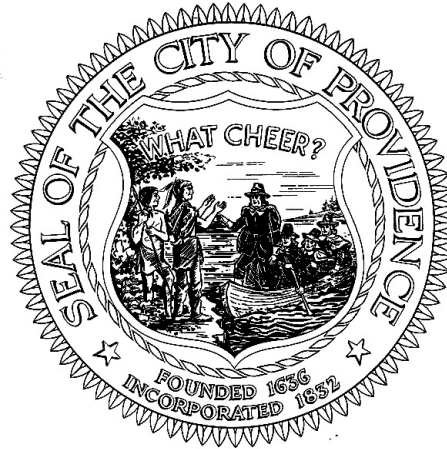


Providence External Review Authority

By Laws
Enacted January 27, 2020



Board Members

Nicholas Figueroa, Chairman
Machiste Rankin, Vice-Chairman
Phanida Phivilay Bessette
Kenneth Cohen
Susan DeRita
Kimberly Dy
Michael Fontaine
Elise Swearingen
Deborah Wray

Executive Director: Jose F. Batista, Esq.

PERA 2019
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I. Purpose

Effective January 1, 2018 and pursuant to Chapter 18 ½, Section 2 of the Code of Ordinances of the City of Providence, the Providence External Review Authority (“PERA”) is established and shall “create and implement community outreach programs, review policies and procedures of the Providence Police Department and review allegations of misconduct on the part of sworn officers of the city police department, including investigating the same, conducting hearings and making findings of fact with respect to those allegations.”

II. Composition of Board

(a) *Board Members*

- (1) The PERA board shall be comprised of nine (9) members, one of which shall be appointed by the Mayor of Providence, one of which shall be appointed by the President of the Providence City Council and the remaining seven shall be appointed by a majority of the members of the Providence City Council.
- (2) The Mayoral appointee, the City Council President appointee, and one more City Council appointee shall serve a one (1) year term, expiring December 31, 2018.
- (3) Three additional City Council appointees shall serve a two (2) year term, expiring December 31, 2019.
- (4) The final three (3) City Council appointees shall serve a three (3) year term, expiring December 31, 2020.
- (5) Every PERA board member is eligible to serve one more full three (3) year term upon the expiration of his or her initial term.
- (6) There shall be not more than two (2) former law enforcement officers appointed to the PERA board and not more than (1) former law enforcement officer shall serve on any hearing panel.
- (7) No person currently holding an elective office shall serve as a PERA board member.
- (8) No person currently employed as a law enforcement officer, or who has an immediate family member who is employed as a law enforcement officer may serve as a PERA board member.
- (9) PERA board members shall not be compensated for their service but are, on occasion, eligible to be reimbursed for costs associated with his or her PERA duties.

(10) PERA board members shall adhere to and comply with all applicable City Ordinances and Code of Ethics in the City of Providence as well as the NACOLE code of ethics (attached hereto as Appendix A).

(b) *Election of Chair and Vice Chair*

- (1) Upon the first meeting of the PERA board, the first vote to be taken by the PERA board will be the election of a Chairperson and Vice Chairperson for a term of two (2) years.
- (2) The Chairperson and Vice Chairperson must be elected by a majority of the currently appointed PERA board members present for the vote.
- (3) The vote may take place if and only if there is a quorum at the meeting.
- (4) Nominations for Chairperson and Vice Chairperson must be made by a PERA board member and seconded by another PERA board member.
- (5) Every PERA board member is eligible to serve as Chairperson or Vice Chairperson.
- (6) The Chairperson shall be responsible for:
 - a. Setting the agenda for PERA board meetings
 - b. Act as the official spokesperson for the PERA board
 - c. Maintaining compliance with all applicable laws and statutes
 - d. Providing supervision and support to the Executive Director
 - e. Setting the agenda for each meeting in conjunction with Executive Director
- (7) In the event the Chairperson is unavailable, absent, or otherwise vacates the position of Chairperson, the Vice Chairperson shall assume the responsibilities of the Chairperson until the PERA board elects a new Chairperson. The PERA shall make all reasonable efforts to vote for a permanent chairperson within thirty (30) days.

(c) *Duties of the Board*

- (1) The PERA board members shall determine a meeting schedule for the board and each member shall make their best effort to attend every PERA meeting.
- (2) The PERA board members shall be responsible for adopting rules governing its operation in the form of by-laws and rules of procedure.
- (3) No PERA board member shall speak on behalf of the PERA board unless specifically authorized to do so by the Chairperson or Acting Chairperson.

- (4) Pursuant to the PERA statute, the PERA board members shall contribute to the statutory responsibilities of PERA; namely: (1) create and implement community outreach programs, (2) review policies and procedures of the Providence Police Department and (3) review allegations of misconduct on the part of sworn officers of the Providence Police Department.

(d) *Resignation and Removal*

- (1) If any PERA board member elects to resign their position, the resignation must be made in writing to the City Council President, City Clerk and PERA Chairperson.
- (2) Pursuant to the City Charter Section 1202(a), PERA board may, upon a 2/3 majority vote, remove a board member for misconduct, neglect of duty, violation of the by-laws and any of the following, but not limited to:
 - a. Missing more than five (5) PERA board meetings within 12 months
 - b. Disclosing confidential or privileged information
 - c. Any act that compromises the mission and purpose of PERA.
- (3) The position shall thereupon be declared vacant by the appointing authority and the vacancy shall be filled for the remainder of the term in the same manner as the original appointment.

III. Executive Director

a. *Appointment*

- (1) The PERA board shall appoint and the Providence City Council shall confirm an Executive Director to a term of two (2) years.
- (2) The Executive Director shall be an attorney-at-law and/or have substantial experience with public administration.
- (3) There shall be no term limits regarding the Executive Director's length of service.

b. *Duties*

- (1) The Executive Director shall assist the PERA board in the fulfillment of its statutory obligations, namely: (1) create and implement community outreach programs, (2) review policies and procedures of the Providence Police Department and (3) review allegations of misconduct on the part of sworn officers of the Providence Police Department including but not limited to: use of force, inappropriate language, criminal conduct, harassment, theft and discrimination.

- (2) The Executive Director shall have the discretion to actively monitor any internal police department investigation of any citizen complaint alleging misconduct as defined in subsection (b)(3) of the PERA ordinance.
- (3) The Executive Director shall have the discretion to monitor any internal investigations by the police department as to which the Executive Director believes it is in the city's best interest for PERA to be involved.
- (4) The Executive Director shall make recommendations to hire to the full PERA board for approval. This provision shall apply to full-time employees and shall not apply to part-time employees, interns, volunteers or contractors.
- (5) The Executive Director shall supervise all PERA staff.
- (6) The Executive Director shall attend all PERA board meetings.

(c) *Resignation and Removal*

- (1) If at any time, the Executive Director elects to resign their position, the resignation must be made in writing to the Chairperson, Vice Chairperson and City Council President.
- (2) At any time, the PERA board may call a vote to remove the Executive Director from his or her position for any, but not limited to, the following reasons:
 - a. Engaging in illegal activity
 - b. Violating the City's Ethics rules and regulations
 - c. Disclosing confidential or privileged information
 - d. Any act that compromises the mission and purpose of PERA

IV. PERA Staff and Contractors

- (1) The Executive Director shall have the responsibility for the appointment, promotion, demotion, suspension and dismissal of all employees, staff, and/or independent contractors under its jurisdiction in accordance with the provisions of the Providence Home Rule Charter and such personnel rules and regulations as may be made pursuant thereto.
- (2) Any PERA staff member shall be hired upon a majority of the currently appointed board members.

V. Open Meetings

a. *Compliance*

- (1) The PERA board shall collaborate with the City Law Department to ensure any and all PERA meetings are held in compliance with R.I. Gen. Laws. §42-46, *et seq.*, also known as the “Open Meetings Act” and all other relevant local and state laws.
- (2) The PERA board may, move into executive session in accordance with R.I. Gen. Laws § 42-46-4 and § 42-46-5.

b. *Quorum*

- (1) For the purposes of these Bylaws, a “quorum” shall mean a simple majority of the PERA board members.
- (2) No votes shall be taken at PERA board meetings unless a quorum is present.
- (3) Any and all meetings of a “quorum” of PERA board members shall be subject to the Open Meetings Act.

c. *Voting*

- (1) Upon taking a formal vote within a PERA meeting, the Chairperson, in his or her discretion, may call for a roll call vote and the City Clerk shall perform the roll call.
- (2) Once the role call has begun, it shall not be interrupted, delayed or stopped by the Chair or any member of the Authority for any reason whatsoever.
- (3) In the case of a tie vote, the motion is defeated.
- (4) No motion shall be discussed or debated until it has been seconded.
- (5) Any motion may be withdrawn by the mover at any time before the taking of a vote thereon or before an amendment is made to such a motion.
- (6) Any member may explain his or her vote during the discussion or debate of any motion or question pending.
- (7) Any PERA board member desiring to speak shall address the Chairperson and, after being recognized, may speak and shall not be interrupted so long as the discussion remains relevant to the Point of Order at the time.

d. *Public Participation*

- (1) The public shall be allowed to participate in any and all open sessions of PERA board meetings.
- (2) The Chairperson, at his or her discretion, shall organize the meeting and designate a time when he or she will permit for the participation of the public.
- (3) The Chairperson shall, at all times, preserve decorum and order, decide whether questions/commentary are relevant to the Point of Order and recognize members of the public and/or PERA board when they request to speak.

VI. PERA BUDGET

- (1) The Executive Director shall, by no later than January 31 of each calendar year, submit a proposed annual budget to the PERA board for approval.
- (2) Once the PERA board approves the proposed budget, the Executive Director shall submit the proposal to the Providence City Council and shall take all necessary steps to aid in its passage i.e. attend and testify at relevant hearings.
- (3) Any and all purchases above \$5,000.00 shall require a majority vote of the PERA board.
- (4) Any and all purchases shall be made in compliance with the rules, regulations and practices of the City Purchasing Department.
- (5) The PERA budget line item for ‘travel’ shall be used to cover all reasonable traveling and lodging for PERA board members on PERA related travels.
 - a. If food is not provided during the travel, PERA board members shall be reimbursed for up to \$50 per person per day, provided there is proper documentation and/or receipts.

VII. Bi-Annual Reports

- (1) The PERA board shall submit to the Mayor and City Council a report of its activities not fewer than (2) times per year. The board shall make all reasonable efforts to publish each report by January 31 and July 31 of each calendar year.
- (2) The January 31 bi-annual report shall, pursuant to PCPRA section (i)(5) include any recommendations to the Mayor and City Council regarding the recommended diverting of funds from the Providence Police Department budget to youth development activities.

- (3) The report shall include, among other topics, data and analysis of complaints and complaint trends and shall be published to the public. The reports shall also detail any and all of the PERA board's expenditures.

VIII. Amending PERA By-Laws

The PERA board By-Laws may be amended by a majority vote of the currently appointed members of the PERA board provided the changes have been subject to hearing as specified by the PERA ordinance.

APPENDIX I

NACOLE Code of Ethics

The following Code of Ethics as produced by the National Association of Civilian Oversight of Law Enforcement (“NACOLE”) and adopted by their Board of Directors on August 12, 2015, is hereby incorporated and merged into this governing document:

Preamble

Civilian oversight practitioners have a unique role as public servants overseeing law enforcement agencies. The community, government, and law enforcement have entrusted them to conduct their work in a professional, fair and impartial manner. They earn this trust through a firm commitment to the public good, the mission of their agency, and to the ethical and professional standards described herein.

The standards in the Code are intended to be of general application. It is recognized, however, that the practice of civilian oversight varies among jurisdictions and agencies, and additional standards may be necessary. The spirit of these ethical and professional standards should guide the civilian oversight practitioner in adapting to individual circumstances, and in promoting public trust, integrity and transparency.

Personal Integrity

Demonstrate the highest standards of personal integrity, commitment, truthfulness, and fortitude in order to inspire trust among your stakeholders, and to set an example for others. Avoid conflicts of interest. Conduct yourself in a fair and impartial manner and recuse yourself or personnel within your agency when significant conflict of interest arises. Do not accept gifts, gratuities or favors that could compromise your impartiality and independence.

Independent and Thorough Oversight

Conduct investigations, audits, evaluations and reviews with diligence, an open and questioning mind, integrity, objectivity and fairness, in a timely manner. Rigorously test the accuracy and reliability of information from all sources. Present the facts and findings without regard to personal beliefs or concern for personal, professional or political consequences.

Transparency and Confidentiality

Conduct oversight activities openly and transparently providing regular reports and analysis of your activities, and explanations of your procedures and practices to as wide an audience as possible. Maintain the confidentiality of information that cannot be disclosed and protect the security of confidential records.

Respectful and Unbiased Treatment

Treat all individuals with dignity and respect, and without preference or discrimination including, but not limited to: age, ethnicity, citizenship, color, culture, race, disability, gender, gender identity, gender expression, housing status, marriage, mental health, nationality, religion, sexual orientation, socioeconomic status, or political beliefs, and all other protected classes.

Outreach and Relationships with Stakeholders

Disseminate information and conduct outreach activity in the communities that you serve. Pursue open, candid, and non-defensive dialog with your stakeholders. Educate and learn from the community.

Agency Self-examination and Commitment to Policy Review

Seek continuous improvement in the effectiveness of your oversight agency, the law enforcement agency it works with, and their relations with the communities they serve. Gauge your effectiveness through evaluation and analysis of your work product. Emphasize policy review aimed at substantive organizational reforms that advance law enforcement accountability and performance.

Professional Excellence

Seek professional development to ensure competence. Acquire the necessary knowledge and understanding of the policies, procedures, and practices of the law enforcement agency you oversee. Keep informed of current legal, professional and social issues that affect the community, the law enforcement agency, and your oversight agency.

Primary Obligation to the Community

At all times, place your obligation to the community, duty to uphold the law and to the goals and objectives of your agency above your personal self-interest.