



City of Albuquerque

Civilian Police Oversight Agency



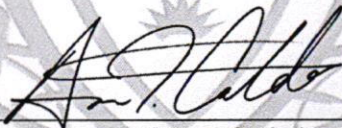
10/23/2024

Diane McDermott
Executive Director

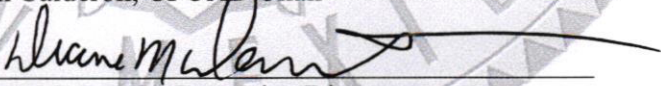
This is to certify that the Civilian Police Oversight Advisory Board policies and procedures were approved by the City Council on October 21, 2024 and are effective as of this date. Pursuant to the Civilian Police Oversight Ordinance section 9-4-1-4-C-4-d:

“The Board, in consultation with the Director, shall review and update as appropriate its policies, rules and procedures that ensure that the Board is effectively accomplishing its duties under this Article on an annual basis. Any policies, rules, and procedures shall be adopted in accordance with ROA 1994, Section 2-6-1-4(C)(2). The Board shall present its proposed policies, rules, and procedures to the City Council for final approval”

APPROVED: _____


Aaron Calderon, CPOAB Chair

APPROVED: _____


Diane McDermott, Executive Director

Albuquerque Civilian Police Oversight Advisory Board Policies and Procedures

Mission Statement

Our mission is to foster trust and transparency between the community and law enforcement through active community engagement and strict compliance oversight. We are committed to ensuring that policing practices are fair, effective, and accountable to the people they serve.

ARTICLE I – PURPOSE

- 1.1. Recognizing that a properly conceived and functioning police oversight system is necessary to promote accountability of police officers and protect the rights of citizens, the City Council adopted the Police Oversight Ordinance, § 9-4-1-1 to 9-4-1-14 (“Ordinance”).
- 1.2. Through the Police Oversight Ordinance, the City Council created the Civilian Police Oversight Agency ("CPOA") as an independent agency of City Government, not part of either the City Administration or City Council, which consists of the Civilian Police Oversight Advisory Board (the “Board”) and an Administrative Office led by the CPOA Executive Director (the “Director or the “Executive Director”).
- 1.3. These policies and procedures set forth the structure of The Board and their procedural rules.

ARTICLE II – ORGANIZATION OF THE CIVILIAN POLICE OVERSIGHT ADVISORY BOARD

1. Election of Chairperson and Vice-Chairperson:

- 1.1. The Board shall elect one of its members as the Chairperson and one as the Vice-Chairperson.
- 1.2. No officer shall be eligible to immediately succeed himself or herself in the same office.
- 1.3. The Board shall select the Chairperson and Vice-Chairperson at the first meeting in the month of March of each calendar year or upon vacancy of an office to fill the remaining term.
- 1.4. The Chairperson and Vice-Chairperson shall serve at the pleasure of The Board until their successor(s) have been selected.

2. Attendance:

- 2.1. Board members shall attend all meetings of The Board in person unless excused by the Chair. With advanced notice and approval from the Chair, remote participation can be offered and coordinated when feasible.
- 2.2. The following are the types of excused and unexcused absences:

2.2.1. **Normal Excuse:**

A planned absence from the next scheduled board meeting or subcommittee, with notice given to the Board Chair, preferably at least seven calendar days in advance.

2.2.2. **Emergency Excuse:**

An unplanned absence due to unforeseen circumstances which prevent the board member from attending with less than 24 hours' notice. Notice shall be given to the chairperson as soon as feasible for the chairperson to consider the absence excused. Written documentation may be requested in instances where the veracity of the claimed emergency is brought into question or in the case of chronic absenteeism from meetings.

2.2.3. **Unexcused Absence:**

Less than 24 hours or no notice prior to the start of the meeting.

3. Conflicts of Interest:

3.1. A Board member must abstain from participating in any proceeding in which they have a direct or indirect conflict of interest. As per these Policies and Procedures, a "conflict of interest" encompasses any proceeding or official action in which the Board member possesses a direct personal financial stake, impacts a business in which the Board member has a financial interest, or involves personal opinions that could impede their ability to provide a fair and impartial hearing. Board members are encouraged to exercise caution and withdraw from any proceeding where there is even a perceived conflict of interest or appearance of impropriety. Board members may consult with the Executive Director or the Board's attorney to discuss any potential conflicts of interest. A Board member with a conflict of interest in a particular matter shall announce the conflict publicly and recuse themselves from participating either directly or indirectly in the matter.

4. Records:

4.1. The Executive Director of the CPOA shall serve as the records custodian for the Civilian Police Oversight Agency and its Board unless the Executive Director designates another full-time employee to serve as the records custodian.

5. Removal of Members:

5.1. Any Board member may be removed "for cause" (as that term is defined by City ordinance and these Policies and Procedures) by a two-thirds majority vote of the City Council. In addition to any other reasonable cause, any conduct inconsistent with the requirements and provisions of this article or a demonstrated inability to objectively adjudicate civilian police complaints shall constitute cause for removal.

5.2. The appointment of any member who has been absent and not excused from three consecutive regular or special meetings automatically terminates on the date of the third consecutive unexcused absence.

- 5.3. The appointment of any member who has not completed the training required by subparagraph (G)(2) of the CPOA ordinance automatically terminates if all initial training is not fully completed within an additional 30-day grace period from the expiration of the six-month deadline, or one-year deadline to complete the Civilian Police Academy. However, if any training is not completed because the training was not made available by the city, the 30-day grace period is extended to include the timeframe within which the training is offered and can be reasonably completed.
- 5.4. The appointment of any member who has not completed the training required by subparagraph (G)(3) of the CPOA ordinance automatically terminates if the eight hours of required ongoing training is not fully completed within an additional 30-day grace period of the anniversary date of the member's appointment. However, if any training is not completed because the training was not made available by the city, the 30-day grace period is extended to include the timeframe within which the training is offered and can be reasonably completed. The chair of the board will request a quarterly training report from the contract compliance officer to verify the board members' training compliance. The Contract Compliance Officer shall notify any member whose appointment has automatically terminated and shall, within five days, report to the City Council President that a vacancy exists requiring an appointment for the length of the unexpired term. The appointment of a new member to fill the resulting vacancy is subject to the timelines established by paragraph (E) of the police oversight ordinance.
- 5.5. The Contract Compliance Officer shall notify any member whose appointment has automatically terminated and shall report to the City Council President within five days that a vacancy exists requiring an appointment for the length of the unexpired term. The appointment of a new member to fill the resulting vacancy is subject to the timelines established by paragraph (E) of the police oversight ordinance.

6. Notice of Expiration of Board Term:

- 6.1. The Director shall notify the President of the City Council of a forthcoming vacancy on the Board at least 60 days prior to the expiration of a Board member's term and within five days of the resignation of a Board member. The City Council shall act on an appointment to fill the vacancy within 60 days of the Council President's receipt of notice from the Director.

7. Powers and Duties of the Chairperson and Vice-Chairperson:

The Chairperson/Vice-Chairperson shall:

- 7.1. Call The Board to order and, upon a quorum being present, proceed to business.
- 7.2. Preserve order and decorum during Board meetings. If public comments delve into citizen complaints as specified in section 1.6, the chair shall advise the commenter of the restrictions at the beginning of the comment section of the agenda.
- 7.3. Be responsible for the preparation of the agenda. CPOA staff will assist the Chair in the dissemination of the agenda for the public notice for the meeting.

- 7.4. Make decisions on all orderly matters, keeping in mind that a board member may, by motion, appeal a decision of the Chair to the full Board.
- 7.5. Have the right to speak and participate, as other Board members do, about general questions and matters brought before the Board.
- 7.6. Vote upon all questions in the same manner as other Board members.
- 7.7. Request a roll-call vote from staff; request staff to announce the vote results.
- 7.8. Appoint Board members to all subcommittees, subject to the approval of The Board.
- 7.9. Sign all resolutions, letters, and official documents on behalf of The Board.
- 7.10. Upon receiving any formal messages or communications from the Mayor, City Council, or others, such messages or communications shall be shared with the Executive Director. If such communications impact on the Board's business, duties or activities, they shall be shared with the entire Board.
- 7.11. Refer any topic that is raised during a board meeting to an appropriate subcommittee or working group or table the matter to be considered at a future board meeting.
- 7.12. Designate one Board member to serve on each APD policy development committee at the first meeting in the month of March of each calendar year or upon vacancy of an office to fill the remaining term.
 - 7.12.1 The Board member designated by the Chair shall serve as a voting member and representative of The Board on such committees and shall report back to The Board about the outcomes and votes cast at the next regularly scheduled Board meeting.
- 7.13. Request a quarterly training report from the contract compliance officer to verify the board members' training compliance.
- 7.14. In the absence of the Chairperson, upon the Chairperson's inability to act, or upon request of the Chairperson, the Vice-Chairperson shall preside and shall have all the powers and authority of the Chairperson.
- 7.15. Manage the ride-along program for board members and serve as the point of contact between the Board and the ride-along program coordinator.
- 7.16. Serve as the point of contact for all board member requests of the CPOA/ APD/ or the City of Albuquerque. This is to ensure follow-up on inquiries and avoid multiple team members working on the same request.

8. Media Policy:

8.1. News/ Media Inquiries:

- 8.1.1. All media inquiries will be funneled through the Chair and referred to the Executive Director or designee to create a plan for a response.

8.2. Social Media Personal Posts Policy:

- 8.2.1. Be conscious when mixing your business and personal lives.
- 8.2.2. Social Media posts concerning Board matters may be a matter of public record.
- 8.2.3. Do not post anything on social media regarding a pending matter of the Board.

- 8.2.4. Social Media posts on Board matters may require the posting board member to recuse themselves from future matters.
- 8.2.5. Social Media posts, depending on the content, may form the basis for removal from the Board if the posting brings into question the posting member's or the Board's integrity or impartiality.
- 8.2.6. Clarify that your opinions are your own and not the official position of either the Board or the City of Albuquerque.
- 8.2.7. Exercise Good judgment in sharing only public information.
- 8.2.8. Be Aware that what you say is permanent.
- 8.2.9. When in doubt, do not post/comment.

ARTICLE III – PROCEDURES

1. General Rules:

- 1.1. Any matter not covered by these rules shall be governed by Roberts' Rules of Order (latest edition) or, if not covered by Roberts' Rules of Order, by a decision of the Chair, subject to the right of appeal by board members.

2. Amendment of Rules:

- 2.1. These rules, or any part thereof, may be amended or repealed by a vote of a quorum of the Board, in consultation with the CPOA Executive Director and upon final approval of the City of Albuquerque City Council.

3. Independent Counsel:

- 3.1. The CPOA shall retain or employ independent legal counsel on a contractual basis to advise and represent the CPOA and the CPOAB. The CPOA's legal counsel shall represent the CPOA and CPOAB in the courts and shall advise the CPOA and CPOAB as to any legal matters relating to the Police Oversight Ordinance and the CPOA's and CPOAB's duties, responsibilities, and procedures except for CPOA personnel matters, which shall remain under the authority of the City Attorney's Office.

4. Suspension of Rules:

- 4.1. These rules, or any part thereof, may be suspended by a vote of two-thirds of The Board members present.
- 4.2. When a rule is requested to be suspended and no objection is offered, the Chairperson announces that the rule is suspended, and The Board may proceed accordingly.
- 4.3. The following shall apply if fewer than five Board members are present:

| Board Members Present | 2/3 Vote |
|------------------------------|-----------------|
| 5 | 4 |
| 4 | 3 |
| 3 | 2 |

5. CPOA Executive and Deputy Director & Staff:

5.1. CPOA employees shall staff, coordinate, and provide technical support for all scheduled Board meetings and publicize all findings and reports, recommendations, and/or suggested policy changes. The Board may also consult with CPOA staff for relevant information that will aid the Board in its work.

6. Indemnification of CPOA Staff and Board:

6.1. The City shall hold harmless, indemnify, and defend the Executive Director, CPOA staff, and Board members when liability is sought for conduct allegedly committed within the scope of the relevant individual's duties, responsibilities, and service to the CPOA. This shall include providing the impacted individual with legal representation, including, where appropriate, outside counsel.

7. Complaints:

- 7.1. While the Board itself cannot file complaints on behalf of the public, Board members can play a valuable role in informing the public about the proper channels for filing complaints. The Board's primary function is not to handle such complaints directly but to ensure clear processes are in place for public concerns to be addressed.
- 7.2. Board members who submit a personal complaint against APD to the CPOA must recuse themselves from all related actions. This includes reviewing, evaluating, discussing and voting on the complaint's resolution should it reach the Board.
- 7.3. The Executive Director shall make recommendations and give advice to The Board regarding APD policies and procedures as the Executive Director deems advisable.

8. Annual Review of Board Procedures:

- 8.1. The Board, in consultation with the Director, shall review and update its policies, rules and procedures as appropriate to ensure that the Board effectively accomplishes its duties under this Article annually. Any policies, rules, and procedures shall be adopted in accordance with ROA 1994, Section 2-6-1-4(C)(2).
- 8.2. The Board shall present its proposed policies, rules, and procedures to the City Council for final approval. If the City Council determines that the Board's proposal fails to ensure the Board is effectively accomplishing its duties, the City Council may modify them as appropriate.
- 8.3. Annual updates to the Board's procedures will become effective only upon final approval of the City Council. Updates outside of its annual review will become effective only after a 2/3

affirmative vote of the membership of the Board and only upon final approval by the City Council, as submitted or as amended by the Council.

ARTICLE IV – CONFIDENTIALITY & ACCESS TO INVESTIGATIONAL MATERIALS

1. Access to APD Documents:

1.1. APD shall provide Board members with reasonable access to APD premises, files, documents, reports, and other materials that are reasonably necessary for the board to perform its functions per the ordinance. However, any material protected from disclosure by law shall always remain within the custody and control of APD and will be handled in accordance with the applicable legal restrictions. Redacted personnel records, including those of the Internal Affairs Unit, shall be made available to the Board on demand.

1.1.1. Information that is covered by *Garrity* will be treated as confidential to the extent permitted by law and may only be reviewed by members of the Board by application in writing and by majority vote of the Board.

1.1.1.1. If the Board votes to review *Garrity* material, members of the Board may only *Garrity* material on APD property.

1.1.1.2. The Board may not remove or make copies of such statements.

1.1.1.3. If the Board desires to discuss the specific content of statements protected by *Garrity at a board meeting*, such discussion will occur only in closed session as permitted under the New Mexico Open Meetings Act, NMSA 1978, § 10-15-1(H)(2).

1.1.1.4. The Board shall only summarize conclusions reached after a review of a *Garrity* statement but shall not disclose the statement.

1.2. The Board shall maintain the confidentiality of any *Garrity* material or records that are made confidential to the extent permitted by law and is subject to the same penalties as the custodian of those records for violating confidentiality requirements.

1.3. In addition to any other penalty, any Board member or other person who violates the confidentiality provisions of this section shall form a basis for removal from the Board by the City Council.

1.4. This provision shall apply to all aspects of the Board's work.

2. Administrative Subpoena:

2.1. If an administrative subpoena is sought:

2.2. The subpoena and notice to third parties must include a citation to this section and state that the recipient has the opportunity to challenge the subpoena to the Board or in the district court having jurisdiction.

2.3. The summoned person or entity or any person or entity that is the subject of subpoenaed records may petition the Board or the district court of the county where he or she resides to vacate or modify the administrative subpoena.

- 2.4. In the case of a refusal to obey a subpoena issued to any person, the Director may make application to the District Court in the state having jurisdiction, to order the witness to appear before the Board and to produce evidence if so ordered, or to give testimony touching on the matter in question.
- 2.5. Any summoned person may, at his or her own expense, be represented by legal counsel during all CPOA or Board proceedings.
- 2.6. The CPOA and Board shall not disclose any records obtained as a result of a subpoena that is protected or confidential by law, ordinance, policy, or the CASA.

3. Confidentiality Agreement:

- 3.1. Board members shall be required to sign an agreement upon appointment to the Board that will require them to protect all documents designated as confidential and not release such documents to any third party to the extent permitted by law.

ARTICLE V – MEETINGS

1. Quorum:

- 1.1. The majority of the Board shall constitute a quorum.
- 1.2. The following shall apply if fewer than five Board members are present:

| Board Members Present | 2/3 Vote |
|------------------------------|-----------------|
| 5 | 4 |
| 4 | 3 |
| 3 | 2 |

2. Order of Business:

- 2.1 The Board shall generally consider business in the following order including by not limited to:
 - 2.1.1. Welcome and Call to Order
 - 2.1.2. Pledge of Allegiance
 - 2.1.3. Approval of the Agenda
 - 2.1.4. Approval of Minutes
 - 2.1.5. Public Comments
 - 2.1.6. Reports from City Departments
 - 2.1.7. Force Review Cases
 - 2.1.8. Appeals
 - 2.1.9. CPOA Board’s Review of Garrity Materials
 - 2.1.10. Meeting with Counsel re: Pending Litigation or Personnel Issues:
 - 2.1.11. Reports from Subcommittees
 - 2.1.12. Discussion and Possible Actions
 - 2.1.13. Other Business

2.1.14. Adjournment

2.2. The Chairperson shall have the discretion to proceed out of order, to any order of business, or return to any prior order of business. The Chairperson will clearly announce when each business item is initiated.

3. Decorum:

3.1. Discussions should stay focused on the topic at hand. Board members and speakers should avoid personal attacks, side conversations, or interruptions that distract from the business being addressed.

3.2. The Chair may intervene (make a "point of order") if the discussion strays from the topic or lacks professionalism. The chair will then provide guidance to steer the conversation back on track.

4. Early Departure:

4.1. Board Meetings:

4.1.1. As a courtesy, Board members who must leave early should inform the Chairperson as soon as possible. This allows adjustments to the meeting schedule.

4.2. Subcommittee Meetings:

4.2.1. Board members attending subcommittee meetings should make every effort to find an alternative if their departure would break the quorum.

5. Motions:

5.1. No motions shall be entertained or debated until announced by the Chairperson, and every motion shall be seconded prior to debate.

6. Public Comment and Addressing at Meetings:

6.1. The Board will provide an opportunity for public comment at the beginning of each meeting and for each agenda item during a meeting, except for civilian complaints that need to be filed, have been filed, are pending investigation, and/or are currently appealed to CPOA/CPOAB. Public comment shall be limited to three minutes unless extended by the Chairperson.

6.2. Public comment must be directed through the Chairperson or presiding Board member and not at staff members or audience members.

6.3. The Board may invite representatives of the city, other government bodies, or the public to speak on matters relevant to the Board's work. However, pursuant to Ordinance § 2-6-1-6, the Board shall not organize, sponsor, advertise, or host any political forum for candidates running for elective office. Nothing in this section, however, is intended to restrict any member of the Board from engaging in political activities outside of the course and scope of his or her duties as a member of the Board.

- 6.4. Items displayed during an individual's public comment must be removed at the end of that person's public comment.
- 6.5. No signs, props, posters, or banners will be allowed in the meeting chambers other than those that are 8½" x 11" or smaller. Such material shall not be held or waived in a manner that blocks the view of others or creates a distraction from the speaker or the business at hand.

7. Debate:

- 7.1. Any Board member wishing to speak, debate, make a motion, submit a report, or conduct other business shall address the Chairperson and shall not proceed further until recognized by the Chairperson.
- 7.2. If two or more Board members seek recognition at the same time, the Chairperson will name the one who speaks first.
- 7.3. The Board member who sponsors a motion shall have the privilege of opening and closing the debate. A Board member may direct an inquiry either the member sponsoring the motion or staff and receive a response without yielding the floor.
 - 7.3.1. To ensure all voices are heard, board members can only speak once on a motion until everyone who wishes to comment has had a chance to speak. Additionally, to keep discussions focused, no member, except the one who sponsored the motion, can speak for more than ten minutes in total on any single motion.
- 7.4. Board members will not be interrupted while speaking. No motions can be introduced until the current speaker finishes.
- 7.5. To ensure a respectful exchange of information, all questions for the Board members should be directed to the Chairperson. The Chairperson will then confirm the Board member's willingness to answer.
- 7.6. Any Board member may move to end the debate. A majority of The Board members present must vote to agree to end the debate, or it may continue.

8. Voting:

- 8.1. Voting shall be in the form of an "Affirmative" or "Negative" response. A roll call vote of the Board members will be requested by the chair to ensure clarity of actions. Any action on a question is lost by a tie vote. Every Board member who is in attendance shall vote upon each question, except those who have recused themselves due to a conflict of interest. A Board member may abstain from a vote for an articulated reason stated during the course of a meeting. The Chair shall have discretion as to whether or not a Board member shall be allowed to abstain from a vote after consideration of the reason articulated by the member wishing to abstain.
- 8.2. A Board member shall be allowed to change his or her vote but only before the result has been announced.
- 8.3. Board members facing an emergency or other urgent situation who is unable to attend a meeting in person may request to participate virtually or telephonically, with the

Chairperson's approval as to whether the member may attend remotely and the medium by which they may do so. This request is also contingent on the board member having a reliable audio and video connection, ensuring clear identification and participation during discussions and votes.

8.4. If attending via webinar, the Board member's video camera must always remain on and visible.

8.5. A Board member may be permitted to explain his or her vote, but only after the roll call has been completed and the result has been announced.

9. Reconsideration:

9.1. Any Board member who voted with the prevailing side on any question may move at the same meeting to reconsider the question. A motion to reconsider shall require the affirmative vote of a majority of Board members present.

9.2. Appeals of the Chairperson's decisions are allowed. The appealing Board member will present their case, followed by a potential response from the Chairperson. To ensure focused discussion, no new motions can be introduced until the appeal is voted on. An affirmative majority vote of Board members present is required to overturn the Chairperson's decision.

10. Subcommittees:

10.1. The Board may appoint such subcommittees as are deemed necessary or desirable for the purposes of fulfilling §§ 9-4-1-1 through 9-4-1-14 of the CPOA Ordinance, provided that membership on such subcommittees shall be limited to Board members and the Board shall strive to distribute subcommittee membership among the entire Board evenly. Subcommittees shall comply with the New Mexico Open Meetings Act. Subcommittees shall consist of 2 Board members, which is fewer than a quorum of the Board.

10.2. Subcommittees shall only conduct business when a quorum of the subcommittee is present. A Board member may designate an alternate Board member to attend a subcommittee meeting when The Board member regularly assigned to the subcommittee is unable to attend. A majority of the Board members assigned to a subcommittee and designated alternates shall constitute a quorum of a subcommittee.

10.3. Each standing subcommittee shall elect a Chairperson at the first meeting of the subcommittee in the month of March of each calendar year thereafter or upon vacancy of an office to fill the remaining term. The Chairperson may serve consecutive terms in a subcommittee, and previous service as the Chairperson shall not prevent a member from serving as the Chairperson of a subcommittee. The Chairperson shall vote on all matters before the subcommittee in the same manner as other members of the subcommittee. The Chairperson may also make or second motions.

10.3.1. The chair of the subcommittee will draft the agenda in collaboration with CPOA staff for any modifications and posting.

- 10.3.2. The chair of the subcommittee shall have the draft of the agenda to CPOA staff no later than seven business days prior to the scheduled meeting date.
- 10.4. At each regular Board meeting, the subcommittee Chairperson shall give an oral report from the most recent subcommittee meeting. Additionally, the Board Chairperson may request that subcommittee reports be submitted in writing and provided to the full Board. The written subcommittee report shall be attached to the board meeting minutes.
- 10.5. Subcommittees must promptly report on all matters referred to them. Should a subcommittee fail or delay in reporting on any referred matter, the Chairperson of the subcommittee has the authority to remove the matter from the subcommittee's jurisdiction and request its assignment to the entire Board.
- 10.6. As written in the police oversight ordinance, CPOAB Subcommittees must adhere to the New Mexico Open Meetings Act. Each subcommittee Chairperson must, at the very least, publish agendas with 72 hours of notice, provide a minimum of three minutes for public comment to each member of the public, and keep minutes of each meeting for public posting.

11. Working Groups:

11.1. Upon the presentation of a singular matter or question of a limited duration or scope, the Chair may appoint a working group to analyze the matter and develop a report for the entire Board. Such working groups will be comprised of no more than two Board members appointed by the Chair and shall dissolve immediately upon presentation of the final report to the Board. Such working groups shall have no authority to set policy for the Board nor to vote on matters of general concern to the Board.

12. Disturbing Meetings:

- 12.1. It shall be unlawful to disturb any meeting of the Board or any of its subcommittees or to behave in a disorderly manner at any such meeting. There will be no tolerance for disruptive public outbursts or disruptions that impede the orderly progress of a meeting.
- 12.2. The Chairperson or presiding Board member will provide one warning to anyone who causes a disruption.
- 12.3. Upon a second or continued disruption, the Chairperson or presiding Board member will ask that person to leave the Chambers or the designated meeting location of the Board or a subcommittee and, if necessary, will ask that security escort that person out of the Chambers or meeting site.
- 12.4. Such removal from the Council Chambers or Committee Room will be effective for the remainder of that meeting.
- 12.5. If continued disruptions occur, the Chairperson or presiding Board member may recess the meeting until order is restored and, if necessary, may clear the Chambers or Committee Room of persons participating in the disturbance

ARTICLE VI – APPEALS

1. Board Appeal Hearings:

- 1.1. In extenuating circumstances, complainants may submit a written request to appear via webinar seven calendar days before the scheduled hearing. The request may be granted at the Chair's discretion. Failure to appear at a scheduled hearing or to request a delay in writing shall result in the Board acting on the appeal without further input from the complainant.
- 1.2. Appeal hearings shall be included in the Board agenda.
- 1.3. The Board has the authority to consolidate separate appeals arising from similar issues or instances. In such cases, the time allotted to the complainant will be divided equally among the combined appeals. The Chairperson will announce the time allocation in advance. The parties involved can then determine how to divide the allocated time for their presentations.
- 1.4. Time limits for presentations during appeals hearings shall be allocated as follows:
 - 1.4.1. 15 minutes for the complainant or representative
 - 1.4.2. 10 minutes for the CPOA Executive Director or designee
 - 1.4.3. 10 minutes for APD
 - 1.4.4. 5 minutes for the police officer, if present
 - 1.4.5. 5 minutes for the complainant or representative for rebuttal
- 1.5. Board members may ask questions after each presentation. The period during which a presenter answers questions from the Board does not count against the presenter's time.
- 1.6. The full investigation file shall be available to the Board for its review subject to the limitations on access and confidentiality set forth by the APOA CBA.
- 1.7. No Board member shall conduct their own investigations or add their own evidence to the record regarding any hearings on requests for reconsideration.

2. During the appeal, the Board shall:

- 2.1. Remain impartial in deliberations and decisions and abstain from any independent investigation or review of information not presented by the investigation report or within the investigation file.
- 2.2. Refrain from any ex parte communication relating to the matters and parties under consideration other than at a properly noticed meeting and recuse themselves from any related hearings as may be necessary based on any improper ex parte communication. Any ex parte correspondence that is inadvertently received by a member shall be immediately referred to or otherwise disclosed to the Executive Director and, when appropriate, made available for review by the relevant complainant and APD officer or their representatives.
- 2.3. Refrain from prejudgment on appeals coming before The Board until such time as all relevant information has been reviewed and considered at a properly noticed meeting and recuse themselves from any hearing in which he or she has a direct or indirect personal conflict of interest or cannot otherwise accord a fair and impartial review, or in which such member's participation would create the appearance of impropriety or partiality. Board members may

consult with the Executive Director or legal counsel concerning questions regarding potential conflicts of interest.

- 2.4. For purposes of these Policies and Procedures, “ex parte communication” is defined as a communication (whether written or oral), outside of the public meeting process outlined herein, between a member or members of the Board and any member of the public regarding the merits of a civilian complaint or the findings under review by the Board. Communications between a member or members of the Board and the staff or attorneys of the CPOA shall not be considered ex parte communications provided that such communications are not relied upon to make factual determinations by a member or members of the Board.
- 2.5. Upon the closing of the hearing, the Board may modify or change the findings and/or recommendations of the public record letter. It may make further recommendations to the Office of Police Reform regarding the findings and/or recommendations and any discipline imposed by the Office of Police Reform or proposed by the Office of Police Reform only upon a showing by the complainant that:
 - 2.5.1. A policy was misapplied in the evaluation of the complaint; or
 - 2.5.2. That the findings or recommendations were arbitrary, capricious or constituted an abuse of discretion; or
 - 2.5.3. That the findings and recommendations were not consistent with the recorded evidence.
- 2.6. The Board shall document the outcome of the hearing in a written Notice of Decision that shall be provided to the complainant, the individual against whom the complaint was filed, the Director, and the Office of Police Reform.

3. In reviewing completed investigations:

- 3.1. The Board shall assess and document whether:
 - 3.1.1. The incident suggests that APD should revise strategies and tactics.
 - 3.1.2. The incident indicates a need for additional training, counseling, or other non-disciplinary corrective measures.
 - 3.1.3. The incident suggests revisions to policy or procedures.

ARTICLE VII – AUDITS & REPORTING

1. CPOAB Semi-Annual Audit:

- 1.1. The Board will conduct semi-annual audits of individual civilian police complaint investigations involving allegations of use of force. A random sample of up to 10% of completed investigations during the last six months will be selected for audit. In instances where the total number of completed investigations involving allegations of use of force is below the threshold of 10%, the Board shall review at least one case during the audit period. If no investigation involving a civilian police complaint with the allegation of use of force was completed during the audit period, no audit will be conducted. The Board may, by a vote of

two-thirds (2/3) of its members, perform an additional audit or direct that an audit be performed on any individual Citizen Police Complaint Investigation completed by the Administrative Office. For the purposes of its audit function, the Board shall have full access to investigation files and may subpoena such documents and witnesses as relevant to its audit function

- 1.2. The Board will utilize Simple Random Sampling (SRS) methodology, which ensures that each case has an equal chance of being selected and is appropriate given the small sample size. This methodology helps in maintaining a systematic, unbiased approach to case reviews. The tools used for conducting SRS will be a reliable and verifiable random sequential number generator. This may include online tools such as random.org, built-in functionalities in spreadsheet software like Microsoft Excel, Google Sheets, or similar statistical software capable of generating random selections. The chosen tool must be documented, and the case selection process must be recorded to maintain transparency and accountability.

ARTICLE VIII – SERIOUS USE OF FORCE & OFFICER-INVOLVED SHOOTINGS

1. Serious Use of Force and Officer-Involved Shootings:

- 1.1. Per the CPOA ordinance, before acting related to a serious use of force or officer-involved shooting, the Executive Director shall confer with the relevant prosecuting agency and/or federal law enforcement agency to assess the likelihood of an officer being criminally prosecuted based on the incident. The Executive Director may delay or decline to proceed with any action related to a serious use of force or officer-involved shooting until completion of the criminal investigation unless, after consultation with the prosecuting agency, the Executive Director determines that the proceeding is appropriate and will not compromise a criminal investigation. If the Executive Director seeks to proceed with investigating or presenting to The Board a serious use of force or officer-involved shooting despite a prosecuting agency or federal law enforcement agency indicating that doing so would interfere with a criminal investigation, the Executive Director may only proceed after obtaining approval to do so through a 2/3 vote of The Board

ARTICLE IX – POLICY RECOMMENDATIONS

1. Policy Recommendations:

- 1.1. The CPOA may make recommendations on policy to the approved policy process established by APD. APD shall provide the CPOA with reasonable access to APD premises, files, documents, reports, data (including APD raw data), and any other materials that are reasonably necessary for this purpose.
- 1.2. The chair of the Board shall designate one Board member to serve on each APD policy development committee. The Director and the Board member designated by the Chair shall

each serve as voting members and representatives of the Board on such committees. They shall report back to the Board about the outcomes and votes cast at the next regularly scheduled meeting of the Board.

- 1.3. APD shall provide all policy proposals passed by the APD Policy and Procedures Review Board to the Board for its review, comment, and recommendations prior to final adoption.
- 1.4. Each Community Policing Council wishing to submit comments or recommendations must submit them to the CPOA Director within fifteen (15) days of the policy becoming available. In making its final policy recommendations, the Board shall review and consider any timely submitted comments and recommendations of the CPCs.
- 1.5. The Chief of Police or designee shall respond to policy recommendations made by the CPOA in writing within 45 days of final action on a policy by APD. As part of this response, APD shall indicate whether the Board's policy recommendation will be followed through standard operating procedures or should be adopted as policy by the City Council or specifically explain any reasons why such policy recommendations will not be followed or were not adopted.

ARTICLE X – CODE OF CONDUCT

1. Code of Conduct:

All Board Members are expected to follow the following guidelines for ethical conduct:

- 1.1. **Integrity:** We act honestly, ethically, and impartially in all our decisions and actions. We take full responsibility for our conduct and hold ourselves accountable as members of this board.
- 1.2. **Transparency:** We strive for transparency and openness in all board activities, including decision-making, stakeholder communication, and public information dissemination. We foster trust and confidence through open and honest engagement.
- 1.3. **Impartiality:** We approach all matters with an open mind, free from bias, prejudice, or favoritism. Our decisions and recommendations are based solely on merit, evidence, and the principles of fairness.
- 1.4. **Confidentiality:** We safeguard sensitive information obtained during our board activities, strictly adhering to applicable laws and regulations regarding data protection and confidentiality.
- 1.5. **Respect:** We treat everyone with dignity, respect, and empathy, recognizing and valuing the diversity of perspectives and experiences we encounter.
- 1.6. **Independence:** We think, judge, and act independently. We resist undue influence, pressure, or interference from outside forces, maintaining our autonomy and objectivity.
- 1.7. **Professionalism:** We conduct ourselves with professionalism, civility, and decorum in all CPOAB interactions, upholding the highest standards of conduct and demonstrating respect for all involved.

2. Definition of “for Cause”:

2.1. Cause for removal from the Board shall include any violation of the Conduct Section of the Boards and Commissions Ordinance (Section 2-6-1-3(C)). Cause for removal may also include violations of any law, regulation, charter provision, the job description for Board members (attached as Appendix 1) and other violations of the duties of a Board member including the intentional failure to carry out the duties and responsibilities of the Board. Cause for removal may also include the inability or failure of a Board member to objectively and impartially perform the necessary functions of the Board.

3. Dress Code:

3.1. All board members will dress at a minimum in “business casual” attire or more formal attire appropriate to a professional board for all Regular/ Special board meetings, public attendance, and/ or any time representing the City of Albuquerque's CPOAB at an external event.

4. Communication with CPOA:

4.1. All board members must check their City of Albuquerque-provided emails at least once every three days to ensure timely attention to matters.
4.2. In the event of an urgent matter, staff may reach out by phone or text message.

5. City Issued Property:

5.1. All board members shall maintain all City issued property in good working order. In the event that any City issued property is damaged, the Board member shall immediately notify the Chair and Agency.
5.2. All board members shall make arrangements to return all City issued property in good working order within 14 calendar days of departure from Board service.
5.3. Failure to return all City issued property within 30 calendar days of departure from Board service shall result in funds being deducted from stipend or honorariums owed to the former Board member. The City may also pursue any other legal action necessary to recoup the value of any unreturned or damaged City issued property.