

Ferguson Civilian Review Board Bylaws

Bylaws adopted July 9, 2018

Bylaws of the Ferguson Civilian Review Board Ferguson, Missouri

Article I. Name of the Organization

This organization shall be known as the “Ferguson Civilian Review Board”, also referred to herein as the “FCRB” or the “Board”.

Article II. Purpose and Authority

The purpose of the FCRB is to foster respect, trust, cooperation, transparency, and accountability between the city of Ferguson, the Ferguson Police Department, and the greater Ferguson community and to provide oversight of investigations of complaints made against the Ferguson Police Department. The FCRB shall serve as an independent autonomous body with respect to deliberations, decisions and recommendations.

The FCRB shall have the authority to practice these Bylaws pursuant to the Consent Decree (United States vs. Ferguson Case# No.4:16-cv-000180-CDP, the “Consent Decree”), and Ferguson City Ordinance 2016-3631 (Bill 7131) sections 2-440 through 2-449 as amended from time to time (the “Ordinance”). To the extent of any conflict between these Bylaws and the Consent Decree or the Ordinance, the Consent Decree and/or Ordinance shall prevail.

Article III. Membership

The FCRB shall consist of nine (9) members, who serve for a term of three (3) years. The members shall be appointed as follows:

- a.) Initially, two (2) residents from each of the city's three (3) wards; One board member from each ward will serve a two year term, and the other board member will serve a three year term. Subsequently all terms shall be for three years.
- b.) Three (3) At-large members shall be appointed from the greater Ferguson community, including: stakeholders, owners of a business within the City of Ferguson, religious leaders whose ministry resides in Ferguson, and / or educators serving the greater Ferguson community. Initially, all at large members will serve a one year term. Subsequently all terms shall be for three years.

Candidates not eligible to serve on the FCRB include: any person ineligible under the

Consent Decree or the Ordinance; any Ferguson City elected official; current employees of Ferguson City or of the Ferguson Police Department; any person convicted of a felony in this state or any other state (unless re-enfranchisement has been given); nor the spouse of those ineligible.

Members shall be appointed as set forth in the Ordinance. (Ord. No. 2016-3615, § 1, 4-19-16)

Board members shall serve without compensation. (Ord. No. 2016-3615, § 1, 4-19-16)

Article IV – Resignation, Unexpected Vacancies, or Removal of a FCRB Member

Section 1 – Vacancies

Vacancies created by resignation, unexpected vacancies, and/or removal of a FCRB member shall be filled by appointment as set forth in the Ordinance. (Ord. No. 2016-3615, § 1, 4-19-16).

Section 2 – Resignations

Resignations shall be made in writing, addressed to the Chairperson of the FCRB, or in person at a public meeting. In the case of incapacitation, a designated representative or the Chairperson may present the resignation in writing. Upon receipt of said resignation the Board shall notify the City Council so a replacement may be appointed.

Section 3 - Causes for Removal from the FCRB

Subject to compliance with removal procedures set forth in this Article, the FCRB shall recommend to the City Council removal of a member for cause, which may be the result of, but is not limited to:

- a.) A member no longer meets the qualifications for membership for the board as set forth in Ordinance 2016-3631 (Bill 3171) section 2-441;
- b.) Conviction of an offense of moral turpitude (conduct contrary to justice, honesty, modesty, or good morals);
- c.) Unexcused absence from three (3) consecutive meetings and hearings; (excused absence is one where a board member notifies an officer of the Board at least 24 hours prior to the meeting taking place, or as soon as possible in case of emergency);
- d.) Conduct constituting misfeasance, malfeasance and nonfeasance; or
- e.) Breach of confidentiality of personnel matters and records in accordance with provisions of the law. (Ord. no. 2016-3615, 1, 4-19-16).

Section 4 – Cause for Removal and Recusal of a FCRB member from a proceeding, case, or any activity requiring a vote

- a.) Any member who has a personal bias, prejudice, or the appearance thereof, in

the resolution of a particular complaint, shall not participate in the consideration of that complaint. Personal interest in the outcome of any complaint does not include holding or manifesting any political or social attitude or belief, so long as such belief or attitude does not preclude objective consideration of a complaint on its merits. (Ord. No. 2016-3615, § 1, 4-19-16)

- b.) If it comes to the attention of the board that a board member has demonstrated a personal bias with respect to the facts or involved parties of a particular case without disclosure, the board may vote to excuse/remove that board member from the case.
- c.) A board member serving on a hiring/promotion panel for an officer of the Ferguson Police Department (“FPD”) shall not be permitted to participate in a proceeding involving such officer who becomes party to a complaint.

Article V. Officers – Duties and Responsibilities

Section 1 - Officers of the Ferguson Civilian Review Board

All officers will be elected by a vote of members, constituting a quorum of the FCRB, and receiving the necessary votes. Officer positions will consist of a Chairperson, Vice Chairperson and Secretary. Elections shall occur annually, with no limit on consecutive terms serving in any particular office, subject to that annual vote. After (a) the initial election of officers, and (b) the operation of the Board for one year, to be eligible to be an officer, the person must have completed one year as a member of the FCRB.

Section 2 – Duties of the Chairperson

The Chairperson shall preside at all regular and emergency meetings of the board and shall be authorized to call special and emergency meetings. The Chairperson shall also establish such ad hoc committees of the board, not otherwise created by these Bylaws, as may be necessary or desirable for the Board to conduct its business. The Chairperson will serve as an ex-officio member of all other committees of the FCRB and perform such duties as are customary to the office including as the official representative of the FCRB as necessary. The Chairperson shall decide on all points of order and procedure during the meetings, and the Chairperson’s decision shall be final unless overruled by a majority vote of the board. The Chairperson shall be the principal spokesperson on behalf of the FCRB and may sign all documents requiring signatures, and such other duties as are customary to the office including acting as an official representative of the FCRB as necessary.

Section 3 – Duties of the Vice-Chairperson

The Vice-Chairperson shall perform the duties of the Chairperson in his/her absence and serve as an ex officio member of committees as assigned by the Chairperson.

Section 4 – Duties of the Secretary

The Secretary will prepare meeting agendas and minutes of all meetings of the FCRB both general and closed sessions. Minutes of the general sessions will be prepared with the assistance of a representative from the city. The Secretary will also maintain an archive of all FCRB meeting agendas and minutes (for both general and closed sessions), as well as voting records (both electronic and hard copy when available). The Secretary will provide electronic copies of meeting schedules and agendas and general session minutes to the Ferguson City Clerk for posting and publication to facilitate the City's compliance with Section 2-449 of the FCRB Ordinance #2016-2631. Minutes of closed sessions shall be approved by the FCRB only in a closed session meeting, and shall be properly safeguarded by the Secretary in compliance with all applicable privacy laws. The Secretary will also perform the duties of the Chairperson in the absence of both the Chairperson and Vice Chairperson, providing there is a quorum present to conduct general business.

Section 5 – Removal of Officers

For the removal of an officer of the FCRB, a motion for a “Call of No Confidence” must be made, and seconded. The members must present their case and arguments for such removal. After deliberation, a motion must be made to “Call for a Vote of No Confidence”, and seconded. A vote of six members in favor of removal must be met. Upon removal, the FCRB will take nominations for a replacement. An election for the vacancy will be set for the following public meeting.

Article VI. Meetings

Section 1 – Regular Monthly Meetings

The regular meetings of the Board shall be held on the first Monday of each month unless otherwise ordered by the Board. Public notice shall be made in advance of the meetings as required by City of Ferguson policy.

Section 2 – Special Meetings

Special meetings may be called by the Chairperson or Vice Chairperson and shall be called upon the written request of five members of the Board. The purpose of the meeting shall be stated in the notice, which shall be sent to all members at least three days before the meeting. Public notice shall be made in advance of the meetings as required by City of Ferguson policy.

Section 3 - Quorum

Five members of the FCRB shall constitute a quorum.

Section 4 - Meetings Generally Open to the Public; Exceptions

Meetings of the FCRB will be public except when conducting business requiring

confidentiality of discussion and deliberation, by way of example and not of limitation, review of complaints, hiring, and promotion recommendations, obtaining advice of legal counsel and matters governed by provisions of City Charter, ordinance and/or other applicable law. (Ord. No. 2016-3615, § 1, 4-19-16)

Section 5 – Meeting Agendas

Notice of each regular meeting and its agenda must be posted on the City’s website and in a prominent place in City Hall. Each agenda must include, but is not limited to:

- a.) Call to Order/Roll Call
- b.) Approval of Minutes – The minutes of each regular meeting shall be distributed to the FCRB members and approved “as-is” or approved as amended at the next regular meeting. After approval, the minutes shall be posted on the City website and shall be made a part of the permanent record of the FCRB.
- c.) Unfinished Business
- d.) New Business
- e.) Public Comment
- f.) Miscellaneous/Board Member comments
- g.) Closed Session

Article VII. FCRB Duties and Responsibilities

The duties and responsibilities of the Board include:

Section 1 – Community Education

The FCRB shall also educate the greater Ferguson community about the FCRB and encourage citizens to consider applying to serve on the FCRB.

Section 2 - Confidentiality of Records and Proceedings

Board members shall not publicly disclose any information deemed confidential or closed under any applicable law and Board policy. Confidential information obtained during a Board member’s service on the FCRB shall be protected from disclosure in accord with Section 2-27.04 of Chapter 2 of the Municipal Code.

Members of the Board shall be vigilant to avoid ex parte discussion of any matter that is or may come before the Board with any person interested in such matter including complainants, police officers, city officials, (and their relatives). Board members shall not interview or obtain information regarding an investigation or complaint outside the official proceedings of the Board.

Official public statements regarding the Board or its activities must be referred to the Chairperson. The Chairperson may from time to time designate another member of the FCRB to speak on his or her behalf.

Section 3 – Training

Upon appointment and prior to participating in the review of complaints or complaint investigations, each member shall complete training as required by the city and the Department of Justice. Such training shall include, but not be limited to:

1. Privacy and Handling of Confidential Personnel Records and Matters;
2. FPD policies and procedures;
3. Relevant constitutional, federal, state and local laws and ordinances;
4. Implicit bias;
5. Proper investigation techniques, including gathering and objectively analyzing evidence, as well as resolving inconsistent statements;
6. Proper application of the preponderance of the evidence standard; and
7. Other training as determined necessary by the City and/or recommended by the Board.

New members may, upon completion of the confidentiality portion of training, have observation status only with respect to participation in closed sessions hearing specific complaints.

Section 4 – Investigate Complaints of Misconduct

The FCRB will receive and review, make findings and recommendations for all Force Review Board investigations involving a complaint of misconduct and a sampling of other Force Review Board investigations as determined appropriate by the FCRB and all investigations of complaints by members of the public against members of the police department that allege misconduct involving excessive use of force, abuse of authority, discourtesy, or use of offensive language, including, but not limited to, slurs relating to race, ethnicity, religion, gender, sexual orientation and disability, pursuant to Mo. Rev. Stat. 590.653 and policies consistent with Mo. Rev. Stat 590.653 developed by the City and subject to approval by the DOJ. Review of departmental investigations of sworn complaints of misconduct to include a review of all evidence relevant to the underlying misconduct complaint. Board findings and recommendations will be submitted to the Chief of Police and the City Manager. Disciplinary recommendations shall be consistent with the disciplinary matrix approved by the DOJ. (Consent Decree 405A and C)

Section 5 – Make Recommendations regarding Misconduct

The FCRB shall be notified when any FPD investigation of misconduct is preliminarily completed, and shall be provided with the opportunity to review, comment, and make

recommendations to the Chief of Police prior to the Chief's approval of the FPD investigation. The FCRB's review of investigations may include a review of all evidence relevant to the underlying misconduct complaint. (Consent Decree 405B).

Section 6 – Promote Public Awareness of the Complaint Process

Within 180 days of the establishment of the FCRB and appointment of its members, the FCRB will develop and recommend a program to promote awareness throughout the broader Ferguson community about the options available for filing misconduct complaints, and about the misconduct complaint process. Within 90 days of the finalization of the FCRB's program, the City will implement the program to the extent feasible and appropriate. (DOJ Consent Decree 405D)

Section 7 – Review and Assess Ferguson Police Policies and Procedures

Review and assess FPD policies and procedures, as well as training plans and curricula, and make recommendations for modifications to policies, procedures, and training. (Consent Decree 405E)

Section 8 – Serve on Hiring and Promotion Panels

Serve on officer hiring and promotion panels, except that members of the FCRB serving on hiring and promotion panels shall not participate in the review of complaints or complaint investigations concerning officers on whose hiring and/or promotion panels they served. (Consent Decree 405F)

Section 9 – Assist in Building Positive Relationship between the FPD and the Community

Develop and implement ways to educate the public on policing and to assist in enhancing FPD's relationship with the Ferguson community. (Consent Decree 405G)

Section 10 – Analyze Crime Data

Review crime data, racial profiling data, and complaint statistics to identify patterns and trends and publish our findings. (Consent Decree 405H)

Article VIII. FCRB Committees and Subcommittees

Standing or ad-hoc committees and subcommittees will be established by the Chairperson or the FCRB.

Article IX . Indemnification

Each person who was or is made a party or is threatened to be made a party to or is otherwise involved in any action, suit or proceeding, whether civil, criminal,

administrative or investigative (hereinafter a "Proceeding"), by reason of the fact that he or she is or was a member of the Board (hereinafter an "indemnatee"), shall be indemnified and held harmless by the City of Ferguson to the fullest extent permitted by applicable law, against all expense, liability and loss (including attorney's fees, judgments, fines, and amounts paid in settlement) reasonably incurred or suffered by such indemnatee in connection therewith, and such indemnification shall continue as to an indemnatee who has ceased to be a member of the Board and shall inure to the benefit of the indemnatee's heirs, executors and administrator. The right to indemnification conferred in this Section shall be a contract right and shall include the right to be paid by the City of Ferguson the expenses incurred in defending any such Proceeding in advance of its final disposition (hereinafter an "advancement of expenses"); provided, however, that if Missouri law requires, an advancement of expenses incurred by an indemnatee in his or her capacity as a member of the Board shall be made only upon delivery to the City of Ferguson of an undertaking (hereinafter an "undertaking"), by or on behalf of such indemnatee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal (hereinafter a "final adjudication") that such indemnatee is not entitled to be indemnified for such expenses under this Section or otherwise.

Article X. Amendments

These Bylaws may be amended at a regular meeting or at any special meeting called in accordance with these Bylaws by a two-thirds vote, provided that all members of the FCRB have been provided with a copy of the proposed amendment in advance of the meeting at which the proposed amendment is to be considered.