

<p>This comparison was created by Portland Copwatch/former Police Accountability Commissioner Dan Handelman with assistance from another former commissioner.</p>	<p>Underlines show either missing or added text. Apologies for any typos, duplications, errors or omissions. November 13, 2023</p>
<p>PAC PROPOSAL</p>	<p>CITY PROPOSAL</p>
<p>Chapter 35 Community Police Oversight Board</p>	<p>Chapter 35 Community Police Oversight Board</p>
<p>35A.010 Creation of City of Portland Community Police Oversight Board (“Board”).</p>	<p>35A.010 Creation of City of Portland Community Police Oversight Board</p>
<p>A. Portland City Charter Chapter 2, Article 10 has established the City of Portland Community Police Oversight Board. The name of the Board shall be the Community Board for Police Accountability (“Board” or “CBPA”).</p>	<p>A. Portland City Charter Chapter 2, Article 10 has established the City of Portland Community Police Oversight Board. The name of the Board shall be the Community Board for Police Accountability (CBPA). <u><independent judgment clause at PAC’s 35A 040 B></u></p>

<p>1. Reporting to the Board and established by this Code is the Office of Community-based Police Accountability (“Office” or “OCPA”) <u>which will be staffed with professional administrative staff and professional investigators. The Office shall be an independent bureau of the City.</u></p>	<p>1.The Office of Community-based Police Accountability (OCPA) is established by this Code and reports to the CBPA.</p>
<p>2. The oversight board (Board) and independent bureau (Office), which are described above, collectively form the “Oversight System.” References to “Oversight System” in this Code are intended to refer to the Board and the Office, consistent with their roles and functions as outlined in <u>Charter and this Code.</u> References to “Board” and “Office” in this Code chapter should be understood as referring to the Oversight System collectively, and specifically, the Board may delegate authority given to it under the Charter and this Code to the Office, to permit the Oversight System to fulfill its obligations established under Charter 2-10.</p>	<p>2.The CBPA and OCPA collectively form the “Oversight System.” References to “Oversight System” in this Code refer to the CBPA and OCPA, consistent with their roles and functions as outlined in this Code. (from section 3): The CBPA may delegate authority given to it under the Charter and this Code to the OCPA, to permit the Oversight System to fulfill its obligations established under Charter 2-10.</p>
	<p>3.The Oversight System shall report to a Deputy City Administrator in the same manner as other City Bureaus. <delegate authority from PAC’s item 2></p>

<p>B. Purpose. The <u>mission</u> of the Board is to independently investigate Portland Police Bureau (PPB) sworn employees and supervisors thereof promptly, fairly, and impartially, to impose discipline as determined appropriate by the Board, and to make recommendations regarding police practices, policies, and directives to the Portland Police Bureau with a primary focus on community concerns.</p>	<p>B.Purpose. The Oversight System shall independently investigate sworn employees and supervisors thereof within the Portland Police Bureau (PPB) promptly, fairly, and impartially, and impose discipline if determined appropriate by the CBPA, and make recommendations regarding police practices, policies, and directives to PPB with a primary focus on community concerns.</p>
<p>C. To the extent that any provision in this Code package (or any implementing rules) require bargaining, those provisions shall not go into effect unless and until the City fulfils its bargaining obligations with the Portland Police Association (PPA) and Portland Police Commanding Officers Association (PPCOA), consistent with the Public Employees Collective Bargaining Act (PECBA).</p>	<p><perhaps covered in City's 35A.030 and 35B.010 A></p>
<p><u>D. Board Commitment to Continuous Improvement. The Board shall ensure qualified staff, a team or independent expert(s) examine the Board's performance, the Charter, City Code and Board policies, protocols on an ongoing basis. The Board may make recommendations to the appropriate decision-making bodies.</u></p>	<p><not included></p>
<p><u>E. Other City advisory groups related to police and policing, whose functions incorporate officer accountability and/or policy recommendations, may independently and voluntarily seek to conclude operations and request that the Board assume their duties. This process would be initiated through mutual consent by the advisory group, the Board, and the bureau associated with the advisory group. Other details would be developed between the incorporated group, following their voluntary choice to pursue incorporation, and the Board.</u></p>	<p><not included></p>

<p><u>F. No sooner than two years after the Board has begun receiving complaints from the public, it may undertake a review of all advisory groups related to oversight of police and policing, including communicating directly and transparently with volunteers serving on those groups, and may make recommendations to the Mayor and/or City Council regarding how the different aspects of the current oversight system will function, or cease to function, including how and when to wind down the current oversight systems.</u></p>	<p><not included></p>
<p><u>G. Prior to establishing any new advisory groups related to police or policing, the Mayor and/or City Council shall discuss the proposal with the Board and give sufficient time for a response.</u></p>	<p><not included></p>
<p>H. The Board shall have the authority to adopt bylaws, and as part of developing bylaws, it will decide, among other things:</p>	<p>From City's 35A.010 C. The CBPA shall have the authority to adopt operating policies and procedures that apply to the Oversight System as necessary to carry out their duties, and bylaws that apply to the CBPA.</p>

<p><u>1. whether or not to establish a chairperson, co-chairs, or other leadership positions;</u></p>	<p><not included></p>
<p>2. the role of Board alternates;</p>	<p>From City's 35B.010: <u>Until appointed as a CBPA member, alternates may not serve on the CBPA.</u></p>
<p><u>3. procedures that allow for the creation, management, and elimination of sub-committees;</u></p>	<p><not included></p>
<p>4. voting thresholds for the full Board, sub-committees, and panels (preliminary, hearings, disciplinary, and appeals); and</p>	<p>From City's 35D.060 D2. Consensus on investigation. At the conclusion, Reviewing Members shall by <u>majority consensus...</u> D3. If a majority of Reviewing Members propose to sustain one or more allegations, those same Reviewing Members shall propose discipline. F. 2. If a <u>majority of Reviewing Members reaches consensus to sustain any allegations, they shall then reach consensus</u> as to the appropriate corrective action...</p>

<p><u>5. any other internal Board procedures, including but not limited to those identified for elaboration in this Code and not otherwise addressed by law.</u></p>	<p><not included></p>
<p>Unless stated otherwise by the Board, all bylaws changes are <u>effective upon adoption.</u></p>	<p>From City's 35A.010 C. <u>The CBPA shall subject all of its administrative rules, policies and procedures, and bylaws to a community input period that shall last not less than 30 days, except that the CBPA may adopt policies, procedures, and bylaws in an urgent situation that shall be in effect no longer than 90 days and thereafter shall follow the community input process.</u></p>
<p>Copies of all current bylaws will be posted on the Oversight System's website.</p>	<p>City 35A.010 D. Copies of all current administrative rules, policies and procedures, and bylaws will be posted on the Oversight System's website.</p>
<p>35A.020 Definitions</p>	<p>35A.020 Definitions</p>

<p>In this Chapter:</p>	<p>In this Chapter:</p>
<p>A. "Board" refers to the Community Board for Police Accountability, the community police oversight board established under Charter 2-1001.</p>	<p>A. "<u>CBPA</u>" refers to the Community Board for Police Accountability <u>and members thereof</u>, and is the community police oversight board established under Charter 2-1001.</p>
<p>B. "Office" refers to the Office of Community-based Police Accountability, <u>an independent bureau of the City of Portland, whose Director is established under Charter 2-1005.</u></p>	<p>B. "<u>OCPA</u>" refers to the Office of Community-based Police Accountability <u>of the City of Portland and the employees thereof.</u></p>
<p>C. "Oversight System" refers collectively to the Board and Office.</p>	<p>C. "Oversight System" refers collectively to the CBPA and OCPA.</p>

<p>In this Chapter, the following definitions are also used:</p>	<p><not included></p>
	<p><u>D. "Director" refers to the Director of the OCPA, who shall be a Bureau Director for purposes of Charter 4-301.</u></p>
<p>D. "Accountability" A comprehensive system of checks and balances aimed at ensuring that when <u>law enforcement</u> fails to carry out their duties properly, including when their actions are damaging to other individuals or the community at large, they are held responsible through a <u>fair and transparent</u> process.</p>	<p>City's E. "Accountability" is a comprehensive system of checks and balances aimed at ensuring that in instances where a <u>Covered Employee</u> violates City rules or PPB policy, including when such violation is damaging to other individuals or the community at large or constitutes a failure to carry out their duties properly, they are held responsible through a <u>fair and impartial</u> process that helps foster community trust with police.</p>
	<p><u>F. "Administrative investigation" is an employment investigation into an allegation of a Covered Employee's violation of City rules or PPB directives and that may result in disciplinary or corrective action in the employment relationship. This shall not preclude criminal investigations or investigations by Exhibit B the Ombuds office, Elections office, and other similar offices that do not result in disciplinary action in the employment relationship.</u></p>

<p><u>E. "Case" An incident or situation involving potential misconduct by a sworn Portland Police Bureau (PPB) sworn employee or supervisor thereof. Cases are either complaints, which are filed by a community member or a PPB officer, or are incidents which the Board is required by law to investigate.</u></p>	<p><not included></p>
<p>F. "Complainant" a person who has filed a complaint about misconduct, <u>or</u> has been the recipient of alleged misconduct even if they did not file a complaint.</p>	<p>G. "Complainant" is a person who has filed a complaint of misconduct against a <u>Covered Employee</u> and was the recipient of alleged misconduct, <u>as distinct from a Third-Party Complainant.</u></p>
	<p><u>I. "Immediate Family Members" include parents, spouses, domestic partners, children, or siblings but do not include family members who are estranged.</u></p>
<p><u>G. "Effective/Constructive Custody" The custody of a person who is not under direct physical control but whose freedom is controlled by legal authority.</u></p>	<p><not included></p>

<p>H. <u>“Garrity warning” or “Garrity Notice”</u>: An advisement given to a sworn officer who is the subject of an internal administrative investigation or review. This notice warning apprises the officer that they are required to answer questions asked by investigators and are subject to discipline, up to and including termination, for failing or refusing to answer the questions.</p>	<p><not included but used in 35D.040 D ></p>
<p>I. <u>“Independent Judgment”</u> A demonstrable absence of real or perceived influence from law enforcement, political actors, and other special interests looking to affect the operations of the Office.</p>	<p>J. <u>“Independent Judgment”</u> is the ability to make considered decisions or come to sensible conclusions that are not dependent on another's authority, free from outside control, including improper influence from law enforcement, political actors, and other special interests looking to affect the operations of the Oversight System. <u>The exercise of independent judgment shall be fair, reasonable, objective, and consistent with applicable laws, rules, policies, and</u></p>
<p>J. <u>“Just Cause”</u> is a cause reasonably related to the public safety officer’s ability to perform required work. The term includes a willful violation of reasonable work rules, regulations or written policies.</p>	<p>K. <u>“Just Cause”</u> per ORS Chapter 243, is a cause reasonably related to the public safety officer’s ability to perform required work. The term includes a willful violation of reasonable work rules, regulations or written policies.</p>
<p>K. <u>“Law Enforcement Agency”</u> <u>Agencies that primarily employ police officers, corrections officers, or prosecutors.</u></p>	<p>L. <u>“Law Enforcement Agency”</u> means county sheriffs, municipal police departments, public university police departments, state and federal police agencies, and municipal, state and federal corrections agencies.</p>

<p>1. This includes county sheriffs, municipal police departments, police departments established by a university, state police, <u>tribal police</u>, and law enforcement agencies of the federal government. <u>It also includes district attorney's offices</u>. Finally, it includes correctional departments.</p>	<p><see City's "L"></p>
<p><u>2. Agencies which perform duties related to investigating allegations of officer misconduct or reviewing police policies and practices, whose main function is not to engage in policing activities, are not considered law enforcement agencies under this definition.</u></p>	<p><not included></p>
	<p><u>M. "Notice" occurs when it is sent or otherwise communicated to the last known contact information. If no contact information was provided to OCPA staff when requested, then notice is not required.</u></p>
<p>L. "Officer" A sworn employee of the Portland Police Bureau (PPB). This term will be used throughout this Chapter to also include supervisors of officers, in line with the Board's authority noted in Charter 2-1001, 2-1007(a), and 2-1007(d).</p>	<p>City's H. "Covered Employee" is a sworn employee and supervisors thereof within PPB. The Chief of Police is not a Covered Employee under City Charter section 2-401(g).</p>

<p>M. "Panel" A subset of the Board's full membership empowered to make decisions related directly to cases of <u>potential</u> administrative misconduct by PPB sworn officers and supervisors.</p>	<p>N. "Panel" is a subset of the CBPA's full membership empowered to make decisions related directly to cases of <u>allegations of</u> administrative misconduct by Covered Employees.</p>
<p>N. "Preponderance of the Evidence" is a standard of review in which <u>a majority of evidence</u> is required to support a finding on an allegation (<u>applies to In Policy, Out of Policy and Unfounded findings</u>).</p>	<p>O. "Preponderance of the Evidence" is the standard of proof applied to findings and means to prove that <u>something is more likely than not</u>.</p>
<p>O. "<u>Responsibility Unit Manager</u>" A <u>commanding officer or manager of a PPB division, unit or precinct</u>.</p>	<p><not included></p>
<p>P. "<u>Sentinel Event Reviews</u>" <u>Forward-looking, root cause reviews of undesirable police-related outcomes, designed to allow for the development of recommendations for preventing reoccurrence through continuous process improvements</u>.</p>	<p><not included></p>

<p><u>Q. “Sub-Committee” A subset of the Board’s membership empowered to take actions as defined in the Board’s bylaws, subject to review by the full Board.</u></p>	<p><not included></p>
	<p><u>P. “Third-Party Complainant” is a person who has filed a complaint of misconduct against a Covered Employee and was not the recipient of alleged misconduct.</u></p>
<p>35A.030 Obligation to Follow Law</p>	<p>35A.030 Obligation to Follow Law</p>
<p>In the performance of its duties, the Board is obligated to follow all applicable federal, state and local laws and rules, including but not limited to the United States Constitution and Oregon Constitution <u>(and protecting the rights of all parties under both constitutions)</u>; City Charter; collective bargaining agreements <u>(as per the Public Employees Collective Bargaining Act); USDOJ v. City of Portland (Case No. 3:12-cv-02265-SI) Settlement Agreement, including any amendments;</u> Oregon public records and public meetings law, <u>and as of July 1, 2025, statewide discipline guides.</u></p>	<p>In the performance of its duties, the CBPA and OCPA are obligated to follow all applicable federal, state, and local laws and rules, including but not limited to the United States Constitution and Oregon Constitution; City Charter; collective bargaining agreements; and Oregon public records, public meetings, <u>and ethics laws.</u></p>

<p>35A.040 Status as Independent Bureau</p>	<p><not included></p>
<p>A. As specified by Charter, the Board and the Office of Community-based Police Accountability (“OCPA” or “Office”) will be an independent bureau. Collectively, these two entities comprise the Oversight System.</p>	<p><not included></p>
<p>B. The Board <u>has an obligation to exercise independent judgment and offer critical analysis</u> in the performance of its duties under this Chapter. The Oversight System shall exercise its responsibilities under this Chapter without interference from any person, group, or organization, including the Mayor, City Council, Auditor, City departments, <u>Police Chief</u>, bureaus, and other administrative agencies.</p>	<p>From City’s 35A.010 A. The CBPA <u>shall</u> exercise independent judgment in performing all legally assigned powers and duties. The Mayor, City Council, Auditor, City Administrator and Deputies, and City departments, bureaus, and other administrative agencies shall not interfere in the exercise of the CBPA’s independent judgment.</p>
<p>C. The Board shall be operationally independent of the Portland Police Bureau (PPB) in all respects. To maintain the independence of the Board and PPB, the Board shall not hire current and former police officers as staff. The Board’s location and communications shall reflect its independence and impartiality.</p>	<p><not included></p>

<p>1. As a general matter, staff shall not seek administrative and legal guidance from the Police Bureau, unless necessary to perform their duties. In addition, as a general matter, staff shall not be trained alongside administrative investigators within the Portland Police Bureau (PPB), unless necessary to perform their duties.</p>	<p><not included></p>
<p>D. The physical office of the Board shall be located outside of a Portland Police Bureau facility.</p>	<p>City's 35A.010 A 4. The physical office of the CBPA shall be located outside of a Portland Police Bureau facility.</p>
<p><u>1. The Board and Office shall also not be housed in the same building as the Mayor, City Council, and any other agency that has a law enforcement or public safety component as part of its function.</u></p>	<p><not included></p>
<p><u>2. The Board and Office shall not be in a space where security is provided by law enforcement.</u></p>	<p><not included></p>

<p><u>3. The Board and Office shall be located in a location convenient for the public, including accessibility to public transit.</u></p>	<p><not included></p>
<p><u>4. The offices of the Board may be located in private office space.</u></p>	<p><not included></p>
<p>E. Notwithstanding its independent status, the Board shall develop working relationships with other parts of City government to ensure its ability to participate in relevant City processes related to the tasks required of the Board by law or regulation. <u>These include but are not limited to the Portland Police Bureau, Bureau of Human Resources, City Attorney's Office, and Office of Government Relations.</u></p>	<p>City's 35A.010 A5. The Oversight System shall develop working relationships with other parts of City government to ensure its ability to participate in relevant City processes related to the tasks required of the CBPA by law or regulation.</p>
<p>35A.050 Powers and Duties of the Oversight System</p>	<p>35A.040 Powers and Duties of the Oversight System</p>

<p>The Board and Office have the following powers and duties, <u>as mandated by the Charter and by the authority of City Council:</u></p>	<p>The CBPA and OCPA have the following powers and duties:</p>
<p>A. Intake. The Board and Office shall receive complaints <u>concerning police actions</u> and select the appropriate manner to address all complaints consistent with this Code and Board procedure.</p>	<p>A. Intake. The OCPA shall receive complaints alleging <u>Covered Employee misconduct</u> and determine the appropriate manner to address the complaint consistent with this Code and CBPA procedure.</p>
	<p><u>1. When there is an allegation of misconduct against the Chief of Police, the OCPA shall investigate the allegation and report its findings to the Mayor. The Mayor may elect for another entity to perform the investigation.</u></p>
<p>B. Initiate and conduct administrative investigations. The Board exclusively is authorized to initiate and conduct administrative investigations that involve any of the following: <u>1) all deaths in custody and uses of deadly force; 2) all complaints of force that result in injury, discrimination against a protected class, violations of federal and state constitutional rights; and 3) other complaints or incidents of misconduct that are of community concern because of their impact on community members.</u></p>	<p>B. Initiate and conduct administrative investigations. The OCPA will initiate and conduct administrative investigations that are under its jurisdiction and in the manner described in Section 35D. 35D.030 C1: Other allegations of misconduct by Covered Employees as the CBPA deems fit, <u>provided that the CBPA first brings an ordinance to Council to amend this Code and add the newly covered misconduct to this Code section.</u></p>

<p>1. For formal investigations conducted by the Board, investigation reports will include factual findings and will be resolved in <u>one of four ways</u>: 1) <u>out of policy</u> (meaning the action is found to have violated City policy; 2) <u>in policy</u> (meaning the officer's actions were within the law and City policy; 3) <u>unfounded</u> (meaning the evidence shows the alleged events did not occur; and 4) <u>insufficient evidence</u> (meaning there is not enough information or evidence to determine if the officer's actions were out of policy or in policy)</p>	<p>1. For formal investigations conducted by the OCPA, investigation reports will include factual findings and will be resolved in <u>one of two ways</u>: 1) sustained, meaning the action is found <u>by preponderance of the evidence</u> to have violated City policy; or 2) not sustained, meaning the evidence is not sufficient to demonstrate by a preponderance of the evidence that a violation of City policy occurred, or, the evidence demonstrated by a preponderance that the Covered Employee's conduct was lawful and within policy.</p>
	<p><u>City's 35D.050 A4. Complete an investigation report outlining the evidence obtained during the investigation and make a recommendation as to whether the evidence supports a finding of sustained or not sustained.</u></p>
<p>2. The Board shall notify the Police Chief that it intends to conduct an administrative investigation into misconduct before initiating the investigation.</p>	<p>2. The OCPA shall send notice to the Police Chief or designee that it intends to conduct an administrative investigation into misconduct before initiating the investigation.</p>

<p>C. Communicate with Complainants. The Board and Office will be the primary contact with the complainant and the PPB officer or supervisor regarding the status and results of the complaint.</p>	<p>City's 35D.050 A5. <u>Provide notice in writing, if possible, to the Complainant and Covered Employee stating the allegations and the investigator's recommendation to either sustain or not sustain as to each allegation.</u></p>
<p>D. Conduct hearings as described in Sections 35D.190 and 35D.200.</p>	<p><in 35D.060 D></p>
<p>E. Hold Loudermill (due process) hearings as described in Section 35D.230.</p>	<p><in 35D.060E></p>
<p><u>F. Arrange hearings of appeals. The Board or Office will explain the appeal options to complainants and schedule hearings before an appeals panel as described in Section 35D.240</u></p>	<p><not included></p>

<p>G. Recommend policy changes. The Board shall have authority to make policy and directive recommendations <u>including but not limited to the Portland Police Bureau and City Council as well as the inherent or implied authority to take other measures as necessary to effectuate this as described in Section 35E.010.</u></p>	<p>35A.040 C. Recommend policy changes. The CBPA shall have authority to make policy and directive recommendations to PPB. ...</p>
<p>H. Outreach. The Board and Office <u>will</u> widely distribute complaint forms in languages and formats accessible to community members, educate them on the importance of reporting complaints, <u>and hold public meetings to hear general concerns about police services.</u></p>	<p>D. Outreach. The CBPA and OCPA <u>may</u> widely distribute complaint forms in languages and formats accessible to community members and educate them on the process of reporting complaints.</p>
<p>I. The Board and Office shall have the authority to obtain information to administratively respond to allegations of misconduct, incidents which may involve allegations of misconduct, and conduct structural oversight effectively.</p>	<p>35A.040 B3. The OCPA shall have the authority to obtain information to investigate allegations of misconduct.</p>
<p>1. Consistent with other provisions of this Code, the Board and Office shall have the authority and ability to compel all evidence <u>during the course</u> of an investigation.</p>	<p>35A.040 B3a. The CBPA and OCPA shall have the authority and ability to gather and compel all evidence <u>relevant to an investigation, including access to all police records, to the extent allowed by federal and state law.</u></p>

<p>2. Consistent with other provisions of this Code, the Board and Office shall have the authority to compel <u>sworn officers of the Portland Police Bureau and their supervisors</u> to participate in investigations and to completely and truthfully answer all questions. The Board is authorized to direct Portland Police Bureau officers to cooperate with administrative investigations.</p>	<p>35A.040 B3b. Consistent with other provisions of this Code, the CBPA and OCPA shall have the authority to compel <u>witnesses who are City Employees</u> to participate in investigations and to answer all questions completely and truthfully, and <u>to warn City Employees that refusal to truthfully and completely answer all questions may result in discipline up to and including termination.</u> ... The CBPA and OCPA shall have the authority to compel and subpoena witnesses outside of City employment to the extent allowed by law.</p>
<p>J. <u>Board</u> access to information. <u>In accordance with City, state or federal law and collective bargaining agreements, the Board and Office</u> shall have direct access to and be authorized to examine and copy, without payment of a fee, any <u>PPB</u> information and records, including confidential and legally privileged information and records so long as privilege is not waived as to third parties, and police databases.</p>	<p>35A.040 B4. Access to information. <u>Notwithstanding any other provision of City law or rule, OCPA shall have access to and be authorized to examine and copy, without payment of a fee, any Bureau or Office information and records relevant to an investigation,</u> including confidential and legally privileged information and records, so long as privilege is not waived as to third parties, as well as access to police databases, <u>subject to any applicable state or federal laws.</u></p>

<p>1. Records include <u>but are not limited to</u> 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.</p>	<p>35A.040 B4a. Records shall include <u>all records</u> as defined under Oregon Public Records Law.</p>
<p>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</p>	<p><not included></p>
<p>3. The Oversight System shall have direct access to <u>all relevant database networks to which PPB subscribes</u> (such as, but not limited to, <u>Regional Justice Information System (RegJIN) and Criminal Justice Information Systems (CJIS)</u> as permitted by state and federal law.</p>	<p><not included></p>
<p>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.</p>	<p><not included></p>

<p>4. The Portland Police Bureau <u>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 withholding or redactions. If the Board disagrees with the Police Chief's decision to withhold records or redact information, the Board may seek disclosure</u></p>	<p>35A.040 B4b. PPB and other City Bureaus and Offices shall not unreasonably delay in providing records relevant to an investigation to the OCPA.</p>
<p>5. The Board and Director shall ensure that staff who access PPB records described above are trained and certified to do so.</p>	
<p>6. All body camera footage of every event that is made available to the Oversight System pursuant to this section shall be available in full without any editing or tampering and will be verified for authenticity.</p>	<p><not included></p>

<p><u>The Board and Office shall maintain confidentiality where required to do so and support transparency where allowable.</u> The Oversight System shall not disclose confidential or legally privileged information or records and shall be subject to the same penalties as the legal custodian of the information or records for any unlawful or unauthorized disclosure.</p>	<p>From 35A.040 B4 "...The Oversight System shall not disclose confidential or legally privileged information or records and shall be subject to the same penalties as the legal custodian of the information or records for any unlawful or unauthorized disclosure."</p>
<p><u>K. As a separate source of information for the Oversight System's administrative investigations, the Board shall have access to PPB officers' statements from any criminal investigation, as well as relevant police reports.</u> Information shared pursuant to this provision will not be done in a way that undermines or interferes with an ongoing criminal investigation or prosecution <u>or</u> impacts the officer's Garrity rights.</p>	<p>From 35A.040 B4b. Information received under this provision by the Oversight System shall not be used in a way that undermines or interferes with an ongoing criminal investigation or prosecution.</p>
<p>L. Attend Portland Police Bureau Trainings. The Board and Office shall have access and be authorized to attend PPB trainings as observers for the purpose of evaluating, monitoring, and making recommendations to PPB regarding training, policy and directives.</p>	<p><not included></p>
<p>M. Adoption of bylaws. The Board is empowered to write its own bylaws covering its internal processes not addressed in law.</p>	<p><in 35A.010 C></p>

<p>1. Establish sub-committees as appropriate.</p>	<p><not included></p>
<p>N. Adoption of rules. The <u>Board</u> and Director shall adopt, promulgate, amend and rescind rules and procedures required for the discharge of the Board's duties, <u>including policies and procedures for receiving and processing complaints, conducting investigations, and reporting findings, conclusions and discipline procedures. The Oversight System may also adopt rules and procedures for making raw data available to the public. However, the Oversight System may not levy any fees for the submission or investigation of complaints.</u></p>	<p>35C.010 D. The Director is authorized to adopt, amend, and repeal policies, procedures, and forms to implement the provisions of this Code and CBPA rules, including for the discharge of its duties.</p>
<p>O. <u>Review of closed investigations.</u> The Oversight System shall hire a qualified <u>staff member, a team, or independent expert(s)</u> to <u>review</u> closed investigations pertaining to officer-involved shootings, deaths in custody and uses of deadly force that do not result in death on an ongoing basis.</p>	<p>35A.040 E. <u>Oversight System External Audit.</u> The Oversight System shall have the authority to hire a qualified independent third-party expert to <u>audit</u> the Oversight System's closed investigations <u>and its disciplinary decisions</u> pertaining to officer-involved shootings, in-custody deaths, and uses of deadly force that do not result in death <u>to assess and provide recommendations.</u></p>

<p>1. For purposes of this section, “closed investigation” shall mean that the investigation has been completed, any discipline arising from the incident has been issued and the involved officer(s)’ grievance and appeal rights have been exhausted.</p>	<p>35A.040 E. For purposes of this section, “closed investigation” shall mean that the investigation has been completed, a <u>determination was made either not to issue discipline or any discipline arising from the incident</u> has been issued and the Covered Employee’s grievance and appeal rights have been exhausted.</p>
<p>2. Consistent with applicable law and collective bargaining agreements, the completed reviews of these closed investigations shall be described in periodic reports available to the public and <u>include case and investigative summaries, policy implications, and recommendations for improvements in police and Oversight Board policies or practices.</u></p>	<p>35A.040 E.1. Consistent with applicable law and collective bargaining agreements, the completed reviews of these closed investigations shall be described in periodic reports available to the public. <u>Names of any individuals, including but not limited to Covered Employees or community members and complainants, that have not already been publicly released by the City will be redacted or otherwise changed to maintain privacy. (E.g., Employee A, Community Member A, etc.)</u></p>
<p>3. These deadly force reports will be presented to the public and City Council. <u>Contemporaneous public testimony, including oral testimony, will be accepted at City Council sessions.</u></p>	<p>2. These reports will be presented to the public and City Council.</p>
<p>P. Review of undesirable police-related outcomes (“Sentinel Event Reviews”)</p>	<p><not included></p>

<p>1. The review may involve representatives from law enforcement, the judicial branch, forensics, Board members, civil rights lawyers, members of the public, and other relevant participants. The Board may consider provisions to require participation in these reviews.</p>	<p><not included></p>
<p>2. The Board will take public comment throughout the process.</p>	<p><not included>?</p>
<p>Separate from an investigation regarding individual officer misconduct and any related disciplinary action being proposed, the Board may initiate forward-looking root cause systemic reviews of undesirable police-related outcomes and develop recommendations for preventing reoccurrence through continuous process improvements.</p>	<p><not included></p>
<p>3. The Board will issue a report at the conclusion of the review, which may include proposed policy recommendations.</p>	<p><not included></p>

<p>Q. The Board will publish a written annual report with an Executive Summary by a consistent date each year. The report will be presented at a public meeting of the Board <u>with public comment and questions encouraged</u>. The annual report will also be presented at a public City Council session <u>with oral testimony accepted</u>.</p>	<p>35A.040 F. Annual reports. The CBPA will annually publish a written report with an Executive Summary. The report will be presented at a public meeting of the CBPA. The annual report will also be presented at a public City Council session.</p>
<p>1. The Annual Report shall include the following information:</p>	<p>35A.040 F1. The Annual Report shall include the following information:</p>
<p>a. Overview of the Board, its staff, and its functions;</p>	<p>a. Overview of the CBPA, its staff, and its functions;</p>
<p>b. Summary of recommendations submitted by the Board to the Police Bureau and/or City Council regarding changes to policy, directives or City Code along with <u>status and</u> outcomes (accepted/rejected/modified) for each listed recommendation;</p>	<p>b. Summary of recommendations submitted by the CBPA to the Police Bureau, and if applicable City Council, regarding changes to PPB policy and directives along with outcomes for each listed recommendation;</p>

<p>c. A status update on implementation for those policy recommendations <u>(with an emphasis on persistent community concerns) which are accepted in whole or in part by the Council or Police Bureau;</u></p>	<p>c. An implementation update for accepted policy recommendations;</p>
<p>d. <u>Recommended changes to collective bargaining agreements (if applicable) and state or federal law;</u></p>	<p><not included></p>
<p>e. <u>Analysis of closed case reviews;</u></p>	<p><not included></p>
<p>f. Summary of complaints received by the Board over the year <u>(including as applicable and as consistent with the law and collective bargaining agreements, the named employee, nature of allegations, type (as in 35D.060), case-handling decision, findings and discipline imposed);</u></p>	<p>d. Summary of complaints received by the CBPA over the year, <u>while not disclosing confidential information or information exempt from disclosure under public records laws. All names of Covered Employees and community members will be anonymized. (E.g., Employee A, Community Member A, etc.);</u> j. Number, percentage, and type of informal outcomes, cases not sustained, non-disciplinary corrective actions, and discipline decisions that were imposed;</p>

<p>g. Number of employees who have received two or more <u>complaints where their actions were deemed out of policy</u> within one year;</p>	<p>e. The number of Covered Employees who have two or more <u>sustained</u> complaints within one year;</p>
<p>h. Number of complainants who filed multiple complaints, and issues that were raised by multiple complaints;</p>	<p>f. The number of complainants who filed multiple complaints, and issues that were raised by multiple complaints;</p>
<p>i. Demographic profiles of the complainants to the extent that information exists or is voluntarily provided by the complainants;</p>	<p>g. Demographic profiles of the complainants to the extent that information exists or is voluntarily provided by the complainants;</p>
<p>j. Number and percentage of cases that were <u>appealed to the Board</u> and the outcomes <u>(i.e., whether the findings or case-handling decision changed)</u>;</p>	<p>h. Number and percentage of intake complaints that were <u>appealed for reconsideration by the Director</u> and the outcome of those appeals;</p>

<p>k. Number and percentage of cases that were resolved by informal resolution (including mediation) and the outcomes;</p>	<p>i. Number and percentage of cases referred to mediation; [informal resolution is in subsection j: j. Number, percentage, and type of informal outcomes, cases not sustained, non-disciplinary corrective actions, and discipline decisions that were imposed;”]</p>
<p>l. Number and percentage of cases referred to mediation;</p>	<p>i. Number and percentage of cases referred to mediation;</p>
<p>m. Number of discipline decisions that were grieved under the applicable collective bargaining agreement or appealed to the Civil Service Board and <u>outcome</u>;</p>	<p>k. Number of discipline decisions that were grieved under the applicable collective bargaining agreement or appealed to the Civil Service Board <u>and whether discipline was upheld, modified, or overturned</u>;</p>
<p><u>n. Number and percentage of all complaints handled directly by frontline supervisors, referred for Supervisor Action, Management Action, training or alternative resolution;</u></p>	<p><not included></p>

<p>o. Number of times a PPB employee failed to comply with the Board's request for an interview or for the production of documents, and the number of times a PPB sworn employee failed to comply with a valid subpoena, and whether discipline was imposed for any such non-compliance;</p>	<p>l. Number of times a PPB employee failed to comply with the CBPA's request for an interview or for the production of documents, and the number of times a PPB sworn employee failed to comply with a valid subpoena, and whether discipline was imposed for any such non-compliance;</p>
<p>p. Number, nature, and settlement amount of civil suits against PPB officers regardless of whether the City is a defendant in the litigation;</p>	<p><not included></p>
<p>q. Number of cases involving either uses of deadly force or deaths in custody, <u>as well as (to the degree allowable by existing legal standards) details about how the Board processed those cases, the outcomes where available, and the names of the involved parties;</u></p>	<p>m. Number of closed cases involving either uses of deadly force or in-custody deaths;</p>
<p>r. Number of cases in which the Board failed to complete its administrative investigation within 6 months of receipt of a complaint of misconduct, <u>or discovery of misconduct by other means as specified in Code Sections 35D.010 through 35D.240;</u></p>	<p>n. Number of cases in which the CBPA failed to complete its administrative investigation within 180 days of commencement of an investigation;</p>

	<p><u>o. List of CBPA-member-required training and percentage of CBPA members who have completed each training.</u></p>
<p>s. Identification of trends with respect to <u>officer history</u>, complaint types, and frequency, consistency <u>and adequacy</u> of discipline imposed; and</p>	<p>p. Identification of trends with respect to complaint types and frequency, and consistency of corrective action imposed; and</p>
<p>t. Complainant satisfaction survey results and community feedback.</p>	<p>q. <u>Participant</u> satisfaction survey results and community <u>and PPB</u> feedback.</p>
<p>2. In addition to its Annual Report, the Board may issue quarterly reports to Council.</p>	<p><not included></p>

<p>R. Public Access to Raw Data. The Oversight System shall make raw data available for download, inspection, and analyses by members of the public. "Raw Data" shall be redacted as consistent with existing legal standards and shall include as applicable complaints, case-handling decisions, findings, discipline, complainant demographics and geographic origin of complaints.</p>	<p><not included>?</p>
<p>S. The Oversight System shall develop interactive dashboards around the oversight data <u>so that it can be visualized in different ways. The Oversight System may also display policy recommendations in a dashboard.</u></p>	<p>35A.040 G. Data dashboards The Oversight System shall develop interactive data anonymized dashboards.</p>
<p>T. Conduct investigative interviews of Portland Police Bureau employees, consistent with applicable law and collective bargaining agreements.</p>	<p>35D.040 "A." (After K) All interviews of City and PPB employees shall be conducted in conformance with legal requirements and collective bargaining provisions.</p>
<p>1. All PPB employees shall be truthful, professional, and courteous in all interactions with the Board. No PPB employee shall conceal, impede, or interfere with the filing, investigation or resolution of a complaint.</p>	

<p>U. The Board may obtain legal advice and representation from the City Attorney or may retain or employ independent legal counsel. If the Board retains or employs independent legal counsel, the Board shall be the client and is entitled to the benefits and privileges thereof.</p>	<p>35A.040 H. Legal Advice. The CBPA may obtain legal advice and representation from the City Attorney, or may retain or employ outside legal counsel in a manner consistent with the procedures of City Code 5.68.060.</p>
<p>V. Establish a standard by which the Portland Police Bureau reports data to the Oversight System, including required aggregated information (e.g., use of force cases) and frequency (e.g., monthly, quarterly, annually).</p>	
<p>W. The Board and Office may retain or employ independent experts, including law enforcement experts, as needed to advise on any matter under investigation, review, or evaluation by the Board or Office.</p>	
<p>X. Maintain Working Relationships.</p>	

<p>1. The Board and Office shall maintain working relationships with other parts of City government, and collaborate with those entities to ensure there is no duplication of names and titles, processes and terminology.</p>	
<p>2. The Board and Office will maintain a working relationship with the PPB Professional Standards Division, including staff working on the Employee Information System (EIS).</p>	
<p>3. The Board and Office shall maintain a working relationship with other advisory committees related to police and policing. Representatives from the Board and other advisory committees will meet periodically in public to discuss emerging issues and policy concerns they have encountered in the course of their work. If meetings are not practical, at a minimum they will share by email or other means information on those topics among themselves. This information will be reported back to members of the various advisory committees. They may choose to create joint study committees to research those issues and develop joint recommendations.</p>	

<p>4. Other Law Enforcement Agencies. Maintenance of the following working relationships will be beneficial to the Board and Office fulfilling their duties due to police collaborations and joint operations, and police activity with relation to jails, prisons and detention centers.</p>	
<p>i. The Board and Office shall maintain a working relationship with the Multnomah, Clackamas, and Washington Counties' Sheriff's Offices, as well as each county's corrections agencies, medical examiners' offices, and with oversight groups for those entities.</p>	
<p>ii. The Board and Office may seek membership for a representative in Multnomah County's Local Public Safety Coordinating Council (LPSCC), to assist with developing working relationships and exchanging information in pursue of oversight goals and responsibilities.</p>	
<p>iii. The Board and Office shall maintain a working relationship with the Oregon State Police (OSP), including the State Medical Examiner's Office, as well as the Department of Corrections (DOC), and with oversight groups for these entities.</p>	

<p>iv. The Board and Office shall also maintain a working relationship with law enforcement agencies outside of the Portland Police Bureau, including but not limited to those municipalities whose law enforcement officers may interact with community members in Portland, TriMet police, and private security agencies serving in public spaces while acting in an official or unofficial law enforcement capacity.</p>	
<p>5. Coordination with District Attorneys' Offices.</p>	
<p>i. In instances where officer misconduct that is investigated by the Board also results in criminal complaints alleging criminal misconduct by officers, the Board and Office shall coordinate to the extent allowable under law with the Multnomah, Clackamas, and Washington County District Attorneys' Offices, including information sharing where appropriate, which may include access to court records and case information pertinent to complaints under Board investigation. To ensure officers' constitutional rights, in no case shall compelled testimony from officers be transferred to any prosecutors' offices.</p>	

<p>ii. The Oversight System, working through legal counsel, shall coordinate with the District Attorneys' offices to determine appropriate disclosure of requested public records, and protection of confidential information, including through clarifying and appeal to the District Attorneys' offices.</p>	
<p>6. Sharing of Information with DPSST. The Board and Office shall also maintain a working relationship with the Department of Public Safety Standards and Training (DPSST), including in a manner consistent with applicable law, sharing information about cases in which officers were found to have committed misconduct and cases in which a finding of "training failure" was reached. This relationship shall benefit the community by promoting improvement in training and performance of officers</p>	
<p>7. The Board and Office shall maintain a working relationship with the state Employment Relations Board (ERB). This relationship will be beneficial to the Board for understanding arbitration and its role in the process of addressing allegations of officer misconduct.</p>	
<p>8. Criminal and Civil Proceedings Involving Officer Misconduct. In instances where officer misconduct that is investigated by the Board also results in criminal complaints alleging criminal misconduct by or civil lawsuits against officers, the Oversight System shall cooperate with these judicial proceedings to the extent requested and as permitted by law. To ensure officers' constitutional rights, in no case shall compelled testimony from officers be transferred to any prosecutors' offices.</p>	

<p>Y. Alone or in cooperation with other city agencies/bureaus, the Office will also audit police surveillance and other technologies. Relevant data from these Board-conducted audits will be published, including on online dashboards.</p>	
<p>Z. The Office may reach outside city structures to complete its work. The Board and Office may consider working with law school faculty and/or students or other community resources. The Director will establish internal procedures.</p>	
<p>35B.010 Oversight Board Membership</p>	<p>35B.010 CBPA Membership</p>
<p>A. The Board shall consist of <u>thirty-three</u> members.</p>	<p>1. The CBPA shall consist of <u>twenty-one (21)</u> members.</p>

<p>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.</p>	<p>2. The CBPA shall also have six (6) alternates, appointed by Council from individuals who apply for CBPA membership and meet the qualifications included in this Code section. ... <u>Alternates shall complete all requirements necessary to be prepared to act as a replacement. ...</u></p>
<p>2. Whenever there is a vacancy on the Board, Council will select a successor Board member from among the current alternates.</p>	<p>2. ...Alternates shall be available to serve when a CBPA position is vacated.. The Council shall appoint an alternate to the CBPA when a CBPA position is vacated.</p>
<p>3. Alternates may not serve on panels reviewing complaints, nor are they considered voting members of the Board. <u>However, the Board may define other responsibilities and rights of alternates in its bylaws.</u></p>	<p>2. ...Until appointed as a CBPA member, alternates may not serve on the CBPA.</p>
<p>B. Board members and alternates shall be appointed to the Board by a vote of the City Council.</p>	<p>B. Appointment process. CBPA members and alternates shall be appointed by a vote of the City Council.</p>

	<p>1. CBPA members shall be appointed but shall not serve on the CBPA until passing the background check provided for in this Section. If a person does not pass, or fails to comply with, the background check, then Council shall appoint another CBPA member.</p>
<p>1. Individual applications shall be referred by the Board to City Council based upon its review of the qualifications and selection criteria (below).</p>	
<p>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.</p>	
<p>C. Quorum Requirements.</p>	<p>35B.010 C. Quorum Requirements.</p>

<p>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.</p>	<p>1. Matters Affecting Full CBPA: A simple majority of the full CBPA shall constitute a quorum of the CBPA for decisions about procedures, protocols, or other decisions of the CBPA <u>provided for in this Code Section</u>. Unless otherwise stated in this Code, a simple majority of the full CBPA shall vote in favor of adopting procedures, protocols and other decisions of the CBPA provided for in this Code Section for such to go into effect.</p>
<p>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.</p>	
<p>3. Panels (Hearings, Due Process and Appeals): <u>Quorum for panels shall be a majority of the members of the panel.</u></p>	<p>35B.010 C3. CBPA Review Panels: <u>All panel members are required to be present to establish a quorum.</u></p>
<p>4. Sub-Committees: Sub-Committees established by the Board shall have a defined number of members as established by the Board. A simple majority of Sub-Committee members shall constitute a quorum.</p>	

<p>D. Board members shall be appointed as follows:</p>	
<p>1. At a minimum, Board staff shall solicit applications to fill vacancies in the Board’s membership from the Office of Equity and Human Rights, Office of Community and Civic Life, the Neighborhood Coalition offices, Mayor and Council offices, other PPB-focused advisory committees, community organizations that focus on disciplines important to the Board’s work (such as those working on racial justice, mental health advocacy, and houseless organizing, nonprofits, other grassroots organizations and others), and the general public. After review based on the evaluation of each applicant against the listed qualification and selection criteria for Board membership, qualified applicants shall be referred to City Council for consideration and possible appointment.</p>	
<p>a. The Board <u>may create</u> a nominating committee to review applicants for Board membership prior to referring to the City Council for consideration for appointment. The nominating committee may include individuals who are not current Board members.</p>	<p>35B.010 B2. A nominating committee comprised of members as listed below <u>shall solicit applicants for the CBPA and shall refer potential CBPA members to City Council based on a recommendation of a majority of nominating committee members. The initial nominating committee shall be as stated below, except in lieu of subparagraph (a) below there shall be one member of the Citizen Review Committee and one Police Review Board community member, and in lieu of subparagraph (b) below Council shall each appoint one member. The nominating committee shall be comprised of the following</u></p>

	<p><u>a. Two CBPA representatives;</u></p>
	<p><u>b. One community member from each Council district as designated by the Council members of that district;</u></p>
	<p><u>c. One representative designated by the Chief of Police;</u></p>

	<u>d. One representative from PPA; and</u>
	<u>e. One representative from PPCOA.</u>
<p>2. Qualifications and Selection Criteria: Prospective applicants shall be considered for vacancies on the Board based upon the following qualifications and selection criteria:</p>	<p>35B.010 D. Qualifications and Selection Criteria: Prospective CBPA members shall be considered for vacancies on the CBPA based upon the following qualifications and selection criteria:</p>

<p>a. Individual Board members must live, work, <u>play, attend school or worship</u> in the City of Portland for at least twelve months prior to their appointment.</p>	<p>1. CBPA members must live or work in the City of Portland for at least twelve months prior to their appointment.</p>
<p>b. Board members must be representative of Portland’s diverse population, <u>drawn from different socio-economic backgrounds and racial, ethnic, gender identity, and age groups.</u> <u>In order to allow the Board to fulfill its responsibilities, some members shall represent or be knowledgeable of those who (1) have encountered systemic racism; (2) have been impacted by over-policing policies; (3) have mental illness, or substance abuse disorders or (4) are houseless. In filling Board vacancies from alternates, consideration shall be given to the current composition of the Board and appointments shall be made that will cause the Board to best reflect the demographic make-up of Portland to the extent possible.</u></p>	<p>2. In making appointments, <u>Council</u> shall make provisions to ensure the CBPA’s membership includes representation from diverse communities including those with diverse lived experiences, particularly those who have experienced systemic racism and those who have experienced mental illness, <u>addiction, or alcoholism.</u></p>
<p>c. The Board shall include people experienced with community outreach; law enforcement practices; law enforcement oversight; police accountability; investigative procedures; case-handling and audit procedures; constitutional, criminal, or labor law; social justice; advocating for and providing service to houseless community members; or other relevant professional experience. Altogether, there shall be a balance that allows the Board as a whole to benefit from the knowledge and expertise of its individual members.</p>	

<p>d. Individual Board members must have a commitment <u>to the need for and responsibilities of civilian police oversight</u> in ensuring that Portland policing practices comply with state and federal constitutional protections <u>and other applicable legal standards</u>. Individual Board members must also have a <u>demonstrated commitment to racial justice</u>.</p>	<p>3. Individual CBPA members must have a commitment to <u>police accountability, fairness,</u> and ensuring that PPB policies do not violate state and federal constitutional rights. Individual CBPA members must also commit to upholding the <u>City's core values of anti-racism, equity, transparency, communication, collaboration, and fiscal responsibility</u>.</p>
<p>e. Board members must be capable of making fair and impartial decisions based on the evidence presented to them in an environment where controversy is common. <u>Fairness includes considering lived experience, the experiences of the community members, and of the police officers involved in the case.</u></p>	<p>4. CBPA members must be capable of making fair, <u>objective,</u> and impartial decisions <u>consistent with applicable laws, rules, policies, and procedures and based on the evidence presented to them</u> in an environment where controversy is common.</p>
<p>3. Prerequisites for Appointment:</p>	<p>5. Prerequisites for Service on the CBPA:</p>
<p>a. A prospective Board member must comply with ORS Chapter 244 (Government Ethics) and Portland City Code Chapter 1.03 (Code of Ethics) and disclose at the time of their application any potential or actual conflicts of interests.</p>	<p>a. A prospective CBPA member must comply with ORS Chapter 244 (Government Ethics) and Portland City Code Chapter 1.03 (Code of Ethics) and disclose at the time of their application any potential or actual conflicts of interests. <u>The City Attorney's Office shall conduct a check of prospective CBPA members for legal conflicts.</u></p>

<p>b. The Board member must sign a confidentiality agreement.</p>	<p>b. The CBPA member must sign a confidentiality agreement.</p>
<p>c. Background Check</p>	<p>c. Background Check</p>
<p>Prior to nominating any applicant to the City Council for appointment to the Board, potential nominees will undergo a criminal background check. <u>The primary purpose of this background check is to ensure that Board members may access police databases and facilities necessary to perform their duties. Background checks are not intended to be used to exclude people who have important lived experience from service on the Board.</u></p>	<p>c. Members shall pass a criminal background check by an entity other than the PPB to conduct such check. ...</p>
<p>i. Staff shall initiate a criminal background check, and shall use an agency other than the PPB itself, <u>or an agency used by PPB for its checks.</u> The only exception is that staff may initiate a criminal background check through the Oregon State Police.</p>	<p>c. Members shall pass a criminal background check by an entity other than the PPB to conduct such check. <u>Background checks shall comply with all laws, including the Fair Credit Reporting Act.</u> ...</p>

<p><u>ii. Where the substance of an offense that led to a previous conviction would impact the applicant’s ability to perform their duties if appointed, the nominating entity shall discuss with the prospective board member about how they would respond to concerns that they are unable to fully discharge their duties. The Board may also request a review of the criminal record in question by the appropriate law enforcement entity to determine whether to grant a waiver to allow the applicant to have access to law enforcement databases.</u></p>	<p>c. ... A background check shall include consideration of any potential CJIS-authorized waivers or exceptions for access to protected information. ...</p>
<p><u>iii. The nominating entity may opt to pass an applicant’s nomination to City Council after this conversation and review.</u></p>	<p>c. ... <u>The Chief Administrative Officer until January 1, 2025, and thereafter the Deputy City Administrator assigned to the Oversight System will make the final determination as to whether an applicant has passed a background check.</u></p>
<p>iv. The nominating entity shall only consider potentially-disqualifying convictions which would impact the applicant’s ability to fully perform their duties if appointed.</p>	<p><not included></p>
<p>4. Restrictions on Board Membership. The following individuals are not eligible for service on the Board:</p>	<p>6. Restrictions on CBPA Membership. The following individuals are not eligible for service on the CBPA:</p>

<p>a. An individual currently employed by a law enforcement agency;</p>	<p>a. An individual currently employed by a law enforcement agency;</p>
<p>b. An immediate family member of an individual currently employed by a law enforcement agency;</p>	<p>b. An immediate family member of an individual currently employed by a law enforcement agency;</p>
	<p><u>c. Any individual who has a demonstrated bias for or against law enforcement; and</u></p>
<p>c. An individual formerly employed by a law enforcement agency;</p>	<p>d. An individual formerly employed by a law enforcement agency.</p>

<p>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.</p>	<p><not included></p>
<p>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:</p>	<p>E. Training and Other Requirements. CBPA members and alternates shall complete these training and other requirements within six (6) months of appointment, unless extended for good cause. <u>CBPA members shall not vote on Administrative Investigations prior to completing these requirements unless authorization is given by the Deputy City Administrator. Such permission shall only occur for CBPA members who have made a good faith effort to complete the requirements herein and there is good cause</u> for any missing requirements</p>
<p>1. Complete all paperwork necessary to ensure access to City resources, including compensation and other support services;</p>	<p>1. Complete all paperwork necessary to ensure access to City resources, including compensation and other support services;</p>
<p>2. Complete orientation and training applicable to all members of a City advisory body;</p>	<p>2. Complete orientation and training applicable to all members of a City governing body;</p>

<p>3. Become familiar with the City Charter Chapter 2, Article 10, chapters of this Code, that address the Board's roles and responsibilities;</p>	<p>3. Become familiar with the City Charter Chapter 2, Article 10, and chapters of this Code that address the CBPA's roles and responsibilities;</p>
<p>4. Receive training on the Board's history, internal structure and processes (including bylaws, and rules and procedures);</p>	<p>4. Receive training on the CBPA's history, internal structure and processes, including CBPA bylaws, rules and procedures;</p>
<p>5. Receive training in the legal requirements of Oregon's Public Records and Public Meetings laws;</p>	<p>5. Become familiar with <u>applicable federal, state, and local laws and rules, including but not limited to the United States Constitution and Oregon Constitution; City Charter; collective bargaining agreements; ORS 243.808-.812; ORS 236.350-370; and Oregon public records, public meetings, and ethics laws; and done in consultation with the City Attorney's Office;</u></p>
	<p>6. Training and requirements for access to police databases, including any annual renewal requirements;</p>

<p>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; <u>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;</u></p>	<p>7. Receive instruction about PPB's history, procedures, <u>policy development process</u>, and PPB's training on de-escalation, equity, bias-based policing, and crisis intervention; (From 5.) <u>collective bargaining agreements</u></p>
	<p>8. <u>Participate in at least one PPB "ride-along" and PPB community academy;</u></p>
<p>7. Training about how civilian oversight of law enforcement functions;</p>	<p>9. Attend training on national best practices for civilian oversight of law enforcement misconduct;</p>

<p>8. Training about the City's Civil Service Board, and other relevant City personnel policies and procedures;</p>	<p>10. Receive training about the City's Civil Service Board; 11. Receive training on relevant City personnel policies and procedures, <u>procedural justice, and equity and implicit bias;</u></p>
	<p><u>12. Receive training on using video footage in administrative or force investigations, limitations of video evidence, human performance dynamics and limitations, and cognitive interviewing techniques; and</u></p>
<p>9. Receive training in basic principles of constitutional due process, constitutional civil rights guaranteed to all people as such rights are affected by law enforcement, and administrative hearing procedures;</p>	<p><not included></p>
<p>10. Receive training in the legal requirements for maintaining the confidentiality of personnel records and other confidential documents or information.</p>	<p>13. Receive training in the legal requirements for maintaining the confidentiality of personnel records and other confidential documents or information.</p>

	<p><u>The OCPA shall ensure training is offered at least annually for CBPA members and alternates.</u></p>
<p>The Oversight Board shall review its own training structures and curriculum on a regular basis and may revise these training requirements, including establishing a peer training component and establish a list of responsibilities and topics to be covered during peer training.</p>	<p><not included></p>
<p>F. Term Lengths and Renewability.</p>	<p>F. Term Lengths and Renewability.</p>
<p>1. Board members shall each serve a term of three years, subject to reappointment by Council.</p>	<p>1. CBPA members and alternates shall each serve a term of three years, unless reappointed by Council. An alternate CBPA member appointed to a CBPA vacancy shall serve the remainder of the vacant term.</p>

	<p>1. Initial appointment lengths may be staggered.</p>
<p>2. Upon expiration of the term, a Board member shall serve until re-appointed or replaced or removed by Council.</p>	<p><not included></p>
<p>3. A Board member may apply to renew their term <u>twice</u>, and will be considered for the position. <u>The Board will establish procedures to allow Board members to seek reappointment.</u></p>	<p>2. CBPA members and alternates may apply to renew their term and will be considered for the position by the CBPA nominating committee.</p>
<p>4. Board Member Leave of Absence. A Board member may be granted a leave of absence, if needed, for good cause, including in instances of illness or injury or other personal hardship.</p>	<p>3. A CBPA member may be granted a leave of absence for good cause <u>as approved by the Bureau of Human Resources</u>, including in instances of illness, injury, or other personal hardship.</p>

<p>G. Board Member Support and Compensation</p>	<p>G. CBPA Member Support and Compensation</p>
<p>Board members shall be eligible for compensation subject to applicable law, City policy, and rulemaking. This compensation can be up to the maximum allowable for volunteers under applicable law. <u>In addition, Board members shall be reimbursed for expenses associated with service on the Board. The Board may establish non-financial support systems within or outside of City structures to support Board members. The Board shall establish processes, systems, and applicable amounts and/or limits for member support and compensation in its Bylaws and Administrative Rules. The Board shall regularly review details of its member support and compensation, and revise as needed.</u></p>	<p>1. CBPA members shall be eligible for compensation subject to applicable law, City policy, and rulemaking. This compensation may be up to the maximum allowable for volunteers under applicable law, <u>subject to City Council approval.</u> 2. <u>Additional reimbursement to CBPA members for expenses associated with service on the CBPA may be authorized, subject to City Council approval.</u> The CBPA may establish non-financial support systems within or outside of City structures to support CBPA members, <u>subject to City Council approval.</u></p>
<p>35B.020 Resignation and Removal from Board</p>	<p>35B.020 Resignation and Removal from CBPA</p>

<p>A. A Board member may resign prior to the expiration of their term with written notice to the Board and the <u>Council</u>.</p>	<p>A. A CBPA member may resign prior to the expiration of their term and shall provide written notice to the CBPA and the <u>Director</u>.</p>
<p>1. A Board member seeking election or appointment to a public office shall inform Board leadership of their intent to seek office. A Board member seeking election or appointment to a public office that will give rise to a conflict of interest shall resign their Board membership at the time of their appointment or election. Depending upon the position which they are pursuing, the Board member may be required to disclose a conflict of interest upon their decision to run for office or seek appointment. An individual Board member who resigns to seek other public office may re-apply for a future Board vacancy upon conclusion of holding the other public office.</p>	<p><not included></p>
<p>2. Upon this notification, the Council must consider the position vacant and eligible for the Council to appoint a new member from the alternates to serve for the remainder of the vacating member's term. In filling Board vacancies, consideration shall be given to the current composition of the Board and appointments shall be made that will cause the Board to best reflect the demographic make-up of Portland to the extent possible.</p>	<p><not included></p>

<p>B. City Council may remove a Board member for cause.</p>	<p>B. City Council may remove a CBPA member for cause.</p>
<p>1. A member must immediately notify the Board and cease further participation on the Board, pending a vote of removal by the Council, if any of the following circumstances occur during the member's term:</p>	<p><not included></p>
<p>a. the member is incarcerated in any jail or prison and unable to complete their responsibilities as a Board member; or</p>	<p><not included></p>
<p>b. the member is convicted during the member's term of a criminal offense that would preclude the member from continuing to perform their duties.</p>	<p><not included></p>

<p>2. The Council's consideration of the removal and replacement of the member pursuant to this section must occur within 45 days following the Council's receipt of notice under this subsection.</p>	<p><not included></p>
<p>3. Cause for removal includes but is not limited to:</p>	<p>From B: Cause for removal may include, but is not limited to:</p>
<p>a. Official Misconduct (See ORS 162.405-162.415);</p>	<p>1. Official Misconduct (See ORS 162.405-162.415);</p>
<p>b. Unexcused absence;</p>	<p>2. Repeated and excessive unavailability for service, including unexcused absences, failure to participate, or inactivity;</p>

<p>c. Excessive excused absences (<u>including unforeseen events, health reasons, being out of town, or missed meetings due to conflicts of interest</u>);</p>	<p>3. Excessive excused absences;</p>
<p>d. Failure to timely disclose an actual conflict of interest <u>which prevents the Board member from performing their responsibilities</u>;</p>	<p>4. Failure to timely disclose an actual conflict of interest;</p>
<p>e. Loss of eligibility: No longer meeting any of the requirements such as live, work, <u>play, attend school, or worship</u> in the City of Portland (as outlined in Code section 35B.010 D2a);</p>	<p>5. Loss of eligibility to serve, including no longer meeting any of the requirements such as living or working in the City of Portland;</p>
<p>f. Unmet minimum participation, or workload requirement;</p>	<p>[in 2: Repeated and excessive unavailability for service, including unexcused absences, failure to participate, or inactivity;]</p>

	7. Failure to read entire case files and adequately prepare for Reviews;
g. Breach of confidentiality agreement;	8. Breach of confidentiality;
	<u>12. Conduct that constitutes an improper disclosure of private information as defined in ORS 30.835; or [Note: seems redundant with 8]</u>
	9. Objective demonstration of bias for or against the police;

<p>h. Inactivity in Board activities including subcommittee work or hearing, appeals, misconduct, or due process panel participation;</p>	<p>[in 2: Repeated and excessive unavailability for service, including unexcused absences, failure to participate, or inactivity;]</p>
<p>i. Failure to complete training within 6 months of appointment unless good cause exists to excuse this;</p>	<p>10. Failure to attend scheduled training or to complete training within six (6) months of appointment or after any granted extensions;</p>
<p>j. Misconduct, such as harassment, discrimination, and retaliation; or</p>	<p>11. Misconduct, such as harassment, discrimination, or retaliation;</p>
<p>k. Any other cause which impacts the Board's effective operations, standing or independence.</p>	<p>13. Any other cause which impacts the CBPA's effective operations.</p>

<p>4. Other reasons for removal could include death, or incapacitation.</p>	<p><not included></p>
	<p>C. The Deputy City Administrator or designee shall confirm eligibility to serve on the CBPA not less than annually.</p>
<p>C. The Bureau of Human Resources shall investigate allegations of misconduct regarding Board members, and communicate their findings to the Oversight Board. In instances where the complaint of misconduct is sustained, Council may remove a member.</p>	<p>D. The Bureau of Human Resources shall investigate allegations of misconduct regarding CBPA members and communicate their findings to City Council. ...</p>
<p><u>D. Removal of a Board member prior to the end of their term requires a majority vote of City Council. Removal of a Board member may occur upon a recommendation from BHR, a recommendation of the Board, or upon Council's own motion. The Board retains discretion to suspend a member, or place them on leave, pending action by Council.</u></p>	<p>The BHR Director may recommend, and the Deputy City Administrator may suspend, a CBPA member from duties pending the resolution of the allegations.</p>

<p>35B.030 Meetings of the Board</p>	<p><not included></p>
<p>In conducting its meetings and hearings, the Board shall comply with all requirements of Oregon Public Meetings Law (ORS 192.610 through 192.710).</p>	<p><not included></p>
<p>A. Proper notice, agendas, meetings summaries, and meeting materials will be made available to the public in a timely way.</p>	<p><not included></p>
<p>B. The Board shall hold regular meetings open to the public and offer time for community input, including through public comment, testimony, or other means. At public meetings, public comment will be allowed at a minimum before key decisions are made, consistent with applicable law. Public involvement in hearings is addressed in 35D.190 and 35D.200.</p>	<p><not included></p>

<p>C. The Board may also hold special meetings of the full Board or sub-committees as necessary.</p>	<p><not included></p>
<p>D. The Director will provide written updates at full Board meetings with information on the status of investigations and of those conducted by the Police Bureau.</p>	<p><not included></p>
<p>E. The Board will regularly host the Police Chief, Mayor and other relevant officials at its public meetings.</p>	<p><not included></p>
<p>F. While matters may be addressed in executive session, consistent with the law, any final action or final decision by the Board shall be made in open session.</p>	<p>35D.060 F3. Once consensus is reached, a formal vote shall be taken in public session. The formal vote shall occur as follows:</p>

35B.040 Board Budget	35B.030 CBPA Budget
<p>A. The Board shall have a publicly disclosed budget.</p>	<p>A. The CBPA's budget shall be <u>a</u> publicly disclosed, ...</p>
<p>1. As per Charter 2-1004, "funding for the Board shall be proportional to <u>no less than</u> 5 percent of the Police Bureau's Annual Operations Budget."</p>	<p>B. Council shall adopt a budget at the conclusion of the budget cycle that is proportional to five percent (5%) of the concurrently adopted PPB annual operating budget.</p>
<p>2. The Board will have discussions in public about how to allocate its budget, and, at its discretion, may appoint an independent budget advisory committee from the community.</p>	<p><not included></p>

<p>B. After evaluation of its budget, the Board shall be able to request a larger budget allocation as part of the City's annual budget process.</p>	<p><not included></p>
<p>C. <u>The Director shall comply with the City's purchasing procedures and except as otherwise provided here, the Director shall have sole discretion in choosing staff persons, contractors, and other employees and in making other decisions about expenses. The Board may require that the Director make certain hiring/purchasing decisions only with the Board's approval.</u></p>	<p>[From A] ... <u>and shall comply with all State, City, Procurement, and City Budget Office budget requirements.</u></p>
<p>35C.010 Director Selection and Removal</p>	<p>35C.010 Director Roles, Responsibilities, and Delegation</p>

<p>A. The Board shall hire a Director for the Office of Community-based Police Accountability (“OCPA” or “Office”) who shall be appointed by, and serve at the will and pleasure of the Board. As specified by Charter, and consistent with these procedures, the selection process for the Director shall be done through a community process led by the Board.</p>	<p>A. The CBPA shall hire a Director ... <u>The Director is a “Bureau Director” for purposes of Charter section Exhibit B 4-301 and shall be appointed by, and serve at the will and pleasure of, the CBPA. ...</u></p>
<p>B. The Board shall select the Director of the OCPA, in accordance with the City’s human resource policies and rules and any other applicable laws, by the following process:</p>	<p><not included></p>
<p><u>1. A subset of the Board (“Hiring committee”) shall work with the Director of the Bureau of Human Resources (BHR) or designee to create a job posting that comports with the necessary and desired qualifications for a Director;</u></p>	<p><u>[From A] ...The same nominating committee that provides recommendations for CBPA member appointments will review applicants for Director and make recommendations for consideration by the CBPA. ...</u></p>

<p>2. In coordination with the Bureau of Human Resources, the Hiring Committee shall assess minimum qualifications by screening applicants and resumes, and the Hiring Committee shall select at least three candidates best qualified to interview. The Hiring Committee may choose to involve community members in the screening process.</p>	<p><not included></p>
<p>3. The full Board shall interview the candidates and the top scoring candidate will be moved forward;</p>	<p><not included></p>
<p>4. At that meeting or the next appropriate meeting, the Board shall vote whether to appoint the top scoring candidate;</p>	<p><not included></p>
<p>5. If the top candidate is not appointed, then the Hiring Committee shall present the next top scoring candidate to the Board for consideration and a vote. The selection process shall continue as stated until the Board votes to appoint a candidate as the Director; this shall include reopening the recruitment process if none of the interviewed candidates are appointed.</p>	<p><not included></p>

<p>C. The hiring procedures described in section B, above, are intended to comply with ORS 192.660(2)(a).</p>	<p><not included></p>
<p>D. Director Qualifications.</p>	
<p>At a minimum, the Director shall possess the following necessary and desired qualifications:</p>	<p><not included></p>
<p>1. Be well-equipped to analyze problems of administration, and public policy;</p>	<p><not included></p>

<p>2. Working knowledge in criminal justice sufficient for the powers and duties of the Office;</p>	<p><not included></p>
<p>3. Experience and knowledge working with communities impacted by police misconduct;</p>	<p><not included></p>
<p>4. Be trauma-informed, possess an equity lens, and have experience engaging the community in collective decision making; and</p>	<p><not included></p>
<p>5. The Director shall possess other necessary and desired qualifications for the position as identified by the Board.</p>	<p><not included></p>

<p>E. As part of its role in managing the Director, the Board shall, at a minimum, conduct annual performance reviews.</p>	<p><not included></p>
<p>F. The Director <u>shall serve at will</u> and may be removed from office by a vote of a <u>supermajority</u> of the Board <u>(to be determined by the Board according to its procedures)</u>. <u>The decision of whether to remove a Director shall be in the Board’s sole discretion and may be for any reason.</u></p>	<p>35B.010 C2. Removal: Removal of the OCPA Director shall require a “yes” vote of two-thirds of the full CBPA.</p>
<p>35C.020 Director Roles, Responsibilities, and Delegation</p>	
<p>A. The Director shall manage the professional administrative staff and professional investigators, and make operational and administrative decisions for the Office.</p>	<p>35C.010 C. The Director shall make operational and administrative decisions for the OCPA. From 35C.010 A: manage the professional administrative staff and professional investigators, and to make operational and administrative decisions</p>

<p>B. The Director may appoint other personnel necessary to carry out the duties of the Office, keeping within the adopted budget for the Office.</p>	<p><included elsewhere></p>
<p>1. The Director shall hire an auditor/monitor/inspector-general, who will be in charge of auditing records and other aspects of the accountability system.</p>	<p><not included></p>
<p>a. Audits conducted by staff will include but not be limited to police practices, policies, training, and directives, including regular audits of police communications with the public (news releases, social media, etc.).</p>	<p><not included></p>
<p>b. Board members will be involved in the hiring of the auditor/monitor/inspector-general and participate in, at minimum, annual performance reviews for this position.</p>	<p><not included></p>

<p>2. The Director shall hire legal counsel to provide legal advice for the Board and staff separate from the City Attorney's office.</p>	<p><not included></p>
<p>a. Board members will be involved in the hiring of legal counsel and participate in performance reviews for this position.</p>	<p><not included></p>
<p>3. Professional staff of the Oversight System shall be appointed by and serve under the direction of the Director. The Director shall hire part or full-time staff members focusing exclusively or in a combination on the following:</p>	<p>35C.010 A ... Professional staff of the Oversight System shall be appointed by and serve under the direction of the Director. <u>Such appointment and service shall comport with all City and classified service requirements.</u></p>
<p>a. Policy work;</p>	<p><not included></p>

b. Mediation;	<implied elsewhere>
c. Investigation;	<implied elsewhere>
d. Hearings support;	<not included>
e. Records;	<not included>

f. Outreach/Community Engagement;	<implied elsewhere>
g. Intra-governmental affairs;	<not included>
h. Data analysis;	<not included>
i. Equity and inclusion;	<not included>

<p>j. Public affairs/communications; and</p>	<p><not included></p>
<p>k. Other administrative staff and personnel as necessary for the Board and Office’s functioning, including to assist Board members.</p>	<p><implied elsewhere></p>
<p>C. The Director shall ensure that a qualified staff person goes directly to the scene of an officer deadly force incident and other incidents which may involve police misconduct needing immediate attention.</p>	<p><implied elsewhere></p>
<p>D. The Director shall protect the confidentiality of Board members, complainants, officers, and witnesses consistent with the requirements of Oregon Public Records law. Consistent with the law, disclosures may be necessary to enable the Director to carry out their duties, to comply with applicable collective bargaining agreements, where the public interest requires disclosure in a particular instance, or other reasons consistent with the law.</p>	<p><implied elsewhere></p>

<p>E. The Director is authorized to adopt, amend, and repeal rules, procedures, and forms to implement the provisions of this Chapter including for the discharge of duties, <u>including policies and procedures for receiving and processing complaints, conducting investigations and hearings, and reporting findings, conclusions and recommendations.</u> <u>All such policies shall be sent to the Board for its review and feedback prior to beginning the public comment period (if applicable).</u></p>	<p>35C.010 D. The Director is authorized to adopt, amend, and repeal policies, procedures, and forms to implement the provisions of this Code and CBPA rules, including for the discharge of its duties.</p>
<p>1. Before adopting, amending, or repealing a rule, the <u>Director</u> must notify interested parties and hold a public comment period. <u>Such notice, which may be provided by mail or electronic means, such as posting on the Office's website, must be published at least 33 days before the close of the public comment period. The notice must include instructions on how an interested party may comment on the proposed rule, a brief description of the subjects covered by the proposed rule and how to access the full text of the proposed</u></p>	<p>From City's 35A.010 C. <u>The CBPA shall subject all of its administrative rules, policies and procedures, and bylaws to a community input period that shall last not less than 30 days, except that the CBPA may adopt policies, procedures, and bylaws in an urgent situation that shall be in effect no longer than 90 days and thereafter shall follow the community input process.</u></p>
<p>2. During the public comment period, the Director will receive written comments concerning the proposed rule. At the conclusion of the public comment period, the Director will either adopt the proposed rule, modify it, or reject it, taking into consideration the comments received. If a substantial modification is made, an additional public comment period will be held. Unless otherwise stated, all rules are effective upon adoption by the Director. Copies of all current rules will be posted on the Office's website.</p>	<p><not included></p>

<p>3. Notwithstanding Subsections 1. and 2., the Director may adopt an interim rule without prior public notice upon a finding that failure to act promptly will result in serious prejudice to the public interest or the interest of the affected parties, stating the specific reasons for such prejudice. An interim rule adopted pursuant to this Subsection is effective for a period of no longer than six (6) months. The Director may extend the interim rule past the six (6) months for good cause, as determined in the Board's sole discretion.</p>	<p><not included></p>
<p>F. The Director may delegate to a designee any or all duties or responsibilities.</p>	<p>35C.010 E. The Director may delegate to a designee any or all duties or responsibilities.</p>
<p>35C.030 Staff Training and Qualifications</p>	<p>35C.020 Staff Training and Qualifications</p>
<p>A. Staff shall be trained on issues specific to their roles, such as:</p>	<p>A. All OCPA employees shall be trained on the following areas of training that are required for CBPA members in Code section 35B.010(E) (3)-(9), and (11)-(13). C. Investigators shall also complete training in:</p>

1. <u>PPB</u> and Board policies and directives,	1. CBPA policies and directives;
2. Interviewing,	2. Interviewing techniques;
3. Evidence,	<not included>
4. PPB patrol training and tactics,	<not included>

5. PPB and Board operations,	<not included>
6. Legal issues including stops, frisks, and searches.	<not included>
7. Trauma-informed service delivery, <u>focused on interviewing and other community interactions.</u>	3. Trauma-informed service delivery; and
8. Anti-racism, anti-bias, cultural competency, and collaborative decision-making; and	<not included>

<p>9. Other training needs as identified by the Director.</p>	<p>4. Other relevant training needs as identified by the Director.</p>
<p>B. Minimum experience requirements. While the Director has authority in hiring staff, the following shall be considered in their hiring process:</p>	<p><not included></p>
<p>1. The Director, in consultation with the Bureau of Human Resources including evaluating experience requirements of comparable positions, may specify a minimum number of years of experience required for each position, such as investigators. The minimum number of years of experience shall not exceed five years, and the experience requirement should not be a barrier to consideration of otherwise qualified applicants</p>	<p><not included></p>
<p>C. Preferred qualifications for Office staff shall include working with community; being versed in contemporary legal topics related to policing; public defense or civil rights backgrounds; and investigative, policy, and/or management skills such as civilian homicide investigation certification and use of force expertise. Investigative backgrounds can include Child Services, personnel, safety, housing, and medical and insurance investigations</p>	<p><not included></p>

35C.040 Staff community engagement	35C.030 Staff Community Engagement
<p>A. The Board shall conduct public education on the role of the oversight system and community members' rights, keeping the community informed of its activities, how to file complaints <u>and seek recourse in case of retaliation</u>, and receive input.</p>	<p>A. The CBPA shall conduct public education on the role of the Oversight System and community members' rights, keeping the community informed of its activities, how to file complaints, and receive input.</p>
<p>B. Where appropriate, oversight staff shall train trainers who can go into specific communities and train in ways that work for those groups, in addition to the Board training the public at large directly.</p>	<p><not included></p>
<p>C. Staff shall set up community engagement events, which may involve the Board members when available.</p>	<p><not included></p>

<p>D. The outreach shall be conducted in ways that are accessible in terms of language, abilities, and other considerations.</p>	<p>B. The outreach shall be conducted in ways that are accessible in terms of language, abilities, and other considerations.</p>
<p>E. Communities to engage shall include youth and community partners, immigrant communities including people of undocumented status, people with mental illness, and other communities disproportionately affected by police misconduct.</p>	<p><not included></p>
<p>F. Outreach locations shall include but not be limited to schools, libraries, community organizations, neighborhood meetings, and organizations serving the houseless population.</p>	<p><not included></p>
<p>G. Community engagement shall include discussions on how to improve police practices and policy, which includes soliciting community input. <u>These discussions may include local, state, and federal laws and policies, not solely Police Bureau policies.</u></p>	<p>C. Community engagement shall include discussions on how to improve police practices and policy, which includes soliciting community input.</p>

<p>H. The oversight system shall conduct education on its activities for law enforcement personnel and bargaining unit representatives.</p>	<p><not included></p>
	<p>(Unnumbered from 35C.030) Educate the public about the processes of the Oversight System and the corrective action goals.</p>
<p>35D.010 Basic Elements of Administrative Investigations</p>	<p>35D.010 Elements of Administrative Process</p>
<p>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.</p>	<p>A. Beyond the requirements listed here and in other parts of this Code, the Oversight System shall develop rules and procedures for receiving and processing complaints, <u>conducting investigations, reporting of findings, conclusions and recommendations, and taking of disciplinary action ...</u></p>

<p>B. Investigations shall comply with <u>federal and state constitutions and laws, city charter, Oversight System rules</u> and regulations including Administrative Rules adopted by Bureau (ARBs), relevant collective bargaining agreements, <u>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.</u></p>	<p>(From A) ... consistent with any binding disciplinary rules and applicable collective bargaining agreements or statewide standards.</p>
<p>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, <u>and the content of the interview cannot be used in a criminal proceeding.</u></p>	<p>C. <u>No CBPA member or OCPA employee may disclose any compelled statements taken pursuant to this Code Section, any evidence derived from those statements, or any information whatsoever gathered as part of the use of deadly force or in-custody death investigation to anyone outside of the CBPA or OCPA until the conclusion of any and all criminal proceedings against the Covered Employee.</u></p>
<p>D. Investigations must be conducted in a manner that is ethical, independent, thorough, timely, fair, and impartial.</p>	<p>B. Investigations must be conducted in a manner that is ethical, independent, thorough, timely, fair, and impartial.</p>
<p>E. Investigations shall follow these steps and shall include, if these elements exist and are reasonably available:</p>	<p><not included></p>

<p>1. When an investigation begins, except for information that would compromise the integrity of the investigation, an officer shall be informed in writing:</p>	<p><not included></p>
<p>a. of the nature of the investigation;</p>	<p><not included></p>
<p>b. whether the officer is a witness or an involved party; and</p>	<p><not included></p>
<p>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).</p>	<p><not included></p>

2. Interviews of the complainant, officer(s), and witness(es);	<not included>
3. Gathering evidence including photos, videos, proof of injuries and other relevant medical records;	<not included>
4. Examining police roll calls, logs, assignments, and other relevant information; and	<not included>
5. Site visits as deemed appropriate.	<not included>

<p>F. Interview Guidelines:</p>	<p>35D.01 C. Interviews</p>
<p>1. Interviews with officers shall all be recorded and conducted in a manner that is consistent with the applicable collective bargaining agreement.</p>	<p>1. Interviews with Covered Employees shall be <u>audio-only</u> recorded and conducted in a manner that is consistent with <u>state law</u> and any applicable collective bargaining agreement.</p>
<p>2. Interviews with <u>community members</u> will be recorded, <u>unless the community member requests not to be recorded. In these instances, the request by the community member shall be documented, and a stenographer will be enlisted to ensure the interviewee's answers are captured accurately.</u></p>	<p>2. Interviews with <u>Complainants and witnesses</u> shall be <u>audio-only</u> recorded.</p>
<p>a. However, a <u>community member</u> concerned about confidentiality of certain information may request that parts of their transcript be redacted for confidentiality purposes, <u>so long as the redaction does not interfere with the ability to fully investigate or the due process or other contractual rights of the officer.</u> In these cases, the City <u>shall</u> treat the information as submitted confidentially to the extent permitted by law.</p>	<p>a. When a <u>Complainant or witness</u> is concerned about public release of their information, they may request that the information be treated as confidential. The CBPA <u>may adopt a rule</u> for handling of such information consistent with Oregon Public Records laws.</p>

<p>3. Civilian interviews can take place at locations other than the oversight system's offices.</p>	<p><not included></p>
<p>G. An investigation shall be completed even if an officer retires, resigns, or is terminated.</p>	<p>3. Investigations shall be completed even if an officer retires, resigns, or is terminated.</p>
<p>H. The Board will investigate complaints submitted anonymously and complaints with unidentified officers to the full extent possible. If necessary, such complaints will be left open pending identifying the person(s) involved, in a manner consistent with other provisions of this Code, applicable law, and collective bargaining agreements.</p>	<p><not included></p>
<p>I. If during the investigation, investigators decide that there is not enough information to finish the investigation, the investigator shall close the investigation on this basis. (This is considered a "decision not to investigate") The complainant has the right to appeal that finding as outlined in this Code (35D.240) by providing further information.</p>	<p><not included></p>

<p>J. Staff shall review all misconduct investigations to ensure they are complete before they are sent to the Board to make findings and determine discipline.</p>	<p><not included></p>
<p>35D.020 Timelines for Completion</p>	<p>35D.020 Timelines for Completion</p>
<p><u>A. Investigations shall be completed within 6 months. Investigations may extend past 6 months and continue until resolved consistent with applicable law.</u></p>	<p><u>The CBPA shall adopt an administrative rule regarding the timelines for completion of investigations and any matters related to discipline.</u></p>
<p>1. If investigators are unable to meet these timeframe targets, the staff shall undertake and provide a written review of the process for the Board to identify the source of the delays and implement an action plan for reducing future delays.</p>	<p><not included></p>

<p>B. Informal complaints shall be resolved in 60 days or less.</p>	<p><not included></p>
<p>C. The timelines listed in paragraphs (A) and (B) may be extended if more time is needed, including at the request of a complainant and/or their attorney, consistent with applicable law.</p>	<p><not included></p>
<p>D. The investigative staff shall inform the Board, the complainant (and their assigned complaint navigators) and the officer(s) (and their support persons) if an investigation goes beyond the mandated timeline. They shall also inform the officer's supervisor, the Chief of Police, and other officials who may be involved in the discipline process.</p>	<p><not included></p>
<p>E. Investigations related to use of deadly force and deaths in custody (as defined in 35D.060) shall be prioritized for completion.</p>	<p><not included></p>

35D.030 Providing information to complainants	
<p>A. During intake, the complainant shall be informed of any obligations the Board may have to report something that is stated to them as part of a complaint and to provide the complaint itself to the involved officer where required by law or collective bargaining agreement. Except as otherwise required by law, the Board shall not turn over any admission of civil violations, criminal conduct, or criminal intent unless there is an imminent threat of harm to the complainant or others. That part of the investigation or interview which could incriminate the complainant in criminal proceedings will be considered confidential.</p>	<not included>
<p>1. During intake, staff shall not express opinions about the complainant or the truth or merit of their allegations.</p>	<not included>

<p>2. However, if the staff conducting intake has some kind of bias or conflict regarding the complaint, complainant, or nature of the allegations, they shall disclose that bias. At that point, the Director or designee shall assign another staff member to complete the intake.</p>	<p><not included></p>
<p>3. If they perceive bias, complainants may request another staff person to complete the intake.</p>	<p><not included></p>
<p>B. The Board shall provide Complainants with records of their complaint, including:</p>	<p><not included></p>
<p>1. Confirmation of the receipt of the complaint, including a summary of the allegations;</p>	<p><not included></p>

2. Literature about the Board and its process including explanation of confidentiality issues;	<not included>
3. If appropriate, a medical release form for records related to the complaint;	<not included>
4. Notice if the investigation cannot be completed in the timeline required by this Code;	<not included>
5. Notice of completion of the investigation in a final report; and	<not included>

<p>6. A survey about their experience with the complaint system.</p>	<p><implied elsewhere></p>
<p>C. The Board shall make information about the complaint available to the complainant online.</p>	<p><not included></p>
<p>D. The complainant shall be provided as much information about their complaint as possible, consistent with applicable law, even if some material has to be redacted.</p>	<p><not included></p>
<p>1. The complaint navigator shall have access to all available records in order to best advise the complainant, even information the complainant or their support people are not legally authorized to access. Such materials may also be redacted to comply with applicable law.</p>	<p><not included></p>

<p>E. The oversight system shall not charge any fees to complainants for access to information about their complaint.</p>	<p><not included></p>
<p>F. Board communication with a complainant shall not be made by postcard or other means of written communication that jeopardizes the complainant’s privacy.</p>	<p><not included></p>
<p>35D.040 Referral of criminal investigations</p>	<p>35D.030 D Criminal Investigations.</p>
	<p><u>1. If a criminal investigation has been initiated against the involved member, or during the course of an Oversight System administrative investigation a basis for conducting a criminal investigation arises, the Oversight System Exhibit B shall immediately advise the City Attorney or designee prior to initiating or continuing an administrative investigation.</u></p>

	<p><u>2. The Oversight System shall toll the administrative investigation while the criminal investigation is ongoing except where the administrative investigation will not interfere with the criminal investigation.</u></p>
<p><u>The Board has the authority to refer cases to the District Attorney or other authority for criminal investigation when the incident or allegations indicate possible criminal activity by the officer(s). To ensure officers' constitutional rights, in no case shall compelled testimony from officers be transferred by the oversight system.</u></p>	<p>3. In no event shall the Oversight System interview the Covered Employee, outside of the initial administrative investigatory interview in an instance of deadly force or an in-custody death, until the entity investigating the criminal charges advises the Oversight System that such interview will not interfere with the criminal investigation. The Oversight System shall take all steps necessary to meet constitutional requirements and comply with existing provisions of City labor agreements.</p>
	<p>4. The Oversight System will have no role or responsibility in conducting criminal investigations of any kind.</p>
<p>35D.050 Who May File</p>	

<p>A. Anyone who experiences or witnesses alleged officer misconduct can file a complaint with the oversight system. The right to file a complaint is absolute and unconditional.</p>	<p>35D.030 A. The Oversight System shall accept complaints from any source.</p>
<p>1. Parents and guardians may file complaints on behalf of minors up to the age of 18. Minors can file complaints on their own beginning at age 15.</p>	<p><is this covered in 35D.030 A?></p>
<p>2. The complainant pool is inclusive regardless of age, immigration status, residence, criminal record, or language used. Incarcerated people can file complaints.</p>	<p><is this covered in 35D.030 A?></p>
<p>3. Anonymous complaints will be accepted, and will be placed in priority depending on the nature and severity of allegations and, for more minor complaints, the Board's workload.</p>	<p><is this covered in 35D.030 A?></p>

<p>4. Complaints involving any community members can be filed by third parties, such as other individuals or organizations.</p>	<p><is this covered in 35D.030 A?></p>
<p>B. Police officers from the Portland Police Bureau can file complaints alleging misconduct by other Portland police officers.</p>	<p><is this covered in 35D.030 A?></p>
<p>C. Law enforcement officers from other law enforcement agencies can file complaints alleging misconduct by Portland police officers.</p>	<p><is this covered in 35D.030 A?></p>
<p>D. No member of the community, or Portland Police Bureau employee, shall face retaliation, intimidation, coercion, or any adverse action for filing a complaint, reporting misconduct, or cooperating with a misconduct investigation.</p>	<p><not included></p>

<p>35D.060 Types of conduct/complaints within Board jurisdiction</p>	<p>35D.030 Oversight System Jurisdiction</p>
<p>A. The Board shall investigate certain Police actions, including but not limited to:</p>	<p>35D.030 A ...The CBPA is authorized to perform an administrative investigation into complaints against Covered Employees to determine compliance with City or Police Bureau policy, ... unless otherwise stated in this Code.</p>
<p>1. All deaths in custody (<u>including effective/constructive custody</u>) and uses of deadly force;</p>	<p>from 35D.030 A: as well as all in-custody deaths and uses of deadly force by sworn members of the Police Bureau. B. The Oversight System shall have the authority to administratively investigate for violation of City or PPB policy all complaints against Covered Employees as follows:</p>
<p>2. All complaints of force that result in injury, discrimination against a protected class (whether defined by applicable local, state, or federal law),_or violations of federal or state constitutional rights.</p>	<p>1. All allegations of excessive force; 2. Discrimination against a protected class as defined by local, state, or federal law <u>in consultation with a BHR Business Partner</u>; 3. Violations of federal or state constitutional rights;</p>

	<u>5. Biased-based policing;</u>
	<u>6. Complaints referred to the Oversight System by Internal Affairs and accepted by the OCPA;</u>
B. The Board shall also investigate allegations of the following to determine if City or Police Bureau policy has been violated:	35D.030 C1. Other allegations of misconduct by Covered Employees as the CBPA deems fit, provided that the CBPA first brings an ordinance to Council to amend this Code and add the newly covered misconduct to this Code section.
1. dishonesty/untruthfulness including perjury;	<not included>

2. false reports & concealing evidence;	<not included>
3. sexual assaults, sexual misconduct, or sexual harassment;	<not included>
4. domestic violence;	<not included>
5. unlawful search/arrest;	<not included>

<p>6. neglect of duty;</p>	<p><not included></p>
<p>7. discourtesy, including use of profanity;</p>	<p><not included></p>
<p>8. improper discharge of a firearm;</p>	<p>35D.030 B4. Negligent discharge of a firearm, outside of a PPB Training event;</p>
<p>9. criminal conduct, including off-duty criminal conduct;</p>	<p><not included></p>

<p>10. improper or illegal act, omission or decision that directly affects a person or their property;</p>	<p><not included></p>
<p>11. violation of orders which affect a community member;</p>	<p><not included></p>
<p>12. harassment;</p>	<p><not included></p>
<p>13. intimidation;</p>	<p><not included></p>

14. retaliation;	<not included>
15. force used at protests (to the extent not covered by Section A);	<not included>
16. abuse of authority (such as use of police credentials in a personal dispute);	<not included>
17. officer failure to identify;	B7. Officer failure to identify, consistent with ORS 181A.704; and

18. theft of money;	<not included>
19. corruption (to the extent not covered by other Code provisions);	<not included>
20. membership or participation in hate groups, racial supremacist organizations or militant groups (as defined in ORS 181A.688);	<not included>
21. cases of substantial public interest; and	<not included>

<p>22. where data show a pattern of inappropriate policies.</p>	<p><not included></p>
<p>C. The Board may also investigate:</p>	<p>35D.030 C. The CBPA may also investigate:</p>
<p>1. Any alleged misconduct directly affecting the public, including work-related allegations such as tardiness if they affect a community member; and</p>	<p><not included></p>
<p>2. Other allegations of officer misconduct which do not originate from a complaint, at the discretion of the Board.</p>	<p><not included></p>

<p>3. Complaints filed by PPB officers, <u>alleging misconduct by another PPB officer which does not impact a community member</u>, when the complaint includes a request by the complainant for Board investigation.</p>	<p>35D.030 B8. Complaints brought by a PPB sworn member who requests CBPA investigation.</p>
<p>D. If the involved officer is within their probationary period and is terminated by the Police Bureau prior to the conclusion of the Board's administrative investigation of the complaint, the Oversight System shall complete its investigation.</p>	<p><not included></p>
<p>E. If a complainant asks the Board not to investigate a case that falls under the Board's mandate in the Charter, the Board shall evaluate its legal obligations, and weigh the interests of community concerns and the need for accountability against the wishes of the complainant (and/or their attorney if there is one).</p>	<p><not included></p>
<p>F. The following types of complaints which are outside the Board's jurisdiction, shall be handled as follows:</p>	<p>35D.030 E. The following types of complaints which are outside the CBPA's jurisdiction, shall be handled as follows:</p>

	<p><u>1. When the complaint involves an allegation of a violation of Human Resources Administrative Rule 2.02, the complaint shall be referred to the Bureau of Human Resources within two business days. If the HRAR 2.02 allegation is covered under this Code subsection, then the Oversight System shall include a BHR Business Partner in the investigation.</u></p>
<p>1. When the complaint involves officers from another law enforcement agency, <u>the Board shall ask permission from the complainant to forward their complaint to the proper investigating authority to investigate the officers' alleged misconduct. If the complainant declines, the Board shall dismiss the complaint for lack of jurisdiction and notify the complainant of its decision.</u></p>	<p>2. When the alleged violations are not under the Oversight System's authority to investigate, the matter shall be referred to the appropriate investigatory City or outside entity. 35D.050 A2c Refer to other City entity or outside entity if not within the Oversight System's jurisdiction; or</p>
<p>2. When the alleged violations do not impact a community member, except as noted in C3 above, another City investigatory body shall investigate.</p>	<p>(as above, 2. When the alleged violations are not under the Oversight System's authority to investigate, the matter shall be referred to the appropriate investigatory City or outside entity.)</p>
	<p>3. Allegations of violations of truthfulness and courtesy directives and of criminal law.</p>

	<p>a. For allegations of violations of the truthfulness or courtesy directives or criminal law, the OCPA Director or designee shall receive access to the full PPB administrative investigation case file and report. The OCPA Director or designee shall only permit access to the full case file and report for purposes of preparing written feedback and recommendations. The OCPA Director or designee and those with access to this information shall treat it as confidential.</p>
	<p>b. The OCPA Director or designee shall have not less than twenty-one days to submit written feedback and recommendations.</p>
	<p>c. The OCPA Director or designee is authorized to provide summaries of these matters to the CBPA. Such summaries shall be provided in executive session in compliance with Oregon public meetings laws.</p>
<p>3. When a complaint is generated by a Portland Police Bureau supervisor about poor officer performance or other work rule violations, Responsible Unit managers are responsible for intake and investigation.</p>	<p><not included></p>

35D.070 Filing Timelines	
A. The timeline to file a complaint shall be 12 months after the incident except in the following circumstances:	<not included>
1. The Director and/or designated Board leadership may extend the timeline for good cause; or	<not included>
2. until a civil case involving the same underlying conduct has concluded; and/or	<not included>

<p>3. for the term of the involved community member's incarceration.</p>	<p><not included></p>
<p>B. If the timeline is extended for reasons identified in A.2-3, it may be extended to a maximum of five years.</p>	<p><not included></p>
<p>C. Good cause for extending the timeline may include (but is not limited to) fear of retaliation, or if an officer who was not previously identified has their identity become known after the 12-month deadline.</p>	<p><not included></p>
<p>35D.080 Methods for Filing Complaints; Board Receipt of Complaints</p>	

<p>A. The Board shall ensure that complaints can be filed and received through multiple methods (including but not limited to in-person, by mail, phone, email, online submittal, text message, collect calls, or by other common technological means of communication) to ensure access to the complaint process.</p>	<p><not included></p>
<p>1. The Board shall ensure that complaint forms are widely available.</p>	<p><not included></p>
<p>a. All Portland Police Bureau facilities will have complaint forms available in areas accessible to the public.</p>	<p><not included></p>
<p>b. All Portland Police Bureau issued business cards intended to be given to community members during actions/encounters will have the Board's phone number and email address printed on them.</p>	<p><not included></p>

<p>2. The Board shall offer translation for documents and for verbal communications with appropriate interpretation to be inclusive of people for whom English is not their preferred language, and in accommodation of people with disabilities.</p>	<p><not included></p>
<p>3. The Board will ask the complainant to state their preferred method of communication at the beginning of the process.</p>	<p><not included></p>
<p>B. Should a community member contact the Portland Police Bureau or the City's information line (such as 311) or any other City bureau regarding alleged officer misconduct, the complainant will be directed to the Board and Office.</p>	<p><not included></p>
<p>C. The Police Bureau shall inform the Board immediately upon their knowledge that an officer, or supervisor thereof, has engaged in conduct that may be subject to criminal and/or administrative investigation.</p>	<p><not included></p>

<p>1. By immediate, it is intended to mean without delay and unless for reasonable cause, within 24 hours of occurrence.</p>	<p><not included></p>
<p>D. The Board's offices shall be open to accept complaints for longer hours than Monday through Friday, 9:00AM to 5:00PM, including early mornings, weekend times and evenings.</p>	<p><not included></p>
<p>35D.090 Intake</p>	
<p>A. The Director shall hire/retain complaint navigators ("advocates") to help complainants navigate their cases.</p>	<p>35C.010 A1. As part of the professional staff of the OCPA, the Director shall hire complaint navigators to help complainants navigate their cases. ...</p>

<p>1. All complaint navigators shall be trained both on <u>culturally sensitive/competent support for complainants</u> and <u>on sexual assault/survivorship for community members, so that even if someone from the relevant group isn't available when a person calls in everyone can provide support.</u></p>	<p>35C.010 A1. ... All complaint navigators shall be trained on culturally sensitive and <u>trauma-informed</u> support.</p>
<p>2. Complainants may request culturally competent/sensitive intake.</p>	<p><not included></p>
<p>3. Complaint navigators will be required to receive continuing education.</p>	<p><not included></p>
<p>4. Complaint navigators will assist in staff delivery of community education about the complaint process.</p>	<p><not included></p>

<p>B. The oversight system will provide a complaint navigator for each complainant. To the extent possible, the complaint navigator will be appropriately culturally attuned to the complainant's needs.</p>	<p><not included></p>
<p>C. Community members can additionally have two support people including an attorney for a total of up to three support people. However, the support person cannot be a witness to the incident.</p>	<p><not included></p>
<p>D. If the complainant is an officer, who already has the automatic ability to have a bargaining unit representative (if applicable) and an attorney, they can also bring a peer officer or community member of their choosing (who is not a witness to the incident). This means they may also have as many as three support people.</p>	<p><not included></p>
<p>E. If the officer is not a part of a bargaining unit, they will be assigned a complaint navigator from the pool for community members. The officer can decline this option.</p>	<p><not included></p>

<p>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.</p>	<p><not included></p>
<p>35D.100 Preliminary Investigations; Initial Case Handling Decision</p>	<p>35D.050 Administrative Investigation and Discipline Process</p>
<p>A. The Director shall hire investigators to conduct preliminary investigations, full investigations, and follow-up investigations as necessary and as outlined by this Code and related Board procedures and rules.</p>	<p><not included></p>
<p>B. When the Board receives a complaint regarding alleged misconduct of a Portland Police Bureau officer, or supervisor thereof, <u>or opens a case not originating from a complaint</u>, staff shall:</p>	<p>35D.050 A. When the Oversight System receives a complaint regarding alleged misconduct of a Covered Employee, staff shall:</p>

<p>1. Assign a case number;</p>	<p>35D.050 A1. Intake: a. Assign a case number;</p>
<p>2. Conduct a preliminary investigation (including gathering information about the complaint through an intake interview);</p>	<p>35D.050 A1. b. Conduct a preliminary investigation, including gathering information about the complaint through an intake interview. <u>All facts as alleged are assumed to be true for purposes of case handling decisions as outlined in Section 35D.050(A)(2); and</u></p>
<p>3. Make a case-handling decision (i.e., should case proceed to a full investigation; suggested for mediation; addressed by some other means; or dismissed);</p>	<p>35D.050 A1. c. Determine whether facts as <u>alleged constitute a policy violation under the Oversight System's jurisdiction.</u> <u>2. Make a case-handling decision: a. Conduct a full investigation when facts as alleged constitute a policy violation under the Oversight System's jurisdiction, except as follows:</u> <u>i. When the matter falls under section 35D.050(A)(2)(d)(i), the Oversight System may refer complainant and Covered Employee to mediation and close the case; or</u></p>
<p>4. If appropriate for a full investigation, identify the complainant's allegations or possible types of <u>misconduct</u>; and</p>	<p>35D.050 A3. If appropriate for a full investigation, identify the allegations or possible <u>rule violations</u>.</p>

<p>5. Communicate to the complainant summarizing the complaint and the case-handling decision.</p>	<p><not included></p>
<p>C. Incomplete complaints can be investigated if the Board determines an investigation is warranted.</p>	<p><not included></p>
<p>35D.110 Informal Complaints</p>	<p>35D.090 Alternative Dispute Resolution</p>
<p>A. If the complainant expresses an interest in resolving their complaint informally through discussion with the officer's supervisor, the Board shall determine whether such resolution is appropriate.</p>	<p>Informal Resolution 35D.090 A. If the Complainant expresses an interest in resolving their complaint informally through discussion with the Covered Employee's supervisor, the Director shall determine whether such resolution is appropriate.</p>

<p>1. The <u>Board</u> shall confer with the officer's supervisor about the possibility of an informal resolution process, and the supervisor shall make a determination whether to resolve the case informally or send it back to the Board for full investigation.</p>	<p>1. The <u>Director or designee</u> shall confer with the Covered Employee's supervisor about the possibility of an informal resolution process, and the supervisor shall make a determination whether to resolve the case informally or send it back to the OCPA for full investigation.</p>
<p>2. Once approved for informal complaint resolution, a case can be resolved without formal investigation and the complainant will be informed of this decision.</p>	<p>2. Once approved for informal complaint resolution, a case can be resolved without full investigation and the Complainant will be informed of this decision.</p>
<p>3. If the case is sent back for full investigation by the supervisor, or informal resolution is unsuccessful, the Board will inform the complainant.</p>	<p>3. If the case is sent back for full investigation by the supervisor, or informal resolution is unsuccessful, the OCPA will inform the Complainant.</p>
<p>35D.120 Mediation</p>	<p>35D.050 A2d. Mediation when:</p>

<p>A. The Director shall arrange for professional mediators.</p>	<p><not included></p>
<p>B. The Board has the authority to provide for voluntary mediation between community members and law enforcement, to improve police-community relations <u>and build better policies</u>. There shall be no cost to any party to utilize the mediation option.</p>	<p>35D.050 A2d-i. the misconduct would be so minor that the matter would be better addressed through other means; or ii. when a case is administratively closed and mediation could benefit the relationship between PPB and the community member.</p> <p>Mediation A. The Oversight System is authorized to provide for voluntary, confidential mediation between Complainants and Covered Employees as provided for in this Code and to improve police-community relations. There shall be no cost to any party to utilize the <u>mediation option</u></p>
	<p><u>B. In addition to other provisions for mediation in this Code, mediation shall be offered to the Covered Employee and Complainant after a Panel Review votes to sustain a finding. Such mediation is not in lieu of discipline, although it may constitute education-based alternative.</u></p>

<p>1. The Board shall determine whether the case is eligible for mediation based on the nature of the allegations and the officer's history.</p>	<p><not included></p>
<p>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.</p>	<p><not included></p>
<p>b. Complainants shall not be unduly pressured to choose mediation if they prefer an investigation to take place.</p>	<p><not included></p>
<p>c. An officer's supervisor must clear them for approval before the officer can agree to mediation.</p>	<p><not included></p>

<p>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.</p>	<p><not included></p>
<p>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.</p>	<p><not included></p>
<p>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.</p>	<p><not included></p>
<p>3. If there is a civil lawsuit or criminal case pending against the officer about the incident, mediation cannot proceed.</p>	<p><not included></p>

<p>D. The discussions that take place in the mediation are confidential unless the parties agree otherwise.</p>	<p><not included></p>
<p>E. Mediators shall be screened and trained properly about power dynamics, cultural awareness, racial bias, and other issues which may underlie the incident.</p>	<p><not included></p>
<p>F. For eligible cases, mediation is an alternative to full investigation.</p>	<p><not included></p>
<p>1. If either party rejects mediation, the case is sent to a full investigation.</p>	<p><not included></p>

<p>2. Either party to the mediation, or the mediator, can determine that mediation has not been successful, and ask for a full investigation.</p>	<p><not included></p>
<p>G. Mediation shall be made accessible to all parties.</p>	<p><not included></p>
<p>1. Upon request, the mediation process will make accommodation for people with disabilities, as well as interpreters as needed.</p>	<p><not included></p>
<p>2. To accommodate schedules, complainants can provide adequate notice of cancelation on as many as two separate occasions before mediation is abandoned.</p>	<p><not included></p>

<p>3. Mediation is available to complainants, as well as to family members of people subjected to alleged police misconduct or other community members, with the complainant's permission, even if complainants do not themselves participate. In situations where the complainant does not participate, the outcome of mediation will be binding on all parties.</p>	<p><not included></p>
<p>a. Upon agreeing to the confidentiality of the mediation, one support person of each party's choosing may attend, but not engage in the mediation, to provide moral support and consult during breaks.</p>	<p><not included></p>
<p>4. Mediation shall take place at a neutral location that is mutually acceptable to all parties.</p>	<p><not included></p>
<p>H. Successful mediation will conclude with a signed mediation agreement by all parties. Violation of the agreement may result in the case proceeding to a full investigation and/or other next steps as outlined in the agreement itself. Portions of the mediation agreement which could incriminate any party in criminal or administrative proceedings will be considered confidential to the extent allowed by law. The parties may mutually agree to publicly disclose the substance of the mediation as part of the agreement.</p>	<p><not included></p>

35D.130 Grounds for Dismissal of a Case Following Preliminary Investigation	
A. After a preliminary investigation, the Board may dismiss the case.	<not included>
1. If the case is dismissed, the Board will provide notification to the complainant.	<not included>
2. The Board will also notify the involved officer(s) and their commanding officer once the appeal deadline has passed (see 35D.240).	<not included>

<p>B. The Board may dismiss a complaint for the following reasons:</p>	<p><not included></p>
<p>1. The complaint is only related to criminal charges or alleged violations against the complainant, and does not allege misconduct;</p>	<p><not included></p>
<p>2. The complaint was filed outside the timeline to file (35D.070) and there is no good cause or other grounds to excuse the late filing;</p>	<p><not included></p>
<p>3. Even if all aspects of the complaint were true, no act of misconduct would have occurred;</p>	<p>35D.050 A2 ii. Where there is clear and convincing evidence that the Covered Employee did not engage in misconduct. ... 2b. Administratively close the complaint when facts as alleged do not constitute a policy violation under the Oversight System's jurisdiction ...</p>

<p>4. Even if all aspects of the complaint were true, the misconduct would be so minor that the matter would be better addressed through other means;</p>	<p>35D.050 A2b ..or the misconduct would be so minor that the matter would be better addressed through other means;</p>
<p>5. The complainant withdraws their complaint or fails to complete necessary steps to continue with the complaint. It may benefit the community to finish the investigation. However, lack of cooperation and lack of consent from a complainant may make it impossible or inappropriate to complete the investigation; and</p>	<p><not included></p>
<p>6. Lack of jurisdiction (see 35D.060).</p>	<p><not included></p>
<p>C. Notwithstanding its decision to dismiss a complaint under Section B, the Board may initiate potential policy recommendations from dismissed complaints.</p>	<p><not included></p>

<p>D. <u>At minimum, for the duration of the US DOJ v. City of Portland Settlement Agreement,</u> cases alleging excessive force shall only be dismissed under B3 when there is "clear and convincing evidence" that the allegation has "no basis in fact."</p>	<p>35D.050 A2 ii. ... Allegations of excessive force shall be subject to full investigations unless there is clear and convincing evidence that the allegation has no basis in fact.</p>
<p>E. Dismissals based on B3 and B4 will be considered for mediation or informal complaint.</p>	<p><not included></p>
<p>35D.140 Board Authority to Take Interim Measures</p>	
<p>A. The Board can take interim steps prior to findings being determined in specific cases.</p>	<p><not included></p>

<p>1. A case can be prioritized if an officer is retiring or being promoted.</p>	<p><not included></p>
<p>2. The Board can recommend placing an officer on administrative leave while administrative charges are pending.</p>	<p><not included></p>
<p>35D.150 Portland Police Bureau Witnesses</p>	

<p>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.</p>	<p><not included></p>
<p>1. In use of deadly force and death in custody cases, the Board's administrative investigators shall <u>coordinate with criminal investigators external to the Board and prosecutors (if applicable)</u>. 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, <u>or the officer has postponed their interview with criminal investigators.</u></p>	<p>35D.040 B. The OCPA's investigator shall take a compelled statement no later than 48 hours after the event after issuing a Garrity warning, <u>unless the Covered Employee is incapacitated.</u></p>
<p>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.</p>	<p><implied in 35D.040B></p>

<p>C. All Oversight System interviews of PPB employees shall be conducted in conformance with legal requirements and collective bargaining provisions.</p>	<p>35A.040 B3b. ... The Oversight System shall coordinate with City Bureaus and Offices, including PPB and any applicable union representative, to schedule investigatory interviews at a time when the employee is on duty and that does not unduly interfere with the operations of the Bureau or Office and is consistent with any applicable collective bargaining agreement. The investigation shall not be unreasonably delayed.</p>
<p>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.</p>	<p><not included></p>
<p>E. Prior to being interviewed, a PPB employee whose testimony is requested or compelled will:</p>	<p><not included></p>
<p>1. Be notified of the time, date, and location of the interview and that this is an administrative investigation.</p>	<p><not included></p>

<p>2. Be informed of the right to bring a collective bargaining representative to attend the interview, consistent with Weingarten and PECBA (as applicable). To the extent consistent with the collective bargaining agreement, the PPB employee may also bring support persons.</p>	<p><not included></p>
<p>3. Be read a statement (“Garrity Notice”), that the employee is directed to attend the interview, cooperate during the interview and answer all questions fully and truthfully and, further told that if the employee fails to attend the interview, cooperate during the interview or answer any questions fully and truthfully, the employee will be subject to discipline or discharge.</p>	<p><not included></p>
<p>4. Be asked to sign an acknowledgement that they received the Garrity Notice prior to providing compelled statements or testimony.</p>	<p><not included></p>
<p>5. Be provided with any other information or protections required by any applicable collective bargaining agreement.</p>	<p><not included></p>

<p>F. As provided by this Code, the Board may subpoena a sworn PPB officer who fails to comply with a properly issued written interview notice to cooperate with an administrative investigation as described in this section.</p>	<p><not included></p>
<p>G. In addition, a refusal of a sworn PPB officer to truthfully and completely answer all questions may result in discipline up to and including termination.</p>	<p><not included></p>
<p>35D.160 Subpoenas</p>	<p>35D.080 Subpoenas</p>
<p>A. <u>The Board shall have the authority to issue subpoenas for the purpose of compelling any witness testimony or the production of documents, photographs, video or audio recordings, or any other evidence necessary for the Board to fully and thoroughly investigate a complaint or conduct a review.</u></p>	<p>35D.080 The CBPA shall have the authority to issue and enforce all categories of subpoenas to the extent allowed by law.</p>

<p>B. If a witness fails to appear before the Board at the time and date set by subpoena, or in the case of a subpoena duces tecum, if a record is not produced as required, the Board, through appropriate legal counsel, may apply to a court of competent jurisdiction for the enforcement of a subpoena or to impose penalties for failure to obey a subpoena.</p>	<p><implied elsewhere></p>
<p>C. In general, initial efforts to compel the testimony of a PPB employee shall be made through the administrative process (and directives). However, if a PPB sworn officer refuses to comply, the Board may subpoena their presence via this Code provision.</p>	<p><not included></p>
<p>D. Any person who fails to comply with a subpoena will be subject to contempt proceedings as prescribed by State law; provided that such persons shall not be required to answer any question or act in violation of rights under the constitutions of the State or of the United States.</p>	<p><not included></p>
<p>1. The Board will make a case-by-case determination as to whether to pursue a contempt charge arising from an individual's refusal to cooperate.</p>	<p><not included></p>

<p>35D.170 Procedures specific to use of deadly force or death in custody</p>	<p>35D.040 Investigations of deadly force and in-custody deaths</p>
<p>A. The Board shall have authority to investigate all deaths in custody (<u>including effective/constructive custody</u>) and uses of deadly force.</p>	<p>The CBPA shall have authority to perform an administrative investigation into all in-custody deaths and uses of deadly force.</p>
<p>B. When an incident involves police use of deadly force or a death in custody, the Board shall follow these procedures:</p>	<p>35D.040 A In use of deadly force and in-custody death cases, ...</p>
<p>1. Oversight System investigators shall head to the scene and shall coordinate with and assist criminal investigators in gathering information.</p>	<p>A. ... the OCPA Investigators shall coordinate with criminal investigators. D. When an incident involves police use of deadly force or an in-custody death, <u>PPB shall notify the Director or designee as soon as possible after the incident.</u> The Director or designee shall go to the scene and <u>shall abide by police procedures and applicable law.</u></p>

<p>2. Board investigators <u>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.</u></p>	<p>E. The OCPA shall have <u>access to PPB's criminal investigatory records relevant to the deadly force or in-custody death case and shall maintain such records confidentially unless authorized otherwise by the PPB Chief or designee.</u></p>
<p>3. When those criminal investigation interviews are completed, if there are questions about possible administrative violations, Office investigators will ask questions of witnesses.</p>	<p><not included></p>
<p>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).</p>	<p><not included></p>
<p>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.</p>	<p>F. OCPA shall review uses of deadly force and in-custody deaths to determine if the force complied with policy. This investigation shall not only review the officer who used force but shall include a review of the supervisors.</p>

<p>C. <u>The final investigation</u> 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.</p>	<p>G. The OCPA shall coordinate with PPB Training Division to provide access to transcripts and the investigative file throughout their investigation. PPB Training Division shall review the investigation to determine whether the actions of Covered Employees were consistent with training and whether those actions reflect training deficiencies. The Training Division shall present its analysis to the CBPA.</p>
	<p>H. <u>The PPB Chief or designee shall receive access to the full case file and investigation report. The Chief or designee shall only permit access to the full case file and investigation report for purposes of preparing written feedback or recommendations. The Chief or designee and those with access to it shall treat the information as confidential. The Chief or designee shall have not less than twenty-one days to submit written feedback or recommendations.</u></p>
<p>D. <u>The community member subjected to use of deadly force, or their survivors if the interaction resulted in death, shall be considered as complainants and shall have full rights to appeal.</u></p>	<p>35D.040 L. <u>If the CBPA determines the use of deadly force or in-custody death was sustained as out of policy, the OCPA will, if possible, provide notice to the person on whom deadly force was used or their survivor and opportunity to provide an impact statement to the CBPA. Such notice shall occur simultaneously to issuance of a proposed discipline letter.</u></p>
<p>E. In cases in which survivors choose not to file a complaint, the investigation shall still be handled in the same way as all other misconduct investigations.</p>	<p><not included></p>

	<p><u>I. The OCPA shall thereafter submit the full case file, the investigation report, and any submissions from the PPB Chief or designee to the CBPA.</u></p>
<p>35D.180 Creation of Hearings Panels</p>	
<p>A. The Board shall create panels (“<u>Hearing Panels</u>”) to hear cases to determine findings about whether policies were violated.</p>	<p>35D.040 K. [in cases involving deadly force] The CBPA review shall follow the procedure as outlined in Section 35D.060(D)-(F). 35D.060 B. For all other cases within the CBPA’s jurisdiction, the CBPA shall establish <u>Review Panels</u> to make findings based on the investigation and determine whether City rules or PPB directives were violated.</p>
<p>1. Panels shall be no smaller than five Board members.</p>	<p>35D.060 B1. Panels shall be comprised of three (3) CBPA Members, who shall attend all Reviews for the assigned case.</p>

<p>2. The Board shall ensure that panels have more than 5 members for serious cases.</p>	<p><u>35D.040 J. All uses of deadly force and in-custody death cases shall be reviewed by a quorum of the full CBPA.</u></p>
<p>3. Panel assignments shall be made in rotation and in a manner that will ensure the Panel reflects the demographic and life experience make-up of the Board to the extent possible. Altogether, the Board shall ensure a balance that allows the Panel as a whole to benefit from the knowledge and expertise of its individual members.</p>	<p>C. Panel assignments shall be made in rotation and in a manner that will ensure the Panel reflects the demographic and life experience make-up of the CBPA to the extent possible. Altogether, the CBPA shall ensure a balance that allows the Panel as a whole to benefit from the knowledge and expertise of its individual members.</p>
<p>4. Each panel shall have a presiding individual over each hearing. The Board shall develop procedures for the selection of the presiding individual.</p>	<p><not included></p>
<p>35D.190 Hearings Panel: Initial Procedures and Preliminary Hearing</p>	

<p>A. Members of the hearing panel shall review all investigative materials.</p>	<p>35D.070 B. Prior to CBPA and Panel Reviews, the Reviewing Members shall review all investigative materials <u>and any impact statements from the Complainant. Reviewing Members shall not discuss the matter with other CBPA members until the CBPA or Panel Review. ...</u></p>
<p>1. In reviewing the case, the panel may examine any supporting documents, the file and report of the staff, and any documents accumulated during the investigation. They may also listen to and/or watch the recordings of all interviews.</p>	<p><implied elsewhere></p>
<p>B. The panel shall hold a preliminary hearing to assess the completeness and readiness of the investigation for a full hearing.</p>	<p><not included></p>
<p>1. The complainant and officer will be notified of the date of the preliminary hearing, but are not required to attend. They may appear with any or all of their support persons.</p>	<p><not included></p>

<p>2. The Board shall publicly announce the date of a preliminary hearing at least 7 days in advance of the hearing, including a case number. <u>This notice shall also include methods by which members of the public who may have information or evidence can contact an assigned investigator.</u></p>	<p>35D.070 C. CBPA and Panel Reviews shall be noticed as required by Oregon Public Records laws and <u>in anonymized manner.</u></p>
<p>3. The Board will decide whether some or all of the preliminary 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.</p>	<p><not included></p>
<p>4. At the commencement of the preliminary hearing, the presiding individual shall state that members of the public who may have additional information or evidence should contact an assigned investigator, prior to the full hearing. The presiding individual may allow members of the public to comment about the readiness of the case, consistent with federal and state law and collective bargaining agreements.</p>	<p><not included></p>
<p>C. At the preliminary hearing, the panel will decide whether to:</p>	<p><not included></p>

<p>1. Send the case back for further investigation, specifying the information sought;</p>	<p>35D.060 D2a) send the matter back for further investigation; or</p>
<p>2. Send the case forward to a full Hearing; or</p>	<p><not included></p>
<p>3. Evaluate the case for eligibility for stipulated discipline (per Code Section 35D.220).</p>	<p><not included></p>
<p>D. The panel's decision on the complaint readiness will be made in open session.</p>	<p><not included></p>

<p>E. The Board shall permit public comment after the decision.</p>	<p><not included></p>
<p>35D.200 <u>Hearing Panel: Full Hearings Process</u></p>	<p>35D. 070 <u>Review Procedures</u></p>
<p>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.</p>	<p><implied elsewhere></p>
<p>B. The Board shall welcome public involvement in this process to the extent consistent with the law and collective bargaining agreements.</p>	<p><not included></p>

<p>C. The hearings shall be recorded.</p>	<p><not included></p>
<p>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.</p>	<p><not included></p>
<p>E. <u>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.</u></p>	<p>[Also see PAC 35D.200 K1] 35D.060 D1. At the Findings Review, <u>the OCPA investigator or designee shall present the report to the CBPA for uses of deadly force and in-custody deaths and to the Review Panel Members (Reviewing Members) in Executive Session, unless the Covered Employee opts for public session. ...</u></p>
<p>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.</p>	<p><not included></p>

<p>G. Attendees to the Hearing:</p>	
<p>1. The complainant can appear with their complaint navigator, as well as a support person and/or an attorney.</p>	<p><not included-- see 35D.070 A below></p>
<p>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.</p>	<p><not included-- see 35D.070 A below, "<u>the Covered Employee may attend the Due Process Review</u>"></p>
<p>3. A person from the upper management of the Police Bureau's Training Division <u>shall attend all hearings</u> to answer questions about police policy, training, or procedure.</p>	<p>35D.070 A. All CBPA and Panel Reviews shall be supported by an OCPA staff member, <u>a neutral facilitator, and a labor and employment attorney from the City Attorney's Office.</u> The CBPA may adopt rules to include advisory members in CBPA or Panel Reviews, such as, OCPA Director or designee, and representatives from the PPB Training Division, BHR, and PPB Internal Affairs, <u>but shall not include the Complainant or the Covered Employee, except the Covered Employee may attend the Due Process Review.</u> All attendees shall sign a confidentiality</p>

<p>4. Any other witnesses requested by the Panel, complainant, or officer. (Witnesses will ordinarily be sequestered until they are called to testify.)</p>	<p><not included-- see 35D.070 A above></p>
<p>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.)</p>	<p><not included></p>
<p>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.</p>	<p><not included></p>
<p>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.</p>	<p><implied elsewhere></p>

<p>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.</p>	<p><not included></p>
<p>K. Procedure for the hearings (Note: throughout this subsection, "complainant" and "officer" may include their representatives.)</p>	<p>35D.060 D. Findings and Investigation Review.</p>
<p>1. The basic circumstances of the case and allegations shall be read into the record by the <u>presiding individual (or designee)</u> at the beginning of the hearing.</p>	<p>35D.060 D1. Case presentation. At the Findings Review, <u>the OCPA investigator or designee</u> shall present the report to the CBPA for uses of deadly force and in-custody deaths and to the Review Panel Members (Reviewing Members) <u>in Executive Session, unless the Covered Employee opts for public session.</u> ...</p>
<p>2. The complainant and officer can make opening statements; the complainant can choose whether to provide their statement before or after the officer.</p>	<p><not included></p>

<p>3. The <u>presiding individual begins</u> questions of witnesses, <u>followed by</u> other panel members.</p>	<p>35D.060 D1. ... Reviewing Members may ask questions and discuss the case.</p>
<p>a. Except as provided in c, Oversight System staff involved in the administrative investigation can ask questions at the invitation of the presiding individual.</p>	<p><not included></p>
<p>b. The officer or complainant can request specific items about which the panel may ask more questions of witnesses.</p>	<p><not included></p>
<p>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.</p>	<p><not included></p>

4. Once recognized by the presiding individual, the complainant and officers have the ability to do the following:	<not included>
a. ask questions directly of witnesses (including cross-examining witnesses);	<not included>
b. request that the panel ask additional questions of a witness;	<not included>
c. call additional witnesses;	<not included>

d. introduce exhibits; and	<not included>
e. suggest that the panel impeach witnesses.	<not included>
f. The complainant and officer can offer rebuttal evidence to the evidence submitted by the other party.	<not included>
5. Once all evidence has been received, the officer and complainant can make closing statements.	<not included>

<p>6. Once closing statements have concluded, the case shall be considered submitted. The panel shall deliberate on the evidence applying the preponderance of evidence burden of proof. The panel may convene an executive session to confer with legal counsel as needed in reaching its findings.</p>	<p><not included></p>
<p>7. The presiding individual may allow members of the public to comment about the case, consistent with federal and state law and collective bargaining agreements.</p>	<p><not included></p>
<p>L. Upon completion of its deliberations, the panel will decide its <u>finding(s)</u> by a simple majority of the members of the panel. <u>Where the public interest warrants a discussion of the findings on the records, each panel member may explain their position. Those who disagree can include their reasons for dissenting along with the findings.</u></p>	<p>35D.060 D2. <u>Consensus on investigation.</u> At the conclusion, Reviewing Members shall by majority <u>consensus</u> either: ... b) propose to either <u>sustain or not sustain each allegation</u> and explain the facts that support their proposed findings and the policy or directive at issue. 35D.060 F3: Once consensus is reached, a formal vote shall be taken in public session. The formal vote shall occur as follows: F3a a. Reviewing Members shall vote on whether to <u>sustain or not sustain each allegation, which shall only be referenced by "allegation 1", "allegation 2", and so forth, and the Covered Employee shall be anonymized.</u></p>

<p>1. When a decision on findings is made at the end of a public hearing, the presiding individual shall <u>explain</u> the next steps, including the appeal process.</p>	<p>4. Based on the majority vote regarding imposed discipline, the OCPA staff, in collaboration with the Reviewing Members <u>during Executive Session</u>, shall <u>prepare a written letter</u> to the Covered Employee detailing the findings and conclusions of the majority vote, a summary of the information presented at the Due Process Review and how that information was considered, the imposed discipline and basis thereof, and the voting tally showing the vote of each Reviewing Member. Such letter shall include the fact of any grievance or appeal rights.</p>
<p>2. If any finding is made outside the public hearing process where an appeal is still possible, or the complainant does not appear at the hearing, a Board representative can explain the process or delegate that responsibility to staff.</p>	<p><not included></p>
<p>M. Should the panel find that one or more allegation is in violation of Portland Police Bureau policy (i.e., out of policy), the case will proceed to the proposed corrective action and discipline phase (as set forth in Code section 35D.230).</p>	<p>3. Proposed discipline and binding discipline rules. If a majority of Reviewing Members propose to sustain one or more allegations, <u>those same Reviewing Members shall propose discipline based on any binding discipline rules, such as a collective bargaining agreement or statewide standards. For the purpose of making disciplinary decisions, the Reviewing Members shall have access to the full investigation file and personnel records of the Covered Employee, including all commendations and prior corrective action.</u></p>

<p>1. Following the decision of the panel, a summary of the panel’s findings shall be shared in writing (or other means if requested) with the complainant and officer(s), consistent with applicable law.</p>	<p><implied elsewhere></p>
<p>N. General guidelines for hearings conducted pursuant to this section:</p>	<p><not included></p>
<p>1. Hearings can be held even if parties fail to appear.</p>	<p><not included></p>
<p>2. The panel may receive any oral or written statements volunteered by the complainant, the involved officer, other officers involved, or any other person.</p>	<p><partially implied elsewhere></p>

<p>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.</p>	<p><not included></p>
<p>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.</p>	<p>35D.070 B ... Reviewing Members shall not review or consider materials or information outside of the investigative materials, but at the conclusion of the CBPA or Panel Review, Reviewing Members may refer the case back to OCPA if additional investigation is warranted.</p>
<p>O. The Board shall establish bylaws or rules provisions, guidelines, and methods for the processes described in this Code section.</p>	<p><not included></p>
<p>35D.210 Board Burden of Proof and Findings</p>	

<p>A. Burden of Proof. Findings are determined using the Preponderance of the Evidence Standard.</p>	<p>35D.070 D. The Reviewing Members shall only sustain an allegation if the preponderance of evidence supports this finding.</p>
<p>B. The Board will use a standard set of four options in all cases when making decisions on findings:</p>	<p>35A.040 B1. For formal investigations conducted by the OCPA, investigation reports will include factual findings and will be resolved in one of two ways: ...</p>
<p>1. <u>Out of Policy</u>: meaning the action is found to have violated policy. In some jurisdictions, this is also known as “sustained;”</p>	<p>35A.040 B1. ... 1) <u>sustained</u>, meaning the action is found by preponderance of the evidence to have violated City policy; ...</p>
<p>2. <u>In Policy</u>: meaning the officer's actions were within the law and policy. In some jurisdictions, this is also known as “exonerated;”</p>	<p>35A.040 B1 or 2) <u>not sustained</u>, meaning the evidence is not sufficient to demonstrate by a preponderance of the evidence that a violation of City policy occurred, or, the evidence demonstrated by a preponderance that the Covered Employee’s conduct was lawful and within policy.</p>

<p>3. Unfounded: meaning the evidence shows the alleged events did not occur; and</p>	<p><incorporated into "not sustained"></p>
<p>4. Insufficient Evidence: meaning there is not enough information or evidence to attach any of the other findings.</p>	<p><incorporated into "not sustained"></p>
<p>C. The Board may add additional findings related to systemic aspects of the incident which led to Board's consideration of the case:</p>	<p><not included></p>
<p>1. Policy Issues: meaning the Board recommends that PPB revise its policy;</p>	<p><not included></p>

<p>2. Training Issues: meaning the Board recommends that PPB revise its training;</p>	<p><not included></p>
<p>3. Supervisory Issues: meaning someone in the chain of command supervising the officer engaged in an action that contributed to the incident;</p>	<p><not included></p>
<p>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</p>	<p><not included></p>
<p>5. Equipment Issues: meaning the equipment provided did not function properly or was not adequate.</p>	<p><not included></p>

<p>D. When the Board finds a systemic issue, the Board will automatically initiate a policy review, which may include Board members and/or staff preparing a proposed Policy Recommendation for consideration by the Board as outlined in 35E.</p>	<p><not included></p>
<p>E. All of these findings shall be applied whether the case is generated by a complaint or if the Board investigates as required by City Code and Charter.</p>	<p><not included></p>
<p>F. These findings shall also be used for consistency by any other investigating body or supervisor who investigates officer complaints which do not involve community members.</p>	
<p>35D.220 Stipulated Findings and Discipline/Corrective Action</p>	<p>35D.060 G. Stipulated Discipline Process</p>

<p>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 <u>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.</u></p>	<p>1. If the case is appropriate for Stipulated Discipline under City Code section 3.20.XXX (currently 140(J)), prior to referring to the Reviewing Panel for Findings Review the Director or designee shall recommend findings and proposed discipline and provide notice to the Covered Employee of such recommendation, who may then request stipulated discipline.</p>
<p>B. The officer may have <u>up to 7 days</u> 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).</p>	<p>2. If, after the conclusion of the presentation of the case, a majority of the Reviewing Panel at Findings Review proposes to adopt the recommendation from the Director or designee for stipulated discipline, the Reviewing Panel shall then go into public session and shall follow the process outlined in Section 35D.060(F)(3) to enter the Stipulated Discipline determination as final discipline <u>in an anonymized manner. Based on the majority vote of the Panel of Reviewing Members regarding the stipulated discipline, the OCPA staff shall prepare a written letter to the Covered Employee detailing the findings and conclusions of the investigation and the imposed discipline and basis thereof. [NOTE: 7 day timeline by PAC matches 35D.060 D4.]</u></p>
<p>C. The following categories of cases are not eligible for stipulated discipline/corrective action:</p>	<p><not included></p>

<p>1. cases involving alleged use of excessive force including officer shootings and deaths in custody;</p>	<p><not included></p>
<p>2. cases involving alleged discrimination, disparate treatment or retaliation; and</p>	<p><not included></p>
<p>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.</p>	<p><not included></p>
<p>D. The following categories of cases are eligible for stipulated discipline:</p>	<p><not included></p>

<p>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);</p>	<p><not included></p>
<p>2. Second time offenses that would only lead to command counseling or a letter of reprimand (per the applicable Corrective Action Guide).</p>	<p><not included></p>
<p>E. In an investigation involving multiple potential violations, the violation with the highest category from the applicable Corrective Action Guide will be used to determine whether the case qualifies for stipulated discipline/corrective action.</p>	<p><not included></p>
<p>F. Stipulating to out-of-policy findings and discipline/corrective action does not remove the complainant's ability to appeal any other finding.</p>	<p><not included></p>

35D.230 Discipline and Corrective Action	
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.	<implied elsewhere>
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.	<implied elsewhere>
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.	<not included>

<p>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.</p>	<p><not included></p>
<p>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.</p>	<p>35D.060 D3. ... those same Reviewing Members shall propose discipline based on any binding discipline rules, such as a collective bargaining agreement or statewide standards. ...</p>
<p>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.</p>	<p>35D.060 D3. ... For the purpose of making disciplinary decisions, the Reviewing Members shall have <u>access to the full investigation file</u> and personnel records of the Covered Employee, including all commendations and prior corrective action.</p>
<p>4. The Portland Police Bureau (PPB) may not issue discipline less than what the Board chooses to impose.</p>	<p><not included></p>

<p>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.</p>	<p><not included></p>
<p>b. The Board has the authority to accept or reject the Portland Police Bureau's proposal after consideration of the aggravating factors presented.</p>	<p><not included></p>
<p>5. The discipline process shall also be consistent with due process and just cause considerations, to the extent one or both of those terms applies to the involved officer.</p>	<p><implied elsewhere></p>
<p>a. The state of Oregon defines "just cause" for represented employees as "a cause reasonably related to the public safety officer's ability to perform required work. The term includes a willful violation of reasonable work rules, regulations, or written policies." (ORS 236.350)</p>	<p><in definitions></p>

<p>b. For represented employees, due process includes the officer's right to a due process ("Loudermill") hearing. These hearings are required to be administered by the panel prior to imposing any discipline (except in those instances where discipline is stipulated). In the imposition of discipline of any non-represented sworn officer of the Portland Police Bureau, the Board will comply with applicable City civil service rules and applicable law.</p>	<p>35D.060 E. Due Process Review. The Covered Employee shall be provided a Due Process Review. <u>This Review shall be held in Executive Session unless the Covered Employees opts for public session. This Review will provide the Covered Employee and their representative with the opportunity to present to the Reviewing Members any information or mitigation as deemed appropriate by the Covered Employee. ... In addition, the Chief or designee shall attend the Due Process Review.</u></p>
<p>1. When discipline is imposed by the Board, a panel made up of Board members shall hold the due process hearing.</p>	<p><not included></p>
<p>2. When discipline is imposed by the Bureau of Human Resources, one or more representatives of the Board's panel shall attend the due process hearing to aid in deliberations.</p>	<p><not included></p>

<p>3. The panel (or the Bureau of Human Resources) shall offer the involved officer a due process hearing (<u>and if applicable a name clearing hearing</u>), with advance notice provided to the officer, consistent with Oregon Public Meetings law and the applicable collective bargaining agreement.</p>	<p>35D.060 D4. Issuance of proposed discipline. <u>Based on the majority vote of Reviewing Members regarding proposed discipline, the OCPA staff, in collaboration with the Reviewing Members shall prepare a written letter to the Covered Employee detailing the findings and conclusions of the majority vote, as well as the proposed discipline and basis thereof, including the date for a Due Process Review, which shall be no sooner than seven (7) days after issuance of the written letter.</u> OCPA staff shall also provide the Covered Employee, and any appropriate union representative, with access to a copy of the file provided to the Reviewing Panel once the letter is issued.</p>
<p>a. If the presumptive discipline for the conduct is termination, the due process hearing may also serve as a name-clearing hearing, consistent with applicable law.</p>	<p><not included></p>
<p>4. In lieu of holding a due process hearing, the officer may choose to submit a written response.</p>	<p>35D.060 E. ... The Covered Employee may waive their right to appear at the Due Process Review and may choose to submit written response.</p>

<p>c. In all cases, when reaching a discipline decision, the panel shall:</p>	<p>35D.060 F. Final Findings Review. <u>Except as stated herein, this Review shall be held in Executive Session unless the Covered Employees opts for public session. The Covered Employee and their representative shall be excused at the conclusion of the Due Process Review.</u> ...</p>
<p>1. consider the evidence presented by the officer;</p>	<p><implied elsewhere></p>
<p>2. reach a discipline decision that is supported by the evidence and consistent with the applicable Guide;</p>	<p>35D.060F2. If a majority of Reviewing Members reaches <u>consensus</u> to sustain any allegations, they shall then reach <u>consensus</u> as to the appropriate corrective action based on any binding discipline rules, such as a collective bargaining agreement or statewide standards.</p>
<p>3. The evidence relied upon must be substantial, in this process defined as a preponderance of the evidence;</p>	<p><not included></p>

<p>4. The decision must be made based on the evidence presented by the officer at the due process hearing (if held), or on evidence contained in the record (including from the investigative hearing, if applicable) and disclosed to the parties affected consistent with the applicable collective bargaining agreement;</p>	<p>35D.060 F. ... The Reviewing Members shall discuss the information presented at the Due Process Review and have access to the full investigation file <u>and personnel records of the Covered Employee, including all commendations and prior corrective action,</u> for the purpose of making disciplinary decisions. 35D.060 F3b. Reviewing Members shall also vote on the appropriate final corrective action to be imposed.</p>
<p>5. In deciding whether to impose the proposed discipline, the panel must act on their own independent consideration of the law, policy, and facts and not simply accept the views of a subordinate (such as staff of the Office) in arriving at a decision; and</p>	<p><not included></p>
<p>6. The panel shall, in all controversial questions, make its decision in such a manner that the parties to the proceeding can know the various issues involved, and the reason for the decision made (consistent with applicable law and collective bargaining agreements).</p>	<p><not included></p>
<p>B. The Board shall establish, through adoption of bylaws and rulemaking, further guidelines and methods for the processes described in this Code section.</p>	<p><not included></p>

35D.240 Appeals	35D.100 Appeals
A. Grounds to Appeal.	
<p>1. The complainant may appeal <u>findings from an administrative investigation or investigative hearing (if held)</u>, dismissals, or decisions not to investigate.</p>	<p>A. Appeal of Administratively Closed Complaint. If a Complainant disagrees with the OCPA investigator’s decision to administratively close a complaint, they can appeal the decision as provided for in Section 35D.040(A)(2)(b)(i).</p>
<p>2. Police officers may also appeal findings, dismissals, or decisions not to investigate.</p>	<p><not included></p>

<p>a. Supervisors cannot file appeals on behalf of officers.</p>	<p><not included></p>
<p>b. Officers may alternately file appeals with the Civil Service Board or initiate a grievance procedure, which may lead to arbitration pursuant to the collective bargaining agreement.</p>	<p>35D.100 B. Appeals to City’s Civil Service Board or Arbitration. If a Covered Employee chooses to appeal to the City’s Civil Service Board or if a Covered employee or their collective bargaining representative files a grievance under a collective bargaining agreement, ...</p>
<p>3. Appeals that involve a request that the Board reopen an investigation will be decided according to applicable law. Consistent with applicable law, the Board also has independent authority to reopen cases.</p>	<p><not included></p>
<p>B. The request for an appeal will include the name of the complainant or officer who is filing, date of the incident, finding(s) being appealed (if applicable), and reason(s) for the appeal.</p>	<p><not included></p>

<p>1. The complaint navigator provided by the Oversight System shall assist the complainant in filing the appeal form.</p>	<p><not included></p>
<p>2. The Board shall supply paper and online forms to file appeals.</p>	<p><not included></p>
<p>3. The Board shall have authority to determine appropriate grounds for appeals, and may do so through rulemaking.</p>	<p><not included></p>
<p>C. A request to end an appeal may be made at any time, but withdrawal should be done in consultation with the complaint navigator and may include confidential information. If practical and appropriate, the appeal might still proceed without the complainant.</p>	<p><not included></p>

<p>D. Timelines for appeals</p>	
<p>1. Complainants have <u>30 days</u> to appeal from date of <u>issuance of findings</u>, dismissal, or decision not to investigate, but exceptions can be made to extend the timeline.</p>	<p>35D.050 2b-i. If a Complainant disagrees with the OCPA staff's decision to administratively close a complaint, they can appeal the decision if within <u>fourteen (14) days</u> of the date the notice of administrative closure is sent to the Complainant or they are otherwise notified, they file a request for the OCPA Director or designee to review the decision to administratively close the complaint to determine if the Investigator gave proper consideration to the allegations</p>
<p>a. The Board may adopt rules for permitting late appeal filings up to 60 days, for reasons including, but not limited to:</p>	<p><not included></p>
<p>1) The complainant has limited English language proficiency; or</p>	<p><not included></p>

<p>2) The complainant needs physical, mental, or educational accommodations.</p>	<p><not included></p>
<p>2. Officers who are the subjects of a case have 30 days to appeal from the date of issuance of findings, dismissal and or decision to not investigate, but exceptions can be made to extend the timeline.</p>	<p><not included></p>
<p>a. The Board may adopt rules for permitting late appeal filings by officers up to 60 days for reasons including:</p>	<p><not included></p>
<p>1) if they are incapacitated; or</p>	<p><not included></p>

<p>2) if they are unable to receive or send information to the Board through no fault of their own.</p>	<p><not included></p>
<p>3. Until the appeal period has expired, and if an appeal is filed, until there is a final decision by the Board, the Board may not initiate any proceedings to impose discipline. Should the appeal require extension of the time period for completing an investigation and initiating discipline proceedings as outlined in ORS 236.360(6), the Board will comply with its legal obligations in extending the time period.</p>	<p><not included></p>
<p>E. Appeals Hearings</p>	
<p>1. Appeals will be heard by a different panel of Board members than heard the original case, except in cases in which the basis for the appeal is the discovery of new information. In either situation, this will be referred to as an Appeals Panel.</p>	<p><not included></p>

<p>a. A certain number of Board members may be assigned to a Board Appeals Committee whose main function is to hear appeals.</p>	<p><not included></p>
<p>b. If an appeal is referred to the original panel and a member of the original panel is unavailable, a Board member or Appeals Committee member who was not part of the original hearing may be assigned to the appeals hearing.</p>	<p><not included></p>
<p>c. If there are not enough members of the Appeals Committee, other members of the Board who did not hear the original case may be assigned to the hearing.</p>	<p><not included></p>
<p>d. In the case that an appeal is based on the discovery of new evidence, investigators will confirm the validity of the evidence prior to an appeal hearing.</p>	<p><not included></p>

<p><u>e. The Board may select a subset of between 2-5 members to process appeals of dismissals or decisions not to investigate.</u></p>	<p>35D.050 2b-ii. The CBPA <u>shall adopt a rule</u> for this appeal process.</p>
<p>2. At an appeal hearing, decisions by the Appeals Panel on the findings shall be made on a preponderance of the evidence.</p>	<p><not included></p>
<p>3. Prior to the appeals hearing, all members of the Appeals Panel shall review recordings and all records of the original hearing.</p>	<p><not included></p>
<p>4. Appeals hearings shall follow the same procedure described in 35D.200; the panel may expedite matters by not repeating information already in the record.</p>	<p><not included></p>

<p>a. At the start of the hearing, the basic circumstances of the case, allegations and original findings shall be read into the record.</p>	<p><not included></p>
<p>b. At the end of the hearing, the Appeals Panel may decide:</p>	<p>35D.060 F1. A majority of Reviewing Members shall reach a <u>consensus</u> to:</p>
<p>1) To recommend further investigation; or</p>	<p>35D.060 F1a. send the matter back for further investigation;</p>
<p>2) To affirm the original findings, after which the Board staff shall close the case based on those findings; or</p>	<p><not included></p>

<p>3) To determine a different finding based on the evidence, and refer for disciplinary proceedings consistent with this code, if there are findings that the officer violated policy.</p>	<p>35D.060 F1b. either sustain or not sustain each allegation and explain the facts that support their findings and the policy or directive at issue; or</p>
	<p><u>35D.060 F1c. recess for not more than seven (7) days to consider any information from the Due Process Review, after which they will reconvene to reach consensus and then vote to sustain or not sustain each allegation.</u></p>
<p>5. Members of the Appeals Panel shall have the same authority to compel officer testimony and subpoena witnesses or documents as the original Hearings Panel consistent with applicable law and collective bargaining agreements.</p>	<p><not included></p>
<p>6. Notifications of the appeal outcomes to complainants and officers shall be the same as under the Hearings process. All decisions of the Appeals Panel are final and no further appeals are allowed through the Board.</p>	<p><not included></p>

<p>7. Office staff shall schedule appeal hearings in consultation with the Board leadership or designee.</p>	<p><not included></p>
<p>F. Appeals to City's Civil Service Board or Arbitration; Board's Role</p>	
<p>1. If an officer chooses to appeal to the City's Civil Service Board, the Hearings panel shall receive a copy of the appeal and provide a written statement about the misconduct and supporting evidence.</p>	<p>35D.100 ... If a Covered Employee chooses to appeal to the City's Civil Service Board or if a Covered employee or their collective bargaining representative files a grievance under a collective bargaining agreement, the Reviewing Panel shall receive a copy of the appeal notice. ...</p>
<p>a. <u>One or more Hearings panel members may attend the Civil Service Board hearing, subpoena witnesses, present evidence, and cross-examine, consistent with City policy.</u></p>	<p>35D.100 ... The CBPA and OCPA <u>shall cooperate with the City Attorney's office designee</u> handling the appeal or grievance.</p>

<p>2. If an officer chooses to file a grievance and an arbitration hearing is held, the Hearings panel shall receive a copy of the grievance and provide a written statement about the misconduct and supporting evidence.</p>	<p>35D.100 ... If a Covered Employee chooses to appeal to the City's Civil Service Board or if a Covered employee or their collective bargaining representative files a grievance under a collective bargaining agreement, the Reviewing Panel shall receive a copy of the appeal notice. ...</p>
<p>a. The Hearings panel may have one or more representatives attend the arbitration hearing to present evidence and answer questions about the findings.</p>	<p>35D.100 ... The CBPA and OCPA <u>shall cooperate with the City Attorney's office designee</u> handling the appeal or grievance.</p>
<p>3. To the extent consistent with applicable law and collective bargaining agreements, the complainant will be allowed to attend, or at least remain apprised of appeals held outside of the Board's direct scope and authority, with their complaint navigator assigned until a final decision is made.</p>	<p><not included></p>
<p>35E.010 Policy Recommendations</p>	<p>35E.010 Policy Recommendations</p>

<p>A. The Board shall have authority to make policy and directive recommendations <u>including but not limited to the Portland Police Bureau and City Council as well as the inherent or implied authority to take other measures as necessary to effectuate this. As noted in Charter section 2-1007, the City Council is required to vote on whether or not to implement Board recommendations about PPB policies and directives previously rejected by PPB. The Board's recommendations that are submitted to PPB and/or City Council shall be published for public review, including on the Board's website and other relevant platforms.</u></p>	<p>The CBPA shall have authority to make policy and directive recommendations to the Portland Police Bureau and City Council. The Portland Police Bureau shall consider and accept or reject all policy or directive recommendations made by the CBPA. If the Portland Police Bureau rejects a policy or directive recommendation, <u>then at the request of the CBPA</u>, City Council must consider and vote to accept or reject the policy recommendations received from the CBPA. Council's decision will be binding on the Portland Police Bureau. 35A.040 C PPB shall consider and accept or reject all policy or directive recommendations made by the CBPA. If PPB rejects a policy or directive recommendation, then at the request of the CBPA, City Council must consider and vote to accept or reject the policy recommendations</p>
<p>1. Any recommendation will include an outline of the new policy or policy change being recommended.</p>	<p><not included></p>
<p>2. The Board shall develop internal procedures for presentation, consideration, discussion, adopting, or rescinding of proposed policy recommendations, as well as follow-up and monitoring. The Board's procedures shall be made public.</p>	<p><not included></p>

<p>3. The Board may make policy recommendations based on individual misconduct cases. The Board shall initiate a policy review based on any issues identified under sections 35A.050P or 35D.210C.</p>	<p><not included></p>
<p>4. Staff may also initiate policy review, including through auditing completed misconduct cases. If the staff initiates a policy review, it shall inform the Board and invite participation throughout the process, including submitting a proposed Policy Recommendation to the Board for approval.</p>	<p><not included></p>
<p>5. <u>The Board may request whatever additional materials and research it believes is necessary to help make an informed decision on a proposed policy recommendation. If needed, the Board may rely upon its subpoena powers to compel production of requested information. The Board shall have access and be authorized to attend PPB trainings as observers for the purpose of evaluating, monitoring, and making recommendations to the PPB regarding training, policy and directives.</u> The development of policy recommendations, procedures or practices will incorporate equity and anti-racist lenses</p>	<p>35E.010 The development of policy recommendations, procedures or practices will incorporate equity and anti-racist lenses.</p>
<p>6. The Police Chief, and if necessary City Council, shall consider any policy recommendation referred to the Chief or Council pursuant to Charter 2-1007b and Code Section 35E.020.</p>	<p><implied elsewhere></p>

<p>B. As part of its policymaking authority, the Board may facilitate a process for Board and community review and development of Portland Police Bureau policies and directives. This includes engagement in the Bureau's directive review and development process. The Board shall schedule timelines compatible with the PPB's processes. The Board will transmit recommendations on revised and newly proposed policies and directives to PPB, and if necessary, City Council.</p>	<p><not included></p>
<p>35E.020 Response of Police Chief; Referral to City Council</p>	<p>35E.020 Response of Police Chief; Referral to City Council</p>
<p>A. The Chief of Police, after reviewing a policy or directive recommendation submitted by the Board under City Code Section 35E.010, shall respond promptly to the Board in writing, but in no event more than 60 days after receipt of the report. The response shall indicate what, if any, of the recommended policy, directive or procedural changes are to be made within the Portland Police Bureau.</p>	<p>A. The Chief of Police <u>or designee</u>, after reviewing a policy or directive recommendation submitted by the CBPA under City Code Section 35E.010, shall respond to the CBPA in writing within a reasonable time, but in no event more than 60 days after receipt of the recommendation. The response shall indicate what, if any, of the recommended policy, directive or procedural changes are to be made within the Portland Police Bureau.</p>
<p>B. If the Police Chief rejects a recommendation, or a portion of a recommendation, or fails to respond within 60 days after its receipt from the Board, the Board <u>shall</u> place the matter on the Council Calendar, for consideration and decision by City Council, <u>within 15 days thereafter.</u></p>	<p>B. If the Police Chief rejects a recommendation, a portion of a recommendation, or fails to respond within 60 days after its receipt from the CBPA, then within 60 days after receipt of the response or failure to respond the CBPA <u>may</u> submit the matter for consideration and decision by City Council. <u>The CBPA shall post the policy recommendation for public input for 30 days and shall consider such input prior to submitting the matter for consideration and</u></p>

<p>C. The Council shall consider and vote on a Board referred policy change no more than three months after it has been presented.</p>	<p><not included></p>
<p>D. If a Board recommendation is approved by either PPB or the City Council, <u>the Board shall monitor and pursue full implementation of the recommendation. This may include continued advocacy, requesting the Chief or designee to attend and brief the Board, and requesting data or reports from PPB to determine the level of progress towards implementation, or any other action the Board decides to take.</u></p>	<p><u>C. If, after complying with any bargaining obligations, curriculum development and training requirements, PPB fails to timely implement a policy change either accepted by the Chief or required by City Council, the CBPA may place the matter on the Council agenda to request further Council action.</u></p>
<p>35E.030 Board Proposals Related to Federal and State Law</p>	
<p>A. The Board may officially endorse legislation/policy ideas and shall have the authority to testify in front of relevant government bodies and communicate its policy positions with employees and elected or appointed officials at any level of government.</p>	<p><not included></p>

<p>B. The Office of Government Relations shall consult directly with the Board as part of its development of the City's legislative agenda, in a manner equivalent to any other top-level administrative division of the City government.</p>	<p><not included></p>
<p>35E.040 Collective Bargaining</p>	
<p>A. The Bureau of Human Resources shall reserve, during negotiations with collective bargaining units representing PPB sworn officers and their supervisors, at least two seats for representatives chosen by the Board.</p>	<p><not included></p>
<p>B. The City Attorney shall consult with the Board during collective bargaining processes and inform the Board as soon as practicable regarding any potential changes to the police contract(s).</p>	<p><not included></p>

<p>C. The Board's ability to make recommendations shall include proposals for collective bargaining.</p>	<p><not included></p>
<p>35E.050 PPB Budget Review</p>	
<p>The Board may facilitate a public review of PPB's proposed budget requests before their official submission, and receive public comment to transmit to PPB and the City Council.</p>	<p><not included></p>
<p>35E.060 Relationship with Other Oversight Entities</p>	

<p>A. The Board should seek to be a model for other jurisdictions that review and adapt their own oversight systems.</p>	<p><not included></p>
<p>B. The Board and Office shall maintain a working relationship with oversight entities outside of Portland, to exchange information, best practices, and solutions to barriers faced by entities working on law enforcement oversight.</p>	<p><not included></p>
<p>C. The Board and Office shall maintain a working relationship with regional, national, and international groups focused on law enforcement oversight, to have access to trainings and conferences that can help the Oversight System perform its duties more effectively.</p>	<p><not included></p>