

STATE OF NEW YORK

4354

2025-2026 Regular Sessions

IN SENATE

February 4, 2025

Introduced by Sens. BAILEY, BRISPORT, COMRIE, JACKSON, RIVERA, SALAZAR
-- read twice and ordered printed, and when printed to be committed to
the Committee on Cities 1

AN ACT to amend the New York city charter and the administrative code of
the city of New York, in relation to providing final discipline
authority over civilian complaints to the civilian complaint review
board

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. Subdivision a of section 434 of the New York city charter
2 is amended to read as follows:

3 a. The commissioner shall have cognizance and control of the govern-
4 ment, administration, disposition and discipline of the department, and
5 of the police force of the department, with the exception of discipli-
6 nary determinations and adjudications made by the civilian complaint
7 review board, which shall not be within the discretion of the police
8 commissioner.

9 § 2. Section 440 of the New York city charter, as added by local law
10 number 1 of the city of New York for the year 1993, paragraphs 1, 3 and
11 4 of subdivision (b) as amended by section 1, paragraph 3 of subdivision
12 (d) as amended by section 4 and subdivision (g) as added by section 5 of
13 question 2 of local law number 215 of the city of New York for the year
14 2019, paragraphs 1, 2 and 5 of subdivision (c) as amended by local law
15 number 24 of the city of New York for the year 2022, paragraphs 3 and 6
16 of subdivision (c) and paragraphs 1 and 2 of subdivision (d) as amended
17 by local law 47 of the city of New York for the year 2021, is amended to
18 read as follows:

19 § 440. Public complaints against members of the police department. (a)
20 It is in the interest of the people of the city of New York and the New
21 York city police department that the investigation and prosecution of
22 complaints concerning misconduct by officers of the department towards

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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members of the public be complete, thorough and impartial. These inquiries must be conducted fairly and independently, and in a manner in which the public and the police department have confidence. An independent civilian complaint review board is hereby established as a body comprised solely of members of the public with the authority to investigate and prosecute allegations of police misconduct as provided in this section.

(b) Civilian complaint review board.

1. The civilian complaint review board shall consist of 15 members of the public. Members shall be residents of the city of New York and shall reflect the diversity of the city's population. The members of the board shall be appointed as follows: (i) five members, one from each of the five boroughs, shall be appointed by the city council; (ii) one member shall be appointed by the public advocate; (iii) three members with experience as law enforcement professionals shall be designated by the police commissioner and appointed by the mayor; (iv) five members shall be appointed by the mayor; and (v) one member shall be appointed jointly by the mayor and the speaker of the council to serve as chair of the board.

2. No member of the board shall hold any other public office or employment. No members, except those designated by the police commissioner, shall have experience as law enforcement professionals, or be former employees of the New York city police department. For the purposes of this section, experience as a law enforcement professional shall include experience as a police officer, criminal investigator, special agent, or a managerial or supervisory employee who exercised substantial policy discretion on law enforcement matters, in a federal, state, or local law enforcement agency, other than experience as an attorney in a prosecutorial agency.

3. The members shall be appointed for terms of three years. The public advocate shall make the public advocate's first appointment to the board on or before May 6, 2020. The board member so appointed shall assume office on July 6, 2020. The mayor and the speaker of the council shall make their initial joint appointment to the board on or before May 6, 2020. The member so appointed shall serve as the board's chair and shall assume office on July 6, 2020.

4. Members of the board shall serve until their successors have been appointed and qualified. In the event of a vacancy on the board during the term of office of a member by reason of removal, death, resignation, or otherwise, a successor shall be chosen in the same manner as the original appointment within 60 days from the date such vacancy occurred. A member appointed to fill a vacancy shall serve for the balance of the unexpired term. During any period in which the office of the chair is vacant, the mayor shall select a member of the board to serve as interim chair until such vacancy has been filled.

(c) Powers and duties of the board.

1. The board shall have the power to receive, investigate, hear, make findings and recommend action upon complaints filed by members of the public, or information received by the board or complaints initiated by the board against members of the police department that allege misconduct involving excessive use of force, abuse of authority including bias-based policing and racial profiling, discourtesy, or use of offensive language, including, but not limited to, slurs relating to race, ethnicity, religion, gender, sexual orientation and disability. The board shall also have the power to investigate, hear, make findings and recommend action regarding the truthfulness of any material official

1 statement made by a member of the police department who is the subject
2 of a complaint received or initiated by the board, if such statement was
3 made during the course of and in relation to the board's resolution of
4 such complaint. The findings and recommendations of the board, and the
5 basis therefor, shall be submitted to the police commissioner, who shall
6 have no discretion in whether to impose the recommended discipline.
7 Where the board substantiates one or more allegations against a member
8 of the police department and recommends a level of discipline that
9 would subject the member of the department to being fined, reprimand-
10 ed, removed, suspended or dismissed from the force, the complaint
11 shall be adjudicated by a hearing officer pursuant to subdivision (d) of
12 this section. No finding or recommendation shall be based solely upon
13 an unsworn complaint or statement, nor shall prior unsubstantiated,
14 unfounded or withdrawn complaints be the basis for any such finding or
15 recommendation.

16 2. The board shall promulgate rules of procedure in accordance with
17 the city administrative procedure act, including rules that prescribe
18 the manner in which investigations and prosecutions are to be conducted
19 and recommendations made and the manner by which, when a member of the
20 public is the complainant, such member of the public is to be informed
21 of the status of [~~his or her~~] their complaint. Such rules may provide
22 for the establishment of panels, which shall consist of not less than
23 three members of the board, which shall be empowered to supervise the
24 investigation of matters within the board's jurisdiction pursuant to
25 this section, and to hear, make findings and recommend action on such
26 matters. No such panel shall consist exclusively of members appointed by
27 the council, or designated by the police commissioner, or appointed by
28 the mayor.

29 3. The board, by majority vote of its members, may compel the attend-
30 ance of witnesses and require the production of such records and other
31 materials as are necessary for the investigation and prosecution of
32 matters within its jurisdiction pursuant to this chapter. The board may
33 request the corporation counsel to institute proceedings in a court of
34 appropriate jurisdiction to enforce the subpoena power exercised pursu-
35 ant to this chapter, and the board itself may, subject to chapter 17 of
36 the charter, institute such proceedings. The board may, subject to any
37 conditions it deems appropriate, delegate to and revoke from its execu-
38 tive director such subpoena authority and authority to institute
39 proceedings.

40 4. The board shall establish a mediation program pursuant to which a
41 complainant may voluntarily choose to resolve a complaint by means of
42 informal conciliation.

43 5. The board is authorized, within appropriations available therefor,
44 to appoint such employees as are necessary to exercise its powers,
45 including but not limited to the power to initiate complaints in accord-
46 ance with paragraph 1 of this subdivision, and fulfill its duties. The
47 board shall employ civilian investigators to investigate all matters
48 within its jurisdiction. The board shall create an administrative prose-
49 cution unit, staffed by attorneys and the necessary support staff, that
50 shall handle the prosecution of substantiated cases before a hearing
51 officer.

52 6. The board shall issue to the mayor and the city council a semi-an-
53 nual report which shall describe its activities and summarize its
54 actions. Such report shall include, for each investigation initiated
55 pursuant to section 441, such investigation's date of initiation,
56 current status and any date of completion or termination, a description

1 of any investigative findings and recommendations set forth in a written
2 statement of final determination and a description of any written
3 reports from the police commissioner in response to a written statement
4 of final determination.

5 7. The board shall have the responsibility of informing the public
6 about the board and its duties, and shall develop and administer an
7 on-going program for the education of the public regarding the
8 provisions of this chapter.

9 (d) Hearings.

10 1. The executive director shall appoint at least one hearing officer,
11 who shall be a civilian with no law enforcement background, to preside
12 over and adjudicate disciplinary proceedings and make final determi-
13 nations in cases where the board has substantiated one or more allega-
14 tions against a police officer and recommended command discipline or
15 charges and specifications.

16 2. The hearing officer, upon approval of the board chair, shall have
17 the power to punish an officer, upon a plea of guilty or a finding of
18 guilty after an administrative trial, by reprimand, forfeiting and with-
19 holding pay for a specified time, suspension, suspension without pay, or
20 by dismissal from the force. No more than thirty days' salary shall be
21 forfeited or deducted for any offense. Members of the police department
22 may be fined, reprimanded, removed, suspended or dismissed from the
23 force only on written charges made and preferred against them, after
24 such charges have been examined, heard and investigated by the hearing
25 officer, by a preponderance of the evidence, upon such reasonable notice
26 to the member of service charged, and in such manner or procedure, prac-
27 tice, examination and investigation as prescribed, to the extent appli-
28 cable under sections 15-03 and 15-04 of the Rules of the City of New
29 York.

30 3. The conduct of such hearings shall follow, to the extent applica-
31 ble, the parameters specified in sections 15-03 and 15-04 of the Rules
32 of the City of New York.

33 4. Attorneys from the board's administrative prosecution unit shall be
34 responsible for the prosecution of cases before the hearing officer.

35 (e) Cooperation of police department.

36 1. It shall be the duty of the police department to provide such
37 assistance as the board may reasonably request, to cooperate fully with
38 investigations by the board, and to provide to the board upon request
39 records and other materials which are necessary for investigations
40 undertaken pursuant to this chapter, except such records or materials
41 that cannot be disclosed by law.

42 2. The police commissioner shall ensure that officers and employees of
43 the police department appear before and respond to inquiries of the
44 board and its civilian investigators in connection with investigations
45 and prosecutions undertaken pursuant to this chapter, provided that such
46 inquiries are conducted in accordance with department procedures for
47 interrogation of members.

48 ~~[3. The police commissioner shall report to the board in writing on~~
49 ~~any action taken, including the level of discipline and any penalty~~
50 ~~imposed, in all cases in which the board submitted a finding or recom-~~
51 ~~mendation to the police commissioner with respect to a matter within its~~
52 ~~jurisdiction pursuant to this section. In any case substantiated by the~~
53 ~~board in which the police commissioner intends to impose or has imposed~~
54 ~~a different penalty or level of discipline than that recommended by the~~
55 ~~board or by the deputy commissioner responsible for making disciplinary~~
56 ~~recommendations, the police commissioner shall provide such written~~

~~report, with notice to the subject officer, no later than 45 days after the imposition of such discipline or in such shorter time frame as may be required pursuant to an agreement between the police commissioner and the board. Such report shall include a detailed explanation of the reasons for deviating from the board's recommendation or the recommendation of the deputy commissioner responsible for making disciplinary recommendations and, in cases in which the police commissioner intends to impose or has imposed a penalty or level of discipline that is lower than that recommended by the board or such deputy commissioner, shall also include an explanation of how the final disciplinary outcome was determined, including each factor the police commissioner considered in making his or her decision.~~

~~(e)] (f)~~ The provisions of this section shall not be construed to limit ~~[or impair the authority of the police commissioner to discipline members of the department. Nor shall the provisions of this section be construed to limit]~~ the rights of members of the department with respect to disciplinary action, including but not limited to the right to notice and a hearing, which may be established by any provision of law or otherwise.

~~(f)] (g)~~ The provisions of this section shall not be construed to prevent or hinder the investigation or prosecution of members of the department for violations of law by any court of competent jurisdiction, a grand jury, district attorney, or other authorized officer, agency or body.

~~(g)] (h)~~ 1. Beginning in fiscal year 2021 and for each fiscal year thereafter, the appropriations available to pay for the personal services expenses of the civilian complaint review board during each fiscal year shall not be less than an amount sufficient to fund personal services costs for the number of full-time personnel plus part-time personnel, calculated based on full-time equivalency rates, equal to 0.65 percent of the number of uniform budgeted headcount of the police department for that fiscal year, as determined consistent with published budgeted headcount documents of the office of management and budget. The calculation to determine the minimum appropriations for the personal services expenses of the civilian complaint review board pursuant to this paragraph shall be set forth in the preliminary expense budget, the executive expense budget, and the adopted budget.

2. Notwithstanding paragraph 1 and in addition to any action that may be undertaken pursuant to section 106, the appropriations available to pay for the personal services expenses of the civilian complaint review board may be less than the minimum appropriations required by paragraph 1 provided that, prior to adoption of the budget pursuant to section 254 or prior to the adoption of a budget modification pursuant to section 107, the mayor determines that such reduction is fiscally necessary and that such reduction is part of a plan to decrease overall appropriations or is due to unforeseen financial circumstances, and the mayor sets forth the basis for such determinations in writing to the council and the civilian complaint review board at the time of submission or adoption, as applicable, of any budget or budget modification containing such reduction.

§ 3. Section 14-115 of the administrative code of the city of New York is amended to read as follows:

§ 14-115 Discipline of members. a. The commissioner shall have power, in ~~[his or her]~~ the discretion of such commissioner, except civilian complaints determined by the civilian complaint review board, in which the commissioner shall have no discretion, on conviction by the commis-

1 sioner, or by any court or officer of competent jurisdiction, of a
2 member of the force of any criminal offense, or neglect of duty,
3 violation of rules, or neglect or disobedience of orders, or absence
4 without leave, or any conduct injurious to the public peace or welfare,
5 or immoral conduct or conduct unbecoming an officer, or any breach of
6 discipline, to punish the offending party by reprimand, forfeiting and
7 withholding pay for a specified time, suspension, without pay during
8 such suspension, or by dismissal from the force; but no more than thirty
9 days' salary shall be forfeited or deducted for any offense. All such
10 forfeitures shall be paid forthwith into the police pension fund.

11 b. Members of the force, except as elsewhere provided herein, shall be
12 fined, reprimanded, removed, suspended or dismissed from the force only
13 on written charges made or preferred against them, after such charges
14 have been examined, heard and investigated by the commissioner or one of
15 ~~[his or her]~~ the deputies of such commissioner upon such reasonable
16 notice to the member or members charged, and in such manner or proce-
17 dure, practice, examination and investigation as such commissioner may,
18 by rules and regulations, from time to time prescribe. Where the member
19 of the force is subject to being fined, reprimanded, removed, suspended,
20 or dismissed from the force as a result of a complaint substantiated by
21 the civilian complaint review board, the written charges made or
22 preferred against the member of the force shall be examined, heard, and
23 investigated by a hearing officer of the civilian complaint review board
24 upon such reasonable notice to the member charged, and in such manner,
25 or procedure, practice, examination and investigation as prescribed, to
26 the extent applicable under sections 15-03 and 15-04 of the Rules of the
27 City of New York.

28 c. The commissioner is also authorized and empowered in ~~[his or her]~~
29 the discretion of such commissioner, except civilian complaints deter-
30 mined by the civilian complaint review board, in which the commissioner
31 shall have no discretion, to deduct and withhold salary from any member
32 or members of the force, for or on account of absence for any cause
33 without leave, lost time, sickness or other disability, physical or
34 mental; provided, however, that the salary so deducted and withheld
35 shall not, except in case of absence without leave, exceed one-half
36 thereof for the period of such absence; and provided, further, that not
37 more than one-half pay for three days shall be deducted on account of
38 absence caused by sickness.

39 d. Upon having found a member of the force guilty of the charges
40 preferred against ~~[him or her]~~ such member, either upon such member's
41 plea of guilty or after trial, the commissioner or the deputy examining,
42 hearing and investigating the charges, in ~~[his or her]~~ the discretion of
43 such commissioner, except civilian complaints determined by the civilian
44 complaint review board, in which the commissioner shall have no
45 discretion, may suspend judgment and place the member of the force so
46 found guilty upon probation, for a period not exceeding one year; and
47 the commissioner may impose punishment at any time during such period.

48 § 4. Nothing in this act shall make the discipline of police officers
49 of the police department of the city of New York subject to collective
50 bargaining or arbitration or remove police discipline from local gover-
51 nance.

52 § 5. This act shall take effect on the thirtieth day after it shall
53 have become a law.