-duty criminal conduct;

1414

1415 10. improper or illegal act, omission or decision that directly affects a person
1416 or their property;

1417

1418 11. violation of orders which affect a community member;

1419

- 1420 12. harassment;
1421
1422 13. intimidation;
1423
1424 14. retaliation;
1425
1426 15. force used at protests (to the extent not covered by Section A);
1427
1428 16. abuse of authority (such as use of police credentials in a personal dispute);
1429
1430 17. officer failure to identify;
1431
1432 18. theft of money;
1433
1434 19. corruption (to the extent not covered by other Code provisions);
1435
1436 20. membership or participation in hate groups, racial supremacist
1437 organizations or militant groups (as defined in ORS 181A.688);
1438
1439 21. cases of substantial public interest; and
1440
1441 22. where data show a pattern of inappropriate policies.
1442
1443 C. The Board may also investigate:
1444
1445 1. Any alleged misconduct directly affecting the public, including work-related
1446 allegations such as tardiness if they affect a community member; and
1447
1448 2. Other allegations of officer misconduct which do not originate from a
1449 complaint, at the discretion of the Board.
1450
1451 3. Complaints filed by PPB officers, alleging misconduct by another PPB officer
1452 which does not impact a community member, when the complaint includes
1453 a request by the complainant for Board investigation.
1454
1455 D. If the involved officer is within their probationary period and is terminated by
1456 the Police Bureau prior to the conclusion of the Board's administrative

1457 investigation of the complaint, the Oversight System shall complete its
1458 investigation.

1459

1460 E. If a complainant asks the Board not to investigate a case that falls under the
1461 Board's mandate in the Charter, the Board shall evaluate its legal obligations,
1462 and weigh the interests of community concerns and the need for
1463 accountability against the wishes of the complainant (and/or their attorney if
1464 there is one).

1465

1466 F. The following types of complaints which are outside the Board's jurisdiction,
1467 shall be handled as follows:

1468

1469 1. When the complaint involves officers from another law enforcement
1470 agency, the Board shall ask permission from the complainant to forward
1471 their complaint to the proper investigating authority to investigate the
1472 officers' alleged misconduct. If the complainant declines, the Board shall
1473 dismiss the complaint for lack of jurisdiction and notify the complainant of
1474 its decision.

1475

1476 2. When the alleged violations do not impact a community member, except as
1477 noted in C3 above, another City investigatory body shall investigate.

1478

1479 3. When a complaint is generated by a Portland Police Bureau supervisor
1480 about poor officer performance or other work rule violations, Responsible
1481 Unit managers are responsible for intake and investigation.

1482

1483 **35D.070 Filing Timelines**

1484

1485 A. The timeline to file a complaint shall be 12 months after the incident except in
1486 the following circumstances:

1487

1488 1. The Director and/or designated Board leadership may extend the timeline
1489 for good cause; or

1490

1491 2. until a civil case involving the same underlying conduct has concluded;
1492 and/or

1493

1494 3. for the term of the involved community member's incarceration.

1495

1496 B. If the timeline is extended for reasons identified in A.2-3, it may be extended
1497 to a maximum of five years.

1498

1499 C. Good cause for extending the timeline may include (but is not limited to) fear
1500 of retaliation, or if an officer who was not previously identified has their
1501 identity become known after the 12-month deadline.

1502

1503 **35D.080 Methods for Filing Complaints; Board Receipt of Complaints**

- 1504
- 1505 A. The Board shall ensure that complaints can be filed and received through
- 1506 multiple methods (including but not limited to in-person, by mail, phone,
- 1507 email, online submittal, text message, collect calls, or by other common
- 1508 technological means of communication) to ensure access to the complaint
- 1509 process.
- 1510
- 1511 1. The Board shall ensure that complaint forms are widely available.
- 1512
- 1513 a. All Portland Police Bureau facilities will have complaint forms available in
- 1514 areas accessible to the public.
- 1515
- 1516 b. All Portland Police Bureau issued business cards intended to be given to
- 1517 community members during actions/encounters will have the Board’s
- 1518 phone number and email address printed on them.
- 1519
- 1520 2. The Board shall offer translation for documents and for verbal
- 1521 communications with appropriate interpretation to be inclusive of people
- 1522 for whom English is not their preferred language, and in accommodation of
- 1523 people with disabilities.
- 1524
- 1525 3. The Board will ask the complainant to state their preferred method of
- 1526 communication at the beginning of the process.
- 1527
- 1528 B. Should a community member contact the Portland Police Bureau or the City’s
- 1529 information line (such as 311) or any other City bureau regarding alleged
- 1530 officer misconduct, the complainant will be directed to the Board and Office.
- 1531
- 1532 C. The Police Bureau shall inform the Board immediately upon their knowledge
- 1533 that an officer, or supervisor thereof, has engaged in conduct that may be
- 1534 subject to criminal and/or administrative investigation.
- 1535
- 1536 1. By immediate, it is intended to mean without delay and unless for
- 1537 reasonable cause, within 24 hours of occurrence.
- 1538

1539 D. The Board's offices shall be open to accept complaints for longer hours than
1540 Monday through Friday, 9:00AM to 5:00PM, including early mornings,
1541 weekend times and evenings.

1542

1543

1544 **35D.090 Intake**

1545

1546 A. The Director shall hire/retain complaint navigators (“advocates”) to help
1547 complainants navigate their cases.

1548

1549 1. All complaint navigators shall be trained both on culturally
1550 sensitive/competent support for complainants and on sexual
1551 assault/survivorship for community members, so that even if someone from
1552 the relevant group isn't available when a person calls in everyone can
1553 provide support.

1554

1555 2. Complainants may request culturally competent/sensitive intake.

1556

1557 3. Complaint navigators will be required to receive continuing education.

1558

1559 4. Complaint navigators will assist in staff delivery of community education
1560 about the complaint process.

1561

1562 B. The oversight system will provide a complaint navigator for each complainant.
1563 To the extent possible, the complaint navigator will be appropriately culturally
1564 attuned to the complainant's needs.

1565

1566 C. Community members can additionally have two support people including an
1567 attorney for a total of up to three support people. However, the support
1568 person cannot be a witness to the incident.

1569

1570 D. If the complainant is an officer, who already has the automatic ability to have a
1571 bargaining unit representative (if applicable) and an attorney, they can also
1572 bring a peer officer or community member of their choosing (who is not a
1573 witness to the incident). This means they may also have as many as three
1574 support people.

1575

1576 E. If the officer is not a part of a bargaining unit, they will be assigned a complaint
1577 navigator from the pool for community members. The officer can decline this
1578 option.

1579

1580

F. Interviews will be scheduled around the community member's work schedule and can be rescheduled if needed. Interviews will include accommodations for people with disabilities, and interpreters, if needed.

1581

1582

1583

1584 **35D.100 Preliminary Investigations; Initial Case Handling Decision**

1585

1586 A. The Director shall hire investigators to conduct preliminary investigations, full
1587 investigations, and follow-up investigations as necessary and as outlined by this
1588 Code and related Board procedures and rules.

1589

1590 B. When the Board receives a complaint regarding alleged misconduct of a
1591 Portland Police Bureau officer, or supervisor thereof, or opens a case not
1592 originating from a complaint, staff shall:

1593

1594 1. Assign a case number;

1595

1596 2. Conduct a preliminary investigation (including gathering information about
1597 the complaint through an intake interview);

1598

1599 3. Make a case-handling decision (i.e., should case proceed to a full
1600 investigation; suggested for mediation; addressed by some other means; or
1601 dismissed);

1602

1603 4. If appropriate for a full investigation, identify the complainant's allegations
1604 or possible types of misconduct; and

1605

1606 5. Communicate to the complainant summarizing the complaint and the case-
1607 handling decision.

1608

1609 C. Incomplete complaints can be investigated if the Board determines an
1610 investigation is warranted.

1611

1612 **35D.110 Informal Complaints**

1613

1614 A. If the complainant expresses an interest in resolving their complaint informally
1615 through discussion with the officer's supervisor, the Board shall determine
1616 whether such resolution is appropriate.

1617

1618 1. The Board shall confer with the officer's supervisor about the possibility of
1619 an informal resolution process, and the supervisor shall make a
1620 determination whether to resolve the case informally or send it back to the
1621 Board for full investigation.

1622

1623 2. Once approved for informal complaint resolution, a case can be resolved
1624 without formal investigation and the complainant will be informed of this
1625 decision.

1626

1627 3. If the case is sent back for full investigation by the supervisor, or informal
1628 resolution is unsuccessful, the Board will inform the complainant.

1629

1630 **35D.120 Mediation**

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- A. The Director shall arrange for professional mediators.

- B. The Board has the authority to provide for voluntary mediation between community members and law enforcement, to improve police-community relations and build better policies. There shall be no cost to any party to utilize the mediation option.
 - 1. The Board shall determine whether the case is eligible for mediation based on the nature of the allegations and the officer's history.
 - a. The community member shall be able to consult with their complaint navigator and/or their other support persons before deciding whether to agree to mediation.
 - b. Complainants shall not be unduly pressured to choose mediation if they prefer an investigation to take place.
 - c. An officer's supervisor must clear them for approval before the officer can agree to mediation.

- C. Mediation is not offered for complaints involving use of force, profiling, legal violations such as improper stop, detention, search, or arrest, or for officers with a pattern of misconduct. No case identified as an automatic investigation by the Charter shall be eligible for mediation.
 - 1. Mediation is offered for complaints involving discourtesy and procedural complaints including unwarranted action other than those described in C (above), and neglect of duty.
 - 2. If the complainant filed the misconduct complaint based on actions during an incident in which the officer filed criminal charges or citations against the community member, once those criminal allegations have been resolved, mediation about the misconduct complaint can still proceed, consistent with applicable law.

- 1667 3. If there is a civil lawsuit or criminal case pending against the officer about
1668 the incident, mediation cannot proceed.
1669
- 1670 D. The discussions that take place in the mediation are confidential unless the
1671 parties agree otherwise.
1672
- 1673 E. Mediators shall be screened and trained properly about power dynamics,
1674 cultural awareness, racial bias, and other issues which may underlie the
1675 incident.
1676
- 1677 F. For eligible cases, mediation is an alternative to full investigation.
1678
- 1679 1. If either party rejects mediation, the case is sent to a full investigation.
1680
- 1681 2. Either party to the mediation, or the mediator, can determine that
1682 mediation has not been successful, and ask for a full investigation.
1683
- 1684 G. Mediation shall be made accessible to all parties.
1685
- 1686 1. Upon request, the mediation process will make accommodation for people
1687 with disabilities, as well as interpreters as needed.
1688
- 1689 2. To accommodate schedules, complainants can provide adequate notice of
1690 cancelation on as many as two separate occasions before mediation is
1691 abandoned.
1692
- 1693 3. Mediation is available to complainants, as well as to family members of
1694 people subjected to alleged police misconduct or other community
1695 members, with the complainant's permission, even if complainants do not
1696 themselves participate. In situations where the complainant does not
1697 participate, the outcome of mediation will be binding on all parties.
1698
- 1699 a. Upon agreeing to the confidentiality of the mediation, one support
1700 person of each party's choosing may attend, but not engage in the
1701 mediation, to provide moral support and consult during breaks.
1702

1703 4. Mediation shall take place at a neutral location that is mutually acceptable
1704 to all parties.

1705

1706 H. Successful mediation will conclude with a signed mediation agreement by all
1707 parties. Violation of the agreement may result in the case proceeding to a full
1708 investigation and/or other next steps as outlined in the agreement itself.

1709 Portions of the mediation agreement which could incriminate any party in
1710 criminal or administrative proceedings will be considered confidential to the
1711 extent allowed by law. The parties may mutually agree to publicly disclose the
1712 substance of the mediation as part of the agreement.

1713

1714 **35D.130 Grounds for Dismissal of a Case Following Preliminary Investigation**

1715

1716 A. After a preliminary investigation, the Board may dismiss the case.

1717

1718 1. If the case is dismissed, the Board will provide notification to the
1719 complainant.

1720

1721 2. The Board will also notify the involved officer(s) and their commanding
1722 officer once the appeal deadline has passed (see 35D.240).

1723

1724 B. The Board may dismiss a complaint for the following reasons:

1725

1726 1. The complaint is only related to criminal charges or alleged violations
1727 against the complainant, and does not allege misconduct;

1728

1729 2. The complaint was filed outside the timeline to file (35D.070) and there is
1730 no good cause or other grounds to excuse the late filing;

1731

1732 3. Even if all aspects of the complaint were true, no act of misconduct would
1733 have occurred;

1734

1735 4. Even if all aspects of the complaint were true, the misconduct would be so
1736 minor that the matter would be better addressed through other means;

1737

1738 5. The complainant withdraws their complaint or fails to complete necessary
1739 steps to continue with the complaint. It may benefit the community to
1740 finish the investigation. However, lack of cooperation and lack of consent
1741 from a complainant may make it impossible or inappropriate to complete
1742 the investigation; and

1743

1744 6. Lack of jurisdiction (see 35D.060).

1745

1746 C. Notwithstanding its decision to dismiss a complaint under Section B, the Board
1747 may initiate potential policy recommendations from dismissed complaints.

1748

- 1749 D. At minimum, for the duration of the *US DOJ v. City of Portland* Settlement
1750 Agreement, cases alleging excessive force shall only be dismissed under B3
1751 when there is "clear and convincing evidence" that the allegation has "no basis
1752 in fact."
1753
1754 E. Dismissals based on B3 and B4 will be considered for mediation or informal
1755 complaint.
1756

1757 **35D.140 Board Authority to Take Interim Measures**

1758

1759 A. The Board can take interim steps prior to findings being determined in specific
1760 cases.

1761

1762 1. A case can be prioritized if an officer is retiring or being promoted.

1763

1764 2. The Board can recommend placing an officer on administrative leave while
1765 administrative charges are pending.

1766

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1768 **35D.150 Portland Police Bureau Witnesses**

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- A. Portland Police Bureau sworn officers and supervisors thereof shall attend investigative interviews conducted by the Office, cooperate with and answer questions asked by the Office during an administrative investigation of a PPB sworn officer (or supervisor thereof) conducted by the Office. If an employee refuses to attend an investigative interview after being notified to do so by the Board or Office, or refuses to answer a question or questions asked by the Office during an investigative interview, the Police Chief, the Bureau of Human Resources, or appropriate City authority shall direct the employee to attend the interview and truthfully answer the question or questions asked.
 - 1. In use of deadly force and death in custody cases, the Board’s administrative investigators shall coordinate with criminal investigators external to the Board and prosecutors (if applicable). The Board’s investigator shall have the ability to compel testimony within 48 hours of the criminal investigators having completed their interview after issuing a *Garrity* notice, or the officer has postponed their interview with criminal investigators.
- B. To the extent that it is consistent with applicable law and collective bargaining agreements, the PPB employee shall comply with a request for compelled testimony within 48 hours of the request being made.
- C. All Oversight System interviews of PPB employees shall be conducted in conformance with legal requirements and collective bargaining provisions.
- D. To the extent that it is consistent with collective bargaining agreements, compelled or requested testimony may be done in-person or in a virtual setting when the Board deems it appropriate.
- E. Prior to being interviewed, a PPB employee whose testimony is requested or compelled will:
 - 1. Be notified of the time, date, and location of the interview and that this is an administrative investigation.

- 1805 2. Be informed of the right to bring a collective bargaining representative to
1806 attend the interview, consistent with *Weingarten* and PECBA (as
1807 applicable). To the extent consistent with the collective bargaining
1808 agreement, the PPB employee may also bring support persons.
1809
- 1810 3. Be read a statement (“Garrity Notice”), that the employee is directed to
1811 attend the interview, cooperate during the interview and answer all
1812 questions fully and truthfully and, further told that if the employee fails to
1813 attend the interview, cooperate during the interview or answer any
1814 questions fully and truthfully, the employee will be subject to discipline or
1815 discharge.
1816
- 1817 4. Be asked to sign an acknowledgement that they received the Garrity
1818 Notice prior to providing compelled statements or testimony.
1819
- 1820 5. Be provided with any other information or protections required by any
1821 applicable collective bargaining agreement.
1822
- 1823 F. As provided by this Code, the Board may subpoena a sworn PPB officer who
1824 fails to comply with a properly issued written interview notice to cooperate
1825 with an administrative investigation as described in this section.
1826
- 1827 G. In addition, a refusal of a sworn PPB officer to truthfully and completely
1828 answer all questions may result in discipline up to and including termination.
1829
1830

1831 **35D.160 Subpoenas**

1832

1833 A. The Board shall have the authority to issue subpoenas for the purpose of
1834 compelling any witness testimony or the production of documents,
1835 photographs, video or audio recordings, or any other evidence necessary for
1836 the Board to fully and thoroughly investigate a complaint or conduct a review.

1837

1838 B. If a witness fails to appear before the Board at the time and date set by
1839 subpoena, or in the case of a subpoena duces tecum, if a record is not
1840 produced as required, the Board, through appropriate legal counsel, may apply
1841 to a court of competent jurisdiction for the enforcement of a subpoena or to
1842 impose penalties for failure to obey a subpoena.

1843

1844 C. In general, initial efforts to compel the testimony of a PPB employee shall be
1845 made through the administrative process (and directives). However, if a PPB
1846 sworn officer refuses to comply, the Board may subpoena their presence via
1847 this Code provision.

1848

1849 D. Any person who fails to comply with a subpoena will be subject to contempt
1850 proceedings as prescribed by State law; provided that such persons shall not
1851 be required to answer any question or act in violation of rights under the
1852 constitutions of the State or of the United States.

1853

1854 1. The Board will make a case-by-case determination as to whether to pursue
1855 a contempt charge arising from an individual's refusal to cooperate.

1856

1857 **35D.170 Procedures specific to use of deadly force or death in custody**

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- A. The Board shall have authority to investigate all deaths in custody and uses of deadly force.
- B. When an incident involves police use of deadly force or a death in custody, the Board shall follow these procedures:
 - 1. Oversight System investigators shall head to the scene and shall coordinate with and assist criminal investigators in gathering information.
 - 2. Board investigators may sit in on interviews of witnesses (including officers who are witnesses) that are conducted for the criminal investigation but may not ask questions of involved officers.
 - 3. When those criminal investigation interviews are completed, if there are questions about possible administrative violations, Office investigators will ask questions of witnesses.
 - 4. When those criminal investigation interviews are completed or the officer has postponed their interview, if there are questions about the possible administrative violations, Office investigators will ask questions of the involved officers (following issuance of a Garrity Notice).
 - 5. The investigations shall include a review of the supervisors and others who were on the scene, including officers who used force or may have precipitated the use of deadly force.
- C. The final investigation will also be sent to the PPB Training Division for an analysis to be presented to the Board at the hearing on the deadly force incident.
- D. The community member subjected to use of deadly force, or their survivors if the interaction resulted in death, shall be considered as complainants and

1892 shall have full rights to appeal.

1893

1894 E. In cases in which survivors choose not to file a complaint, the investigation
1895 shall still be handled in the same way as all other misconduct investigations.

1896

1897 **35D.180 Creation of Hearings Panels**

1898

1899 A. The Board shall create panels (“Hearing Panels”) to hear cases to determine
1900 findings about whether policies were violated.

1901

1902 1. Panels shall be no smaller than five Board members.

1903

1904 2. The Board shall ensure that panels have more than 5 members for serious
1905 cases.

1906

1907 3. Panel assignments shall be made in rotation and in a manner that will
1908 ensure the Panel reflects the demographic and life experience make-up of
1909 the Board to the extent possible. Altogether, the Board shall ensure a
1910 balance that allows the Panel as a whole to benefit from the knowledge and
1911 expertise of its individual members.

1912

1913 4. Each panel shall have a presiding individual over each hearing. The Board
1914 shall develop procedures for the selection of the presiding individual.

1915

1916 **35D.190 Hearings Panel: Initial Procedures and Preliminary Hearing**

1917
1918 A. Members of the hearing panel shall review all investigative materials.

- 1919
1920 1. In reviewing the case, the panel may examine any supporting documents,
1921 the file and report of the staff, and any documents accumulated during the
1922 investigation. They may also listen to and/or watch the recordings of all
1923 interviews.

1924
1925 B. The panel shall hold a preliminary hearing to assess the completeness and
1926 readiness of the investigation for a full hearing.

- 1927 1. The complainant and officer will be notified of the date of the preliminary
1928 hearing, but are not required to attend. They may appear with any or all of
1929 their support persons.

- 1930
1931 2. The Board shall publicly announce the date of a preliminary hearing at least
1932 7 days in advance of the hearing, including a case number. This notice shall
1933 also include methods by which members of the public who may have
1934 information or evidence can contact an assigned investigator.

- 1935
1936 3. The Board will decide whether some or all of the preliminary hearing will be
1937 held in open session or executive session in accordance with existing legal
1938 standards and considering the public interest, the officer's preference (see
1939 ORS 192.660[2][b]), the complainant's preference, precedents set by the
1940 existing oversight system, and other relevant factors.

- 1941
1942 4. At the commencement of the preliminary hearing, the presiding individual
1943 shall state that members of the public who may have additional information
1944 or evidence should contact an assigned investigator, prior to the full
1945 hearing. The presiding individual may allow members of the public to
1946 comment about the readiness of the case, consistent with federal and state
1947 law and collective bargaining agreements.

1948
1949 C. At the preliminary hearing, the panel will decide whether to:
1950

- 1951 1. Send the case back for further investigation, specifying the information
1952 sought;
1953
1954 2. Send the case forward to a full Hearing; or
1955
1956 3. Evaluate the case for eligibility for stipulated discipline (per Code Section
1957 35D.220).
1958
1959 D. The panel's decision on the complaint readiness will be made in open session.
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1961 E. The Board shall permit public comment after the decision.
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1964 **35D.200 Hearing Panel: Full Hearings Process**

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- A. The Board may choose to hold hearings on misconduct complaints and investigations. Should it choose to do so, those hearings will be conducted pursuant to this section, subject to and consistent with collective bargaining agreements, Oregon Public Records and Public Meetings laws, state and federal constitutions, and other applicable law.
- B. The Board shall welcome public involvement in this process to the extent consistent with the law and collective bargaining agreements.
- C. The hearings shall be recorded.
- D. The Board shall publicly announce, with a case number, the date of a full (fact-finding) hearing at least 7 days in advance of the hearing. This notice shall also include methods by which members of the public who may have information or evidence can contact an assigned investigator.
- E. The Board will decide whether some or all of the full (fact-finding) hearing will be held in open session or executive session in accordance with existing legal standards and considering the public interest, the officer’s preference (see ORS 192.660[2][b]), the complainant’s preference, precedents set by the existing oversight system, and other relevant factors.
- F. The complainant and officer shall be given access to the same information as allowable by law. Any information that is provided to the officer but not the complainant shall be shared with confidentiality protections with the complainant’s complaint navigator.
- G. Attendees to the Hearing:
 - 1. The complainant can appear with their complaint navigator, as well as a support person and/or an attorney.
 - 2. The officer can appear with their bargaining unit representative/complaint navigator, and/or their attorney and/or support person consistent with the collective bargaining agreement.

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3. A person from the upper management of the Police Bureau's Training Division shall attend all hearings to answer questions about police policy, training, or procedure.
 4. Any other witnesses requested by the Panel, complainant, or officer. (Witnesses will ordinarily be sequestered until they are called to testify.)
 5. Given adequate notice for arrangements to be made, the Board shall provide interpreters and/or accommodations for people with disabilities. (The Board will develop procedures describing how complainants and other witnesses can request such accommodation or interpreters for hearings held pursuant to this chapter.)
- H. Information submitted during the administrative investigation by parties in confidence to the Office shall not be publicly disclosed during the hearing. Examples of reasons to keep information confidential include but are not limited the need to protect the identity of a victim or private medical information. Other conditions may require subsequent disclosure to the officer and their bargaining unit representative or attorney, such as to comply with the collective bargaining agreement and the officer's due process rights.
- I. All decisions on findings shall still be made publicly in open session even if part or all of the hearing is held in executive session.
- J. Throughout the hearing process, if held in an open hearing, at the officer's request, the presiding individual shall remind the audience of the seriousness of the employment matter being discussed while acknowledging community responses.
- K. **Procedure for the hearings** (Note: throughout this subsection, "complainant" and "officer" may include their representatives.)
1. The basic circumstances of the case and allegations shall be read into the record by the presiding individual (or designee) at the beginning of the hearing.

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2. The complainant and officer can make opening statements; the complainant can choose whether to provide their statement before or after the officer.
 3. The presiding individual begins questions of witnesses, followed by other panel members.
 - a. Except as provided in c, Oversight System staff involved in the administrative investigation can ask questions at the invitation of the presiding individual.
 - b. The officer or complainant can request specific items about which the panel may ask more questions of witnesses.
 - c. Except as otherwise provided here, only the presiding individual shall ask questions of the officer, including on behalf of other people attending the hearing. The presiding individual may designate additional panel members or staff persons to question the officer consistent with existing legal standards.
 4. Once recognized by the presiding individual, the complainant and officers have the ability to do the following:
 - a. ask questions directly of witnesses (including cross-examining witnesses);
 - b. request that the panel ask additional questions of a witness;
 - c. call additional witnesses;
 - d. introduce exhibits; and
 - e. suggest that the panel impeach witnesses.
 - f. The complainant and officer can offer rebuttal evidence to the evidence submitted by the other party.

- 2075
- 2076 5. Once all evidence has been received, the officer and complainant can
- 2077 make closing statements.
- 2078
- 2079 6. Once closing statements have concluded, the case shall be considered
- 2080 submitted. The panel shall deliberate on the evidence applying the
- 2081 preponderance of evidence burden of proof. The panel may convene an
- 2082 executive session to confer with legal counsel as needed in reaching its
- 2083 findings.
- 2084
- 2085 7. The presiding individual may allow members of the public to comment
- 2086 about the case, consistent with federal and state law and collective
- 2087 bargaining agreements.
- 2088
- 2089 L. Upon completion of its deliberations, the panel will decide its finding(s) by a
- 2090 simple majority of the members of the panel. Where the public interest
- 2091 warrants a discussion of the findings on the records, each panel member
- 2092 may explain their position. Those who disagree can include their reasons for
- 2093 dissenting along with the findings.
- 2094
- 2095 1. When a decision on findings is made at the end of a public hearing, the
- 2096 presiding individual shall explain the next steps, including the appeal
- 2097 process.
- 2098
- 2099 2. If any finding is made outside the public hearing process where an
- 2100 appeal is still possible, or the complainant does not appear at the
- 2101 hearing, a Board representative can explain the process or delegate that
- 2102 responsibility to staff.
- 2103
- 2104 M. Should the panel find that one or more allegation is in violation of Portland
- 2105 Police Bureau policy (i.e., out of policy), the case will proceed to the
- 2106 proposed corrective action and discipline phase (as set forth in Code section
- 2107 35D.230).
- 2108
- 2109 1. Following the decision of the panel, a summary of the panel's findings
- 2110 shall be shared in writing (or other means if requested) with the
- 2111 complainant and officer(s), consistent with applicable law.

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- N. General guidelines for hearings conducted pursuant to this section:
 - 1. Hearings can be held even if parties fail to appear.
 - 2. The panel may receive any oral or written statements volunteered by the complainant, the involved officer, other officers involved, or any other person.
 - 3. Hearsay is admissible; evidence is allowed if "responsible persons are accustomed" to using such information in "serious affairs." However, the panel shall be entitled to decide the weight of the evidence offered.
 - 4. When the Hearing process develops new information, the panel may consider the new information when determining if additional investigation is warranted, but if it chooses not to direct further investigation, the panel may not use the new information to determine findings.
- O. The Board shall establish bylaws or rules provisions, guidelines, and methods for the processes described in this Code section.

2133 **35D.210 Board Burden of Proof and Findings**

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- A. Burden of Proof. Findings are determined using the Preponderance of the Evidence Standard.

- B. The Board will use a standard set of four options in all cases when making decisions on findings:
 - 1. Out of Policy: meaning the action is found to have violated policy. In some jurisdictions, this is also known as “sustained;”
 - 2. In Policy: meaning the officer's actions were within the law and policy. In some jurisdictions, this is also known as “exonerated;”
 - 3. Unfounded: meaning the evidence shows the alleged events did not occur; and
 - 4. Insufficient Evidence: meaning there is not enough information or evidence to attach any of the other findings.

- C. The Board may add additional findings related to systemic aspects of the incident which led to Board’s consideration of the case:
 - 1. Policy Issues: meaning the Board recommends that PPB revise its policy;
 - 2. Training Issues: meaning the Board recommends that PPB revise its training;
 - 3. Supervisory Issues: meaning someone in the chain of command supervising the officer engaged in an action that contributed to the incident;
 - 4. Communication Issues: meaning involved officers did not communicate well among themselves or information was otherwise not properly relayed by others to the involved officer(s) ; and

- 2169 5. Equipment Issues: meaning the equipment provided did not function
2170 properly or was not adequate.
2171
- 2172 D. When the Board finds a systemic issue, the Board will automatically initiate
2173 a policy review, which may include Board members and/or staff preparing a
2174 proposed Policy Recommendation for consideration by the Board as
2175 outlined in 35E.
2176
- 2177 E. All of these findings shall be applied whether the case is generated by a
2178 complaint or if the Board investigates as required by City Code and Charter.
2179
- 2180 F. These findings shall also be used for consistency by any other investigating
2181 body or supervisor who investigates officer complaints which do not involve
2182 community members.
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2184 **35D.220 Stipulated Findings and Discipline/Corrective Action**

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- A. In certain cases, as defined in this Code section, the officer may admit to the misconduct, and the Board and officer may agree to the proposed findings and discipline/corrective action to allow for a more timely resolution. Stipulating to findings and discipline will not reduce the level of discipline imposed. In all cases, the level and degree of discipline/corrective action shall be in keeping with the seriousness of the offense, taking into account the circumstances relevant to the case and consistent with the applicable Corrective Action Guide.

- B. The officer may have up to 7 days following receipt of the Pre-Determination Notice to inform the Board that they will stipulate to the Findings and proposed Discipline/Corrective Action. By stipulating to the proposed discipline/corrective action, the officer waives all four possible avenues of appeal (to an Appeals Panel of the Oversight Board, to the Portland Civil Service Board, through a grievance or through a due process hearing).

- C. The following categories of cases are not eligible for stipulated discipline/corrective action:
 - 1. cases involving alleged use of excessive force including officer shootings and deaths in custody;
 - 2. cases involving alleged discrimination, disparate treatment or retaliation; and
 - 3. cases in which the panel that will determine the imposition of discipline or corrective action does not agree to accept the officer’s proposed stipulation to findings and recommended discipline.

- D. The following categories of cases are eligible for stipulated discipline:
 - 1. First time offenses that would not ordinarily lead to discipline/corrective action of more than one day off without pay (per the applicable Corrective Action Guide);

- 2221 2. Second time offenses that would only lead to command counseling or a
2222 letter of reprimand (per the applicable Corrective Action Guide).
2223
- 2224 E. In an investigation involving multiple potential violations, the violation with the
2225 highest category from the applicable Corrective Action Guide will be used to
2226 determine whether the case qualifies for stipulated discipline/corrective
2227 action.
2228
- 2229 F. Stipulating to out-of-policy findings and discipline/corrective action does not
2230 remove the complainant's ability to appeal any other finding.
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2232 **35D.230 Discipline and Corrective Action**

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- A. The following guidelines for imposition of discipline and corrective action, and application of the City’s Corrective Action Guide, shall be followed in determining proposed discipline/corrective action and imposition of a final disciplinary action.
 - 1. As established by Charter, the Board has the authority to issue disciplinary action up to and including termination for all sworn officers and supervisors thereof within the Police Bureau.
 - a. Because the Bureau of Human Resources has authority over every city employee, if for some reason the Board is unable to directly impose discipline/corrective action, the Bureau of Human Resources shall enact the will of the Board.
 - b. Discipline/corrective action may include various consequences for the officer, as well as education-based alternatives to promote a positive outcome and avoid employee embitterment.
 - 2. The discipline imposed must be done in a manner that is consistent with applicable law, collective bargaining agreements, and the applicable Corrective Action Guide (“Guide”), including exceptions that are written into the Guide.
 - 3. In determining the level of appropriate discipline and corrective action, the panel can take into account the officer’s individual history consistent with the Guide.
 - 4. The Portland Police Bureau (PPB) may not issue discipline less than what the Board chooses to impose.
 - a. If PPB would like to impose a higher level of discipline, they need to appear before the Board to discuss the reasoning. The Chief or representative will have to describe the aggravating and mitigating factors informing their proposal.

- 2269 b. The Board has the authority to accept or reject the Portland Police
2270 Bureau's proposal after consideration of the aggravating factors
2271 presented.
2272
- 2273 5. The discipline process shall also be consistent with due process and just
2274 cause considerations, to the extent one or both of those terms applies to
2275 the involved officer.
2276
- 2277 a. The state of Oregon defines "just cause" for represented employees as
2278 "a cause reasonably related to the public safety officer's ability to
2279 perform required work. The term includes a willful violation of
2280 reasonable work rules, regulations, or written policies." (ORS 236.350)
2281
- 2282 b. For represented employees, due process includes the officer's right to a
2283 due process ("Loudermill") hearing. These hearings are required to be
2284 administered by the panel prior to imposing any discipline (except in
2285 those instances where discipline is stipulated). In the imposition of
2286 discipline of any non-represented sworn officer of the Portland Police
2287 Bureau, the Board will comply with applicable City civil service rules and
2288 applicable law.
2289
- 2290 1. When discipline is imposed by the Board, a panel made up of Board
2291 members shall hold the due process hearing.
2292
- 2293 2. When discipline is imposed by the Bureau of Human Resources, one
2294 or more representatives of the Board's panel shall attend the due
2295 process hearing to aid in deliberations.
2296
- 2297 3. The panel (or the Bureau of Human Resources) shall offer the
2298 involved officer a due process hearing (and if applicable a name
2299 clearing hearing), with advance notice provided to the officer,
2300 consistent with Oregon Public Meetings law and the applicable
2301 collective bargaining agreement.
2302
- 2303 a. If the presumptive discipline for the conduct is termination, ,
2304 the due process hearing may also serve as a name-clearing
2305 hearing, consistent with applicable law.

- 2306
- 2307 4. In lieu of holding a due process hearing, the officer may choose to
- 2308 submit a written response.
- 2309
- 2310 c. In all cases, when reaching a discipline decision, the panel shall:
- 2311
- 2312 1. consider the evidence presented by the officer;
- 2313
- 2314 2. reach a discipline decision that is supported by the evidence and
- 2315 consistent with the applicable Guide;
- 2316
- 2317 3. The evidence relied upon must be substantial, in this process defined
- 2318 as a preponderance of the evidence;
- 2319
- 2320 4. The decision must be made based on the evidence presented by the
- 2321 officer at the due process hearing (if held), or on evidence contained
- 2322 in the record (including from the investigative hearing, if applicable)
- 2323 and disclosed to the parties affected consistent with the applicable
- 2324 collective bargaining agreement;
- 2325
- 2326 5. In deciding whether to impose the proposed discipline, the panel
- 2327 must act on their own independent consideration of the law, policy,
- 2328 and facts and not simply accept the views of a subordinate (such as
- 2329 staff of the Office) in arriving at a decision; and
- 2330
- 2331 6. The panel shall, in all controversial questions, make its decision in
- 2332 such a manner that the parties to the proceeding can know the
- 2333 various issues involved, and the reason for the decision made
- 2334 (consistent with applicable law and collective bargaining
- 2335 agreements).
- 2336
- 2337 B. The Board shall establish, through adoption of bylaws and rulemaking, further
- 2338 guidelines and methods for the processes described in this Code section.
- 2339

2340 **35D.240 Appeals**

2341

2342 A. Grounds to Appeal.

2343 1. The complainant may appeal findings from an administrative investigation
2344 or investigative hearing (if held), dismissals, or decisions not to investigate.

2345

2346 2. Police officers may also appeal findings, dismissals, or decisions not to
2347 investigate.

2348

2349 a. Supervisors cannot file appeals on behalf of officers.

2350

2351 b. Officers may alternately file appeals with the Civil Service Board or
2352 initiate a grievance procedure, which may lead to arbitration
2353 pursuant to the collective bargaining agreement.

2354

2355 3. Appeals that involve a request that the Board reopen an investigation will
2356 be decided according to applicable law. Consistent with applicable law, the
2357 Board also has independent authority to reopen cases.

2358

2359 B. The request for an appeal will include the name of the complainant or officer
2360 who is filing, date of the incident, finding(s) being appealed (if applicable), and
2361 reason(s) for the appeal.

2362

2363 1. The complaint navigator provided by the Oversight System shall assist the
2364 complainant in filing the appeal form.

2365

2366 2. The Board shall supply paper and online forms to file appeals.

2367

2368 3. The Board shall have authority to determine appropriate grounds for
2369 appeals, and may do so through rulemaking.

2370

2371 C. A request to end an appeal may be made at any time, but withdrawal should
2372 be done in consultation with the complaint navigator and may include
2373 confidential information. If practical and appropriate, the appeal might still
2374 proceed without the complainant.

2375

2376 D. Timelines for appeals

- 2377 1. Complainants have 30 days to appeal from date of issuance of findings,
2378 dismissal, or decision not to investigate, but exceptions can be made to
2379 extend the timeline.
2380
- 2381 a. The Board may adopt rules for permitting late appeal filings up to 60
2382 days, for reasons including, but not limited to:
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- 2384 1) The complainant has limited English language proficiency; or
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- 2386 2) The complainant needs physical, mental, or educational
2387 accommodations.
2388
- 2389 2. Officers who are the subjects of a case have 30 days to appeal from the date
2390 of issuance of findings, dismissal and or decision to not investigate, but
2391 exceptions can be made to extend the timeline.
2392
- 2393 a. The Board may adopt rules for permitting late appeal filings by officers
2394 up to 60 days for reasons including:
2395
- 2396 1) if they are incapacitated; or
2397
- 2398 2) if they are unable to receive or send information to the Board
2399 through no fault of their own.
2400
- 2401 3. Until the appeal period has expired, and if an appeal is filed, until there is a
2402 final decision by the Board, the Board may not initiate any proceedings to
2403 impose discipline. Should the appeal require extension of the time period
2404 for completing an investigation and initiating discipline proceedings as
2405 outlined in ORS 236.360(6), the Board will comply with its legal obligations
2406 in extending the time period.
2407

2408 E. Appeals Hearings 2409

- 2410 1. Appeals will be heard by a different panel of Board members than heard the
2411 original case, except in cases in which the basis for the appeal is the
2412 discovery of new information. In either situation, this will be referred to as
2413 an Appeals Panel.

- 2414
- 2415 a. A certain number of Board members may be assigned to a Board
- 2416 Appeals Committee whose main function is to hear appeals.
- 2417
- 2418 b. If an appeal is referred to the original panel and a member of the
- 2419 original panel is unavailable, a Board member or Appeals Committee
- 2420 member who was not part of the original hearing may be assigned to
- 2421 the appeals hearing.
- 2422
- 2423 c. If there are not enough members of the Appeals Committee, other
- 2424 members of the Board who did not hear the original case may be
- 2425 assigned to the hearing.
- 2426
- 2427 d. In the case that an appeal is based on the discovery of new evidence,
- 2428 investigators will confirm the validity of the evidence prior to an appeal
- 2429 hearing.
- 2430
- 2431 e. The Board may select a subset of between 2-5 members to process
- 2432 appeals of dismissals or decisions not to investigate.
- 2433
- 2434 2. At an appeal hearing, decisions by the Appeals Panel on the findings shall
- 2435 be made on a preponderance of the evidence.
- 2436
- 2437 3. Prior to the appeals hearing, all members of the Appeals Panel shall review
- 2438 recordings and all records of the original hearing.
- 2439
- 2440 4. Appeals hearings shall follow the same procedure described in 35D.200; the
- 2441 panel may expedite matters by not repeating information already in the
- 2442 record.
- 2443
- 2444 a. At the start of the hearing, the basic circumstances of the case,
- 2445 allegations and original findings shall be read into the record.
- 2446
- 2447 b. At the end of the hearing, the Appeals Panel may decide:
- 2448
- 2449 1) To recommend further investigation; or
- 2450

- 2451 2) To affirm the original findings, after which the Board staff shall
2452 close the case based on those findings; or
2453
2454 3) To determine a different finding based on the evidence, and refer
2455 for disciplinary proceedings consistent with this code, if there are
2456 findings that the officer violated policy.
2457

2458 5. Members of the Appeals Panel shall have the same authority to compel
2459 officer testimony and subpoena witnesses or documents as the original
2460 Hearings Panel consistent with applicable law and collective bargaining
2461 agreements.
2462

2463 6. Notifications of the appeal outcomes to complainants and officers shall be
2464 the same as under the Hearings process. All decisions of the Appeals Panel
2465 are final and no further appeals are allowed through the Board.
2466

2467 7. Office staff shall schedule appeal hearings in consultation with the Board
2468 leadership or designee.
2469

2470 F. Appeals to City’s Civil Service Board or Arbitration; Board’s Role
2471

2472 1. If an officer chooses to appeal to the City’s Civil Service Board, the Hearings
2473 panel shall receive a copy of the appeal and provide a written statement
2474 about the misconduct and supporting evidence.
2475

2476 a. One or more Hearings panel members may attend the Civil Service
2477 Board hearing, subpoena witnesses, present evidence, and cross-
2478 examine, consistent with City policy.
2479

2480 2. If an officer chooses to file a grievance and an arbitration hearing is held,
2481 the Hearings panel shall receive a copy of the grievance and provide a
2482 written statement about the misconduct and supporting evidence.
2483

2484 a. The Hearings panel may have one or more representatives attend the
2485 arbitration hearing to present evidence and answer questions about the
2486 findings.
2487

2488 3. To the extent consistent with applicable law and collective bargaining
2489 agreements, the complainant will be allowed to attend, or at least remain
2490 apprised of appeals held outside of the Board's direct scope and authority,
2491 with their complaint navigator assigned until a final decision is made.
2492

2493 **35E.010 Policy Recommendations**

2494

2495 A. The Board shall have authority to make policy and directive recommendations
2496 including but not limited to the Portland Police Bureau and City Council as well
2497 as the inherent or implied authority to take other measures as necessary to
2498 effectuate this. As noted in Charter section 2-1007, the City Council is required
2499 to vote on whether or not to implement Board recommendations about PPB
2500 policies and directives previously rejected by PPB. The Board’s
2501 recommendations that are submitted to PPB and/or City Council shall be
2502 published for public review, including on the Board’s website and other
2503 relevant platforms.

2504

2505 1. Any recommendation will include an outline of the new policy or policy
2506 change being recommended.

2507

2508 2. The Board shall develop internal procedures for presentation,
2509 consideration, discussion, adopting, or rescinding of proposed policy
2510 recommendations, as well as follow-up and monitoring. The Board’s
2511 procedures shall be made public.

2512

2513 3. The Board may make policy recommendations based on individual
2514 misconduct cases. The Board shall initiate a policy review based on any
2515 issues identified under sections 35A.050P or 35D.210C.

2516

2517 4. Staff may also initiate policy review, including through auditing completed
2518 misconduct cases. If the staff initiates a policy review, it shall inform the
2519 Board and invite participation throughout the process, including submitting
2520 a proposed Policy Recommendation to the Board for approval.

2521

2522 5. The Board may request whatever additional materials and research it
2523 believes is necessary to help make an informed decision on a proposed
2524 policy recommendation. If needed, the Board may rely upon its subpoena
2525 powers to compel production of requested information. The Board shall
2526 have access and be authorized to attend PPB trainings as observers for the
2527 purpose of evaluating, monitoring, and making recommendations to the
2528 PPB regarding training, policy and directives. The development of policy

2529 recommendations, procedures or practices will incorporate equity and anti-
2530 racist lenses.

2531

2532 6. The Police Chief, and if necessary City Council, shall consider any policy
2533 recommendation referred to the Chief or Council pursuant to Charter 2-
2534 1007b and Code Section 35E.020.

2535

2536 B. As part of its policymaking authority, the Board may facilitate a process for
2537 Board and community review and development of Portland Police Bureau
2538 policies and directives. This includes engagement in the Bureau's directive
2539 review and development process. The Board shall schedule timelines
2540 compatible with the PPB's processes. The Board will transmit
2541 recommendations on revised and newly proposed policies and directives to
2542 PPB, and if necessary, City Council.

2543

2544 **35E.020 Response of Police Chief; Referral to City Council**

2545

2546 A. The Chief of Police, after reviewing a policy or directive recommendation
2547 submitted by the Board under City Code Section 35E.010, shall respond
2548 promptly to the Board in writing, but in no event more than 60 days after
2549 receipt of the report. The response shall indicate what, if any, of the
2550 recommended policy, directive or procedural changes are to be made within
2551 the Portland Police Bureau.

2552

2553 B. If the Police Chief rejects a recommendation, or a portion of a
2554 recommendation, or fails to respond within 60 days after its receipt from the
2555 Board, the Board shall place the matter on the Council Calendar, for
2556 consideration and decision by City Council, within 15 days thereafter.

2557

2558 C. The Council shall consider and vote on a Board referred policy change no more
2559 than three months after it has been presented.

2560

2561 D. If a Board recommendation is approved by either PPB or the City Council, the
2562 Board shall monitor and pursue full implementation of the recommendation.
2563 This may include continued advocacy, requesting the Chief or designee to
2564 attend and brief the Board, and requesting data or reports from PPB to
2565 determine the level of progress towards implementation, or any other action
2566 the Board decides to take.

2567

2568 **35E.030 Board Proposals Related to Federal and State Law**

2569 A. The Board may officially endorse legislation/policy ideas and shall have the
2570 authority to testify in front of relevant government bodies and
2571 communicate its policy positions with employees and elected or appointed
2572 officials at any level of government.

2573
2574 B. The Office of Government Relations shall consult directly with the Board as
2575 part of its development of the City’s legislative agenda, in a manner
2576 equivalent to any other top-level administrative division of the City
2577 government.

2578

2579 **35E.040 Collective Bargaining**

2580 A. The Bureau of Human Resources shall reserve, during negotiations with
2581 collective bargaining units representing PPB sworn officers and their
2582 supervisors, at least two seats for representatives chosen by the Board.

2583
2584 B. The City Attorney shall consult with the Board during collective bargaining
2585 processes and inform the Board as soon as practicable regarding any
2586 potential changes to the police contract(s).

2587
2588 C. The Board's ability to make recommendations shall include proposals for
2589 collective bargaining.

2590

2591 **35E.050 PPB Budget Review**

2592

2593 The Board may facilitate a public review of PPB's proposed budget requests before
2594 their official submission, and receive public comment to transmit to PPB and the

2595 City Council.

2596

2597 **35E.060 Relationship with Other Oversight Entities**

2598

2599 A. The Board should seek to be a model for other jurisdictions that review and
2600 adapt their own oversight systems.

2601

2602 B. The Board and Office shall maintain a working relationship with oversight
2603 entities outside of Portland, to exchange information, best practices, and
2604 solutions to barriers faced by entities working on law enforcement
2605 oversight.

2606

2607 C. The Board and Office shall maintain a working relationship with regional,
2608 national, and international groups focused on law enforcement oversight, to
2609 have access to trainings and conferences that can help the Oversight System
2610 perform its duties more effectively.

2611

2612 **PAC Proposed Change to 3.20.050 Subordinate Officers.**

2613

2614 The Deputy Chiefs, Captains and other ranks or grades of police within the Bureau
2615 of Police shall possess like power and authority as the Chief of Police with respect
2616 to peace officer powers, except as herein provided. The Chief of Police shall have
2617 control over the Deputy Chiefs, Captains and all other employees of the Bureau of
2618 Police when they are on duty, and shall see that the City ordinances and rules,
2619 orders and regulations for the government of the police force are observed and
2620 enforced. He/she shall have power to recommend for suspension to the [Oversight](#)
2621 [Board and](#) Commissioner in Charge any subordinate officer, member or employee
2622 for a violation of the same as prescribed by the Civil Service rules.

2623