

1 FORTY-FIVE, FORTY-SIX, FORTY-SEVEN, FIFTY-TWO, FIFTY-NINE, SIXTY-ONE,
2 SIXTY-TWO, SIXTY-EIGHT, SEVENTY-FOUR, SEVENTY-NINE, AND EIGHTY-TWO OF
3 SECTION 2.10 OF THE CRIMINAL PROCEDURE LAW.

4 (B) AS USED IN THIS SECTION "BOARD" SHALL MEAN THE NEW YORK STATE
5 CIVILIAN COMPLAINT REVIEW BOARD.

6 (C) AS USED IN THIS SECTION, "INVESTIGATOR" SHALL MEAN AN INVESTIGATOR
7 AS APPOINTED IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION THREE OF
8 THIS SECTION.

9 3. APPOINTMENTS. (A) THE BOARD SHALL CONSIST OF NINE MEMBERS; THREE,
10 INCLUDING THE CHAIR, AS SELECTED BY THE GOVERNOR; AND SIX MEMBERS TO BE
11 APPOINTED BY THE GOVERNOR UPON THE RECOMMENDATIONS, RESPECTIVELY, OF THE
12 ATTORNEY GENERAL, THE COMPTROLLER, THE TEMPORARY PRESIDENT OF THE
13 SENATE, THE MINORITY LEADER OF THE SENATE, THE SPEAKER OF THE ASSEMBLY,
14 AND THE MINORITY LEADER OF THE ASSEMBLY. ANY VACANCY IN THE BOARD SHALL
15 BE FILLED FOR THE UNEXPIRED TERM IN THE SAME MANNER AS THE ORIGINAL
16 APPOINTMENT.

17 (B) NO MEMBER OF THE BOARD SHALL HOLD ANY OTHER PUBLIC OFFICE OR
18 EMPLOYMENT. NO MEMBERS SHALL HAVE EXPERIENCE AS LAW ENFORCEMENT PROFES-
19 SIONALS. FOR THE PURPOSES OF THIS SECTION, EXPERIENCE AS A LAW ENFORCE-
20 MENT PROFESSIONAL SHALL INCLUDE EXPERIENCE AS A PEACE OFFICER, POLICE
21 OFFICER, CRIMINAL INVESTIGATOR, SPECIAL AGENT, OR A MANAGERIAL OR SUPER-
22 VISORY EMPLOYEE WHO EXERCISED SUBSTANTIAL POLICY DISCRETION ON LAW
23 ENFORCEMENT MATTERS, IN A FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT AGEN-
24 CY, OTHER THAN EXPERIENCE AS AN ATTORNEY IN A PROSECUTORIAL AGENCY.

25 (C) THE MEMBERS OF THE BOARD SHALL BE APPOINTED FOR TERMS OF THREE
26 YEARS.

27 (D) EACH MEMBER OF THE BOARD SHALL BE ENTITLED TO REIMBURSEMENT FOR
28 HIS OR HER ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF
29 HIS OR HER OFFICIAL DUTIES AND A PER DIEM ALLOWANCE OF ONE HUNDRED FIFTY
30 DOLLARS WHEN RENDERING SERVICE AS A MEMBER; PROVIDED THAT THE AGGREGATE
31 OF SUCH PER DIEM ALLOWANCE TO ANY ONE MEMBER IN ANY ONE FISCAL YEAR OF
32 THE BOARD SHALL NOT EXCEED THE SUM OF FIVE THOUSAND DOLLARS.

33 4. POWERS AND DUTIES OF THE BOARD. (A) THE BOARD SHALL APPOINT AN
34 EXECUTIVE DIRECTOR WHO SHALL ACT IN ACCORDANCE WITH THE POLICIES OF THE
35 BOARD.

36 (B) THE BOARD IS AUTHORIZED, WITHIN APPROPRIATIONS AVAILABLE THEREFOR,
37 TO APPOINT SUCH EMPLOYEES AS ARE NECESSARY TO EXERCISE ITS POWERS AND
38 FULFILL ITS DUTIES. THE BOARD SHALL APPOINT INVESTIGATORS TO INVESTIGATE
39 CIVILIAN COMPLAINTS. SUCH INVESTIGATORS SHALL HAVE INVESTIGATIVE EXPERI-
40 ENCE AS A CONDITION OF THEIR APPOINTMENT BY THE BOARD.

41 (C) THE BOARD SHALL HAVE THE POWER TO ADOPT, AMEND AND RESCIND RULES
42 AND REGULATIONS TO GOVERN PROCEDURES OF THE BOARD IN ACCORDANCE WITH
43 THIS SECTION.

44 (D) THE BOARD SHALL HAVE THE POWER TO SUBPOENA AND REQUIRE THE ATTEND-
45 ANCE IN THIS STATE OF WITNESSES AND THE PRODUCTION OF BOOKS AND PAPERS
46 PERTINENT TO THE INVESTIGATION AND INQUIRIES HEREBY AUTHORIZED AND TO
47 EXAMINE THEM AND SUCH PUBLIC RECORDS AS IT SHALL REQUIRE RELATING TO ANY
48 SUCH MATTER. A SUBPOENA ISSUED PURSUANT TO THIS ACTION SHALL BE REGU-
49 LATED BY THE CIVIL PRACTICE LAW AND RULES.

50 (E) THE BOARD MAY ALSO OFFER, BUT MAY NOT REQUIRE, MEDIATION BY AN
51 EXPERIENCED MEDIATOR BETWEEN A COMPLAINANT AND A SUBJECT OFFICER AS AN
52 ALTERNATIVE TO INVESTIGATION AND DISCIPLINE. THE BOARD SHALL SET GUIDE-
53 LINES TO DETERMINE CASES APPROPRIATE FOR MEDIATION.

54 5. COMPLAINT REVIEW PROCEDURE. (A) COMPLAINTS MAY BE INITIATED BY ANY
55 PERSON WHETHER OR NOT THAT PERSON IS A VICTIM OF, OR A WITNESS TO, AN
56 INCIDENT ALLEGING THE USE OF EXCESSIVE FORCE OR ABUSE OF AUTHORITY. A

1 COMPLAINT MAY ALSO BE INITIATED BY THE BOARD, UPON A MAJORITY VOTE THERE-
2 EOF, IF THE BOARD DETERMINES THAT THERE IS A CLEAR PUBLIC INTEREST IN
3 DOING SO.

4 (B) THE BOARD MUST TAKE REASONABLE MEASURES TO ENSURE THE CONFIDEN-
5 TIALITY OF ALL COMPLAINANTS.

6 (C) ALL COMPLAINTS, OTHER THAN THOSE IN WHICH BOTH THE COMPLAINANT AND
7 THE SUBJECT OFFICER AGREE TO MEDIATION, SHALL BE ASSIGNED TO AN INVESTI-
8 GATOR, WHO SHALL TAKE SUCH STEPS AS ARE NECESSARY TO INVESTIGATE THE
9 COMPLAINT, INCLUDING OBTAINING A STATEMENT FROM THE COMPLAINANT, WITNESS
10 STATEMENTS, DOCUMENTARY EVIDENCE, AND INTERVIEWS WITH SUBJECT OFFICERS.
11 WHEN THE INVESTIGATION IS COMPLETE, IT SHALL BE FORWARDED TO THE BOARD,
12 OR A PANEL CONSISTING OF AT LEAST THREE MEMBERS OF THE BOARD, WHICH
13 SHALL READ THE CASE, REVIEW ALL OF THE EVIDENCE AND VOTE ON THE DISPOSI-
14 TION OF EACH ALLEGATION RAISED BY THE COMPLAINT.

15 (D) THE BOARD'S VOTE ON EACH ALLEGATION BROUGHT BEFORE IT SHALL RESULT
16 IN ONE OF THE FOLLOWING DISPOSITIONS:

17 (I) SUBSTANTIATED; A FINDING THAT THERE IS SUFFICIENT CREDIBLE
18 EVIDENCE TO BELIEVE THAT THE SUBJECT OFFICER COMMITTED THE ACT CHARGED
19 IN THE ALLEGATION CONSTITUTING MISCONDUCT;

20 (II) EXONERATED; A FINDING THAT THE SUBJECT OFFICER WAS FOUND TO HAVE
21 COMMITTED THE ACT ALLEGED, BUT THE SUBJECT OFFICER'S ACTIONS WERE DETER-
22 MINED TO BE LAWFUL AND PROPER;

23 (III) UNFOUNDED; A FINDING THAT THERE IS SUFFICIENT CREDIBLE EVIDENCE
24 TO BELIEVE THAT THE SUBJECT OFFICER DID NOT COMMIT THE ALLEGED ACT OF
25 MISCONDUCT;

26 (IV) UNSUBSTANTIATED; A FINDING THAT THE WEIGHT OF THE AVAILABLE
27 EVIDENCE IS INSUFFICIENT TO SUBSTANTIATE, EXONERATE OR UNFOUND THE ALLE-
28 GATION;

29 (V) OFFICER OR OFFICERS UNIDENTIFIED; A FINDING THAT THE BOARD WAS
30 UNABLE TO IDENTIFY THE SUBJECT OR SUBJECTS OF THE ALLEGED MISCONDUCT; OR

31 (VI) MISCELLANEOUS; A FINDING THAT THE SUBJECT OF THE ALLEGATION IS NO
32 LONGER AN OFFICER.

33 (E) IF ANY OF THE ALLEGATIONS ARE SUBSTANTIATED, THE BOARD SHALL
34 FORWARD THE CASE TO THE SUBJECT OFFICER'S EMPLOYER, AND MAY RECOMMEND TO
35 THE EMPLOYER APPROPRIATE DISCIPLINARY ACTION. IF, WITHIN THIRTY DAYS OF
36 A CASE BEING FORWARDED FOR DISCIPLINE, NO DISCIPLINARY ACTION IS TAKEN
37 BY AN OFFICER'S EMPLOYER WITH RESPECT TO THE SUBSTANTIATED ALLEGATIONS
38 OF MISCONDUCT, THE BOARD SHALL FORWARD THE CASE TO THE DISTRICT ATTORNEY
39 FOR THE JURISDICTION IN WHICH THE MISCONDUCT OCCURRED.

40 (F) EXCEPT IN EXTENUATING CIRCUMSTANCES, ALL INVESTIGATIONS SHALL BE
41 COMPLETED WITHIN SIX MONTHS OF THE DATE WHEN THE COMPLAINT WAS INITI-
42 ATED.

43 S 2. This act shall take effect immediately.