

**By-Laws and Rules of the Citizens' Police Review Board
of the City of Albany, New York**

The Citizens' Police Review Board (hereinafter referred to as the "Board") shall seek to fulfill the purpose and goals established by the Common Council for the Board in paragraph E of section 42-332 of Part 33 of Chapter 42 (Departments and Commissions) of the City of Albany. Consistent with the express understanding of the Mayor, the Common Council, the Albany Police Department (hereinafter referred to as the "Department") and the people of the City of Albany, the Board shall serve as an independent, autonomous body concerned with the welfare of all the people of the City of Albany. In furtherance of the mission given to the Board by the Common Council, the Board shall promote and enhance a relationship of mutual respect, understanding and trust between the people of the City and the members of the Department.

The Board shall promote and implement, in concert with involved stakeholders, including but not limited to the Mayor, the Common Council, the Department, and interested civic groups, programs and practices to achieve positive interaction among the Department, the City administration and all members of the community, irrespective of age, race, ethnicity, religious, philosophical or political persuasion, gender, sexual orientation or economic status.

The Board encourages all persons with a legitimately founded complaint of misconduct by an officer or employee of the Department, including, but not limited to, complaints of excessive use of force or violation of civil rights (the definition of which shall include complaints pertaining to sexual orientation), to submit such complaint in writing to the Board or the Department.

The Board and its members shall execute their duties and responsibilities and apply the powers granted to them in accordance with the provisions of local law set forth in such Part 33, as it may be amended from time to time, and shall act in compliance with all State laws applicable to the conduct of the affairs of the Board.

Effective with the date of approval of these by-laws and rules by the Common Council, the Board shall assume responsibility for all civilian complaints of misconduct by officers and employees of the Department pending before the Community-Police Relations Board as of such approval date. The Board shall act upon such pending complaints as if the same had been filed originally with the Board.

ARTICLE I - NAME

Section 1. Name of Board. The Name of the Board shall be the Citizens' Police Review Board.

ARTICLE II - LOCATION

Section 1. Location of Board; official mailing address. The location of the Board shall be the City of Albany, New York. The official mailing address of the Board shall be:

**Citizens' Police Review Board
C/O The Government Law Center
Albany Law School
80 New Scotland Avenue
Albany, NY 12208**

All persons and other entities wishing to correspond with the Board for any reason, including the submittal to the Board of a civilian complaint against any officer or employee of the Department, shall direct correspondence to the Board at its official mailing address.

ARTICLE III - MEMBERSHIP

Section 1. Membership of the Board. The members of the Board shall be appointed by the Mayor and Common Council as provided by section 42-334A of such Part 33.

Section 2. Terms of members. Members of the Board shall be appointed for three year terms, provided that the initial members of the Board shall be appointed for staggered terms as provided in section 42-334 of such Part 33. Members of the Board shall be subject to the two consecutive term limitation provided in such section and may be considered for reappointment to the Board after one year of non-membership. Members of the Board shall continue to serve until their successors have been appointed and qualified.

Section 3. Attendance at Board meetings; removal for excessive absences. The qualification of members of the Board, the removal of members and the filling of vacancies on the Board shall be governed by the provisions of sections 42-335, 42-336 of such Part 33. Upon the unexcused absence of any member of the Board from three consecutive regular monthly meetings of the Board, or upon the unexcused absence of any member from six of more regular monthly meetings of the Board during any 12 month period, the Board may, by two-thirds vote of the entire Board, recommend to the Common Council that it remove such member for cause.

After completion of the roll call at each regular monthly meeting, the Chair shall announce each absence that the Chair has excused for substantive and valid excuse and the same shall be recorded in the minutes of such meeting.

Section 4. Completion of orientation program by new members. Within thirty days following the appointment of a new member, such new member shall complete the orientation program prescribed in section 43-339 of such Part 33. No member may participate as a voting member without completion of such program.

Section 5. Resignations from the Board. Any member of the Board seeking to resign from it shall submit his or her resignation in writing to the appropriate appointing authority and also to the Chair of the Board.

Section 6. Filling of Board vacancies in timely manner. Upon the creation of a vacancy on the Board because of resignation, death, disqualification or removal of a member, the Board shall give public notice of such vacancy to the media in order to inform persons interested in becoming a member of the Board to make applications for appointment to the appropriate appointing authority, and shall also request the appropriate appointing authority to fill the vacancy within 30 days in order to facilitate satisfaction of the quorum requirements of the Board.

ARTICLE IV - OFFICERS

Section 1. Election of Officers. The members of the Board shall annually elect from their membership a Chair, a Vice-Chair and a Secretary and such other officers as the Board may determine by resolution. Except as provided below, such election shall take place at the first regular meeting of the Board in January of each year. Nominations for the election of offices shall be made at the regular monthly meeting immediately preceding the meeting at which elections are to take place. The term of the Chair and other officers shall commence on the date of their election and shall end upon the date when their successors have been elected and qualified.

The Temporary Chair, Vice-Chair and Secretary elected at the initial meeting of the Board held on November 30, 2000 shall continue to serve in their temporary

capacity until their successors have been elected and qualified as set forth below. For the initial election of officers in the year 2001 only, nominations for the election to the office of Chair, Vice-Chair, Secretary, and such other officers as the Board may establish, shall be made at the first regular monthly meeting, or at a special meeting called for that purpose, following approval of the By-Laws and Rules by the Common Council. Consideration upon such nominations shall be determined by election at the regular monthly meeting or special meeting called for that purpose, next succeeding the meeting at which nominations are made.

Section 2. Powers and duties of the Chair. The Chair shall:

- (a) be the presiding officer at all regular, special and emergency meetings of the Board and shall be authorized to call special and emergency meetings.
- (b) establish such ad hoc committees of the Board, not otherwise created by these By-Laws and Rules, as may be necessary or desirable for the Board to conduct its business.
- (c) appoint the chair and members of all committees of the Board and specify the duties of such committees except as such duties may be expressly set forth in these by-laws and rules or be altered or modified by the Board. All such appointments shall continue at the Chair's discretion, provided that a chair of a committee established by these by-laws shall not be removed by the Chair except upon a majority vote of the members of the Board. The Board, by a majority vote of its members, may recommend to the Chair the name of a member to be considered by the Chair for appointment as the chair or a member of a committee.
- (d) serve as chair of the committee on public official liaison and serve as an ex-officio member of all other committees of the Board.
- (e) perform all duties incident to such office and such other duties as may be prescribed by these by-laws and rules, or delegated to the Chair by the members from time to time.
- (f) decide on all points of order and procedure during the meetings, and the Chairs' decision shall be final unless overruled by a majority vote of

the members.

(g) appoint a Parliamentarian to assist the Chair.

(h) be the principal spokesperson on behalf of the Board and may designate another member of the Board as a media liaison officer to assist the Chair with respect to media relations.

Section 3. Powers of Duties of the Vice-Chair. In the absence of the Chair, or in the event of the Chair's resignation, death, disqualification, removal or inability or demonstrated continued refusal to fulfill the powers and duties of the office of the Chair, the Vice-Chair shall perform the powers and duties of the Chair and, when so acting, shall have all the powers and duties and be subject to all the restrictions upon the Chair. The Board shall determine by a majority vote if the Chair has demonstrated a continued refusal to fulfill the powers and duties of the office. When the Vice-Chair succeeds to the office of Chair in the event of resignation, death, disqualification, removal or by a vote of the Board as authorized in this section, he or she shall complete the term of the Chair. In the event that the Vice-Chair notifies the Board in writing that he or she is unwilling to accept the responsibilities of the Chair for any reason, then both the office of Chair and Vice-Chair shall be deemed vacated and the Board shall proceed to nominate and elect a Chair and Vice-Chair at a special meeting to be called by the Secretary within 7 days of the date when the Vice-Chair provided the Board with such written notification. The Secretary shall act as Chair during the meeting to nominate and elect a new Chair and Vice-Chair and also during the interim period between the date when written notification is made and the special meeting is conducted.

Section 4. Powers and Duties of the Secretary. The Secretary shall have the primary responsibility for the preparation of the minutes of all meetings of the Board, including minutes of executive sessions of the Board as authorized under the Open Meetings Law of the state. The Government Law Center of Albany Law School shall assist the Secretary in his or her duties. In order to enable the Secretary to be fully involved in the deliberations of the Board, the Secretary, with the consent of the Board, may utilize the services of a stenographer or a recording device as made available by the Government Law Center for the purposes of the preparation of accurate Board minutes.

If the Board authorizes the use of a stenographer or a recording device during the course of any meeting, including a closed executive session, to facilitate the preparation of minutes, the Board shall direct that all stenographic documents or recordings of any such meeting shall be maintained by the Board for the period of time specified in section 57.25 of the Arts and Cultural Affairs Law of the State of New York. If the use of a stenographer or recording device has been so authorized, the Secretary, on behalf of the Board, shall review the stenographic or recording device record of the discussions conducted by members at meetings and shall prepare minutes that accurately summarize the essential and material matters discussed and determined by the Board. Such minutes shall recite the votes of each member taken by a roll call pursuant to section 11 of Article V of these By-Laws and Rules. The Secretary may secure the assistance of the Government Law Center in preparing such minutes.

The minutes of an executive session shall be approved only in an executive

session meeting. The minutes of the executive sessions of the Board required to be taken by the Open Meetings Law of the state shall be modified by redaction or otherwise to the full extent permitted by such law in order to protect statutorily protected rights of privacy and confidential material safeguarded by exemptions applicable to the conduct of such executive sessions.

Section 5. Powers Duties of other officers. The duties of such other officers as the Board may establish from time to time shall be those that are assigned to such officers by the Chair and those that may be specified by the Board in the motion providing for the establishment of such officers.

ARTICLE V - OFFICIAL STATEMENTS OF THE BOARD

Section 1. Official statements of the Board. It is the intention of the board to promote full, active, and meaningful participation by the members of the Board in the undertaking of their responsibilities as members. It is the further intention of the board to encourage the exercise of thoughtful discretion in order to curtail or minimize the potential for inconsistent public statements made by members of the Board that may be construed by the public or the media in a manner detrimental to the fulfillment of the Board's mission under Part 33 and these by-laws.

Only the Chair or his or her designated media liaison officer shall make official statements for the Board. Except when expressly authorized by the Chair to speak on behalf of the Board, each member shall refrain from speaking for the Board and shall make diligent efforts to avoid the appearance of doing so. When a member is invited to

participate in an event or to make a presentation in his/her official capacity as a member of the Board, such member shall make diligent effort to notify the Chair as far in advance as possible and, where not possible to notify the Chair in advance, to do so promptly following such presentation. Whenever a member has participated in an event of general topic or special interest, but not in his/her capacity as a member of the Board, and has, nevertheless, been called upon to speak about issues concerning the Board, such member shall notify the Chair promptly thereafter. Nothing herein shall be deemed, however, to prohibit a member from expressing individual opinions or perspectives.

ARTICLE VI MEETINGS

Section 1. Regular monthly meetings. The Board shall hold a regular monthly meeting in each month from September through June at a time and place to be determined by the Board. If feasible, based upon summer vacation considerations of members and the likelihood of obtaining a quorum, the Board may schedule regular monthly meetings for the months of July and August. In the event that a serious and emergent matter involving the public interest for which the prompt attention of the Board as a body is necessary or appropriate shall arise in either of such months, the Chair shall exercise prudence and due diligence in calling a special emergency meeting to address such matter at that time. The time and place for such special emergency meeting shall be determined by the Chair and communicated to the members in writing at least seven days prior to the meeting. The Chair shall send a copy of the proposed

agenda for each such special emergency meeting and regular monthly meeting held on an altered date to each member with the notice of such meeting. The Chair shall send a copy of the proposed agenda for each other regular monthly meeting to each member at least seven days prior to such meeting. A member may request the Chair in writing to add an item of consideration to the agenda. Such request shall be made at least fourteen days prior to the date of the communication meeting to which it pertains. At the completion of the roll call at a regular monthly meeting, a member may request an item to be added to the agenda by motion and such item shall be so added upon a vote of a majority of members. Except with respect to issues raised during the public discussion period or in response thereto, care shall be taken by members to avoid discussions of non-agenda items. The Chair shall be diligent in the enforcement of the provisions of this section so that meetings of the Board shall be conducted in an orderly manner.

Section 2. Calling of special and/or emergency meetings. The Chair may call special and/or emergency meetings in his or her discretion for substantial reasons warranting the convening thereof and shall also call such meeting upon the written request of at least three members of the Board. A notice to the board members stating the place, date, hour and agenda (as determined by the Chair in the furtherance of his or her exercise of discretion, or to cover subject matter specified in the request made by the herein above specified individuals) shall be delivered either verbally or in writing, as practicable, to each member at least 24 hours prior to the special or emergency meeting. Where time permits and practicable conditions allow, the Chair shall attempt to disseminate a brief written statement of the matters to be discussed at any such

meeting.

Section 3. Public Notice of Board Meetings. The Board shall give public notice of regular monthly meetings and special and/or emergency meetings. The meeting notification requirements of the Open Meetings Law of the state shall apply to the regular monthly meetings. Print, television, radio and other news media entities that have requested the Board to be notified regarding special and/or emergency meetings shall be given as much advance notice as practicable before the time of any such special and/or emergency meeting . The Government Law Center will coordinate the giving of notice as required under this section.

Section 4. Agenda form of the Board. The regular order of business at regular, special and/or emergency meetings shall be as follows:

Regular Monthly Meetings

1. Call to order
2. Roll call
3. Acceptance of minutes of last regular meeting of Board
4. Changes to agenda
5. Public comment
6. Communication made to the Board from the Mayor, President or Members of the Common Council or Chief of Police
7. Board member announcements
8. Report from the Chair
9. Committee reports
10. Old business
11. New business
12. Review of complaints
13. Adjournment

Special and/or Emergency Meetings

1. Call to Order.

2. Reading of the notice of the meeting and roll call
3. Public comment
4. Transaction of the business for which the meeting was called and recommendations.
5. Call of executive session if warranted.
6. Adjournment

Such order may be varied at the discretion of the Board or the Chair.

Section 5. Voting by proxy prohibited. There shall be no vote by proxy at any meeting of the Board.

Section 6. Public comment allowed. Time shall be made available for open public comment at all meetings of the Board, exclusive of those portions of a meeting conducted in executive session. The Chair may establish a reasonable time limit for public comment based upon the scope of the agenda established for the particular meeting. The Chair shall announce the time limit for public comment at the start of the meeting, which time limit shall not ordinarily be less than 15 minutes. The Chair, or the Board, upon motion approved by a majority of its members, may provide for an extension of the time period for a period as specified in the motion. The Chair shall recognize speakers and may establish uniform time limits per speaker, which time limits shall not ordinarily be more than five minutes per individual. Public comment shall be limited to matters which involve the Albany Police Department and the responsibilities of the Board under Part 33. The public comment portion of the meeting shall not be used as a forum to comment upon other matters of public interest which are not directly related to the mission of the Board.

Section 7. Making of motions. Motions may be made or seconded by any member of the Board, including the Chair.

Section 8. Confidentiality of privileged information. Members of the Board shall maintain the confidentiality of all confidential or privileged information received in the course of their service on the Board, in accordance with the provisions of State and local law, including but not limited to Part 33 and Section 50-a of the Civil Rights Law of the State of New York. Members shall maintain a thorough knowledge of the legal protection accorded by State and local law to the privacy of police records, including the penalties for the violations of laws which guarantee the security of such records and the individuals rights of privacy and confidentiality.

Except as expressly authorized by the Chair or the Board in the furtherance of members duties, members of the Board shall make diligent efforts to avoid ex parte discussion of any matter that is or may come before the Board with any person interested in such matter. A member who has had an unauthorized communication concerning an agenda item outside of a public meeting with an interested party, including but not limited to a complainant, an officer or other employee of the Department who is a subject of a complaint, a witness to the events giving rise to such complaint, any person representing or purporting to represent the interests of any such person, or a relative of any such complainant, officer or employee of the Department or witness, shall promptly notify the Chair of the contact, and furnish to the Chair the name of such interested party, the nature of the interest and the specifics of the communication, including copies of any correspondence with such party and a written synopsis of any portion of the communication that was verbal.

Section 9. Recommendation for removal of a member for violation of

provisions relating to confidential and private information. The Board, by a vote of at least six members, may recommend to the Common Council the removal of a member from the Board for cause based upon a violation of the provisions of section 8 of this article or any provision of Part 33 or other local or state law that guarantees the security of confidential records or the rights of privacy for individuals, including, but not limited to, complainants and any officer or other employee of the Department who is the subject of a complaint.

Section 10. Conflicts of interest; member recusal. Members who believe they have a conflict of interest on a matter about to come before the Board shall state the reason for the conflict of the interest, leave the meeting before discussion of the matter begins, and remain out of the meeting during the discussion of the matter and during any vote taken thereon.

Section 11. Voting . Five members of the Board shall constitute a quorum. The Board shall take no action at a meeting other than to recess or adjourn in the absence of a quorum. Except as otherwise provided herein, the affirmative vote of not fewer than five members is required for adoption of any action or motion, including a motion for the Board to conduct an executive session under Article 7 of the Public Officers Law of the State of New York. Upon request of any member, voting on a motion or resolution shall be by roll call and will be recorded by yeas and nays. Every member of the Board, including the Chairperson, is required to cast a vote upon each motion. A member who abstains shall state the reason for abstention.

Section 12. Roberts Rules of Order. The rules of the current edition of

Roberts Rules of Order Newly Revised shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with these By-Laws and any special rules or order the Board may adopt. The application of Roberts Rules of Order may be suspended by the Chair for all or any part of a Board meeting unless suspension is objected to by a majority of the members of the Board.

ARTICLE VII – COMMITTEES

Section 1. Standing Committees. The standing committees of the Board shall be:

1. By-laws and Rules
2. Community Outreach
3. Police Department Liaison
4. Public Official Liaison
5. Complaint Review
6. Such other standing committee(s) as the Board may by resolution authorize from time to time

Section 2. Duties of Standing Committees. Each of the standing committees shall perform the functions specifically delegated to such committee by the applicable section of this Article pertaining thereto or the resolution creating such committee. In addition, each standing committee shall perform such other functions as the Chair shall assign.

Section 3. Standing Committee on By-laws and Rules. The standing committee on by-laws and rules shall be charged with periodically reviewing the effectiveness of these By-Laws and Rules as such relate to advancing the efficient conduct of board business. The committee shall make an annual report to the Board at its December regular monthly meeting containing any recommendations for

amendments, which shall be considered for adoption by the Board at its January meeting.

Section 4. Standing Committee on Community Outreach. The standing committee on community outreach, working with the Government Law Center, shall be charged with developing a broad program of outreach to all sectors of the city populace for the purpose of informing the diverse communities of the city of Albany with respect to the mission of the Board and its duties, functions, powers and responsibilities under Part 33 of Chapter 42 (Departments and Commissions) of the Code of the City of Albany. The committee shall endeavor to design a program that will improve the relationship between the diverse communities of the City and the Department taking into account to the extent the committee deems necessary, desirable or appropriate age, race, ethnicity, religious, philosophical or political persuasion, gender sexual orientation and economic status. The committee shall consider the creation of advisory committees to the Board involving diverse interest groups in the City. The program shall maximize the dissemination of information to the public through pamphlets, media press releases, public appearances or other methods reasonably calculated to heighten public awareness of the role of the Board in achieving its goals of improving communications between the Police Department and the Community; increasing police accountability and credibility with the public; and creating a complaint review process that is free from bias and informed of actual police practices.

The committee shall consult with the standing committee on citizen complaint review to coordinate a procedure for making available citizen complaint forms at convenient sites throughout the city.

The committee shall issue quarterly reports to the Board with respect to its outreach program and its future plans and may issue update reports more frequently.

Section 5. Standing Committee on Police Department Liaison. The standing committee on police department liaison shall be charged with the duty of acting as a liaison between the Board and the Department. Contact between the committee and the Department shall be through the office of the Chief of Police and certified union representatives. The Committee shall meet with the Chief of Police or the Chief's designees and with certified union representatives either upon the committee's request or at the request of elected or appointed union officials on a periodic basis to discuss matters of mutual concern. The committee shall also meet periodically with representatives of the higher-ranked officers of the Department who are not represented by the Union. The chair of the Committee shall provide the Chief of Police with advance courtesy notice with respect to any such meeting with union officials or other higher-ranked officers not represented by such union.

The chair of the committee shall establish with the Chair a schedule for making reports to the Board of the committee's actions under this section. Where authorized and/or required by Article 7 of the Public Officers Law of the State of New York, such reports shall be made in whole or in part in executive sessions of the Board.

Section 6. Standing Committee on Public Official Liaison. The standing committee on public official liaison shall be charged with periodically meeting with the Mayor, the Corporation Counsel, and the President of the Common Council. Such meetings shall be conducted upon the request of such officials and may include one or more elected members of the Common Council. The chair of the committee may also

request such additional meetings with such officials as may be necessary, appropriate or desirable to further the effectiveness of the Board and the accomplishment of its mission. Such meetings shall be scheduled at mutually convenient times. The committee may engage in discussions with such public officials on topics of interest to them or the Board that relate specifically to the inter-relationship of the Board, the Police Department, the Office of the Mayor, or the Common Council with respect to the duties, powers and functions of the Board under Part 33. The Chair shall bring any matters discussed that bear upon the submittal or filing of citizen complaints and/or the action of the Chief of Police or the Professional Standards Committee upon such complaints to the attention of the chair of the citizen complaint review process as the Chair shall determine appropriate.

The committee shall establish with the Chair a schedule for making reports to the Board of the committees actions under this section where authorized and/or required by Article 7 of the Public Officers Law, such reports shall be made in executive session.

Section 7. Standing Committee on Complaint Review. The standing committee on complaint review shall be charged with assisting the Board, with the assistance of the Government Law Center, in fulfilling its responsibilities under Part 33 with specific focus on the role of the Board under sections 42-342, 42-343 and 42-345 of such Part. The committee, with assistance from the Government Law Center, shall develop procedures that will assist the Board in fulfilling its responsibilities in an informed and deliberative manner. Such procedures shall provide, without limitation, that members shall be entitled to view the entire preliminary report of the Chief of Police on each complaint and the report prepared by any individual appointed by the Board as

observer, monitor or investigator, as well as to question a representative of the Professional Standards unit having principal responsibility for the preparation of the preliminary report and also the individual appointed by the Board as an observer, monitor or investigator and to ask for fuller description of the matter contained in the preliminary report and shall be entitled to ask such other questions as may enable them to vote on a fully informed basis regarding the findings to be determined with respect to a case.

The conduct of the members of the Board with respect to its actions under the sections of Part 33 enumerated in this section shall be subject to procedures adopted by the Board for the transaction of its affairs. Such procedures shall also address the utilization and evaluation by the Board of the services of observers, monitors and investigators. In order to assist the community as well as to enable the Board to comply with Article 6 of the Public Officers law, the Government Law Center shall be the repository of all citizen complaints submitted to the Board or received by the Board from the Chief of Police. The Center shall assist the Board in its compliance with section 42-342 B of Part 33.

Section 8. Limitation on service as chair or member of committees. No member shall serve as the chair of more than one standing committee at the same time. Each such committee shall be comprised of not less than three nor more than five members. No member shall be required to serve on more than two committees of the Board, inclusive of the standing committees established under this Article. A member may indicate to the Chair his or her willingness to be appointed as a member of more than two committees.

After the election of the initial chair of the Board following approval of these By-Laws and Rules by the Common Council and the appointment by the Chair of the chairs of the standing committees created by this article, all temporary appointments made by the Board at its initial meeting of November 30, 2000 shall terminate.

ARTICLE VIII - CONDUCT OF BUSINESS

Section 1. Committee Reports. If Committees have information to report at the regular monthly meeting, the Chair shall recognize the chair of the committee and ask the chair to make the committee report.

At each regular monthly meeting, the chair of the standing committee on citizen compliant review shall provide a summary report of the findings made by the Board on citizen complaints at the preceeding regular monthly meeting. The report shall state the number of investigations the Board reviewed and deliberated upon and the number of findings the Board made thereon. Pursuant to section 42-344 A of Part 33 the Board may render 7 different categories of findings. The report shall be strictly limited to the number of findings made under each of the 7 categories enumerated in section 42-344A. The confidentiality that governs the review and deliberation of investigations and the findings made on specific cases shall be preserved as required by law. The purpose of this report is limited to providing a summary of Board findings by category and shall not include any case specific information. The Chair shall not permit any questions by any Board member which extends beyond the citation of the number of findings by category.

Section 2. Old Business. Under the agenda item of old business, the

Board shall consider any unfinished business from previous meetings and members may seek such clarifications of actions taken by the Board at a previous meeting as the member shall deem helpful.

Section 3. New Business. Under the agenda item of new business, the Board shall consider any matters noticed by the Chair under this item as set forth in the mailed agenda as well as any item of new business added to the agenda at that regular monthly meeting by majority vote of the members.

Section 4. Review of complaints, in executive session. At the conclusion of discussion of new business, the Board shall, if necessary to comply with Section 50-a of the State Civil Rights Law or other applicable law and permitted under the State Open Meetings Law, recess and convene in executive session for the purpose of its review and deliberation, in whole or in part, of complaint investigations and the making of findings on cases before it in such session and such other specific business, if any, as may be properly considered in executive session. Nothing herein shall be construed to permit the consideration of any matter in executive session contrary to law.

In reviewing and deliberating a complaint investigation and its findings thereon, the Board shall give highest priority consideration to cases alleging the use of excessive force or a violation of civil rights (the definition of which shall include complaints pertaining to sexual orientation.) The Board shall give first priority to making findings on cases referred back to the Board by the Mayor and the Chief of Police pursuant to

section 42-343 G of Part 33. The Board shall give next priority to cases based upon the length of time that has intervened between the submittal or filing of a complaint and the time that case was first presented to the Board pursuant to the preliminary report of the Department's findings. The previous sentence shall be construed to include all pending complaints that were made to the former Community Police Relations Board. The Board shall give the next order of priority to all cases wherein the Board was unable to render a finding within 60 days of the receipt of the preliminary report of the Department's findings.

Section 5. Board rules to be utilized in the review of complaint investigations and the making of findings when in executive

session. The Board shall adhere to the following rules for each case:

- (a) The Chair shall announce each case. The Chair may assign this duty to the chair of the standing committee on complaint review.
- (b) The Chair, or such committee chair, as the case may be, shall review with the Board the preliminary report of the Department's findings to the Board or the response made by the Mayor and the Chief pursuant to section 42-343 G of Part 33. Such review shall also include consideration of the preliminary or final findings made by the individual appointed by the Board as an observer, monitor and investigator pursuant to Section 42-343 of Part 33 as well as any other information the committee may have received bearing upon the complaint.
- (c) The Board shall consider the content of the preliminary Report, the response from the Mayor and the Chief and all other relevant information as described in subdivision (b) of this section. Video and audio tapes, if available, may be reviewed in the discretion of the Board.
- (d) Upon completion of the review of such report or response, discussion shall be conducted by the members regarding such Report or response.

- (e) At the conclusion of all discussion, written findings by the Board shall be made consistent with section 42-344 of Part 33. The Board shall then comply with section 42-345 of Part 33. The written findings made by the Board which are forwarded to the Chief of Police, but not to the affected officer and the complainant under such section 42-345, shall indicate the vote of the Board on the particular case, indicating the number of ayes and nays on the matter. There shall be no indication of the names of the members who cast such votes.
- (f) The written findings of the Board shall be signed by the Chair or, in the absence of the Chair, by the Vice-Chair.

Section 6. The board shall adopt such additional procedures as shall be necessary to regulate the conduct of executive sessions.

Section 7. At the conclusion of its business in any executive session, the board shall recess and return to the regular order of the agenda.

ARTICLE IX – PUBLIC ACCESS TO BOARD RECORDS AND CONDUCT OF OPEN MEETINGS

Section 1. Board compliance with Freedom of Information Law and Open Meetings Law. The Board shall comply with Article 6 (Freedom of Information Law) and Article 7 (Open Meetings Law) of the Public Officers Law.

Section 2. Role of the Government Law Center. The Government Law Center shall serve as the repository of all Board records and assist the Board in maintaining such records, and in granting public access to such records under Articles

6 and 7 of the Public Authorities Law. Where desirable, and with the consent of the Chair, the Government Law Center may enter into agreement with the City Clerk to assist the Center with its role under this section.

ARTICLE X - MISCELLANEOUS PROVISIONS

Section 1. Annual report of the Board. An annual report detailing the activities of the Board shall be prepared by the Chair, with assistance of the Government Law Center, approved by the Board, and submitted to the Mayor, the President of the Common Council and the Chief of Police. Such report shall be submitted to the Board at its November meeting and shall be acted upon at its December meeting.

Section 2. Member training; ride alongs advised. The Board reaffirms the merit of members fully complying with the training, orientation and continuing education provisions detailed in section 42-339 of Part 33.

The Board recommends that each member of the Board participate in at least three ride-alongs per year lasting an aggregate of not less than 10 hours, but the failure to do so by any member shall not disqualify such member from performing his or her duties as a member.

Section 3. Good Faith Complaints. It is the policy of the Board to encourage persons with good faith complaints of misconduct by an officer or other employee of the Department, including but not limited to an alleged use of excessive force or a violation

of any individual's rights through the action of a police officer, to submit such complaints in writing to the Board or to the Department. Violation of a person's civil rights shall include complaints pertaining to sexual orientation. Complaints alleging excess use of force and violation of civil rights shall be given highest priority of consideration by the Board. The Board will make every effort to ensure that no adverse consequences will result to any person or witness as a result of submittal or filing of a complaint in good faith. The Board will request that the Chief of Police promptly investigate any claim of retaliation arising from the submittal or filing of a complaint and report the findings of such investigation to the Board in the same manner that other complaints of misconduct are investigated and reported.

Section 4. Annual Review by Board. The Board shall conduct an annual review, with the assistance of the Government Law Center, to evaluate the city's citizen complaint investigative and review process. Such review shall include, without limitation, an analysis of trends and patterns in citizen complaints, investigations and discipline. Upon completion of the annual review, the Board shall transmit to the Mayor, the President of the Common Counsel and the Chief of Police its written findings incident to such review and all remedial recommendations, including any proposed amendments to Part 33, the Board determines necessary or advisable.

Section 5. Advisory opinions of the Board prohibited. Neither the Board nor any member shall render any advisory opinion to any person or persons with respect to the preparation of a citizen complaint or to any officer or other employee of the Department who is the subject of or who may become the subject of a complaint

investigation.

ARTICLE XI - RULES OF PROCEDURE

Section 1. Adoption of Rules of Board. Within 180 days after approval of these by-laws and rules by the Common Council, the Board shall adopt such rules of procedure as it may determine further necessary, desirable or appropriate for the performance of its duties, powers, functions and responsibilities under Part 33, and may thereafter amend, modify or supplement such rules of procedure.

Such rules, which shall be consistent with such Part 33 and any other applicable provision of law, may address the following matters:

- (a) The procedure used by the Board for the purpose of making recommendations to the Common Council for the removal of members of the Board pursuant to section 42-335 of Part 33 for repeated absences, for violations of requirements of protection of privacy rights and preservation of confidentiality and for other matters of serious misconduct that impugns or threatens to adversely affect the integrity of the Board and that in the determination of the Board constitutes cause for removal by the Common Council;
- (b) The appointment by the Board of individuals who serve as observers, monitors, and investigators and the consideration of their reports under section 42-343B(1) and B(2). Any rule addressing these provisions shall specify that no report of an investigator appointed pursuant to section 42-343 B(2) shall be made to the Chief of Police without the express authorization of the Board acting by majority vote;
- (c) The establishment of consistent procedures to be adhered to by the Board in executing the powers of the Board under section 42-343 F, G and H in Part 33. The Board shall specify a consistent procedure which shall govern the method it will utilize to make its

findings in executive session under section 42-344 of Part 33;

- (d) Such other matters as the Board may deem necessary, appropriate or desirable to operate effectively or based upon a review of its activities up to the date such rule is proposed for adoption.

Section 2. Waiver of rules by Chair or Board. Upon the recommendation of the Chair for good cause shown, or where the strict application of any rule would serve to cause an injustice or to curtail the Board in the performance of its duties, functions, and powers, the Board, by affirmative vote of not less than six of its members, waive in whole or in part the requirement of any rule in application to a specified matter under its consideration, provided that the rule governing the method of making its findings in executive session under section 42-344 of Part 33 shall not be waived.

ARTICLE XII AMENDMENTS

Section 1. By-law and rules amendments. (a) These By-Laws and Rules may be amended only at a regular monthly meeting of the Board, provided that written notice of the proposed amendment be given to each Board member no later than the regular monthly meeting conducted prior to the meeting at which the members will vote on the proposed amendment. Presentation to the Chair of a copy of such proposed amendments for the benefit of an absent member shall satisfy the herein above requirements. The Chair shall provide the text of the amendments to any absent member as soon thereafter the end of the meeting as practicable but not later than

three days subsequent thereto. Subject to the provisions of subsection (b) of this section, the Board may adopt such amendment at its next regular monthly meeting or it may consider and approve a modified amendment prepared in accordance with such subsection (b). In no case, however, shall any adopted by-law or rule be applicable to any complaint commenced prior to the adoption of such amendment, where the application thereof to complainant, any officer or other employee of the Department who is the subject of the complaint or other interested party would result in surprise, hardship or injustice to any such person.

b. Any member of the Board may submit a proposed by-law and rules amendment to the Board in complete written form at any regularly monthly meeting. Action upon the proposed by-law and rules amendment shall be deferred until the next regular monthly meeting. The Chair may request the Committee on by-laws and rules to review the proposed by-law and rules amendment and further request such Committee to work with the sponsor of the proposed amendment with respect to any modifications the Committee may deem appropriate. If the sponsor agrees to modify the proposed amendment, the Chair shall forward a copy of the proposed amendment as so modified to the members of the Board at least 7 days prior to the next monthly meeting. If the sponsor prefers that his or her original proposal be submitted to the Board for its consideration at the next monthly meeting, the Board shall consider such proposal. The Board may also consider modifications to the original proposal as recommended by such committee if the Chair forwards a copy of such modifications to the members of the Board at least 7 days prior to the next meeting.