

DRAFT STANDING RULES
OF THE POLICE CIVILIAN INTERNAL AFFAIRS REVIEW COMMISSION
OF THE
CITY OF SAINT PAUL

Originally Adopted: _____

RULE 1. OFFICERS

The officers of the Commission shall consist of a Chair and a Vice-Chair.

The officers shall be elected by the Commission when a vacancy occurs.

The Chair shall preside at all meetings. The Vice-Chair shall preside in the absence of the Chair.

RULE 2. COMMISSIONERS

The Commission shall consist of nine (9) voting members appointed by the mayor. All members shall be appointed to three-year terms not to exceed two terms. A member's term may be extended to allow a new member to meet the criteria to become a voting member.

All Commissioners shall complete training on the topics detailed in Chapter 102.03 of the Saint Paul Legislative Code and pass a CJIS-compliant background check and CJIS certification training prior to receiving and voting on a case.

Members of the Commission shall receive fifty dollars (\$50.00) per meeting attended. Each member must fill out a reimbursement form at each meeting.

RULE 3. REVIEW COORDINATOR

The review coordinator shall be in attendance at Commission meetings to facilitate Commission review, serve as the custodian of the Commission files and record the proceeding of the Commission on audio tape.

Prior to a Commissioner's first meeting, the review coordinator will meet with them to explain the work of the Commission and review the standing rules, policies, and procedures of the Commission.

RULE 4. MEETINGS

Regular meetings of the Commission shall be held at 6:00 PM on the first Wednesday of the month. Commissioners will arrive at least fifteen (15) minutes prior to 6:00PM.

The first meeting in each calendar year shall be both a regular meeting and an organizational meeting. At that meeting, the Commission will review the Standing Rules and make any needed changes and review compliance with training requirements detailed in Chapter 102.03 of the Saint Paul Legislative Code.

In accordance with the Minnesota Open Meeting Law, a meeting occurs when a quorum of the Commission, which is defined as a simple majority of the seated Commissioners, is present and business is discussed.

Commissioners shall conduct their meetings in accordance with the City of Saint Paul's Workplace Conduct Policy: A Policy Against Discrimination, Violence, Harassment, and Offensive Behavior in the Workplace. A copy of this policy is attached as Exhibit A.

The portion of the meeting where private/confidential data is discussed will be closed pursuant to Minnesota Statutes 13D.05, subd. 2 (a) (2). The review coordinator, Commissioners and such other participants as approved by the Chair and the Director of the Department of Human Rights and Equal Economic Opportunity ("Director") in consultation with the Chief of Police will facilitate the review process of the Commission at the closed portion of the meetings.

No fewer than one time per year, the Commission shall hold an annual summit in order to review the annual report publicly and evaluate the effectiveness of the Commission. All Commissioners shall attend and participate in this summit. This meeting, and all other meetings of the Commission, shall be audio recorded.

RULE 5. ORDER OF BUSINESS

Meetings of the Commission shall be structured in the following way:

- I. Call to Order
- II. Approval of the Agenda
- III. Approval of Minutes
- IV. Chair's Report
- VI. Old Business
- VII. New Business
- VIII. Adjourn to Closed Door Session
- IX. Chair's Report (private portion- case specific)
- X. Case Review
- XI. Adjourn

RULE 6. VOTING

A. The Commission shall abide by the following process when voting on cases:

1. Internal Affairs (IAU) provides a summary of their case to PCIARC. If present, the complainant will remain outside the meeting room during this part of the meeting. If no complainant testimony has been given, skip to step 9.
2. After the completion of the summary, the Review Coordinator brings the complainant into the room
3. The Review Coordinator reads, on the record, the Complainant Notice to Testifying Complainant(s) to the complainant
4. Complainant states their name for the record and makes their statement. The Chair may impose sensible time limits on the complainant's statement
5. Following the complainant's statement, the Review Coordinator escorts the complainant(s) out of the room and provides them with an information sheet regarding next steps in the process
6. The complainant(s) will be escorted out of the room by the Review Coordinator
7. The case will be tabled for further discussion and will be presented back to the Commission after:
 - a) HREEO provided IAU an official transcript of the testimony
 - b) The official transcription has been reviewed by IAU to determine if new facts have been introduced that are required to be investigated and the investigation has been completed
 - c) The officer(s) has received a copy of the official transcript and has been given the opportunity to provide a written response for the Commission to review
8. Once the case has been returned to the Commission, Commissioners may ask questions of IAU regarding the complainant's testimony
9. IAU will respond to all the questions that have been previously submitted through the review coordinator
10. In rotating order, as determined by the Chair, each Commissioner will state the determination they believe is appropriate and their reasoning behind it.
11. Discussion will follow once each commissioner has spoken. During this time, commissioners may ask follow up questions of IAU
12. A motion can be made after each commissioner has had an opportunity to speak
13. Further discussion, if necessary
14. Vote on complaint determination motion
15. If the complaint is sustained, IAU shares the principal's commendation and discipline history with Commissioners
16. Commissioners vote on recommended action

The Commission may also request IAU staff to gather such additional information as may be needed for a recommendation by the Commission. Commissioners may also table the case to a future meeting to allow for additional discussion

The adoption of any proposed recommendation to the Chief of Police shall be final when passed by a majority vote of the Commission. If the Commission does not obtain a majority decision the case shall proceed directly to the Chief.

For each complaint reviewed by the Commission, the Commission shall make one of the following recommendations:

1. Complaint is **sustained**, meaning that the allegation is supported by sufficient evidence
2. Complaint is **not sustained**, meaning that there is insufficient evidence either to prove or disprove the allegation
3. Complaint is **unfounded**, meaning that the allegation is false or not factual
4. Officer(s) **exonerated**, meaning that the incident occurred but was lawful and proper
5. Complaint revealed a **policy failure**, meaning that the allegation is factual and followed proper procedure however that procedure has proven to be faulty.

If the Commission recommends sustaining a complaint, they may make one of the following recommendations for action to the Chief of Police:

1. Oral reprimand
2. Written reprimand
3. Suspension (up to 30 days)
4. Demotion
5. Termination

In addition to contractual disciplinary measures, Commissioners may recommend additional training for officers.

Issues to be considered in recommending appropriate discipline:

1. Reason for the rule/regulation violated
2. Impact of violation on department/community/officer's ability to perform her/his job
3. Was officer aware of the rule?
4. Was a thorough investigation conducted to show proof of the violation?
5. Officer's disciplinary history
6. Impact on public trust
7. Officer's candor in Internal Affairs interview

B. If the complaint reveals a policy failure, the Commission may recommend a change to department policy.

RULE 7. BURDEN OF PROOF

The Commission shall require a *preponderance of evidence* standard of proof to find merit in an allegation, meaning that it is more likely than not that the alleged actions occurred.

In determining whether an allegation has merit, Commissioners must rely only upon the evidence in the case, investigated and presented by the Internal Affairs Unit. Commissioners must not consider facts unrelated to the IAU case including but not limited to media coverage; alternative legal proceedings, etc. The Commission may also request IAU staff to gather such additional information as may be needed for a recommendation by the Commission.

RULE 8. COMPLAINANT STATEMENT

Two weeks prior to the meeting where their case is reviewed, the complainant will receive notice of the time, date and location of the meeting and their ability to make a statement. The notice will include contact information for the review coordinator and information on how to request special accommodations (ex: interpreters) if needed.

Complainant(s) will be called into the meeting by the review coordinator after Internal Affairs has presented their case. The review coordinator will advise the complainant(s) with the Complainant Notice to Testifying Complainant(s) approved by the Saint Paul City Attorney's Office prior to making any statement.

Complainants will have a reasonable amount of time to present their statement so that they are respected, valued and heard. Prior to the complainant statement, the Chair may impose sensible time limits.

RULE 9. SUBPOENA POWER

As stated in Chapter 102.03(f) of the Saint Paul Legislative Code, the Commission may request that individuals appear before it to state facts to supplement files. Any statement(s) made by a subpoenaed witness(es) will follow the same process outlined in Rule 8 – Complainant Statement.

RULE 10. DATA PRIVACY

All complaint data and case file information is personnel data and all personnel data is private data on individuals except what is expressly listed in Minnesota Statutes Section 13.43. A violation of law regarding government data practices shall constitute cause for the Director to recommend to the Mayor the termination of a Commissioner's appointment.

Commissioners are expressly prohibited from discussing any cases with each other either before or after the closed portion of the meeting. Commissioners shall not discuss any confidential or private data related to a case with any person(s) outside of the closed portion of the meeting.

Only Commissioners, the review coordinator (their supervisor if assistance is needed or their alternate), and employees of Internal Affairs division of the Saint Paul Police Department can view confidential materials provided to the Commissioners before, during and after the deliberation process.

RULE 11. MEDIA CONTACT

All media requests should be directed to the Chair. The Chair will keep the review coordinator informed of all media requests. Commissioners are expressly prohibited from speaking to the media regarding specific cases, and providing detail that would reveal the nature or subject matter of the case.

RULE 12. CONFLICTS OF INTEREST

When a Commissioner believes that she or he has a conflict of interest, that member shall disclose the conflict to the Commission and shall abstain from voting on or participating in the discussion of the matter. Commissioners shall recuse themselves from participating in the discussion and voting in all cases involving their immediate family members or cases where they themselves are the complainant.

RULE 13. ABSENTEEISM AND PREPAREDNESS

Members of the Commission may be removed by the Mayor as recommended by Director following three absences in a year.

Commissioners will receive the relevant case files two weeks ahead of the meeting. All Commissioners must thoroughly review each case file in its entirety prior to the commission meeting, and be prepared to discuss each case in detail. If a Commissioner consistently fails to prepare for meetings the Chair and the Coordinator will conduct a preliminary performance meeting with that Commissioner. If the Commissioner's preparedness does not improve following the initial performance meeting, the Chair will issue a warning to the Commissioner. If the Commissioner's behavior does not improve following the warning, the review coordinator and Director shall ask the Commissioner to resign from the PCIARC. If the Commissioner chooses not to resign, the Director may recommend termination to the Mayor.

Exhibit A

City of Saint Paul Workplace Conduct Policy A Policy Against Discrimination, Violence, Harassment, and Offensive Behavior in the Workplace

It is the policy of the City of Saint Paul to maintain a respectful work and public service environment. The City of Saint Paul will maintain a work and public service environment free from discrimination, violence, harassment, and offensive behavior. The City of Saint Paul will not tolerate retaliation or intimidation directed toward anyone who makes a complaint or participates in an investigation under this policy. This policy applies to each and every employee and official of the City of Saint Paul, including the Mayor, City Council members, and members of boards and commissions. The City of Saint Paul will not tolerate such behavior by or toward any employee or officer. Any employee or officer of the City of Saint Paul who engages in such behavior is subject to consequences, up to and including termination.

DEFINITIONS

Discriminatory behavior includes inappropriate remarks about or conduct related to an employee's race, color, creed, religion, national origin, disability, sex, marital status, age, sexual orientation, gender identity, or status with regard to public assistance, Veteran's status, or any other reason protected by local, state, or federal law, ordinance or regulation.

Violent behavior includes the use of physical force, harassment, intimidation, or abuse of power or authority when the impact is used to control by causing pain, fear or hurt. Violent behavior also includes verbal abuse and/or acts, words, comments, or conditions that would lead a person to reasonably believe a violent act could occur.

Harassing behavior includes words or conduct that is severe or pervasive, and that a reasonable person would find abusive.

Offensive behavior includes words or conduct that a reasonable person would find reprehensible, although the conduct is neither severe nor pervasive.

Other behavior prohibited by this policy also includes requests to engage in illegal, immoral or unethical conduct.

Conduct includes acts and the dissemination or display of discriminatory, violent, harassing or offensive material at work, at work-related functions, or in work vehicles, computers, lockers, cubicles, emails, other written or electronic documents, and other work locations or functions. It also includes the dissemination or display of such material if it is located on an employee's personal equipment, like PDAs and cellphones, if that material is displayed or disseminated at

work. Words and conduct prohibited by this policy can include discriminatory, harassing or offensive:

- Remarks, slurs, epithets, or jokes;
- Material displayed or disseminated in pictures, posters, cartoons or written or electronic communications, including emails, websites, social media posts, texts, and all other forms of communication; or
- Impeding movement, blocking, or intimidating conduct and acts.

Sexual Harassment. One specific kind of discriminatory and offensive behavior is sexual harassment. Sexual harassment, which can consist of a wide range of unwanted and unwelcome sexually-directed behavior, is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- Submitting to the conduct is made either explicitly or implicitly a term or condition of an individual's employment or of obtaining public services;
- Submitting to or rejecting the conduct is used as the basis for an employment decision affecting an individual's employment or the delivery of public services; or
- Such conduct has the purpose or results of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work or public service environment.

Behavior prohibited by this policy can include unwanted or unwelcome:

- Sexual remarks, jokes, slurs or compliments;
- Sexual innuendo or propositions;
- Sexually-suggestive facial expressions, leering or ogling;
- Display or dissemination of sexually oriented material in pictures, posters, cartoons or written or electronic communications, including emails, websites, social media posts, texts, and all other forms of communication;
- Kissing, touching, or other sexual physical contact; or
- Impeding movement, blocking, or intimidating conduct and acts.

All sexually harassing behaviors prohibited by this policy have not been explicitly covered herein. The examples used are for illustrative purposes and are not meant to be all-inclusive.

Retaliation is the commission of an adverse action towards an employee who has either filed a complaint against or participated in an investigation of a complaint by one against whom a complaint was filed. Retaliation can be blatant or it can be subtle.

Intimidation is behavior that induces fear in another person through threats, insults, badgering, bullying or aggressive behavior.

(All behaviors prohibited by this policy have not been explicitly covered herein. The definitions used are for illustrative purposes and are not meant to be all inclusive.)

REPORTING AND SUPERVISORY RESPONSE

Any person who feels he or she is being subjected to discriminatory, violent, harassing, or offensive behavior of any kind should object to the behavior, and shall report the behavior to their supervisor or to the Human Resources Director as soon as possible. In the case of violent behavior, the incident must be reported immediately after the incident. An employee that feels they have been subjected to such conduct by a non-employee third-party, such as a vendor or members of the general public, should report the conduct in the same manner.

Any supervisor who receives a complaint of discriminatory, violent, harassing or offensive behavior or who has reason to believe that such behavior is occurring shall report these concerns and forward the entire complaint to their Department or Office Director or to the Human Resources Director. A supervisor should not make an independent determination as to the validity of a complaint. A supervisor who fails to report the concerns as provided for in this paragraph is subject to consequences, up to and including termination of employment.

It is a violation of this policy to report a malicious or knowingly false claim.

INVESTIGATION AND RESOLUTION

All complaints of discriminatory, violent, harassing or offensive behavior, retaliation, intimidation or filing a false or malicious claim will be investigated promptly, fairly, and completely. The facts shall determine the response to each complaint. Each situation will be handled as discreetly as possible consistent with applicable law.

The City of St. Paul will take prompt and effective remedial action to resolve complaints under this policy. The City of St. Paul may take immediate steps, at its discretion, to protect the complainant, other employees, or members of the public pending the completion of the investigation. Resolution of complaints can include, but is not limited to, an apology, transfer, direction to stop the offensive behavior, counseling or training, verbal or written warning, suspension with or without pay, or termination of employment.

In the event that offensive behavior recurs, it should immediately be reported to the appropriate Department or Office Director or to the Human Resources Director.

(Revised July 26, 2017)

The foregoing is a statement of policy and is not intended by the City of Saint Paul to create a contract. The City of Saint Paul reserves the unilateral right to amend, rescind and otherwise modify the foregoing policy.